

IN THE MATTER OF THE PROPOSED
ADOPTION OF AMENDMENTS TO
DEPARTMENT OF HUMAN SERVICES RULES
GOVERNING THE WORK READINESS
PROGRAM, PARTS 9500.1300 to
9500.1318.

MINNESOTA DEPARTMENT
OF HUMAN SERVICES

STATEMENT OF NEED AND
REASONABLENESS

INTRODUCTION

The above-entitled amendments are proposed in response to statutory changes enacted in the 1987 legislative session. These changes eliminated involuntary termination from employment as a basis for disqualification from work readiness and extended disqualification to any applicant who has refused a legitimate offer of employment within 60 days prior to application. The changes also limit the requirement that recipients accept and remain in employment to cases where the employment is "suitable" and the employment offer is "legitimate." See Laws of Minnesota 1987, chapter 403, article 3, section 37.

The proposed rule amendments bring department rules governing work readiness into conformity with statute and implement the 1987 statutory changes. The rules are authorized by Minnesota Statutes, section 256D.051, subdivision 14 and Minnesota Statutes 1987 Supplement, section 256D.051, subdivision 8.

A notice of solicitation was published in the State Register on September 7, 1987. A draft was prepared and reviewed on November 19, 1987 by an advisory committee composed of representatives of the Department of Human Services and the Department of Jobs and Training, as well as representatives of job-training providers and a cross-section of Minnesota counties. The proposed rule amendments contain the revisions made in response to recommendations of the advisory committee.

SPECIFIC RULE PROVISIONS

The specific proposed amendments to rule parts 9500.1300 to 9500.1318 are affirmatively presented by the department in the following narrative in accordance with the provisions of the Minnesota Administrative Procedure Act, Minnesota Statutes, chapter 14 and the rules of the Attorney General's Office.

9500.1302 DEFINITIONS.

Subpart 2. Bona fide offer of employment. Minnesota Statutes 1987 Supplement, section 256D.051, subdivision 8 requires applicants and registrants to accept offers of employment which are "legitimate." This subpart is necessary to clarify the meaning of "legitimate offer" since the term is not defined in statute. The term "bona fide" is used in rule instead of "legitimate" to be consistent with regulations governing the AFDC and Food Stamp programs which use the term bona fide.

This subpart defines bona fide offer as an offer made in good faith by an employer. The good faith component of the definition is reasonable because it protects applicants and registrants from being disqualified for refusing employment that is not actually available to them. This result is consistent with the definition of the term "legitimate" used in statute. The American Heritage Dictionary, 2d College Edition (1982) defines legitimate as "authentic" or "genuine." The good faith component simply ensures that the employment offer is genuine.

Defining bona fide offer as an offer "made by an employer" is reasonable because it also helps ensure that the offer is genuine. It does so by ensuring that the offer is not made by an intermediary who may be unreliable and who may purport to extend offers that do not exist. It is assumed that an offer received directly from an employer is more reliable than an offer received through an intermediary.

9500.1306 APPLICATION PROCESS AND ELIGIBILITY CRITERIA.

Subpart 3. Eligibility criteria. The proposed amendments to subpart 3 are necessary to make department rules consistent with statute. The amendments to this subpart simply incorporate the statutory requirement that a work readiness applicant or registrant accept a legitimate offer of suitable employment if the employment is offered within 60 days prior to application. The amendments are reasonable because they are consistent with state statute and department rules as well as federal regulations governing the food stamp program.

9500.1308 REQUIREMENT TO INFORM APPLICANTS.

Subpart 2, item C. This amendment is necessary to keep this rule provision consistent with state statute. The amendment is reasonable because it eliminates the language which was deleted from state statute in Laws of Minnesota 1987, chapter 403, article 3, section 37 and inserts the new statutory language with the modification noted above (using "bona fide" in lieu of "legitimate").

9500.1310 WORK READINESS SERVICES AND PAYMENTS.

Subpart 2, item B, subitem (2). This amendment is necessary to keep this rule provision consistent with statute and with other provisions of work readiness rules. The amendment is reasonable because it adds the qualifier "bona fide" which, as explained above, is used in this rule as a synonym for the term "legitimate" which was added to state statute.

9500.1314 REGISTRANT DUTIES.

The proposed amendments require a registrant to inform the local agency of any terminations of employment and any bona fide offers of employment and to cooperate with local agency efforts to verify assertions of good cause for terminating or refusing to accept employment. These requirements are necessary to enable local agencies to enforce and implement properly the statutory requirement that registrants accept legitimate offers of suitable employment as a condition of continuing work readiness eligibility. The requirements are reasonable because they are consistent with Minnesota Statutes, section 256D.051, subdivision 3 which requires work readiness registrants to "cooperate in all aspects of the work readiness program."

The proposed amendments also specify that refusal to participate in a grant diversion program is not considered a refusal of a bona fide offer of employment. This amendment was suggested by several members of the rule advisory committee. The amendment is necessary to ensure that these rules are consistent with part 3301.0370, subpart 5 which makes grant diversion a voluntary program. The amendment is reasonable because it exempts only grant diversion from the requirement that applicants and registrants accept and retain employment; this is consistent with existing state law. It does not exempt other state-funded employment, including employment under the job training partnership act and the Minnesota employment and economic development act, which registrants must accept under Minnesota Statutes, section 256D.051, subdivision 3.

9500.1316 FAILURE TO COMPLY WITH WORK READINESS REQUIREMENTS AND DISQUALIFICATION.

Subpart 1, item B. This amendment is needed to ensure that local agencies provide registrants with precise information on how they can avoid disqualification after quitting or refusing to accept suitable employment. The amendment is reasonable because it ensures that recipients are informed of what action they must take and by what date the action must be taken to avoid disqualification. The action which the notice must specify is the action the registrant is required to take under state statute: accept a legitimate offer of suitable employment and retain the employment unless there is good cause for not doing so.

EXPERT WITNESSES

If a public hearing is held on these rule amendments, the department does not intend to have outside expert witnesses testify on its behalf in support of the amendments.

3-2-88
Date


SANDRA S GARDEBRING
Commissioner