CHAPTER 3-000 ELEMENTS OF ELIGIBILITY: In order to receive Child Care Subsidy, the family must:

1. Qualify as a family (see 392 NAC 3-001);
2. Meet citizenship or alien status requirements for the child(ren) (see 392 NAC 3-003);
3. Qualify as residents (see 392 NAC 3-004);
4. Meet income limits (see 392 NAC 3-005);
5. Meet resource limits (see 392 NAC 3-006);
6. Have a child within the age limit (see 392 NAC 3-007);
7. Have at least one of the allowed needs for service (see 392 NAC 3-008);
8. Pay the fee (if required) (see 392 NAC 3-009);
9. Use a regulated provider (see 392 NAC 3-010);
10. Agree to obtain immunizations for the child(ren) (see 392 NAC 3-011); and
11. Cooperate with the Child Support Enforcement Unit, if required (see 392 NAC 3-014).

3-001 Qualification as a Family: To be eligible for Child Care Subsidy, the family must meet the program definition of a family. A family is defined as a unit consisting of one or more adults age 19 or older (or a minor parent(s)) and one or more children related by blood, marriage, legal guardianship, or adoption who reside in the same household.

Foster children may be included when determining the size of the foster family unit if Child Care Subsidy is required for a biological child and the foster child.

1. Parents with a child in out-of-home care and children residing in the home.
2. Parents with foster children.

An unborn child is included in the unit size if proof of pregnancy is obtained.

In a three-generation household, a minor parent and his/her child are considered a separate family.

3-001.01 Unmarried Parents: Unmarried parents with a child in common and at least one child with a different parent may receive Child Care Subsidy for all the children if the household meets all eligibility requirements. If one parent is receiving ADC or transitional medical for his/her child(ren), that parent may receive Child Care Subsidy and the other parent, that parent's child(ren), and the child in common are ineligible.

3-001.02 Parents with Shared Custody: If parents are separated, divorced, or unmarried but have shared custody of a child, both parents may be eligible for Child Care Subsidy. Eligibility is based on the income of the parent with whom the child is residing at the time and any child support or other financial assistance from the other parent.

3-001.03 No Child in the Home: If the family's only child is in out-of-home care, the child may be included in the family size when the plan is for the child's return to the home.

3-001.04 Parent's Temporary Absence: If a parent is temporarily absent (90 days or less) because of employment, training, or illness, a substitute caretaker may receive Child Care Subsidy using the parent's income eligibility. The substitute caretaker must meet the needs criteria, i.e., be employed, in training, or incapacitated. If the parent is absent for more than 90 days, the worker needs to determine eligibility based on the substitute caretaker's situation and income.

3-002 Social Security Number: A Social Security number is not required as a condition of eligibility for Child Care Subsidy but the worker will request one and the client may voluntarily provide it. Child Care Subsidy must not be denied because of an individual's refusal to disclose his or her SSN.

3-003 Citizenship and Alien Status: In order to receive Child Care Subsidy, a child must be a citizen of the United States or a qualified alien. The following are qualified aliens:

1. An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (see 392-000-301);
2. An alien who has been granted asylum under Section 208 of INA;
3. A refugee who has been admitted to the United States under Section 207 of INA;
4. An alien who is paroled into the United States under Section 212(d)(5) of INA;
5. An alien whose deportation is being withheld under Section 243(h) of INA;
6. An alien who has been granted conditional entry pursuant to Section 203(a)(7) of INA;
7. An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980; or
8. An alien child who has been battered or subjected to extreme cruelty in the U.S. by a parent or by a member of the parent's family who is residing in the same household as the immigrant. The child or children of a battered immigrant are also eligible.

Any individual who is born in the United States is considered a U.S. citizen. This includes children whose parents are not U.S. citizens, such as undocumented alien parents, parents with student visas, or parents with lawful temporary residence status.

Clients who declare to be U.S. citizens and meet all other eligibility requirements must be given a reasonable opportunity to present satisfactory documentation of citizenship or nationality. Benefits must not be denied, delayed, reduced, or terminated pending receipt of the requested citizenship verification. Reasonable opportunity is defined as ten days from the date documentation was requested. The Department may authorize one additional ten-day extension for verification if the necessary information has been requested by the client. If the Department has requested verification, such as an out-of-state birth certificate, benefits will not be denied or terminated while awaiting receipt. Once a client has declared s/he is a U.S. citizen or national and has provided all other information to determine eligibility, benefits must be provided.

If the client is not cooperating in providing information, the client must be closed.

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3-003.01 Verification of Alien Status: When a client states that one or more of the children are aliens, the worker must require the client to present verification for each alien. If the client has documentation containing an alien registration number, the worker must verify the alien status using the Systematic Alien Verification for Entitlements (SAVE) system. For further verification procedures, see 392-000-301.

3-004 Residence: To be eligible for Child Care Subsidy, a client must be a Nebraska resident. A resident is defined as an individual living in the state voluntarily with the intent of making Nebraska his/her home. Migrants and itinerant workers are considered residents of Nebraska if they are living in Nebraska and entered the state to seek employment or to fulfill a job commitment.

3-005 Income:

3-005.01 Categories of Eligibility: There are five categories of eligibility, depending on income:

1. Current Family (CF);
2. Low Income Family (LF);
3. Low Income Sliding Fee Schedule (LC);
4. Transitional (TCC); and
5. Without Regard to Income (WI).

3-005.01A Current Family (CF): Those individuals and family members who are current recipients of an Aid to Dependent Children grant and those individuals whose needs were taken into account in determining the needs of ADC recipients are eligible as current family, "CF." This includes families where one or more members are not included in the ADC unit because of receipt of SSI/AABD. Families who are eligible as CF are automatically eligible for Child Care Subsidy with no copay.

Recipients of medical assistance only are not eligible under this category.

If a member of the family receives SSI and the rest of the family does not receive ADC, the family must qualify as Low Income Family (LF) (see 392 NAC 3-005.01B) or Low Income Sliding Fee Schedule (LC) (see 392 NAC 3-005.01C).

3-005.01B Low Income Family (LF): A family unit whose income is within the maximum allowable income guidelines is eligible as LF. These individuals are eligible without payment of a fee.

If a family receives an ADC grant but not all members are included in the ADC grant unit (due to sanctions or ineligibility), the family must be determined eligible as LF or LC. (The ADC grant must be counted as income).

3-005.01B1 Services for Employment First Applicant: An ADC applicant who is participating in Employment First and needs Child Care Subsidy is coded LF and is eligible for supportive services.

3-005.01C Transitional Child Care (TCC): Transitional child care must be provided for 24 consecutive months if all of the following conditions are met:

1. The family loses eligibility for a grant as a result of increased earnings or increased hours of employment;
2. The family received a grant (or did not receive a grant but met income and resource eligibility to receive a grant) for which they were eligible in three of the last six months preceding ineligibility. (A month in which the unit was eligible but did not receive a grant because of the $10 minimum qualifies as a month of grant.);
3. The family provides the financial information necessary to determine eligibility and the amount of the fee;
4. The child care is necessary to allow the parent to accept or retain employment;
5. The family's gross earned and unearned income is equal to or less than 185 percent of the Federal Poverty Level; and
6. The family continues to meet the resource limit.

The 24 months begin with the first month for which the family is ineligible for a grant. The family may begin to receive child care in any month during the 24-month eligibility period.

The first month of an ADC transitional grant is the first month of TCC. The transitional grants are disregarded as income.

3-005.01C1 Delayed Request for TCC: A family may request TCC at anytime during the 24-month period. Retroactive benefits are available, if needed, beginning with the first month of ineligibility for ADC.

3-005.01C2 Fee Requirement: A family that is eligible for transitional child care is required to pay a fee unless the family's income is below the minimum income for the fee schedule. If the family's income is below the minimum, the family does not owe a fee.

The Department may reimburse the client for child care costs from the month the client became ineligible for ADC if the client incurred the cost.

3-005.01D Low Income Sliding Fee Schedule (LC): Those individuals whose family income exceeds the maximum for LF but is equal to or less than 120 percent of the Federal Poverty Level are eligible as LC.

To be eligible under this category, the client must pay a fee as shown in the fee schedule.

3-005.01E Without Regard to Income (WI): A family who requires emergency Child Protective Services or requires Child Protective Family Services may be eligible without regard to income.

The parent(s) of a child who is a ward of the Nebraska Department of Health and Human Services may be eligible without regard to income if the plan is to reunify the family or maintain the child in the parent's home.

3-005.01E1 Parents of Department Wards: If a child of the family is a ward of the Department, parents of the ward are eligible for services without regard to income if the following conditions are met:

1. One of the following applies:
   a. The parent is not eligible as low income;
   b. The parent is not willing to be determined eligible as low income; or
   c. Due to the circumstances of the case, it is not possible for the worker to make an eligibility determination regarding income;
2. There is an agreement for the parent to pay part of the cost of services or the worker has determined that it is in the best interests of the family to authorize services at no cost to the family;
3. The worker verifies that the family meets the needs eligibility requirements; and
4. The service is directly supportive of the family case plan or any written service agreement.

3-005.02 Determination of Income Eligibility: When determining eligibility, the worker considers the following sources of income:

1. Supplemental Security Income (SSI);
2. Assistance to the Aged, Blind, or Disabled payment (AABD);
3. Gross wages/salary – total monthly earnings received for work as an employee, including wages, salary, armed forces pay, work study, commissions, tips, piece rate payments, and cash bonuses earned before deductions are made for taxes, bonds, pensions, union dues, and similar purposes;
4. Work study for a graduate student or a student working for a second degree;
5. In-kind income received in lieu of wages;
6. Income received under a Title I Workforce Investment Act (WIA) program for On the Job Training (OJT);
7. Retirement, Survivors, or Disabled Insurance (RSDI) benefits and Railroad Retirement payments before deductions for medical insurance;
8. Dividends (includes dividends from stockholdings or membership in associations);
9. Interest (averaged over the period earned for savings or bonds);
10. Estates;
11. Trust funds;
12. Rentals (net income from rental of a house, store, or other property);
13. Land lease income;
14. Gross payments from boarders or lodgers (if self-employed, see number 28);
15. Net royalties;
16. Retirement pensions (retirement or pension benefits paid to a retired person or his/her survivors by a former employer or by a union, either directly or through an insurance company);
17. Veteran's pensions (money paid by the Veteran's Administration to disabled members of the armed forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training, and "refunds" paid to ex-servicemen as G.I. insurance premiums;
18. Military allotments;
19. Picket or strike pay;
20. Contributions;
21. Lump sum payments, e.g., child support or RSDI;
22. Annuities or insurance;
23. Unemployment compensation (compensation received from government insurance agencies or private companies during periods of unemployment) and any strike benefits received from union funds;
24. Worker's compensation (compensation received from private or public insurance companies for injuries incurred at work);
25. Court-ordered child, spousal, and cash medical support;
26. Payment by an absent parent to the client for child care, rent, or house payment;
27. Net income from farm self-employment (see 392 NAC 3-005.02B2);
28. Net income from non-farm self-employment (see 392 NAC 3-005.02B).

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3-005.02A Income Considered for Relatives Who Are Not Legally Responsible: If a non-legally responsible relative is receiving ADC as a relative payee for the child needing child care, the ADC grant is not counted as income in determining financial eligibility. All other income of the relative is considered.

Non-legally responsible relatives who may receive Child Care Subsidy include grandparents, adult brothers and sisters, stepparents, stepbrothers and stepsisters, uncles, aunts, first and second cousins, adult nephews and nieces. These relatives may be half blood, related by adoption, or from a previous generation as denoted by prefixes of grand, great, great-great, or great-great-great.

3-005.02B Operating Expenses: Operating expenses related to producing the goods or services and without which the goods or services could not be produced are deducted from gross self-employment income. Operating expenses may include:

1. Cost of goods sold;
2. Advertising;
3. Bad debts from sales or services;
4. Bank service charges;
5. Car and truck expenses;
6. Commission;
7. Employee benefit programs;
8. Freight/shipping costs;
9. Insurance;
10. Interest on business indebtedness;
11. Laundry and cleaning;
12. Legal and professional services;
13. Office supplies and postage;
14. Rent on business property;
15. Repairs and maintenance;
16. Supplies;
17. Utilities and telephone;
18. Wages; and
19. The cost of transportation other than to and from work and child care.

3-005.02B1 Non-Allowable Operating Expenses: The following expenses are not allowed as operating expenses:

1. Depreciation;
2. Personal business expenses such as subscriptions, dues to professional organizations and unions, training courses, etc.
3. Personal transportation;
4. Purchase of capital equipment;
5. Payments on the principal of loans; and
6. Business-related entertainment expenses.

If the 1040 document is used to verify income, the worker does not allow depreciation as a cost of operation and does not count capital gains and other gains or losses from IRS Form 4797 or IRA distributions.

3-005.02B2 Farm Income: To determine net income for farm income, subtract operating expenses from gross income. The following are considered operating expenses:

1. Cost of goods sold;
2. Cost of labor;
3. Repairs and maintenance;
4. Interest;
5. Rent of farm, pasture;
6. Feed purchased;
7. Seeds, plants purchased;
8. Fertilizers, lime, and chemicals;
9. Cost of machines leased;
10. Supplies purchased;
11. Breeding fees;
12. Veterinary fees, medicine;
13. Gasoline, fuel, or oil;
14. Storage, warehousing;
15. Insurance;
16. Utilities;
17. Freight, trucking;
18. Conservation expenses;
19. Land clearing expenses; and
20. Employee benefit programs.

3-005.02B3 Offset of Earnings: If a client has a combination of farm, self-employment income, or regular earned income, a loss from one source of income may be used to offset a gain from another source.

{Effective 4/2/05}

3-005.03 Income Exclusions: When determining eligibility, the worker does not consider the following sources of income:

1. ADC grant;
2. Money received from participation in the Foster Grandparent Program authorized by the ACTION Program;
3. Money awarded by the Indian Claims Commission or the Court of Claims;
4. Alaska Native Claims Settlement Act payments (to the extent that these payments are exempt from taxation under section 21(a) of the Act);
5. Money received from the sale of property such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling the property in which case the net proceeds would be counted as income from self-employment);
6. Work study for an undergraduate student;
7. Withdrawals of bank deposits;
8. Tax refunds;
9. Earned Income Credits and Advanced Earned Income Credits;
10. Gifts;
11. Lump sum inheritances or insurance payments;

12. Capital gains;
13. The value of the coupon allotment under the Food Stamp Act of 1964, as amended;
14. The value of USDA donated foods;
15. The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;
16. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
17. Earnings of a child age 18 or younger and in school;
    Note: Summer earnings of a child age 18 or younger are excluded if the worker verifies that the child plans to return to school in the fall.
18. Loans;
19. Any grant to a student for educational purposes;
20. Adoption or guardianship subsidy payments;
21. Home produce used for household consumption;
22. Income received for work experience paid by a Title I Workforce Investment Act (WIA) program;
23. Title I WIA allowance paid for supportive services such as transportation, meals, special tools and clothing. This includes temporary Welfare-to-Work payments made through Workforce Development;
24. Payments to AmeriCorps volunteers;
25. Reimbursement from the Senior Companion Program;
26. Low Income Energy Assistance funds;
27. Housing assistance provided by Housing and Urban Development or by a local housing program;
28. Assistance received under the Disaster Relief Act of 1974 or under a federal law because of a presidentially declared major disaster;
29. Payments to a client participating in training or school attendance subsidized by the Division of Vocational Rehabilitation;
30. Payments made by Veterans Administration under the Veterans Education and Employment Assistance Act for education expenses of a veteran;
31. Payment made by an absent parent to a child care provider, landlord, or mortgage holder on behalf of the client;
32. Benefits under Public Law 104-204 for children of Vietnam veterans who were born with spina bifida;
33. Monetary allowance paid by the Veterans Administration under Public Law 106-419 to the child of a woman Vietnam veteran because of a birth defect associated with the veteran's service in Vietnam;
34. Reimbursement for employment-related expenses such as mileage, lodging, or meals; and
35. Military combat pay.

3-005.03A Transitional Grants: ADC transitional grants are disregarded in determining child care eligibility.

3-005.03B Deduction of Nursing Home Obligation: If the client has been directed by the Department to pay a portion of his/her income to a nursing home on behalf of an AABD client, the worker deducts the amount of the obligation from the client's gross monthly income to determine eligibility.

3-005.03C Types of Income

3-005.03C1 Irregular Income: Irregular income is income, earned or unearned, which varies in amount from month to month or which is received at irregular intervals. This may be due to irregular employment, but even when an individual works regularly, the income may be irregular because of factors such as seasonal increases or decreases in employment and earnings (e.g., day labor or sales work on commission basis).

Small, irregular earnings which are not computable or predictable are not considered.

3-005.03C2 In-Kind Income: In-kind income is any non-monetary consideration received by a client in place of income for services provided or as payment of an obligation.

3-005.03C3 Lump Sum Income: Lump sum income is money received on a one-time basis. The worker divides the amount of the lump sum by six months and add that figure to the gross monthly income to determine eligibility. If that amount exceeds the income maximum, the client will be considered ineligible for that six month period.

3-005.03C4 Earned Income: Earned income is money received from wages, tips, salary, commissions, self-employment, or items of need received in lieu of wages.

3-005.03C5 Unearned Income: Unearned income includes but is not limited to:

1. Social Security benefits;
2. Railroad retirement benefits;
3. Child support;
4. Unemployment compensation; and
5. Returns from savings or investments.

3-005.03C5a Treatment of Payment by Non-Custodial Parent: When a non-custodial parent makes a payment for child care or shelter (rent or mortgage payment), whether court-ordered or through an informal arrangement, the payment is:

1. Treated as income if paid to the client; or
2. Excluded if paid to the provider.

When the non-custodial parent pays the child care provider, the provider must split the bill.

3-005.03C5a(1) Percentage Obligation: When the court order states that the non-custodial parent must pay a percentage of the child care expenses, the worker determines the non-custodial parent's portion based on the total charges.

If the non-custodial parent fails to pay his/her portion of the child care, see 392 NAC 3-005.03C5a(2).

3-005.03C5a(2) Non-Custodial Parent's Failure to Pay: If the non-custodial parent fails to pay his/her portion of the child care obligation to the provider, the client should bring in the bill for the non-custodial parent's portion. The Department will reimburse the provider. The worker must notify the client in writing that s/he must pursue enforcement of the court order within 90 days. The Department will no longer pay the non-custodial parent's portion of the child care if the client fails or refuses to pursue enforcement of the court order within 90 days, unless the client has good cause for failing to do so. The following circumstances are considered good cause:

1. The client does not have the funds to pay the attorney's fee; or
2. The client has had a serious illness or injury which prevented him/her from contacting his/her attorney.

If the worker determines that the client had good cause for failing to pursue enforcement of the order, if the client attempts enforcement of the order but it is pending in court, or if the client attempts enforcement but the non-custodial parent still does not pay, the Department will continue payment of the non-custodial parent's portion. The worker will review the status of the case at the time of review.

3-005.03C6 Conversion of Income: If a client has weekly or bi-weekly income, the worker uses the income conversion charts to project monthly income. See 392-000-401 for income conversion charts.

3-005.04 Income Verification: The client must provide verification of earned income, with a copy of check stubs, a statement from his/her employer, or some other documentation. A self-employed client must submit a copy of his/her latest income tax return or his/her bookkeeping records.

The worker accepts the client's declaration of unearned income unless there is inconsistent information or the client has a previous history of overpayments or abuse of the program. In these instances, the worker requires verification of income before authorizing services. If the client fails to provide required proof within 30 days of request, the worker rejects the application or closes the case, as appropriate.

3-005.05 Verification of Education or Training: The client must provide verification of enrollment in school or training at the time of application and at the beginning of each school term.

3-005.06 Burden of Proof: The worker may require the client to provide any necessary verification. The worker may require proof of age, family size, or unearned income if the worker has reason to suspect that incorrect information has been provided. If the applicant fails to provide required proof within 30 days of application, the worker rejects the application or closes the case, as appropriate.

3-006 Resources: Clients who are eligible for Child Care Subsidy as Current Family are considered to have met the resource standards for the CCS Program. For clients who are not eligible as Current Family, the total equity value of available countable resources of the Child Care Subsidy unit must be determined and compared with the resource limit. If the total equity value of available countable resources exceeds the limit, the family is ineligible for Child Care Subsidy.

3-006.01 Resource Maximum: To be eligible, the value of a family's countable resources must not exceed $6,000. See 392 NAC 3-006.06 for the treatment of motor vehicles.

3-006.02 Type of Resource: There are two types of resources: liquid and nonliquid. Eligibility is not affected if a household converts a resource from one type of excluded resource to another type of excluded resource.

3-006.02A Liquid Resources: Some liquid resources include cash on hand; money in checking and savings accounts, savings certificates, stocks or bonds; nonrecurring lump sum payments; funds held in individual retirement accounts (IRA's), and 401K plans.

3-006.02B Nonliquid Resources: Some nonliquid resources include personal property, licensed and unlicensed vehicles, buildings, land, and recreational properties.

3-006.03 Excluded Resources: Disregarded income is also disregarded as a resource unless there is regulation stating otherwise. In addition, the following resources are excluded in determining eligibility:

1. The home and surrounding property which is not separated from the home by intervening property owned by others.
   a. Public rights of way, such as roads which run through the surrounding property and separate it from the home do not affect the exclusion of the property;
   b. The home and surrounding property must remain excluded when temporarily unoccupied for reasons of employment, training for future employment, illness, or not habitable due to a casualty or natural disaster, if the household intends to return;
   c. Households that currently do not own a home, but own or are purchasing a lot on which they intend to build or are building a permanent home receive an exclusion for the value of the lot and, if it is partially completed, for the home;
2. Household goods, such as furniture, including antiques;
3. Personal effects, including all clothing, jewelry, pets, and personal collections such as coins, stamps, or guns;
4. Leased vehicles during the agreement or contract period. If a household purchases the vehicle at the end of the contract, the value of the vehicle at the time of purchase is considered;
5. Burial spaces;
6. Irrevocable burial agreements (prearranged funeral plans) pursuant to Neb. Rev. Stat., section 71-1342;
7. Proceeds of an insurance policy that is irrevocably assigned for the purpose of burial of the client;
8. The cash value of life insurance policies;
9. The cash value of pension funds including 401K plans and deferred compensation plans under Section 401 and 457 of the Internal Revenue Service Code even if they are accessible with a penalty.

   Note: IRA's and Keogh plans are countable resources. When counting IRA's and Keogh plans, include the total cash value of the account or plan minus the penalty (if any) that would be assessed for the early withdrawal of the entire amount in the account or plan.

   Exception: IRA and Keogh plans are excluded if there is a contractual relationship with an individual(s) who is not a household member preventing the account from being accessed.

10. U.S. savings bonds (excluded for the initial six-month mandatory retention period);
11. An Individual Development Account (an account set up for postsecondary education, purchase of a client's first home, or establishment of a business);
12. Property which annually produces income consistent with its fair market value, even if it is only used on a seasonal basis. This includes rental homes and vacation homes;
13. Property deemed essential to the employment or self-employment of a household member. This could include farmland and work-related equipment such as the tools of a tradesman or the machinery of a farmer;
14. A business bank account provided the account is clearly separated from the household's personal bank account to the extent that money in the account was considered as income;
15. Land that can be sold only with the approval of the Bureau of Indian Affairs or Indian lands held jointly with the tribe;
16. A non-liquid asset which has a lien placed against it as a result of taking out a business loan if the household is prohibited from selling the asset by the security or lien agreement.;
17. The value of farmland, equipment, supplies, and licensed vehicles for a period of one year after a household member ceases to be self-employed in farming;
18. A resource whose cash value is not accessible to the household. This includes but is not limited to:
    a. Security deposits on rental properties or utilities;
    b. Property in probate;
    c. Real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold (the worker may verify that the property is for sale and that the household has not declined a reasonable offer; and
    d. Irrevocable trust funds. For purposes of this regulation, an irrevocable trust is one in which no household member has the power to revoke the trust arrangement. The worker considers irrevocable trust funds inaccessible to the household provided all the following conditions are met:

       (1) No household member has the power to change the name of the beneficiary during the authorization period and the trust arrangement is not likely to cease during the authorization period;

(2) The trustee is either:

(a) A court, institution, corporation, or organization not under the direction of any household member; or

(b) An individual appointed by the court with court-imposed limitations placed on the use of the funds.

(3) Trust investments do not directly involve any business or corporation under the direction or influence of a household member.

(4) The irrevocable trust funds are either:

(a)Established from the household's own funds to make investments on behalf of the trust or to pay educational or medical expenses of a household member;

(b) Established from non-household funds by a non-household member;

19. Resources whose sale is unlikely to produce any significant amount of funds to the household and whose sale would result in a return of less than the current value of the resource. This exclusion does not apply to automobiles, boats, and airplanes used for recreational purposes; vacation homes; mobile homes; and snow mobiles; or
20. The unspent portion of any RSDI or SSI retroactive payments (excluded for six months following the month of receipt).

3-006.03A Handling Excluded Liquid Resources: Excluded monies remain excluded for an unlimited period of time if these monies are kept in a separate account and not combined in an account with non-excludable funds. When excludable monies are combined in an account with non-excludable funds, the excluded monies remain excluded for six months from the date they were combined with non-excluded funds. After the six months have elapsed, all funds in the combined account are counted as resources.

3-006.04 Valuation of Resources: The value of any non-excluded resource is its equity value.

3-006.04A Equity Value: Equity value equals the fair market value minus all encumbrances.

3-006.04B Encumbrances: An encumbrance is the balance due on a mortgage, sales agreement, or contract.

3-006.05 Jointly Owned Resources: Resources owned jointly by separate households must be considered entirely available to each household, unless the applicant household can demonstrate that these resources are inaccessible to the household's member(s).

3-006.05A Portions of a Resource: If a household can demonstrate that it has access to only a portion of a jointly owned resource, the value of that portion is counted toward the resource limit.

3-006.05B Totally Inaccessible Resources: A jointly owned resource is considered totally inaccessible to a household when both of the following conditions are met:

1. The resource cannot realistically be subdivided; and
2. The household's access to the value of the resource depends on the agreement of a joint owner who refuses to cooperate.

3-006.05C Residents of Shelters for Battered Women and Children: Resources are considered inaccessible to residents in shelters for battered women and children if:

1. The resources are jointly owned by these women and children and by members of their previous households which included the persons who subjected them to abuse; and
2. The shelter resident's access to the value of the resources is dependent on the agreement of a joint owner who still lives in the previous household which included the person who subjected them to abuse.

3-006.06 Resource Test for Motor Vehicles: There is a $12,000 market value limit for the family's first motor vehicle. The family's vehicle market value in excess of $12,000 is applied to the $6,000 resource limit. If the family has more than one motor vehicle, the worker must apply the limit to the vehicle with the greatest fair market value. Any other motor vehicles are treated as nonliquid resources and the equity is counted in the resource limit.

Cars, trucks, SUV's, vans, motorcycles, recreational vehicles, motorboats and watercraft, and planes are included in the category of motor vehicles.

3-006.06A Access to Vehicles: The wording on the title determines who has access to a vehicle.

1. "And/or" indicates that the vehicle is available to all parties.
2. "Or" indicates that the vehicle is available to all parties.
3. "And" indicates that the vehicle is available to all parties unless the applicant household can demonstrate that the resource is totally inaccessible.

3-006.06B Determining Fair Market Value: Each vehicle which cannot be excluded must be assigned a fair market value. To determine the fair market value of vehicles, the worker uses the trade-in value as shown in either the Kelley Blue Book or the National Automobile Dealers Association (NADA) Used Car Guide. The basic value of a vehicle must not be increased by adding the value of low mileage, optional equipment, special equipment for the handicapped, etc. For vehicles which are in less than average condition (as indicated by the household), the household must be given the opportunity to get verification of the true value from a reliable source.

If the vehicle is not listed with either the Kelley Blue Book or the NADA, or if the client or worker feels that the values listed are inappropriate or not a true valuation of the vehicle, the worker may:

1. Contact the County Assessor's Office for the assessed value;
2. Use the client's most recent vehicle tax statement; or
3. Have the client obtain an estimate of the vehicle's value from used car dealers.

For licensed antique, custom-made, or classic vehicles, the worker asks the household to provide verification of the value if the local office is unable to make an accurate appraisal.

3-006.07 Verification of Resources: The worker verifies the value of non-excluded resources and loans at the time of application and redetermination if the total amount of countable resources indicated on the application is $1500 or more. Client declaration is accepted when the total amount of resources indicated on the application is less than $1500. For categorically eligible households, the worker is not required to verify the value of resources. The worker does not need to verify resources on an ongoing basis between reviews unless:

1. The worker receives information which makes the information given by the household at application appear questionable;
2. The household reports the receipt of a resource which may put the household over the resource limit; or
3. The household loses its categorical eligibility.

{Effective 6/28/11}

3-006.07A Verification of Loans: A loan is considered a resource in the month received. To verify that money coming to the household is a loan (and is therefore considered a resource rather than income), the worker:

1. Accepts as loan verification a simple statement signed by the household member receiving the loan and the party providing the loan indicating that the payment is a loan and must be repaid; and
2. Requires a statement from the provider indicating that payments are being made or will be made in accordance with an established schedule when a household claims that payments from the same source received on a recurrent or regular basis are loans.

3-007 Age Limit: Child care is available for children age 12 or younger, or children age 18 or younger with special needs, under supervision of a court, or involved in protective services identified through reporting, participation in care or shelter in respect to child abuse, child neglect, spouse abuse, or court supervision. The child's age must be verified in order to qualify for assistance.

3-008 Qualification of Need for Service

3-008.01 Need for Service: The case manager authorizes child care services for eligible clients only if each parent or usual caretaker:

1. Is employed;
2. Is actively seeking employment. The case manager may authorize child care for Employment First clients as defined in the EF Self-Sufficiency Contract. For non-EF clients, the case manager may authorize child care for two consecutive calendar months per program year July 1 through June 30 to enable the client to seek employment. Following the loss of employment, the client may receive two consecutive calendar months. Each time the client loses employment, s/he is entitled to two months of child care to allow him/her to seek employment;
3. Is participating in an EF activity that is included in the EF Self-Sufficiency Contract;
4. Requires child care to obtain medical services including physicians' services, mental health services, alcoholism treatment, HEALTH CHECK (EPSDT) and its follow-up, or to obtain family planning services;
5. Is enrolled in and regularly attending vocational or educational training to attain a high school or equivalent diploma or an undergraduate degree or certificate (including English as second language classes). Child care is not allowed for any activity if an individual is pursuing a second undergraduate degree or any post-graduate schooling. Neither parent in a two-parent family is eligible for child care if one is pursuing a second undergraduate or post-graduate degree.
   See 392 NAC 3-008.01B for the limit on education;
6. Is participating in on the job training;
7. Is incapacitated as documented by Form CC-3E;
8. Would benefit from child care services in situations of abuse, neglect, or exploitation where a report will be made to the State Central Register;
9. Has a child in foster care and requires child care to receive Social Services Block Grant or community services directed toward the return of the child to the home; or
10. Needs to escort a child to receive medical care or visit a child in the hospital.

If more than one parent or usual caretaker is included in the family size, a reason listed must apply to each adult.

3-008.01A Limit on Hours of Assistance:

3-008.01A1 Weekly Limit: A client is limited to 60 hours of Child Care Subsidy per week.

3-008.01A2 Daily Limit: The Department will pay for a maximum of 18 hours a day of care. This must comply with the 60-hour a week limit.

3-008.01B Education or Training: If the client is requesting child care in order to attend training or an educational activity beyond secondary school or GED classes, the training or education must:

1. Be consistent with the client's employment goals; and
2. Be in a program that will help the client achieve or maintain economic self-support.

In order to ensure that participation in training or an educational activity is meaningful and productive, the client must be in good standing or making satisfactory progress in his/her educational activity. The educational institution's standard is to be used to determine good standing and satisfactory progress. A client may still be considered as making satisfactory progress if below the institution's standard if there are mitigating circumstances which affect the individual's performance during the specified period of time.

3-008.01C Time Between Classes: A client who is attending school or training is not allowed Child Care Subsidy for study time but may receive it for a reasonable period of time between classes.

3-008.01D Employment: If the client is requesting child care for employment, the employment must have the potential to allow the client to achieve or maintain economic self-sufficiency.

3-008.01D1 Employment as Child Care Provider: The Department will not pay for child care for a child care provider's children. Some providers will send their own children to another provider for care; the Department will not pay for this care.
Exception: This prohibition does not apply for a foster parent, subsidized guardian, or subsidized adoptive parent who is also a child care provider. To avoid jeopardizing a placement, the Department will pay if a foster parent (or subsidized guardian or subsidized adoptive parent) who is otherwise eligible for child care subsidy sends his/her child to another child care provider.
{Effective 4/2/05}

3-008.01E Travel Time: A client is allowed Child Care Subsidy to cover a reasonable amount of time for travel between the child care site and the work or training site.

3-008.01F Sleep Time: A client who works through the night is allowed a maximum of eight non-work hours per day for sleep time.

3-009 Fee Obligation: Clients determined eligible as LC, low income sliding fee scale, or TCC (if within income guidelines) must pay a portion of the costs. The client's monthly fee covers the first dollars of payment, regardless of when service begins or ends. The Department pays the balance up to the agreed upon amount.

3-009.01 Failure to Pay Fee: A client who has not paid the fee obligation under any eligibility for child care may be ineligible for other fee-paying child care until the client has made a satisfactory arrangement with the provider for payment of the earlier fee. The client is required only to make arrangements with the previous provider; s/he is not required to pay the fee in total before receiving other fee-paying child care. If the client fails to comply with the arrangements to pay the back fee, his/her child care may be closed if s/he is still otherwise eligible for fee-paying care.

3-009.02 Changing the Fee: In most cases, the fee should be changed effective the first of the following month.

3-010 Client's Right to Choose Provider: The client has the right to choose a provider, regardless of the availability of other providers. However, the provider must be licensed or approved as license-exempt. The client may choose from:

1. Licensed Child Care Center;
2. Licensed Family Child Care Home I;
3. Licensed Family Child Care Home II;
4. License-Exempt Family Child Care Home; or
5. In-home provider.

The Department does not pay a caretaker to provide child care for his/her own child(ren). The Department also does not pay an individual to provide child care for his/her foster child, adopted child, or child for whom s/he is receiving adoption or guardianship subsidy.

3-010.01 Limitations on Authorization of In-Home Child Care: All in-home providers must be paid at least federal minimum wage.

The worker may authorize in-home child care only if:

1. The child has a special need (see 392 NAC 1-003) or a childhood illness;
2. The client needs child care during evening, overnight, weekend, or holiday hours. Evening is defined as after 6 p.m. This is for any of the reasons for child care listed in 392 NAC 3-007.
3. There are three or more children in care.

Note: The in-home provider may be an individual who lives with the child only if the child has a special need or a childhood illness.

3-010.02 Client Relatives as Providers: A relative provider is defined as any relative of the child except an adult who is legally responsible for the child or a person who is a member of the child's assistance/service unit. For the definition of a relative, see 392 NAC 3-005.02A.

3-010.03 Employee of a Child Care Facility: When a client works at the child care facility where his/her child(ren) attends, the Department will pay for the care of the child(ren) only if it is a child care center.

{Effective 4/2/05}

3-011 Immunization: At the time of application, the client must agree to obtain immunizations according to state immunization guidelines for his/her child(ren) who is receiving child care subsidy. The following are exempt from the immunization requirement:

1. Children whose parents object to immunization on religious grounds; and
2. Children whose health would be harmed by immunization. This requires certification by a physician, certified nurse practitioner, or physician assistant.

3-012 Client Overpayments: The Department will attempt to recoup overpayments caused by the client's error (failure to provide information, using child care for unauthorized purpose, etc.). When the overpayment appears to be the result of fraud, the case will be referred to the Special Investigation Unit, Central Office, or the Omaha Special Investigation Unit for Omaha cases.

3-013 Intentional Program Violation (IPV): Effective January 1, 2004, an individual who is found to have committed IPV is disqualified according to the following regulations.

3-013.01 Disqualification Hearing: A disqualification hearing will be initiated by the Central Office whenever sufficient documentary evidence has been established to substantiate that a household member has committed one or more acts of intentional program violation. An intentional program violation consists of any action by an individual to purposely:

1. Make a false statement to the local office, either verbally or in writing, to obtain benefits to which the household is not entitled;
2. Conceal information to obtain benefits to which the household is not entitled; or
3. Alter one or more documents to obtain benefits to which the household is not entitled.

The worker must inform the household in writing of the disqualification penalties for committing IPV each time the household applies for benefits. The penalties are listed in clear and prominent lettering on the application form or attachment.

3-013.02 Initiating the Disqualification Hearing

3-013.02A Reporting Requirements: The worker must report cases of suspected IPV to the Special Investigations Unit (SIU), Central Office, or in Omaha, to the Omaha Special Investigations Unit.

3-013.02B Central Office Guidelines: The Central Office uses the following guidelines in determining the need for a disqualification hearing:

1. A disqualification hearing must be initiated regardless of the current eligibility status of the individual;
2. The burden of proving IPV is on the Department; and
3. The Central Office will not initiate a disqualification hearing against an accused individual whose case is currently being referred for prosecution or after any action taken against the accused individual by a court, if the factual issues of the case arise out of the same, or related, circumstances.

3-013.02C Disqualification Hearing Procedures: See 465 NAC 2-007.06 ff.

3-013.02D IPV Disqualification: If an individual is found to have committed an IPV, a period of disqualification must be imposed. The period may be determined by the Director after an administrative disqualification hearing, or without a hearing if the individual waives his or her right to a hearing. The period of disqualification is:

1. For a first violation, up to one year;
2. For a second violation, up to two years; and
3. For a third violation, permanent disqualification.

The disqualification applies to the individual found to have committed the IPV and his/her family.

These penalties will also be imposed if the individual is found by a court to have committed IPV.

Note: Before a referral is made for IPV for a family being served through HHS protection and safety services or Employment First, there must be consultation and agreement by the protection and safety or Employment First staff involved with the case.

3-014 Cooperation with the Child Support Enforcement Unit (CSEU)

3-014.01 Purpose of the Program: The Child Support Enforcement Program is also commonly known as the IV-D Program since the federal provisions for the program are contained in Title IV, Part D of the U.S. Social Security Act. The purpose of the program is to identify and locate absent parents, establish paternity, and obtain financial and medical support payments.

3-014.01A Child Support Enforcement Services: Child Care Subsidy cases are classified as non-public assistance (NPA). NPA cases are those in which the recipient of IV-D services does not receive ADC, foster care, or Medicaid. Services available from Child Support Enforcement for NPA cases include the following:

1. Locating parents;
2. Establishing paternity;
3. Establishing court orders for child support;
4. Establishing court orders for medical support;
5. Enforcing IV-D orders;
6. Reviewing and modifying support order(s); and
7. Collecting and distributing support.

3-014.02 Definitions of Child Support, Spousal Support, and Medical Support: For Child Care Subsidy purposes, child support payments are defined as:

1. Payments ordered by a court of competent jurisdiction for the support of a child(ren); or
2. Payments made by a noncustodial parent without a court order.

Spousal support is alimony or maintenance support of a spouse or former spouse who is living with the child for whom the individual also owes support.

Medical support is the obligation of the noncustodial parent to provide health insurance or pay medical costs for anyone in the unit.

Additional definitions for the Child Support Enforcement Program are contained in Title 466.

3-014.03 Duties of the Case Manager: The case manager has the following duties in child support cases, as defined in subsequent regulations:

1. Identifying all noncustodial parents (see 392 NAC 3-014.05A for exceptions);
2. Obtaining the application for child support services;
3. Referring of Child Care Subsidy cases to IV-D workers;
4. Redetermining eligibility due to child/spousal support collections.

3-014.04 Duties of Client: The parent/non-legally responsible relative, or guardian of the child for whom Child Care Subsidy is received is required to cooperate with Child Support Enforcement (unless there is the determination of Family Violence, see 392 NAC 3-014.06B3).

Child Care Subsidy recipients are required to cooperate with Child Support Enforcement in achieving the following objectives:

1. Identification and location of the parent(s)/alleged father of a child who receives Child Care Subsidy;
2. Establishment of paternity;
3. Establishment of a support order;
4. Enforcement of a support order; and
5. Modification of a support order.

3-014.05 Referral to the IV-D Unit: When one or both parents of a child receiving Child Care Subsidy are absent, the case manager makes a referral to the IV-D unit no later than two days after the date of approval of eligibility.

3-014.05A Exception to Referral: A referral is not made to the IV-D unit for:

1. A family where both financially responsible parents are in the home and receiving Child Care Subsidy;
2. A family receiving Child Care Subsidy as Current Family;
3. A family receiving Child Care Subsidy for a foster child or a child receiving subsidized guardianship or subsidized adoption;
4. An unborn child; or
5. A deceased parent when the parent was a member of the child's household at the time of death. A IV-D referral is appropriate when the deceased parent was a noncustodial parent at the time of death.

3-014.06 Cooperation in Obtaining Support: Cooperation includes, but is not limited to, action relevant to achieve the objectives in 392 NAC 3-014.01A:

1. Appearing or responding when requested to provide written or verbal information that is reasonably available to the party;
2. Appearing as a witness at judicial or other hearings or proceedings;
3. Providing information or attesting to lack of information;
4. Signing any necessary legal documents or Child Support Enforcement forms;
5. Submitting oneself and/or the child(ren) to genetic testing and otherwise assisting in the establishment of paternity for a child for whom assistance is claimed;
6. Identifying and providing relevant information about any third parties who may be liable for medical costs; and
7. Providing dependent Social Security numbers when requested.

3-014.06A Refusal to Cooperate: The IV-D worker is responsible for determining noncooperation by the client. The case manager must aid in forwarding documentation to the IV-D worker. See 392-000-300 for examples of noncooperation.

If a client fails to cooperate in naming a noncustodial parent or in providing information to locate a noncustodial parent and subsequently cooperates, eligibility is reinstated effective the first day of the month during which cooperation is restored.

3-014.06B Opportunity to Claim Family Violence Provision: A client may claim Family Violence Provision by checking the box on the application indicating that cooperation with Child Support Enforcement could cause serious risk of harm from the noncustodial parent.

When the Family Violence Provision is claimed, the Child Support Enforcement system automatically sends a Statement of Safety Concerns cover letter and a child support form to the client. When the form is completed by the custodial parent, the Child Support worker will interview the client to determine the specific family violence issues of the case and assess the level of risk. During the interview, the CSE worker will explain the possible actions that will be taken in child and medical support cases. The client determines what action is taken. There may be some enforcement actions that can be taken without jeopardizing the family's safety; if not, the child support case will be closed.

Family Violence Provision may be claimed at any time during the life of the case.

3-014.07 Sanction for Refusal to Cooperate: Upon receiving notification from the IV-D unit that the individual refused the cooperate, the case manager must close the Child Care Subsidy case.

3-014.07A Employment First (EF) Participant: No child support sanction will be imposed on an EF participant so that the client may continue to participate in EF.