Minnesota Association of County Social Service Administrators

Position Statement

2020

Clarification of Self-Employed Income and Assets for Public Assistance Programs

Proposal

Issue:

The 2019 Legislature required the following:

DIRECTION TO COMMISSIONER; SELF-EMPLOYMENT INCOME IN PUBLIC ASSISTANCE PROGRAMS.

No later than January 15, 2020, the commissioner of human services, in consultation with counties and other relevant stakeholders, shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over human services with recommendations for legislation on how to count self-employment income for purposes of determining eligibility for and maintaining the integrity of public assistance programs.

Clarification is needed regarding income and assets for self-employed individuals to ensure that program benefits are being administered accurately and appropriately. This is especially true around personal expenses being paid using business accounts or co-mingling of funds.

Implementation Strategy:

Modify statutes, 256P.02, 256P.04, 256P.05 and 256.98 that cover Public Assistance Programs that would state personal expenses paid by use of self-employment business funds, loans or co-mingled accounts are considered income or assets for determining eligibility.

This will create uniformity between programs.

Systemic Priority Alignment (check all that apply and explain why)

☑ Equity ☐ Service Integration ☑ Fiscal Framework

Comments:
Administration Simplification.

Modifications made within statute would add clarification on what counts as income and assets regarding self-employment.

Operational Priority Alignment (check all that apply and explain why)

☐ Behavioral Health ☐ Case Management ☐ Child Well Being ☐ Community Based Settings & Services

☑ Health Care ☐ Housing & Transportation ☐ Modernization ☑ Self Sufficiency

Comments: This proposal covers all Public Assistance programs.

Rationale/Background:

The 2019 Legislature required the following:

DIRECTION TO COMMISSIONER; SELF-EMPLOYMENT INCOME IN PUBLIC ASSISTANCE PROGRAMS.

No later than January 15, 2020, the commissioner of human services, in consultation with counties and other relevant stakeholders, shall report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over human services with recommendations for legislation on how to count self-employment income for purposes of determining eligibility for and maintaining the integrity of public assistance programs.

The workgroup, facilitated by DHS, included representatives from several DHS agencies and several county agencies, meet over the past several months and identified the following statutory changes:

Recommended statute changes:

Legislative language is currently being reviewed by DHS so there may be revisions made prior to drafting the final proposed legislative language.

256P.02, subd 2 (4) (5) add the word **and** to the end of (4) and add **(5) the full value of business accounts used to pay personal expenses**.

256P.04 subd. 4(7) add**: including any business accounts used to pay personal expenses;**

256P.05 subd. 2 (2) add: **for the most recent year and strike within the last year.**

256.98 subd 1 add section (**4) Obtains or attempts to obtain public assistance by knowingly using inaccurate self-employment record to hide income including but not limited to the following means:**
(a) transfer of funds between financial accounts,
(b) submission of a tax form, to the agency inconsistent with the tax form filed with the state or federal tax authority,
(c) submission of business records to the agency that are not an accurate reflection of business income, expenses, or activities; or
(d) use of business financial accounts to pay personal expenses that are not allowable business expenses under the Internal Revenue Code.

Additional Information:

MACSSA

Submitted by: Brad Thiel and Barb Dahl Self Suffiency Co-Topic Leads
Approved on:

For MACSSA from DHS

County representatives participated in a work group convened by the MN Department of Human Services to provide recommendations to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over human services for legislation on how to count self-employed income for purposes of determining eligibility for and maintaining the integrity of public assistance programs.

The work group identified the following criteria new legislative language should meet:

1. Make it possible to catch people trying to hide self-employment income.
2. Don't turn eligibility workers into tax accountants.
3. Do not create unnecessary barriers to eligibility for people truly eligible.
4. Make sure workers can understand, explain, and get the policy right so that the people we serve can understand what is expected of them.
5. Have policies as consistent or uniform across programs as possible.
6. Clarify the roles of the eligibility workers, fraud investigators, and the Minnesota Department of Revenue.

The MN Department of Human Services is drafting recommended legislative language that will be shared with the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over human services and with MACSSA. The proposed language was developed in consultation with the county-state work group and designed to meet the criteria outlined above. The proposed changes would:

- Change the asset test for cash programs to include counting business accounts that are used to pay non-business (personal) expenses.
- Require verification of those accounts if they are counted in the asset test.
- Clarify the tax form that self-employed individuals should submit: the tax form filed with the IRS for the most recent year – instead of a tax form filed within the last year. (This clarifies that an addendum to a tax form filed a couple of years earlier is not sufficient.)
- Have General Assistance, non-SSI Housing Support, non-SSI MSA, MFIP, DWP, and the Child Care Assistance Program align with SNAP on the policies for how to calculate self-employment income when a participant has chosen the "taxable method" option. This will mean adding back depreciation, any amount that exceeds the payment a household receives from a boarder for lodging and meals, net losses from another tax period, Federal, State, and local income taxes, and funds set aside for retirement to the net taxable income on the IRS form. (There will still be an option to choose either the taxable method or the "50% method" - subtracting half of gross earnings to account for business expenses.)
- Amend the fraud statute to be explicit that among the acts that constitute fraud is knowingly using inaccurate self-employment records to hide income or assets. This can include transferring funds between accounts to hide income, submitting to the county or tribe a tax form that does not match the one submitted to the IRS, submitting falsified business records, or using business accounts to pay personal expenses that are not allowed by the IRS.

In addition to the proposed legislation, the Minnesota Department of Revenue has agreed to work with the Department of Human Services and counties and tribes on a pilot project that would allow county fraud investigators to have the Department of Revenue confirm that a tax form submitted to the county or tribe matches the tax form actually filed with the IRS. This process would be reserved for instances in which there are concerns about the tax form being submitted.

If the legislation is introduced and passed, DHS has said it will work in partnership with counties and tribes to update the self-employment report form, the self-employment guide for eligibility workers, and develop materials that can be provided to people with self-employment income who are applying for or receiving public assistance.