CHAPTER 2-000 ELIGIBILITY REQUIREMENTS: For families who are subject to Employment First requirements, ADC cash assistance is a time-limited program. The following elements of eligibility must be met:

1. Application (see 468 NAC 2-001);
2. U.S. citizenship or alien status (see 468 NAC 2-002);
3. Nebraska residence (see 468 NAC 2-003);
4. Social Security number (see 468 NAC 2-004);
5. Cause of unemployment (see 468 NAC 2-005);
6. Relative responsibility (see 468 NAC 2-006);
7. Age requirement for a dependent child (see 468 NAC 2-007);
8. Resources (see 468 NAC 2-008);
9. Income (see 468 NAC 2-009);
10. Cooperation with the Child Support Enforcement Office (see 468 NAC 2-019);
11. Cooperation in developing and completing a Self-Sufficiency Contract (see 468 NAC 2-010);
12. Cooperation with Employment First requirements (see 468 NAC 2-020);
13. Cooperation in obtaining third party medical payments (see 468 NAC 2-021); and
14. Other related requirements (see 468 NAC 2-022).

2-001 Application: An individual wishing to apply for assistance must complete and submit an application. A relative or other person acting on behalf of the client may complete the application (see 468 NAC 2-006.02).

Households must have an interview at initial application and at least once every 12 months following initial application. The agency will conduct a face-to-face interview if requested by the client, or determined necessary by the agency using the prudent person principle (see 468 NAC 1-008). If a client, for good reason, is unable to conduct a face-to-face interview in the DHHS office, then the worker and the client must identify a mutually acceptable time and place, such as a hospital, senior or community center, or the client's home.

2-002 Citizenship and Alien Status: In order to be eligible for public assistance, an individual's status must be documented as one of the following using acceptable documents, as defined by federal regulations and listed in 468-000-301:

1. A citizen of the United States;
2. Qualified aliens as defined in Section 431 of the Immigration and Nationality Act (INA):
   a. An alien who was admitted as a lawful permanent resident (LPR) and has resided in the United States for at least five calendar years from the date of entry or who has worked or can be credited with 40 qualifying quarters of work. For sponsored LPRs, see 468 NAC 2-018.04;
   b. A refugee admitted to the U.S. under Section 207 of the INA;
   c. An asylee under Section 208 of the INA;

d. Victims of a severe form of trafficking (Victims of Trafficking and Violence Protection Act of 2000);
e. An alien whose deportation is withheld under Section 243(h) of INA;
f. An alien from Cuba or Haiti who was admitted under Section 501(e) of the Refugee Education Assistance Act of 1980;
g. A refugee who entered the U.S. before April 1, 1980, and was granted conditional entry;
h. An alien who has been battered or subjected to extreme cruelty in the U.S. by a spouse or a parent or by a member of the spouse's or parent's family who is residing in the same household as the alien; but only after having resided in the U.S. for at least five calendar years from the date of entry or who has worked or can be credited with 40 qualifying quarters of work. The child or children of a battered alien meeting these requirements is/are also eligible.

3. Iraqi and Afghan aliens granted special immigrant status;
4. An Amerasian immigrant under Section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988, as amended;
5. An alien with past or current military involvement defined as an alien veteran who is on active duty (other than active duty for training) with any of the U.S. Armed Forces units or who has been honorably discharged (not on account of alienage) and who has fulfilled minimum active-duty service requirements. Minimum active duty is defined as 24 months or the period for which the person was called to active duty. The spouse or unmarried dependent child of an alien veteran as described in this paragraph is also eligible;
6. An alien who is paroled into the U.S. under Section 212(d)(5) of the INA but only after having resided in the U.S. for at least five calendar years from the date of entry or who has worked or can be credited with 40 qualifying quarters of work.

Any individual 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. A pregnant woman who is an ineligible alien may receive payment for her unborn if all other eligibility requirements are met in the final trimester.

Receipt of SSI, SSDI, or Medicare is sufficient proof of citizenship or lawfully admitted alien status.

Individuals 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 an individual 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 documentation, the client must be closed.

2-002.01 Verification of Alien Status: When a parent/individual states that one or more of the children for whom assistance is being requested is an alien, the worker must require the client to present verification for each alien child.

2-002.02 Repatriation Program: The Repatriation Program provides temporary assistance, care, and treatment for up to 90 days for U.S. citizens or dependents of U.S. citizens who have returned from foreign countries. To qualify for repatriation assistance, the individual must be returned from a foreign country because s/he is destitute or ill (including mentally ill) or because of war, threat of war, or a similar crisis. A request must be made by the State Department to the U.S. Department of Health and Human Services to receive the individual in the United States and to provide the necessary care, treatment, and assistance.

Assistance may include reception services (meeting the client at the airport), food, shelter, clothing, and transportation. It may also include payment for special services such as medical and psychiatric care. As part of the assistance, guidance, counseling, and vocational rehabilitation may be provided.

The Central Office will contact the appropriate local office on all arriving cases.

If it appears that the individual is eligible for another form of assistance, the worker must make a referral (to Social Security, Veterans Administration, etc.) or complete an application for categorical assistance.

2-002.02A Eligibility Period: Assistance may be provided for up to 90 days from the date the individual arrives in the United States.

If the individual needs assistance beyond 90 days and is not eligible for SSA, SSI, or categorical assistance, the local office shall contact the Public Assistance Unit, Central Office.

2-002.02B Payment Maximums: Up to $560 may be provided for one month only; after that, the maximum payment is $222.

2-002.02C Authorization for Payment: Payment for all approved services is made by warrant directly to the provider. Payment may be made for all or a portion of the services.

2-002.02D Repayment: The individual is required to sign an agreement to repay the cost of the assistance provided.

2-003 Residence: To be eligible for assistance, 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.

Residence starts with the month the client moves into the state, even if the client received categorical assistance in another state. The agency may not deny assistance because an individual has not resided in the state for a specified period.

2-003.01 Residence of Individuals Entering the State: The intent of an individual to establish Nebraska residence must be investigated in accordance with this regulation if the individual comes into the state and immediately enters a home licensed by the DHHS Division of Public Health (nursing home, hospital or alternate care facility). To determine the individual's intent to establish residence in Nebraska the worker shall consider the individual's purpose for entering the state. The individual is considered a Nebraska resident if his/her purpose for entering the state was because s/he:

1. Desired to be near to close friends or relatives in the state;
2. Previously resided in the state; or
3. Has other contacts in the state.

If none of the previously mentioned conditions exist, the worker must evaluate the client's intent to establish residence. If the client states that s/he plans to establish residence but the situation seems to indicate otherwise, the worker must review factors such as when the client entered the state, whether the client maintains a residence or owns property (including real and/or personal property) in another state, and place of residence of the client's spouse and other immediate family members.

2-003.03 Absence From the State: The agency may not deny assistance because an individual has not resided in the state for a specified period.

2-003.03A Temporary Absence: The agency may not terminate a resident's eligibility because of that person's temporary absence from the state if the person intends to return when the purpose of the absence has been accomplished, unless another state has determined that the person is a resident there for assistance purposes.

2-003.03B Loss of State Residence: Eligibility for assistance ends if the family unit leaves Nebraska with the intent of establishing its home in another state. The family may receive ADC from Nebraska (if otherwise eligible) for a period not to exceed two months to enable the other state to process the application.

A family unit may not receive assistance payments from Nebraska beyond the date on which it has been found eligible for categorical assistance from another state.

Exception: Individuals who leave the state for longer than 60 days may continue to receive assistance in Nebraska if they are absent for a temporary purpose and intend to return.

2-003.04 Disqualification for Misrepresenting Residence: Any person convicted in federal or state court of having fraudulently misrepresented his/her residence in order to obtain ADC assistance in two or more states is ineligible for ADC for ten years from the date of conviction. Only the individual convicted of the misrepresentation is ineligible; other members of the family or household may receive benefits.

2-004 Requirement of Social Security Number (SSN): All eligible members of the ADC unit-must furnish a Social Security number. The SSN, in conjunction with other information, provides evidence of identity of the individual.

2-004.01 Application for an SSN: If the client has not applied within 30 days of the date s/he is given the Referral for Social Security Number Application, the worker must not include the client in determining the size of the assistance unit. Before taking adverse action, the worker must take into consideration the client's ability to follow through on the referral (such as lack of transportation, no visit by SSA to the contact station, lack of required verification documents, etc.) and use prudent person principle.

2-004.02 SSN Application for a Newborn: If Enumeration at Birth was not done as verified by a Vital Statistics Alert, the worker must refer the parent or payee to the Social Security office via a Referral for Social Security Number Application by the first day of the second month following the mother's discharge from the hospital after the birth. If the child is not born in a hospital, a Referral for Social Security Number Application must be completed by the first day of the second month following the birth regardless of where the child is born. If the parent or payee fails or refuses to apply for a Social Security number, the provisions in 468 NAC 2-004.01 are followed for eligibility for a grant.

2-004.03 Assistance Pending Verification of SSN: After the client has been referred to SSA, if s/he is otherwise eligible, assistance is not delayed, denied, or discontinued pending the verification or assignment of an SSN.

2-005 Cause of Unemployment: There is a sanction if, without good cause, a parent quits a job or refuses a job. This sanction applies to single parent and two-parent families.

2-005.01 Voluntary Quit for Applicants: If a parent quit his/her job without good cause (see 468 NAC 2-005.01A) and the job was at least 100 hours a month, the unit is ineligible for a grant payment for the month during which the voluntary quit without good cause occurs. For a household composed of unmarried parents with a child(ren) in common and one or more children who are not in common, see 468-000-338. These circumstances may include a voluntary severance from the job, misconduct on the job, etc.

2-005.01A Good Cause for Terminating Employment: Some examples of good cause for terminating employment include:

1. Illness of the employed household member;
2. Illness of another household member requiring the presence of the employed member;
3. Unavailability of transportation (including public transportation);
4. Work demands or conditions that make continued employment unreasonable, such as working without being paid on schedule;
5. Acceptance of employment that requires the parent to leave other employment;
6. Acceptance by one parent of employment in another geographic area which requires the unit to move and thereby requires the second parent to leave employment;
7. Acceptance of a bona fide job offer which, because of circumstances beyond the control of the parent, subsequently either does not materialize or results in employment of less than 100 hours per month; or
8. Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as in migrant farm labor or construction work.

2-005.01B Voluntary Quit for Recipients Who Have Not Signed an EF Contract: If the parent in an ongoing ADC case has not yet signed an EF self-sufficiency contract and terminates employment or refuses a bona fide offer of employment without good cause, the unit is ineligible for a calendar month, taking into account adequate and timely notice. Once an EF self-sufficiency contract is signed, EF sanctions are imposed (see 468 NAC 2-020.09).

2-006 Parental Responsibility: The worker shall determine the ability of the parent to support each dependent child in whose behalf ADC is applied for or received.

In Nebraska, the responsible parent(s) of a child age 18 or younger includes -

1. The natural parent(s);
2. The adoptive parent(s); and
3. The stepparent(s).

2-006.01 Living in the Home of a Relative: To be eligible to receive ADC, a child must be living in the home of a relative, conservator, or guardian, unless removed from that home by judicial determination. (See Title 479 or, for emergency situations, see 468 NAC 2-006.01D.)

2-006.01A Definition of Home: A home is defined as the family setting maintained or in the process of being established by the parent, relative, guardian or conservator who is standing in the place of the parent, as shown by the assumption and continued acceptance of responsibility for the child.

Usually the child shares the same household with the parent, relative, guardian or conservator. A home exists, however, as long as the parent or relative exercises responsibility for the care and control of the child, even though circumstances may require the temporary absence of either from the customary family setting.

2-006.01B Absence Because of Schooling: If school facilities which meet the needs of the particular child are not available in the community, the child's absence from home for the purpose of attending school does not affect eligibility.

2-006.01C Temporary Absence From the Home: A child is still considered part of the household while s/he is out of the home for a visit not to exceed three months. A child is still considered part of the original household while s/he is on summer visitation.

2-006.01D Temporary Absence due to Emergency Situations: In emergency situations that deprive the child of a parent's or relative's, or guardian or conservator's care, temporary plans may be made to care for the child in the home of an individual or institution acting in the place of the parent or relative. The unit may continue to receive assistance for the period of the emergency or the time actually required to make new arrangements for care, but the assistance must not continue beyond three months.

Exception: The unit may receive assistance beyond three months if the responsible relative (or guardian or conservator) or the child is out of the home because of his/her hospitalization. If the worker knows at the time the individual enters the institution or hospital that the stay will be longer than three months, the worker shall send a Policy Question to the Central Office requesting an extension to keep the case open. On the Policy Question, the worker shall explain the reason for the hospitalization or institutionalization and the approximate length of the stay.

2-006.01D1 Absence Due to Incarceration: If the parent, needy caretaker relative, or guardian or conservator in an ongoing case is incarcerated, s/he may be the payee for the unit for a maximum of three months. After three months if the parent, needy caretaker relative, or guardian or conservator is still incarcerated, the case must be closed. An application may be taken with a specified relative (see 468 NAC 2-006.02) as payee for the child(ren).

The needs of an incarcerated individual must be removed from the grant unit the first month possible, considering adequate and timely notice.

2-006.02 Individuals With Whom the Child May Live: If the child is living with a relative, the relative must be a father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, second cousin, nephew, or niece. These relatives may be half blood, related by adoption, or from a preceding generation as denoted by prefixes of grand, great, great-great, or great-great-great. A child may also live with the spouse of any persons previously named even after the marriage has been terminated by death or divorce. The case record must contain verification and documentation of the relationship. Verification includes items such as a marriage license, birth record, and written statements for collateral contacts.

The child may also live with a legally appointed guardian or conservator.

2-006.03 Limitation Regarding Relative-Payee: The parent, caretaker relative, or guardian or conservator with whom the child makes a home and who serves as payee may not be a person who has been declared incompetent through court action. If the parent or caretaker relative has a legally appointed guardian or conservator (see 465 NAC 2-008.01), the guardian or conservator may be the payee.

2-006.04 Eligibility of Parent(s), Needy Caretaker Relative, Or Guardian Or Conservator To Be Included in ADC Payment: The parent(s), needy caretaker relative, or needy guardian or conservator may be included in the ADC payment only if a money payment is made for the child for that month (for these purposes, SSI is considered the same as an ADC payment). To be eligible for inclusion in the ADC payment, the parent, caretaker relative, or guardian or conservator shall -

1. Assign support rights to the Department;
2. Cooperate with the Child Support Enforcement Unit, as required;
3. Be in need, as determined by assistance requirements and standards;
4. Comply with Employment First requirements; and
5. Not be eligible to receive AABD for himself/herself.

Note: Only one needy caretaker relative or guardian or conservator may be included in the unit. Income of the spouse of a needy caretaker relative or needy guardian or conservator must be budgeted to the ADC unit.

See 468 NAC 3-004.

[Effective 5/8/05]

2-006.05 Unit Living as a Family: If a relative payee(s) or a guardian or conservator requests assistance for more than one child in the household, all children for whom assistance is requested must be included in a single grant unit. Since the household is living as a single family, it must be budgeted accordingly. For examples, see 468-000-338.

2-006.06 Two Parent Families: Deprivation of parental support or care is not an eligibility requirement for grant assistance. If unmarried parents are living together as a family and the father has acknowledged paternity for their child, the worker must consider eligibility for the family as a unit.

2-006.07 Financial Responsibility:

2-006.07A Unmarried Parents: When unmarried parents are living together as a family, the alleged father is considered financially responsible if he has acknowledged paternity or a court has determined that he is the father of the child after the birth.

Note: Paternity cannot be established for an unborn.

2-006.07A1 Eligibility for One Parent and Child(ren): When unmarried parents are living as a family and one parent is ineligible, the ineligible parent and his/her child(ren) are not included in the unit. If otherwise financially eligible, the other parent and any children (not shared with the financially ineligible parent) may continue to receive a grant. The removed parent may be ineligible because of any of the eligibility requirements. For examples, see 468-000-305.

2-006.07B Children of a Marriage: A woman's spouse is considered the father of any children who are conceived or born during a marriage even if the couple is separated and/or has filed for divorce or annulment unless there is a court order that states otherwise. If a woman states that her spouse is not the father of her child, the worker must encourage her to pursue the establishment of paternity, unless good cause exists.

2-006.07C Military Service: If a parent is absent due to active duty in the uniformed services of the United States, that parent is still considered part of the assistance unit and his/her income is considered available to the unit. Uniformed service is defined as the Army, Navy, Air Force, Marine Corps, Coast Guard, Environmental Sciences Services Administration, and Public Health Service of the United States. If the client states that separation is due to reasons other than performance in military service, the client must provide proof of bona fide separation.

If the parent in the military is incarcerated, s/he is no longer considered part of the assistance unit.

2-006.07D Incapacitated Parent: An incapacitated parent does not have to be included in the ADC unit if s/he is receiving AABD and is considered disabled or blind. An incapacitated parent who does not receive AABD must be included in the ADC unit (see 468 NAC 3-006) and cannot be found eligible to receive SDP.

2-006.07E Joint Physical Custody: In a household where both parents are not continuously present, the worker must determine if both parents are present to the extent that the income and resources of both parents must be used in the eligibility determination and the needs of both included in the unit. This policy applies when the non-custodial parent has sufficiently frequent contact with the child(ren) so that the normal parental roles of providing guidance, physical care, and maintenance have not been interrupted. In addition, this policy applies when there is joint physical (shared) custody where the physical custody of the child(ren) is split between both parents. This can be either on a scheduled basis as included in a divorce decree or on an informal basis agreed to by both parents.

2-007 Age Requirement for a Dependent Child: The following are included in the definition of a dependent child:

1. Age 0 through 17 - For receipt of an ADC grant, an individual is considered a dependent child beginning with the first day of the mother's third trimester of pregnancy through the month of the child's 18th birthday. The case record must contain a pregnancy verification.

   Note: If the child is born before the month of the expected due date, there is no underpayment. If the child is born after the month of the expected due date, there is no overpayment.

   School attendance is not an eligibility factor; however, a dependent child age 16 or older who is not a full-time student must participate in Employment First (see 468 NAC 2-020).

   If the parent needs child care to accept or retain employment or to participate in an education or training activity that is not connected with Employment First, see 468 NAC 2-007.04.

2. 18 Years - A child is eligible through the entire month of his/her 19th birthday if s/he is:
   a. A full-time student regularly attending a secondary school; or
   b. Participating in an Employment First component.

   An 18-year-old is eligible through the month of graduation from high school.

2-007.01 Unit Size: The ADC unit size is based on the number of eligible family members.

See 468 NAC 3-006 for filing unit requirements.

With the exception of those situations listed at 468 NAC 3-006, the needs of all eligible parents and their dependent children must be included in the ADC unit. Also see 468 NAC 2-006.05.

2-007.02 Minor Parent: If a minor parent has a legal guardian, according to Nebraska law the guardian has no financial responsibility for the minor.

2-007.02A Minor's Parent(s) Receiving ADC: If a minor parent is living with his/her parent(s) who is receiving ADC for another child, the minor parent must be in his/her parent(s)' unit. If assistance is received for the minor's child, that child must also be in the parent(s)' unit.

An 18-year-old minor parent who is not in school must participate in EF and remains a dependent child (see 468-000-305).

When a minor parent becomes emancipated (see 468 NAC 1-004), graduates from secondary school at age 18, or reaches age 19, s/he and his/her child become a separate unit.

2-007.02A1 Minor Parent Living with Specified Relative, Guardian, or Conservator: Regulations in 468 NAC 2-007.01A apply to a minor parent living with a specified relative, guardian, or conservator with the following exceptions.

A minor parent who is living with a specified relative, guardian, or conservator is considered emancipated unless the minor parent is receiving support from his/her parent(s), guardian or conservator.
Note: See 468 NAC 2-006.02 for a list of specified relatives.

2-007.01A1a Department Ward Living with Specified Relative, Guardian, or Conservator: If a Department ward is living with a specified relative, guardian, or conservator who is receiving ADC, the specified relative has the choice of receiving ADC or foster care for the ward (see 468-000-322).

2-007.02B Minor's Parent(s) Not Receiving Categorical Assistance

2-007.02B1 Living in Parent(s)' Home: If a minor is living in his/her parent(s)' home and they are not receiving categorical assistance, the minor may apply for assistance for himself/herself and his/her child. Since the minor's parents (grandparents) are considered responsible for the minor, income of the grandparents over 300 percent of the Federal Poverty Level must be deemed to the minor parent and the child. Income of anyone else in the household (i.e., aunts, uncles, brothers and sisters of the minor) is not counted.

In determining the eligibility of the unit, the income of the grandparent(s), the minor, and the child is considered.

Exception: AABD benefits are not deemed.

2-007.02C Minor Not Living With Parent(s): If the parent(s) has been contributing to the support of the minor, the worker may require written verification from the parent(s) of his/her plans to continue or not continue to support (see 468 NAC 2-009.04B). Income of the parent(s) is not deemed.

2-007.02D Minor Living in Parent(s)' Home: If a minor is living in his/her parent(s)' home, s/he is considered emancipated if s/he has married. If the minor has married, s/he may be a separate unit with his/her child. If the marriage is annulled, the minor is not considered emancipated.

A minor is also considered emancipated pursuant to the provisions of Neb. Rev. Stat. § 71-6902.02.

2-007.03 Effective Birthdate if Information Is Incomplete: When birth information is incomplete, a birthdate is designated as follows:

1. If the year but not the month is known, July is used.
2. If the day of the month is not known, the 15th is used.

2-007.04 Eligibility of a Child Age 18: In order to receive a grant, a child age 18 must be a full-time student regularly attending a secondary school or participating in Employment First.

2-007.04A Definition of a Student: A student is an individual who is:

1. Age 17 or younger and attending a school, college, or university or a course of vocational or technical training designed to fit him/her for gainful employment, and includes a participant in the Job Corps Program; or
   Note: A child who is not yet age 18 is eligible while attending a college or university until the month of his/her 18th birthday.
2. Age 18, registered full time, and regularly attending a secondary school (or the equivalent level of vocational or technical training).

Note: An 18 year old who is attending a college or university is not eligible, as a dependent child.

2-007.04B Continued Enrollment: The worker must consider enrollment as continued through normal periods of class attendance, vacation, and recess unless the student graduates, drops out, is suspended or expelled, or does not intend to register for the next normal school term (excluding summer school).

2-007.04C Full-Time Student: A full-time student must have a school schedule that is equal to a full-time curriculum for the school s/he is attending, as defined by the school district. See 468 NAC 2-016, item 1, for treatment of earned income.

2-007.04D Less Than Full-Time Student: A student age 16 or older who is enrolled less than full time must be enrolled and participating in Employment First unless exempt.

If the student has a verified physical handicap, the employment requirement may be waived. For treatment of earned income, see 468 NAC 2-016.

2-007.05 School Attendance Requirement: Minors age 15 or younger who have not graduated from high school and who are dependent children or parents in an ADC family are required to attend school. ADC benefits will be reduced $50 for each dependent child or minor parent who, without good cause, has accumulated a number of unexcused absences from school sufficient to jeopardize the student's academic progress, and the ADC caretaker relative or needy guardian or conservator has not taken reasonable steps to encourage the child(ren) to improve his/her (their) attendance.

If the student demonstrates satisfactory attendance according to the school, the sanction may be lifted before any subsequent grading period. The benefit payments must be reinstated after a subsequent grading period in which the child has substantially improved his/her attendance.

The $50 sanction is imposed only on a caretaker relative or guardian or conservator who is in the unit.

Note: If a 16-year-old child is removed from the unit, the grant is reduced by the amount for one individual, but the $50 sanction is no longer imposed.

2-007.05A Good Cause: Good cause exemptions from the unexcused absences include but are not limited to the following:

1. The student is expelled from school and alternative public schooling is not available;
2. The minor has a child three months of age or younger;
3. No child care is available for the child of a minor;
4. Prohibitive transportation problems exist; or
5. Chronic illness of the minor.

2-007.05B Steps to Encourage Attendance: Examples of reasonable steps taken by a caretaker relative, guardian, or conservator to encourage attendance include but are not limited to –

1. Attending conferences with school officials;
2. Cooperating with school officials;
3. Providing a home environment conducive to school attendance;
4. Ensuring enrollment;
5. Assisting the child in such activities as meeting transportation, nutritional, and dress needs, etc.

Statements from the caretaker relative, guardian, or conservator are sufficient verification that the responsible adult is making reasonable efforts to encourage attendance.

2-008 Resources: The total equity value of available non-exempt resources of the ADC unit is determined and compared with the established maximum for available resources which the ADC unit may own and still be considered eligible. If the total equity value of available non-exempt resources exceeds the established maximum, the ADC unit is ineligible for a grant. The following are examples of resources:

1. Cash on hand;
2. Cash in savings or checking accounts;
3. Certificates of deposit;
4. Stocks;
5. Bonds;
6. Investments;
7. Collectable unpaid notes or loans;
8. Promissory notes;
9. Mortgages;
10. Land contracts;
11. Land leases;
12. Revocable burial funds;
13. Trust or guardianship funds;
14. Cash value of insurance policies;
15. A home;
16. Additional pieces of property;
17. Trailer houses;
18. Burial spaces;
19. Motor vehicles;
20. Life estates;
21. Farm and business equipment;
22. Livestock;
23. Poultry and crops;
24. Household goods and other personal effects;
25. The contents of a safe deposit box;
26. Federal and state tax refunds (excluding EIC'S); and
27. Elective share of a spouse's augmented estate.

2-008.01 Verification of Resources: Before determining eligibility of an ADC client, the worker must verify and document in the case record all resources 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.

2-008.02 Definition of Available Resources: For the determination of eligibility, available resources include cash or other liquid assets or any type of real or personal property or interest in property that the client owns and may convert into cash to be used for support and maintenance.

2-008.02A Unavailability of Resource: Regardless of the terms of ownership, if it can be documented in the case record that the resource is unavailable to the client, the value of that resource is not used in determining eligibility. The worker must consider the feasibility of the client's taking legal action to liquidate the resource. If the worker determines that action can be taken, the worker must allow the client 60 days to initiate action to liquidate. During the 60 days allowed, the resource is not considered available. After 60 days, if no action is taken to liquidate, the resource is counted.

In evaluating the availability of benefit funds, such as funds raised by a benefit dance or auction, the worker must determine the purpose of the funds and if the client has access to them. If the client cannot access the funds to pay normal maintenance needs, the funds are not considered available.

The worker must determine a reasonable period of unavailability based on the circumstances of the case. The worker must monitor the status of the resource.

An applicant or recipient must file in county court for the maximum elective share of a deceased spouse's augmented estate as specified in Neb. Rev. Stat., sections 30-2313 and 30-2314.

2-008.02B Excluded Resources: Disregarded income is also disregarded as a resource unless there is regulation stating otherwise. In addition, the following resources are excluded in making a determination of eligibility:

1. Real property which the unit owns and occupies as a home;
2. Goods of moderate value used in the home;
3. Clothing;
4. One motor vehicle if it is used for employment or medical transportation;
5. A motor vehicle used as the client's home;
6. Certain trusts (including guardianships) set up for one or more of the children in the ADC unit (see 468 NAC 2-008.07A5);
7. The cash value of life insurance policies;
8. Certain life estates in real property (see 468 NAC 2-008.07B9);
9. Irrevocable burial trusts up to $3,000 per individual and the interest if irrevocable (see 468 NAC 2-008.07A3a);
10. Proceeds of an insurance policy that is irrevocably assigned for the purpose of burial of the client (see 468 NAC 2-008.07A3b);
11. Burial spaces (see 468 NAC 2-008.07B15);
12. Funds set aside by the Veterans Administration under the Veterans Education and Employment Assistance Act for the future education expenses of a veteran;

13. Payments from the Indian Claims Commission;
14. Income received annually, semi-annually, or quarterly which is prorated on a monthly basis and included in the budget. This is excluded over the period of time it is considered income;
15. Stocks, inventories, and supplies used in self-employment (see 468 NAC 2-008.07B16);
16. U.S. savings bonds (excluded for the initial six-month mandatory retention period);
17. An unavailable job-related retirement account that is held by the employer;
18. The unspent portion of any RSDI or SSI retroactive payments (excluded for six months following the month of receipt); and
19. An Individual Development Account (an account set up for postsecondary education, purchase of a client's first home, or establishment of a business).

The worth of resources, both available and excluded, is determined on the basis of their equity.

For any of these funds to be excluded as a resource, they must be segregated in a separate account so that they can be identified. If the funds are not in a separate account the worker shall allow the client 30 days from notification of the requirement to set up a new account. After 30 days the resource is included in the $4,000 or $6,000 limit if the client fails to segregate the funds. If this makes the client ineligible for a grant and the client subsequently segregates the funds, the worker shall determine eligibility for a grant for the month of segregation.

Several excludable resources may be combined in a single account.

2-008.02C Resources of an Ineligible or Sanctioned Parent: The resources of an ineligible or sanctioned parent are included in the resource total for the eligible unit members. The ineligible or sanctioned parent is allowed ADC resource exclusions. After resource exclusions, the remaining resource amount is counted in the resource total of the eligible unit members.

2-008.03 Determination of Ownership of Resources: A resource which appears on record in the name of a client must be considered belonging to the client.

2-008.03A Jointly Owned Resources: When a client has a jointly owned resource that is considered available, the worker shall use the guidelines in the following regulations.

2-008.03A1 Resources Owned With Other Clients: If a client owns a resource with another client who is on categorical assistance, the worker shall divide the value of the resource by the number of owners, regardless of the terms of ownership. The appropriate value is counted for each unit.

This reference also applies to resources owned with a spouse or child.

2-008.03A2 Resources Owned With Non-Clients: If a client owns a resource with an individual who is not receiving categorical assistance, the worker shall determine the appropriate value to be assigned to the client in accordance with the following regulations.

2-008.03A2a General Rule: As a general rule, the words and/or or or appearing on a title or other legal contract denote joint tenancy. This means that either owner could sign and turn the resource to cash without the other; therefore, the total resource is considered available to either owner.

The term and generally refers to "tenancy in common." This means that each owner holds an undivided interest in the resource without rights of survivorship to the other owner(s). Only the proportionate share based on the number of owners of the resource is available to each owner.

If the worker substantiates that the client is not the true owner of a resource, it is permissible to allow the client to remove his/her name from the title of ownership in order to reflect true ownership. The client is allowed 60 days to make this change without affecting eligibility.

2-008.03A2a(1) Real Property and Motor Vehicles: For cars and real estate, regardless of the terms of ownership, only the proportionate share is counted as a resource. In determining the value of a motor vehicle that is owned jointly with an AABD individual, see 468 NAC 2-008.07B8.

2-008.03A2a(1)(a) Real Estate: The worker shall verify ownership of real estate through records in the offices of the register of deeds or county clerk. The worker shall verify the terms on which property is held in cases of joint ownership. Records of the court have information in regard to estates which have not been settled or which are in probate. The worker shall consult the records of the court if the property has come to the holder as a part of an estate; if by joint purchase, the facts will appear in the record of the deed.

2-008.03A2a(1)(b) Motor Vehicles: The worker shall verify ownership of a motor vehicle. The title, not the registration, of a motor vehicle legally determines ownership.

2-008.03A2a(2) Bank Accounts: The worker shall verify the terms of the account with the bank. If any person on the account is able to withdraw the total amount, the full amount of the account is considered the client's. If all signatures are required to withdraw the money, the proportionate share must be counted toward the client.

If the client verifies that none of the money belongs to him/her, the client must be allowed 60 days to remove his/her name from the account. The client shall provide proof of the change. After the client removes his/her name from the bank account, eligibility may be determined retrospectively and/or prospectively. If the client does not remove his/her name in 60 days, the money is counted as a resource.

If a portion is the client's, the worker shall notify the client of the requirement to put the money in a separate account.

2-008.04 Consideration of Relative Responsibility: When the client (i.e., a spouse or parent has relative responsibility for a client in another assistance unit and the responsible relative owns the resource(s), the worker shall divide the value by the number of units to determine the amount to be counted to each. An AABD or SDP couple is considered one unit.

Exception: If the responsible relative receives SSI, none of the value of the resource(s) is considered to the other unit.

When the client (i.e., a spouse or parent) has relative responsibility for a client in another assistance unit and both clients own the resource(s), regulations in 468 NAC 2-008.03A1 are followed and the resource is divided by the number of owners only. This meets the requirement of relative responsibility.

2-008.05 Inheritance: When a client receives an inheritance, verified payment of debts or obligations of the deceased are subtracted from the settlement.

2-008.06 Value and Equity: Equity is the actual value of property (the price at which it could be sold) less the total of encumbrances against it (mortgages, mechanic's liens, other liens and taxes, and estimated selling expenses).

If the encumbrances against the property equal or exceed the price for which the property could be sold, the client has no equity and the property is not an available resource.

2-008.06A Secured Debts: The total value of unpaid personal taxes and other personal debts secured by mortgages, liens, promissory notes, and judgments (other than those on which the statute of limitations applies) is subtracted from the gross value of the encumbered property to find the equity. The worker shall document in the case record the type of debt and plan under which payment was made. The client's statement of debts may usually be accepted unless information to the contrary is available.

2-008.06B Determination of Value: The worker may use public tax records to determine the sale value of a resource. If there is a question as to the accuracy of the sale value determined by tax records, verification may be obtained from a real estate agent, car dealer, or other appropriate individual.

2-008.07 Types of Resources: Resources can be divided into two categories: liquid and non-liquid.

2-008.07A Liquid Resources: Liquid resources are assets that are in cash or financial instruments which are convertible to cash. They include resources such as -

1. Cash on hand;
2. Cash in savings or checking accounts;
3. Certificates of deposit;
4. Stocks;
5. Bonds;
6. Investments;
7. Collectable unpaid notes or loans;
8. Promissory notes;
9. Mortgages;
10. Land contracts;
11. Land leases;
12. Revocable burial funds;
13. Trust or guardianship funds;
14. Cash value of insurance policies;
15. Other similar properties;
16. Federal and state tax refunds (excluding EIC's); and
17. Medical savings accounts.

2-008.07A1 Cash, Savings, Investments, Money Due: Cash on hand, cash in checking and savings accounts, salable stocks or bonds, certificates of deposit, promissory notes and other collectable unpaid notes or loans and other investments are available resources.

2-008.07A2 Land Contracts: A land contract, or real estate contract of sale, is considered a resource to the seller of the property if the contract can be sold. In determining the value of the contract, the worker and/or the client determines the salability of the contract and the resulting value (see 468 NAC 2-008.06). The contract is not considered salable unless there is a known buyer. If the contract is determined to be salable, the net value of the contract becomes the value at which it could be sold - minus encumbrances, etc., against the property.

If it is determined and documented that the contract is not salable, the contract is not considered an available resource to the client. The worker must review the salability at all redeterminations or more often as the worker feels necessary.

Any income received from a land contract is considered unearned income to the client.

2-008.07A3 Funds Set Aside for Burial: See 468-000-XXX for the maximum allowable amount of funds which may be set aside for burial. The individual may choose to put the money in a pre-need burial trust or in a policy of insurance (or a combination of both). The amount indicated in the Appendix is the maximum which may be disregarded. If the client has more than the maximum, in a burial trust, the excess is considered an available resource. If the client has more than the maximum in burial insurance, the excess may be a deprivation of resources (see 468 NAC 2-008.10). If the client has a combination of a burial trust and burial insurance that exceeds the maximum, see 468-000-318 to determine how to treat the excess. An individual may transfer funds from an irrevocable burial trust fund into an insurance policy if there is no lapse of time between the withdrawal and the transfer.

Further questions related to the treatment of funds set aside for burial, including burial trust funds and burial insurance, should be addressed to the ADC Policy Unit, Central Office.

2-008.07A4 Whole Life Insurance: The cash surrender value of life insurance is exempt from resources.

The following are also exempt:

1. Term insurance and other similar policies that do not accrue any cash value;
2. Burial insurance; and
3. Life insurance policies where the proceeds are irrevocably assigned for the purpose of burial.

See 468 NAC 2-008.07A3b for the treatment of burial insurance.

2-008.07A4a Interest and Dividends: Interest and dividends of all life insurance policies are treated according to 468 NAC 2-016.

2-008.07A5 Trust, Guardianship/Conservatorship, and Annuity Funds: Questions related to the availability and treatment of Trust, Guardianship/Conservatorship or Annuity funds should be addressed to the ADC Policy Unit, Central Office.

2-008.07B Non-Liquid Resources: Non-liquid resources are tangible properties which need to be sold if they are to be used for the maintenance of the client. They include all properties not classified as liquid resources, such as:

1. A home;
2. Additional pieces of property;
3. Trailer houses;
4. Burial spaces;
5. Motor vehicles;
6. Life estates;
7. Farm and business equipment;
8. Livestock;
9. Poultry and crops; and
10. Household goods and other personal effects.

2-008.07B1 Exemption of Home: The ADC client's home is exempt from consideration as an available resource, with the following limitations.

2-008.07B1a Definition of Home: A home is defined as any shelter which the individual owns and uses as his/her principal place of residence. The home includes any land on which the house is located and any related outbuildings necessary to the operation of the home.

2-008.07B1b Adjacent Lots: Lots adjacent to the home are considered available if they can be sold separately from the home. If the worker determines and documents in the case record that the lots adjacent to the home cannot be sold or are not salable due to the location or condition of the property, the adjacent lots are also exempt.

2-008.07B2 Removal from Home: If the individual moves away from the home and does not plan or is unable to return to it, the worker shall determine when the home becomes an available resource in accordance with the following provisions.

The home continues to be exempt as a resource while members of the unit occupy it.

When the client moves to a nursing home, the worker shall consider the home an available resource once it is medically determined that the client will not be able to return home. If the client enters a facility and it is not possible to determine immediately if the client will be able to return home, a maximum of six months from the time the client entered the facility may be allowed to make that determination.

After a maximum of six months, the home may no longer be considered the individual's principal place of residence and must be considered an available resource. However, the client is allowed time to liquidate the property before it affects eligibility.

Note: For an applicant, the six months begin with the date the individual enters the institution, not with the date of application.

2-008.07B2a Liquidation of Property: As soon as the determination is made that the client will not be able to return home, the worker must allow the client time to liquidate the property (see 468 NAC 2-008.07B5).

The client is also allowed time for liquidation if s/he leaves the home for a reason other than entering a medical institution.

2-008.07B3 Sale of Home: If the ADC client sells his/her home, the net proceeds become an available resource unless reinvested immediately in another home. In order to be allowed time to reinvest the proceeds, the client must be residing in the home at the time of the sale and move directly to his/her new home.

Net proceeds are the remainder after payment of the mortgage, realtor's fees, legal fees, etc. The worker must verify any deductions. More than three months between the sale of the home and the reinvestment in another home requires that the unit's eligibility be reconsidered. In the period of time between the sale of the home and the reinvestment of the proceeds in another home, the money must be segregated in a separate account in order to be exempt.

If at any time the client does not intend to reinvest in another home, the proceeds from the sale become an available resource immediately.

Note: The proceeds from the sale of a home are not considered a lump sum.

2-008.07B4 (Reserved)

2-008.07B5 Liquidation of Real Property: When a client has excess resources because of real property s/he may receive ADC pending liquidation of the resource, according to the following regulations.
Note: If the client has excess resources because of real property during a retroactive period, s/he is ineligible for ADC. The client may be prospectively eligible with excess resources because of real property if Form IM-1 is signed.

2-008.07B5a Definition of Real Property: Real property is defined as land, houses, or buildings.

2-008.07B5b Time Limits for Liquidation: The worker must exclude real property which the client is making a good faith effort to sell.

First the worker must determine if the individual has the legal authority to liquidate the property. If not, the client is allowed 60 days to initiate legal action to obtain authority to liquidate (see 468 NAC 2-008.02A). If the client owns the property with other persons who are not on assistance, see 468 NAC 2-008.07B5b(2).

Once the client has the legal authority to liquidate the property, the worker-must obtain the client's signature on Form IM-1. Form IM-1 is incorporated into the Public Assistance Forms Manual. If the client refuses to sign Form IM-1, s/he is immediately ineligible because of excess resources. On Form IM-1, the client agrees to dispose of the property within six calendar months and to reimburse for grants received during the disposal period.

The six-calendar-month period begins with the month following the month in which Form IM-1 is signed. Once Form IM-1 is signed, the six calendar months are counted, whether or not the client is receiving assistance.

If the client moves back to the home during the six-month period and subsequently moves out again, s/he is allowed the months remaining in the six months.

One liquidation period is allowed for each piece of real property that is determined to cause excess resources, even if the case is closed and subsequently reopened.

2-008.07B5b(1) Extension of Time Limit: If the client is unable to liquidate the property in six calendar months, the service area administrator may authorize an additional three calendar months. In determining whether to allow a three-calendar-month extension, the service area administrator must consider:

1. If the property has been placed on the market;
2. If the client is asking a fair price for the property;
3. If the asking price has been reduced;
4. If the client understands the requirement for liquidation of the property;
5. If the client has not refused a reasonable offer to purchase; and Note: If there is not a better offer, a reasonable offer is defined as at least 2/3 of either the estimated current market value or the proven actual value.
6. The economic conditions in the area and if real estate is selling.

2-008.07B5b(2) Joint Ownership: If the client owns the property with other persons who are not on assistance, the worker contacts the other owners to determine if they are willing to liquidate their interest in the property. If all parties are willing to liquidate, the worker proceeds with the liquidation process. If one or more of the parties do not wish to liquidate, the worker applies 468 NAC 2-008.02A and requires the client to take legal action to force a sale of the property. The worker may obtain a written statement from the other parties and file it in the case record. After a legal determination is made regarding the availability of the client's interest in the property, the worker takes the appropriate action.

2-008.07B5c Reimbursement Following Liquidation: When the property has been sold, the client must reimburse the lesser amount of:

1. The proceeds from the sale minus any expenses relating to the sale, such as payment of the mortgage, realtor's fees, legal fees, etc.; or
2. The amount received in grants minus any child support collected and retained by the Department during the repayment period (see 468 NAC 2-008.07B5c(1)).

If the client does not reimburse following the liquidation, the worker must begin overpayment procedures (see 468 NAC 3-008.07B)

2-008.07B5c(1) Repayment Period: For initial cases with excess resources due to real property, the repayment period begins with the month of application.

For ongoing cases, the repayment period begins at the point the real property becomes available or would otherwise cause excess resources.

If the client fails to report the existence of real property or its availability or the worker fails to take action and the property causes excess resources, the repayment period begins with the month the Agreement to Sell Real Property and Repay Assistance is signed. The months before the agreement was signed when the client had excess resources are treated as an overpayment (see 468 NAC 3-008.07B).

Note: The repayment period and the liquidation period may not begin at the same time.

2-008.07B5d Ineligibility During Liquidation Period: If the unit becomes ineligible during the period allowed for the disposal of real property, any assistance paid during the liquidation period is an overpayment and must be recouped.

2-008.07B6 Additional Pieces of Real Property: The worker must determine and use in computing the amount of the unit's total available resources the potential sales value of all real property, other than the allowed exemption for the home.

2-008.07B7 Trailer Houses and Other Portable Housing Units: If a client occupies a trailer house or other portable housing unit as his/her home, the property is allowed the resource exemption for a home (see 468 NAC 2-008.07B1). If the client enters a nursing home, s/he is allowed the exemption of the trailer or other portable housing unit for up to six months (see 468 NAC 2-008.07B2~~a~~).

2-008.07B8 Motor Vehicles: The worker must disregard one motor vehicle regardless of its value as long as it is necessary for the client or a member of his/her household for employment or medical treatment.

If the unit has more than one vehicle, the worker must exclude the vehicle with the greatest equity. Any other motor vehicles are treated as non-liquid resources and the equity is counted in the resource limit. The client's verbal statement that the motor vehicle is used for employment or medical treatment is sufficient.

If the client owns a countable vehicle jointly with other persons, the worker refers to 468 NAC 2-008.03. in determining how to divide the resulting value of the resource.

Note: If the client is living in his/her vehicle, the total equity value is exempted from resources.

2-008.07B9 Life Estates: The owner of a life estate in real property is generally unable to sell the property. Therefore, the worker must include the net income from the life estate in the budget rather than considering the life estate as an available resource. If the owner of a life estate transfers it to another individual, the worker must determine if it is deprivation of a resource (see 468 NAC 2-008.10). If the life estate is sold, the profit is counted as a resource.

2-008.07B10 Farm Equipment: The worker must determine the equity in farm equipment. Tax assessor's records or farm equipment dealers, etc., can provide the market value. It is necessary to verify the loans, liens, etc., to determine equity. For a self-employed individual, see 468 NAC 2-008.07B16.

2-008.07B11 Business Equipment, Fixtures, Machinery: The worker determines the value of these resources by using the owner's estimate of the current market price for business equipment, fixtures, or machinery. For a self-employed individual, see 468 NAC 2-008.07B16.

2-008.07B12 Livestock, Poultry, Crops (Growing and on Hand): The agency determines the value of these resources by using the owner's estimate of the current market price for livestock, poultry, and crops (growing and harvested). For a self-employed individual, see 468 NAC 2-008.07B16.

2-008.07B13 Household Goods and Personal Effects: Household goods and personal effects of a moderate value used in the home are exempt. Household goods are defined as including household furniture and furnishings, tools, and equipment used in the operation, maintenance and occupancy of the home or in the functions and activities of the home and family life, as well as those items which are for comfort and accommodation. Personal effects include clothing, jewelry, items of personal care, etc.

2-008.07B14 Loans: A bona fide loan is disregarded as income or a resource. A bona fide loan is defined as one that must be repaid. The agreement for repayment may be verbal or written and the loan may be owed to an individual or to an organization or agency. Using prudent person principle the client's statement is adequate verification that the loan must be repaid.

2-008.07B15 Burial Spaces: The value of burial spaces held for the purpose of providing a place for the burial of all unit members is not counted as an available resource. A burial space includes a crypt, mausoleum, or other repository for the remains of a deceased person. This exemption also applies to markers, vaults, etc., but does not include services, burial fees, etc. These items are exempt only if they are actually purchased.

If the client has a life insurance policy for the purchase of burial items, the cash value is included in the allowed maximum if the policy is irrevocably assigned (see 468 NAC 2-008.07A3b).

2-008.07B16 Stock, Inventories, and Supplies Used in Self-Employment: If necessary and essential to produce his/her income, the following may be disregarded as a resource for a self-employed person:

1. Livestock;
2. Poultry;
3. Crops (growing and on hand);
4. Tractors and machinery;
5. Tools and equipment;
6. Business equipment; and
7. Other goods and equipment essential to the production of income.

If the client is an ADC parent who has been self-employed, the worker must determine if the individual can be reasonably expected to return to work. If not, the listed items are considered a resource.

Note: Real property that is used solely for self-employment is considered a resource.

2-008.08 Maximum Available Resources: The established maximum for available resources which the unit may own and still be considered eligible is $4,000 for a single individual and $6,000 for two or more.

2-008.09 Determination of Value of Total Available Resources: The total value of all available resources is the total value of real and personal property figured in accordance with the preceding instructions.

2-008.10 (Reserved)

2-008.11 Reduction of Resources: The client may reduce available resources to the maximum without affecting eligibility if the case record contains documentation that the resources have been reduced and the unit is within the resource limits. The client's statement of debts may be acceptable. Unsecured debts do not reduce the value of resources unless they are actually paid.

An application for an individual who has excess resources may be held pending until the resources are reduced.

Payment may begin no sooner than the first of the month in which the client has actually expended the excess resources, if all other eligibility requirements are met.

2-009 Income

2-009.01 Standard of Need: represents the regular recurring monthly amount necessary for basic subsistence and is used to calculate a unit's ADC benefit amount. The standard of need represents the monthly aggregate cost of food, clothing, sundries, home supplies, utilities, laundry, and shelter, including taxes and insurance.

2-009.01A Standard of Need Chart: Effective July 1, 2015, the standard of need by unit size to determine eligibility and payment is as follows:

Number in Unit	1	2	3	4	5	6	7	8	9	10
Standard	541	667	793	919	1,045	1,171	1,297	1,423	1,549	1,675

For each additional eligible individual, the standard of need increases by $126

2-009.02 Earned Income: Earned income is money received from wages, tips, salary, commissions, profits from activities in which an individual is engaged as a self-employed person or as an employee, or shelter received at no cost in lieu of wages. For shelter in lieu of wages, see 468 NAC 2-009.04B4.

Earned income also includes earnings over a period of time for which settlement is made at one given time, as in the instance of farm crops or poultry. Earnings so received are prorated for the same number of ensuing months as was included in the earning period.

Note: Reimbursement for employment-related expenses such as mileage, lodging, or meals is not considered earned income.

2-009.02A Earned Income Disregards:

2-009.02A1 Twenty Percent Disregard: After gross earned income for the ADC unit is totaled, a 20 percent disregard is deducted to determine the amount of net earned income used in the budgeting process. See 468 NAC 3-000 for budgeting steps. Self-employment income is allowed disregards before application of the 20 percent disregard.

2-009.02A1a Disregards for Self-Employment: Operating expenses related to producing the goods or services and without which the goods or services could not be produced are deducted from gross 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. Transportation other than to and from work and child care.

2-009.02A1a(1) Operating Expenses - Farm Income: The following expenses related to farm income 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.

2-009.02A1a(2) Operating Expenses Not Allowed: The following expenses are not allowed as operating expenses for self-employment or farming:

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 as income.

2-009.02A1a(3) Offset of Earnings: If a client has a combination of farm, self-employment, or regular earned income, a loss from one source of income may be used to offset a gain from another source.

2-009.02A2 Child Care Disregard: If a client requires child care in order to participate in education, training or employment, the worker must first make a referral for Child Care Subsidy payment of child care. If the client or the child care arrangements do not qualify for Child Care Subsidy payment or the client chooses not to receive child care through Child Care Subsidy, the actual cost of child care is disregarded from earned income up to the maximum allowed.

The client must provide proof of child care costs. The disregard for child care may be allowed as actually paid for the month. If the client pays weekly or biweekly, the worker uses income conversion tables (see 468-000-201).

2-009.02B Earned Income Credit (EIC): Some low income wage earners are eligible for a tax credit which may be paid in one of two forms:

1. Advanced Earned Income Credit (AEIC) - a periodic credit paid with the employee's wages; or
2. Earned Income Credit (EIC) - an amount included with a federal income tax return. The letters "EIC" are printed on the tax refund check.

Both EIC's and AEIC's are disregarded as income and a resource.

2-009.02C Contractual Income: The worker prorates income paid on a contractual basis. The worker prorates the income over the number of months covered under the contract, even if the client is paid in fewer months than the contract covers.

Income received intermittently, such as farm income, is prorated over the period it is intended to cover if the income is expected to continue. A child's temporary or seasonal earned income is treated as contractual income (see 468 NAC 2-016 for treatment of student income).

The worker must notify the client on a Notice of Action that income is being treated as contractual income and how it is budgeted.

2-009.03 (Reserved)

2-009.04 Unearned Income: Unearned income is any cash benefit that is not the direct result of labor or services performed by the individual as an employee or a self-employed person. Unearned income includes, but is not limited to:

1. Retirement, Survivors, and Disability Insurance (RSDI) under the Social Security Act;
2. Railroad Retirement;
3. Veteran's or military service benefits;
4. Unemployment compensation or disability insurance benefits;
5. Disability benefits paid by the employer (this does not include sick leave);
6. Worker's compensation;
7. Child, spousal, and cash medical support;
8. Voluntary contributions;
9. Gifts;
10. Annuities;
11. Pensions, or returns from investments or securities in which the individual is not actively engaged; and
12. Civil Service benefits.

If the client receives a benefit (such as RSDI or VA) for an individual who is not in the unit and does not give the benefit to the individual, it is counted as income to the client.

For further treatment of unearned income, see 468 NAC 2-016.

2-009.04A Child, Spousal, and Cash Medical Support: For definitions of child, spousal, and cash medical support, see 468 NAC 1-004. For budgeting child support, see 468 NAC 3-007.04. Child, spousal, and cash medical support is considered unearned income only in the following circumstances:

1. Initial eligibility and payment are being determined. Any support paid by the Nebraska Child Support Payment Center or received directly by the client before the approval date is considered. See 468 NAC 2-009.04B1b for treatment of payment by a noncustodial parent to a vendor.
2. An excess collection of support is disbursed by the Central Office. See 468 NAC 3-007.04B for treatment of an excess collection.
3. Distributed arrearages collected for months where the custodial parent was not an ADC recipient.

2-009.04A1 Child Support Paid for a Minor Parent: If a noncustodial parent pays support for his or her child and that child is a minor parent who is receiving assistance, child support is treated as follows. If the parent of the minor is not receiving assistance and:

1. Gives the child support to the minor parent, the child support is treated as unearned income in the minor's grant; or

2. Does not give the child support to the minor parent, the child support:
   a. Is included in the deeming process if the minor is living with his/her parent (see 468 NAC 2-007.02B1); or
   b. Is not counted in the budget of the minor parent if s/he is living independently.

2-009.04B Contributions

2-009.04B1 From an Individual Not in the Household: If an individual who is not living in the household gives money to the unit, the income must be counted in the budget. See 468 NAC 3-007.04A for treatment of support paid by a noncustodial parent without a court order.

In order to determine how to treat the income, the worker must determine to whom the contribution is paid. The following are not considered contributions:

1. Energy assistance;
2. Emergency assistance;
3. General assistance; or
4. Crisis assistance from a community agency, service agency, or an individual.

2-009.04B1a To the Client: If an individual who is not in the household is paying the client, the payment is counted as unearned income. See 468 NAC 3-007.04A for treatment of support paid by a noncustodial parent without a court order.

2-009.04B1b To the Vendor: When an individual who is not in the household (including a noncustodial parent) makes shelter payments directly to the vendor on behalf of the client or provides total shelter, the worker consults the chart at 468 NAC 2-009.04B4.

Any other payments an individual who is not in the unit is making, e.g., car payments, payments for utilities, are not counted as income toward the client.

2-009.04B1b(1) Budgeting: The budget is figured according to the following guidelines:

1. If the individual pays the entire obligation or provides the total shelter, the worker shows the appropriate figure from the chart as unearned income in the budget;
2. If the individual pays the entire obligation or provides the total shelter, but the amount is less than the figure allowed in 468 NAC 2-009.04B4, the worker shows the actual amount paid as unearned income; or
3. If the individual makes only partial payments or provides partial shelter, the worker does not count any of the payment in the budget.

2-009.04B2 From an Individual in the Household: The standard of need is not reduced when a self-supporting individual(s) and a client(s) are living in the same household; however, the grant may be reduced depending on the financial arrangements.

2-009.04B2a Counted as Income: If the self-supporting individual is paying the entire expense for shelter, the worker uses the chart in 468 NAC 2-009.04B4 to determine the figure to count as income.

If the self-supporting individual is paying shelter directly to the vendor, the worker follows the regulations in 468 NAC 2-009.04B1b.

If an individual is paying board and room to a client, it is considered earned income.

2-009.04B2b Not Counted as Income: The client's grant is not reduced because of a self-supporting individual in the following situations:

1. The self-supporting individual pays the client for a portion of the shelter expenses;
2. The client states that they are sharing expenses; the worker documents the statement in the case record;
3. A child is living with a relative payee. The grant is not reduced because payment for the child is intended to cover maintenance items;
4. A foster child is living in a home with children who are receiving assistance. The foster care payments are not counted as income to the assistance unit;
5. Two or more assistance units are in the same household and share expenses. Income of one unit is not counted toward another unit;

6. In determining initial eligibility only when the applicant:
   a. Has no income and has been forced to share a living arrangement with a self-supporting individual because of a crisis situation; and
   b. Plans to make other arrangements (either to move or pay a share of the expenses) as soon as s/he has income; or
7. Shelter that is indirectly provided to an eligible child by a non-responsible relative, such as a household consisting of ineligible parents, a minor parent for whom assistance is not being requested, and the minor's child.

The worker must investigate to see if a contribution needs to be counted on the client's budget as soon as the client begins receiving income.

2-009.04B3 Shelter Furnished in Lieu of Wages: Shelter furnished in lieu of wages is treated as earned income.

2-009.04B4 Shelter Amounts From Payment Standard

ADC Unit Size

	1	2	3	4	5	6	7	8	9	10	11	12
Shelter	101	101	103	105	108	109	111	112	113	114	123	133

Shelter includes taxes and insurance.

The worker must compare the shelter obligation to the chart, using the amount shown for the ADC unit size.

2-009.04C SSI Benefits: SSI benefits are considered unearned income but the SSI payment is not used in computing the budget.

2-009.05 Lump Sum Benefits: Lump sums are not considered income. Any unspent remainder is considered a resource in the month following the month of receipt or report, taking into account the timely notice provision.

Exception: The unspent portion of an RSDI or SSI retroactive payment is excluded for six months following the month of receipt.

If the client receives several checks from the same source in one month, for example, several unemployment compensation checks are issued after an appeal, the amounts are totaled and considered a lump sum.

When a unit receives a lump sum in the month of application, the lump sum is counted in the first month possible.

2-009.05A Combined Case With a Lump Sum: When an individual in an ADC-AABD case receives a lump sum, the way the money is treated depends upon which individual the lump sum is intended for:

1. AABD Parent and ADC Child: If the lump sum is intended for an AABD parent, see 469 NAC 2-010.01B5a;
2. AABD Child and ADC Parent: If the lump sum is intended for an AABD child, see 469 NAC 2-010.01B5b; or
3. ADC Parent or Child: If the lump sum is intended for an ADC parent or child, the income is applied only to the ADC case.

2-009.06 Potential Income: Potential income is defined as income based on entitlement or need which is usually determined by an administering agency as a result of an application for benefits by the individual. Potential income includes, but is not limited to, RSDI, categorical assistance, Railroad Retirement, veteran's or military service benefits, unemployment compensation, disability insurance benefits, and worker's compensation. Medicare, AEIC's, and EIC's are not considered potential benefits.

The worker must explore each individual's potential entitlement for benefits. The client is required to apply for any benefits for which s/he appears to be entitled within 60 days of the date the worker notifies the client of the requirement. The worker must not delay determination of eligibility for assistance and authorization of payment pending determination of entitlement for benefits. After the worker has determined the client's eligibility for categorical assistance s/he must notify the client in writing of the requirement to apply for a benefit for which the client appears eligible and inform the client of the number of days left in which to apply.

An unemployed parent who applies for ADC is required to apply for and accept any unemployment compensation to which s/he may be entitled. Individuals who have applied for or are receiving unemployment compensation are shown on N-FOCUS IUC interface.

A child who is a full-time student is not required to apply for unemployment compensation, even if s/he appears to be eligible for the benefit.

2-009.06A Refusal to Apply: A client is expected to make application for and accept benefits promptly after the worker has discussed the client's apparent entitlement to the benefits. When an application for ADC is approved, the client is notified on a Notice of Action of the number of days left in which to apply. The worker documents in the case record when the client was informed of the possibility of benefits. The worker sets up a special review to see if the client is eligible for or already receiving benefits. If the individual fails or refuses to make application within 60 days after notification by the worker or refuses to accept benefits for which s/he has been determined eligible, eligibility cannot be determined. Taking into account the timely notice provision, the worker closes the grant and medical for the adult.

Note: If the client subsequently applies for or accepts the benefit while the case is closed, the payment is effective the first day of the month during which the client applies for or accepts benefits.

2-009.06B Veteran's Benefits: Clients who are veterans, their spouses, and the widows of veterans may be eligible for "Aid and Attendant" services. This service may be available and is to be explored if the individual is in a nursing home, residing in his/her own home, in an Adult Foster Home, or other alternate arrangement when the individual requires aid with daily living activities.

2-009.07 Intercepted, Withheld, or Garnished Income: Procedures have been set up to withhold unemployment compensation benefits payable to an absent parent when s/he has a debt to the State. If income, earned or unearned, is being garnished, the garnishment is not deducted from income in the budgeting process. If unearned income is being reduced because of a previous overpayment, the amount of the benefit before the deduction of the overpayment is considered as income.

Exception: The amount after deduction of the overpayment is used if the client received both ADC and the other benefit at any time during which the overpayment occurred and the overpaid amount was included in the ADC budget.

2-010 Development of Self-Sufficiency Contract: As a condition of eligibility for an ADC payment, a client determined to be subject to Employment First participation must complete his/her Employment First Self-Sufficiency Contract before the family can be determined eligible to receive ADC cash assistance. If a client does not cooperate in developing and completing an Employment First Self-Sufficiency Contract, the family is ineligible for ADC cash assistance.

2-011 – 2-013 (Reserved)

2-014 Supplemental Payments: Supplemental payments are allowed for:

1. Late checks for payments authorized after cutoff;
2. Payments issued because of the addition of another person to the unit; and
3. Payments issued within the same payment month to make up for an underpayment. When an individual is added, s/he is treated as a new applicant and must meet all eligibility factors. See 468 NAC 2-015 for budgeting procedures.

2-015 Budgeting Procedures: ADC cases are budgeted prospectively. When income fluctuates, the worker must use an average of income for the three most recent consecutive months. When income is stable, the worker must use one month's income.

2-015.01 Projecting Income: The worker determines the unit's prospective eligibility from the client's anticipated income and circumstances using the client's declaration and any available verification. When a client reports beginning employment, verification is provided by the client or obtained by the worker. Verification consists of the date the employment began, anticipated hours, rate of pay, pay periods, and when the first check will be received. If employment verification cannot be obtained from the client or the employer, the worker must compute one month's budget, based on employment information provided by the client.

If the first month's budget is based on the client's statement of income, the worker must obtain employment verification from the client or employer before the second month's budget can be computed. If verification is not received, the worker must close the case until verification is received.

When projecting income, the worker estimates income on information available. For weekly or bi-weekly income, the worker uses conversion charts (see 468-000-201) to convert to a monthly figure. If the client receives semi-monthly or monthly income, the worker does not convert the income.

The worker must recompute the budget at every eligibility review. The worker must average the most recent three months' actual income to arrive at the gross income amount for the income period. In arriving at the three-month average, the worker must:

1. List all earned and unearned income periods in the three most recent consecutive months. If there is a particularly high or low check, disregard it in the average;
2. Add gross income for the earned and unearned income for the three months; and
3. Divide by the number of pay periods to arrive at the average monthly amount. Use the conversion tables and convert weekly or bi-weekly income to a monthly amount (see 468-000-201). If the client receives semi-monthly or monthly income, do not convert the income.

2-015.02 Changes in Household Circumstances: An ADC client must report the following changes:

1. Change or receipt of a resource including cash on hand, stocks, bonds, money in a checking or savings account, or a motor vehicle;
2. Changes in unit composition, such as the addition or loss of a unit member;
3. Change in residence;
4. New employment;
5. Termination of employment; and
6. Change in the amount of monthly income, including:
   a. All changes in unearned income; and

b. Changes in the source of employment, in the wage rate and in employment status, i.e., part-time to full-time or full-time to part-time. For reporting purposes for ADC, 30 hours per week is considered full-time. The client must report new employment within ten days of receipt of the first paycheck, and a change in wage rate or hours within ten days of the change.

The client is required to report all changes within ten days, unless s/he has good cause (see 468 NAC 2-015.02B).

2-015.02A General Rules: The following procedures are used in handling changes in income:

1. Initiate action within three working days to verify the change;
2. Determine new income amount;
3. Enter income information on N-FOCUS and run the budget;
4. a. For an adverse action, send a timely notice. Make the change the first month possible.
   b. If the change is not an adverse action and would result in an increase in the ADC payment (i.e., a report of earnings ending), re-do the budget for the month that the change was reported once verification of the change has been received. When recomputing the budget for a prior month(s), use actual verified income; do not use conversion charts.

   Note: To determine if an overpayment occurred, recompute the budget for the first month the income could have been prospectively budgeted if the client did not report the change timely and did not have good cause.
5. If the income figure in step 3 is verified, use that figure in the payment budgets until the next eligibility review if no other changes are reported;
6. If the income used in step 3 is based on the client's statement, compute the budget for the month following receipt of verification (see Note below); and
7. If no other changes have been reported, determine after three months' receipt of income if income fluctuates or is stable and apply the appropriate rules.

The worker must record in the case record the date of reported change, method of estimating income, and the date verification was received.

Note: Only one budget may be based on the client's declaration of income. If the worker has not received verification for the second budget, the case must be closed.

Overpayments must be corrected beginning with the month the change occurred, considering timely notice provisions.

2-015.02B Good Cause: The following circumstances are some examples of good cause for failing to report a change within ten days:

1. Death of the payee;
2. Hospitalization of the payee or another unit member during the period in which the change could have been reported timely (The client is responsible for providing verification of hospitalization);
3. Natural disaster (The Central Office will issue instructions when these situations occur);
4. Absence of the payee due to circumstances beyond the payee's control, such as the death of a close family member; or
5. Incarceration of the payee during the period in which the change could have been reported timely.

The client has the burden of establishing the existence of a good cause circumstance. Unconfirmed statements do not constitute good cause. The worker must include documentation in the case record to justify the decision on good cause.

2-015.02C Earnings Discovered on the State Employer Wage File (SEW): When the worker discovers from the SEW file that a client has unreported wages under the quarterly tolerance limit and the job has terminated, no further action is required. However, if the client continues to work at the job, even though the earnings are under the quarterly tolerance limit, the worker must verify the income. The right to waive verification of income is only for terminated income discovered after the fact. The worker must resolve the discrepancy if the difference between the SEW file and the wages verified in the case record is over the tolerance limit. The worker must recompute budgets in which overpayments may have occurred.

The worker must not budget income discovered on the SEW file until s/he has verified that the income actually belongs to the client listed. The worker may verify the income either through the employer or the client. If the employment listed on the SEW file has terminated but is over the quarterly tolerance limit or was otherwise verified, the worker must verify the income and determine if there were overpayments, as appropriate.

2-015.02D Notice Provisions: If a client reports a change timely or within the same month the change occurred, the worker must recompute the budget for the month of change if there is an underpayment. If the change would result in an overpayment, the worker must make the change effective with the first month that timely notice is possible.

2-015.02E Change Not Reported Within Ten Days: If the client does not report a change within ten days, the worker recomputes the budgets beginning with the month following the change to determine if there are overpayments. No one in the unit receives earned income disregards (20 percent disregard or child care) for the months in which the change was not reported if a unit member failed to report earned income, including failure to report a second source of income. Disregards are allowed beginning with the month following the month of discovery or report.
Note: If the client fails to report income that would not be budgeted anyway, such as earned income of a student, the worker does not need to recompute budgets.

2-015.02F Terminated Income: When an individual engages in different types of self-employment, it is not considered a termination of income if the individual stops one type of work (see 468 NAC 2-009.01A).

2-015.02G Removing an Individual: If a unit member leaves after the grant has been issued, the budget is not recomputed the month that the individual leaves. The budget must be recomputed for the first month possible considering timely notice requirement to reflect the new unit size and remove the individual's income, if applicable.

2-015.02H. Income as It Applies to Resources: Income received by a client during any one month for maintenance costs must not be considered a resource for that month. Any income not spent for maintenance is considered a resource in the subsequent month.

2-016 Income Listing: Following is a listing of some income types and treatment for budget computation.

TYPES OF INCOME	TREATMENT OF INCOME
1. a. Earnings of child age 18 or younger and in school	1. a. Disregard

	b. Earnings of a child age 18 or younger and not in school		b. Treat as earned income.
2.	Income of a parent in the home but not in the unit	2.	Count unearned income in full. For earned income: a. Allow earned income disregards (20 percent and child care) for a parent who is sanctioned because of noncooperation with TPL or child support, an ineligible alien parent, drug felon, parole violator, fugitive felon, or a parent convicted of participation in more than one state. b. For all other situations, count gross earned income without earned income disregards.
3.	Indian Land Lease	3.	Disregard.
4.	Income from land contracts	4.	Consider as unearned income.
5.	HUD rental and/or utility subsidies under Section 8 of the Housing Act (lump sum or monthly payments)	5.	Disregard.
6.	Declared cash winnings; interest and dividends (may be prorated on a monthly basis); a gift that marks a special occasion; small and insignificant children's cash allowances.	6.	Disregard $10 a month per individual for each income type. If more than $10 a month per individual, count the amount that exceeds $10 as unearned income.
7.	Income from securities and investments	7.	See number 6.

8. Interest on Series H savings bonds and other bonds which pay dividends or interest	8. See number 6.
9. Sale of home produce, livestock, poultry	9. Consider as earned income.
10. Home produce from garden, livestock, and poultry used by the household for their own consumption	10. Disregard.
11. Income from boarders, rented rooms, and apartments	11. Consider as earned income (see 468 NAC 2-009.02). Treat like a small business (see 468 NAC 2-009.02A1a). <u>Exception</u>: Income received from foster care payments is disregarded.
12. Rental income from real property	12. Consider as earned income (see 468 NAC 2-009.02). Treat like a small business (see 468 NAC 2-009.02A1a).
13. Payments from Title I Workforce Investment Act (WIA) for classroom training	13. Disregard.
14.a. Earnings received from the employer or compensation in lieu of wages under a Title I WIA program	14.a. Disregard for a student regardless of age.
b. OJT payments made to adults by an employer	b. Consider as earned income.

15. Title I WIA program allowance paid to the client or vendor payments made to the provider for supportive services, such as transportation, meals, special tools, and clothing. This includes temporary Welfare-to-Work payments and work experience payments made through Workforce Development.	15. Disregard for all ages.
16. Income from life estate in real property	16. Consider as unearned income; determine the total cost of operation and deduct from gross income.
17. Interest on Series E savings bonds and other bonds which accrue interest	17. Treat as a lump sum (see 468 NAC 2-009.05).
18. Picket pay or strike pay	18. Consider as earned income.
19. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970	19. Disregard.
20. Any student financial assistance	20. Disregard.
21. Graduate assistantship	21. Consider as earned income

22. A bona fide loan from any source	22. Disregard.
23. Payments to a client participating in training or school attendance subsidized by the Division of Vocational Rehabilitation	23. Disregard.
24. Food stamps	24. Disregard.
25. The value of federally donated foods	25. Disregard.
26. Indian judgment funds distributed as per capita payments to members of Indian tribes or held in trust by the Secretary of the Interior, interest and investment income accrued on Indian judgment funds while held in trust, and purchases made with the funds	26. Disregard.
27. Payments from the Nutrition Program for the elderly	27. Disregard.
28. Payments for services or reimbursement of expenses to volunteers serving as foster grandparents, senior health aides, or senior companions, Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE) and any other programs under Titles II and III, (P. L. 93-113)	28. Disregard.

29.	Federal and state income tax refunds	29.	Disregard.
30.	Payments to AmeriCorps volunteers	30.	Disregard.
31.	Retroactive RSDI benefits	31.	See 468 NAC 2-009.05.
32.	Christmas bonus/work related bonus	32.	Consider as an earned income lump sum (see 468 NAC 2-009.05).
33.	Energy payments	33.	Disregard.
34.	The value of assistance from a Child Nutrition Act or National School Lunch Program	34.	Disregard.
35.	EIC's	35.	Disregard.

36. AEIC's	36. Disregard.
37. Income from the Green Thumb Program, Senior Community Service employment and any other income received under Title V of the Older Americans Act	37. Disregard.
38. Income from the sale of blood or plasma	38. Consider as earned income from self-employment (see 468 NAC 2-009.02A1a).
39. Agent Orange settlement payments	39. Disregard.
40. Payments made under the Radiation Exposure Compensation Act	40. Disregard.
41. Living allowance issued to Jobs Corps recipients or the readjustment allowance that is issued when Job Corps participants leave the program	41. Consider as earned income.
42. In-kind income received by Job Corps participants for food, shelter, etc.	42. Disregard.
43. Benefits under Public Law 104-204 for children of Vietnam veterans who were born with spina bifida	43. Disregard.
44. Payments made from any fund established as a result of the case of Susan Walker v. Bayer Corporation, et. al to hemophilia patients who are infected with human immunodeficiency virus	44. Disregard.
45. Payments to individuals due to their status as victims of Nazi persecution	45. Disregard.

46. Assistance received under the Disaster Relief Act of 1974 or under a federal statute because of catastrophe declared to be a major disaster by the President of the U.S. (excluded for nine months from the date of receipt). The same guideline applies to any interest earned on the assistance. The initial nine-month period will be extended for a reasonable period up to an additional nine months when circumstances beyond the individual's control prevent the individual from having the necessary repairs or replacement of damaged property completed;	46. Disregard.
47. Third Party Medical Payments received and retained by the ADC Unit.	47. Treat as unearned income in the first month possible. See 468 NAC 2-017, #2.

2-016.01 Income Verification: Verification of income consists of at least the following:

1. The source of the income;
2. The date paid or received;
3. The period covered by the payment or benefit; and
4. The gross amount of payment or benefit.

2-017 Third Party Medical Payments: Income received from a third party that pays the client directly is –

1. Disregarded if it is refunded to the provider or the Department as reimbursement for a specific service; or
2. Counted as unearned income if the client fails or refuses to refund these payments. If the client receives a third party medical payment directly and the medical expense for which the third party medical payment is intended is payable by Medicaid, the worker shall send a demand letter advising the client that s/he must reimburse the Department or the provider up to the amount of payment which has been or will be made for the specific service. The client is allowed ten days from the date of notification to reimburse the Department or pay the provider. If an applicant receives a third party medical payment for services which are payable by Medicaid, the worker shall not delay determination of eligibility for assistance and authorization for payment pending the applicant's reimbursement. At the time the application is approved, the worker shall notify the client of the number of days left in which to reimburse the payment.

   If the client refunds within ten days, the worker shall take no further action. If the client fails or refuses to refund within ten days, the worker shall consider the entire third party payment as unearned income in the first month possible, taking into account adequate and timely notice. Any balance remaining is considered a resource in the following month.

   For medical support payments received from a noncustodial parent, see 468 NAC 2-019.05D1.

2-017.01 Court-Ordered Third Party Medical Payment: When the third party medical payment is court ordered from the noncustodial parent, and the medical expense for which the third party medical payment is intended is payable by Medicaid, the payment is a IV-D overpayment.

2-018 Other Income Provisions

2-018.01 (Reserved)

2-018.02 Life Insurance Premiums: Payment of premiums on small protective life insurance policies made in behalf of a client by a self-supporting individual is disregarded.

2-018.03 Enrichment Payments: Income received by a client from insurance policies that supplement the client's income when the client is hospitalized or receiving medical care is treated as unearned income. If the worker can verify that the income was applied on medical bills, it is not counted. Payment from health insurance policies which pay directly to the client for the purpose of reimbursement by the client to the vendor is not counted as income.

2-018.04 Deeming of Income of Sponsors of Aliens: The worker shall consider 100 percent of the income and resources of a sponsor (and sponsor's spouse, if they are living together) when determining the eligibility of an alien who applies for ADC if the sponsor has signed an affidavit of support under Section 213A of the Immigration and Nationality Act. The sponsor's income and resources will be considered available to the alien until the alien:

1. Becomes a U.S. citizen;
2. Has worked 40 qualifying quarters of coverage as defined under Title II of the Social Security Act or can be credited with the qualifying quarters as provided under Section 435 and the alien did not receive any federal means tested public benefit during that time period.

2-018.04A Definition of a Sponsor: A sponsor is an individual who -

1. Is a citizen or national of the United States or an alien who is lawfully admitted to the United States for permanent residence;
2. Is 18 years of age or older;
3. Lives in any of the 50 states or the District of Columbia; and
4. Is the person petitioning for the admission of the alien under Section 204 of the Immigration and Nationality Act.

An organization is not considered a sponsor.

2-018.04B Alien Duties: As an eligibility requirement, the alien is responsible for -

1. Providing income and resource information from the sponsor; and
2. Obtaining the necessary cooperation from the sponsor.

If the alien does not provide the necessary information, s/he is not eligible for assistance.

2-018.04C Sponsor of More Than One Alien: When an individual is a sponsor for two or more aliens who are living in the same home, the amount of deemed income and resources of the sponsor (and the sponsor's spouse, if living with the sponsor) is divided equally among the aliens.

When an individual sponsors several aliens but not all apply for assistance, the sponsor's total deemable income and resources are applied to the needs of the aliens who apply for assistance.

2-018.04D Deeming Exception: If a sponsored immigrant demonstrates that s/he or his/her child(ren) have been battered or subjected to extreme cruelty by a spouse or a parent or by a member of the spouse or parent's family who is residing in the same household as the alien, deeming may be waived if a judge, an administrative law judge, or INS recognize the battery or cruelty.

2-018.04E Indigent Immigrants: If an immigrant is unable to obtain food and shelter, taking into account the immigrant's own income plus any cash, food housing, or other assistance provided by other individuals including the sponsor(s), the amount deemed must be the amount actually provided to the immigrant by the sponsor.

The worker must determine the amount of income and other assistance provided in the month of application. The income is the sum of the eligible sponsored alien household's own income, the cash contributions of the sponsor(s) and others, and the value of any in-kind assistance of the sponsor(s) and others.

If the immigrant is determined indigent, the amount which must be deemed will be the amount actually provided to the immigrant by their sponsor(s) for a period beginning with the date of determination and ending 12 months after the determination date. Each instance of indigence is renewable for an additional 12-month period.

2-018.04E1 Reporting Indigent Immigrants: When an immigrant is determined indigent, the TANF Policy Unit must notify the U.S. Attorney General of each determination, including the names of the sponsor(s) and the sponsored immigrant.

2-019 Cooperation with the Child Support Enforcement Unit (CSEU)

2-019.01 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.

2-019.01A Mandatory and Optional Services: As a condition of eligibility, ADC and Foster Care recipients are mandated to receive Child Support Enforcement Services and do not have the option to refuse any of these services.

Services available from Child Support Enforcement 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. Review and modification of support order(s); and
7. Collection and distribution of support.

2-019.01A1 Assignment: As a condition of receiving ADC or foster care, a recipient of services must assign his/her right to any child support, medical support or spousal support payments to the state, to reimburse the state for assistance dollars expended. Application for and acceptance of assistance constitutes an assignment by operation of law.

2-019.01A1a Assignment as It Relates to ADC: The amount of child and/or spousal support that may be retained is limited to the amount of unreimbursed assistance or the collective state debt, whichever is less, in ADC cases.

2-019.01A1a(1) Assignment of Support for Cases Approved Before October 1, 2009: In ADC cases approved before October 1, 2009, past due support and current support that become due while the custodial party is receiving ADC are assigned. Both the principal amount of unpaid support and any interest that accrues are considered support, and are assigned.

2-019.01A1a(2) Assignment of Support for Cases Approved On or After October 1, 2009: In ADC cases approved on or after October 1, 2009, current support that becomes due while the custodial party is receiving ADC is assigned.

2-019.01A1b Assignment as It Relates to Foster Care: In foster care cases, the amount that may be retained to reimburse the state is limited to the amount of support due for the months during which foster care assistance payments are made or the unreimbursed assistance, whichever is less.

2-019.02 Definitions of Child Support, Spousal Support, and Medical Support: For ADC budgetary 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.

2-019.03 Duties of the Case Manager: The case manager has the following duties in child support cases, as defined in subsequent regulations:

1. Identification of all noncustodial parents (see 468 NAC 2-019.05A1 for exceptions);
2. Referral of ADC IV-D cases to IV-D workers (see 468 NAC 2-019.05A);
3. Completion of good cause applications and claims (see 468 NAC 2-019.05B2);
4. Redetermination of eligibility due to child/spousal support collections (see 468 NAC 3-007.04B); and
5. Identification of a child who has been removed from the assistance grant, but remains open for medical only (see 468 NAC 3-007.04B).

2-019.04 Duties of Client: The parent/needy caretaker relative, relative payee, guardian, conservator, or the minor parent of the child for whom aid is claimed is required to cooperate with Child Support Enforcement (unless good cause for refusing to do so is determined, see 468 NAC 2-019.05B2).

2-019.04A ADC Recipients: ADC 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 ADC grant payments;
2. Establishment of paternity;
3. Establishment of a support order;
4. Enforcement of a support order;
5. Modification of a support order; and
6. Collection and distribution of support payments.

2-019.05 Assignment of Rights to Support

2-019.05A Referral to the IV-D Unit: When eligibility is based on the absence of one or both parents, the case manager makes a referral to the IV-D unit no later than two days after the date of approval of eligibility.

2-019.05A1 Exception to Referral: A referral is not made to the IV-D unit for:

1. An emancipated minor;
2. A child(ren) receiving Home and Community Based Services in the home of both parents;
3. An unborn child; or
4. 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.

2-019.05B Cooperation in Obtaining Support: Cooperation includes, but is not limited to action relevant to achieve the objectives in 466 NAC 3-001.01 and 3-001.02:

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. Paying to the Department any support payments received from the noncustodial party or other party after support is assigned;
6. 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;
7. Providing dependent Social Security numbers when requested;
8. Providing information about payments made directly from any third party;
9. Forwarding any payments made for medical expenses to the Department or to the health care provider; and
10. Repaying the Department any support incorrectly paid to the custodial party.

2-019.05B1 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 468-000-340 for examples of noncooperation and good cause provisions.

If a client fails to cooperate in naming a noncustodial parent or in providing information to locate a noncustodial parent and subsequently cooperates, the 25 percent reduction is ended and the grant is increased effective the first day of the month during which cooperation is restored.

2-019.05B2 Opportunity to Claim Good Cause

2-019.05B2a Notification of Right: The case manager must notify the client at the intake interview and whenever cooperation becomes an issue of the right to claim good cause as an exception to the cooperation requirement.

The case manager must accomplish this by providing the client:

1. A verbal explanation of good cause for child/spousal support and third party medical support; and
2. The opportunity to ask questions.

2-019.05B2b Case Manager's Responsibilities if Good Cause Claimed: If the client claims good cause, the case manager must:

1. Explain that the client has the burden of establishing the existence of a good cause circumstance;
2. Have the client make a signed statement listing the reason(s) for claiming good cause on Form CSE-329. The client has 20 days to present evidence of this claim;
3. Have the client provide the name and address of the noncustodial parent and forward this information to the Child Support Enforcement Unit;
4. Have the client provide child/spousal support information and forward this information to the Child Support Enforcement Unit; and
5. Notify the IV-D unit that a good cause claim is pending when the CSE referral is made.

2-019.05B2c Delay of Assistance Pending Determination: The agency may not deny, delay, or discontinue assistance pending a determination of good cause as an exception to the cooperation requirement if the client has complied with the requirements of providing acceptable evidence or other necessary information. In most instances, a good cause determination must be made within 30 days following the receipt of a claim.

2-019.05B2d Third Party Payments Received Directly: Regardless of the existence of a good cause claim, any third party medical payment that is received directly by the client must be reimbursed to the Department or paid to the provider.

2-019.05B3 Sanction for Refusal to Cooperate: Upon receiving notification from Child Support Enforcement that the individual refused to cooperate, the case manager must reduce the ADC grant by 25 percent.

If the minor parent is in the unit of his/her parent, the minor's parent is responsible for cooperating in obtaining support for the minor's child. The payee is sanctioned if s/he or the minor does not cooperate. There is no sanction for non-cooperation of a relative payee or guardian or conservator payee.

For Employment First requirements, see 468 NAC 2-020.09B2b.

2-020 Employment First (EF) Self-Sufficiency Program: The primary purpose of Employment First is to provide temporary, transitional support for Nebraska families so that economic self-sufficiency is attained in as expeditious a manner as possible through the provision of training, education and employment preparation.

2-020.01 Mandatory Participation: All individuals who are defined as a work-eligible individual are required to participate in the Employment First program.

1. A work-eligible individual is:
   a. An adult receiving ADC cash assistance;
   b. A minor parent who is the head-of-household receiving ADC cash assistance;
   c. A non-recipient parent living with his/her child(ren) who is receiving ADC cash assistance and whose needs are not included in the ADC budget with a reason of:
      (1) Child Support sanction;
      (2) Convicted drug felon;
      (3) Third Party Medical sanction;
      (4) Intentional Program Violation (IPV) sanction;
      (5) Fleeing felon;
      (6) Social Security Number (SSN) sanction; or
      (7) Misrepresenting Residence sanction.
2. Excluded from the definition of a work-eligible individual is:
   a. A minor parent who is not the head-of-household;
   b. A non-recipient parent living with his/her child(ren) who is receiving ADC cash assistance when the parent is a non-citizen and ineligible to receive ADC cash assistance due to his or her immigration status;
   c. A parent providing care for a disabled family member living in the home who does not attend school on a full-time basis (for exemption criteria, see 468 NAC 2-020.02 #4);
   d. An individual in a family receiving assistance under an approved Tribal TANF program; or
   e. A non-recipient parent living with his/her child(ren) who is receiving ADC cash assistance when the parent is receiving SSI or SSDI.

2-020.01A Minimum Hours of Participation: Only actual hours of participation can count towards the minimum number of hours of participation required in approved EF component activities.

Exception: For information on approved state holidays and limited excused absences that can count as actual hours of participation towards the time an individual is scheduled to participate in the component activity(ies) assigned to him/her, see 468-000-307.

For a list of core and non-core component activities, see 468 NAC 2-020.07.

2-020.01A1 Single-Parent Families: An individual is required to participate a minimum of 30 hours per week in approved EF component activities. An individual counts as engaged in the minimum number of hours required for a month if s/he participates in approved EF component activities during the month for at least an average of 30 hours per week. At least 20 hours per week must come from participation in core activities. Above 20 hours per week can come from non-core activities.

2-020.01A2 Two-Parent Families: Two-parent families are required to participate a minimum of 35 or 55 combined hours per week, depending on whether they receive federally funded child care. Participation must be in approved EF component activities. A two-parent family counts as engaged in the minimum number of hours required for a month if the parent(s) participate in approved EF component activities during the month for at least an average of 35 or 55 combined hours per week. For a two-parent household not receiving federally funded child care, at least 30 hours per week must come from participation in core activities. Above 30 hours a week can come from non-core activities. For a two-parent household receiving federally funded child care, at least 50 hours per week must come from participation in core activities. Above 50 hours a week can come from non-core activities.

Note: A two-parent family with one parent who qualifies for exemption 2a or 2b in 468 NAC 2-020.02 must be considered a single-parent family for purposes of determining the minimum hours of participation.

2-020.01A2a Minor Parent Head-of-Household: A minor parent head-of-household in a two-parent family when the other parent is also a minor is required to participate a minimum of 30 hours per week in approved EF component activities. A minor parent head-of-household counts as engaged in the minimum number of hours required for a month if s/he participates in approved EF component activities during the month for at least an average of 30 hours per week. At least 20 hours per week must come from participation in core activities. Above 20 hours per week can come from non-core activities.

2-020.01A3 Special Rule for Education:

1. A single parent head-of-household or a parent in a two-parent family age 19 or younger is deemed to have met the minimum number of hours of participation required for the month if s/he is maintaining satisfactory full-time attendance in the Satisfactory Attendance at Secondary School or in a Course of Study Leading to a Certificate of General Equivalence component during the month.
2. An individual is deemed to have met the minimum number of hours of participation required for the month if s/he is participating in the Education Directly Related to Employment component for at least 20 hours per week during the month.

Note: This special rule also applies to dependent children who are required to participate in the Employment First program.

2-020.01A4 Caretaker with a Child Between 12 Weeks and 6 Years of Age: A single custodial parent or needy caretaker relative, guardian or conservator whose youngest child is at least 12 weeks but under 6 years of age is required to participate a minimum of 20 hours per week in approved EF component activities. An individual counts as engaged in the minimum number of hours required for a month if s/he participates in approved EF component activities during the month for at least an average of 20 hours per week. At least 20 hours per week must come from participation in core activities.

2-020.02 Exemptions from Employment First: The following individuals are not required to participate in EF component activities:

1. A dependent child age 16, 17, or 18 who is a full-time student and regularly attending an elementary or secondary school, or a dependent child age 16 or 17 who is a full-time student and regularly attending college. For more information, see 468 NAC 2-007.

   Note: If the child is enrolled full time for the next school term, s/he is exempt and the case manager must verify the child's attendance in the first month of the school term. If the child quits school, s/he loses this exemption and does not regain it even if s/he returns to school.
2. A person who:
   a. Has an illness or injury serious enough to temporarily prevent the individual from entering employment and participating in another EF component activity(ies) for up to three months. The illness or injury must be evaluated in the context of activities available through the Employment First program.
      For procedures on making a decision on short-term exemptions, see 468-000-336.

      The individual becomes non-time limited for the period of time s/he qualifies for this temporary exemption.

   b. Is incapacitated with a medically determinable physical or mental impairment which, by itself and in conjunction with age, prevents the individual from entering employment or participating in another EF component activity(ies) and which is expected to exist for a continuous period exceeding three months. The incapacity must be evaluated in the context of activities available through the Employment First program.

      For procedures for determining a long-term incapacity exemption, see 468-000-336.

      The individual becomes non-time limited for the period of time s/he qualifies for this exemption.

      The case manager must develop an individualized service plan with the individual who qualifies for exemption 2a or 2b, see 468 NAC 2-020.02D.
3. A person age 65 or older. This individual is no longer subject to Employment First or the time limit.

4. A parent who is needed in the home on a continuous basis to provide care for a disabled family member living in the home who does not attend school on a full-time basis and no other appropriate member of the household is available to provide the needed care. There must be medical documentation and a signed statement from a licensed medical professional to support the need for the parent to remain in the home to care for the disabled family member. The disability of the family member being cared for must be evaluated periodically, depending on the diagnosis and prognosis for recovery, in order to determine if the parent is still needed in the home to provide care for the disabled family member.

   The individual that meets this exemption criteria becomes non-time limited for the period of time s/he qualifies for this exemption.

5. A parent or needy caretaker relative, guardian or conservator of a child under the age of 12 weeks is not required to participate in EF and would be non-time limited for the period of time s/he qualifies for this exemption. This exemption can be extended if a written statement from the attending physician states that the parent requires additional postpartum recovery time, or special medical conditions of the child requires the presence of at least one parent or needy caretaker relative, guardian, or conservator.

   In an ADC unit composed of a grandparent, a minor parent, and the minor's child, only the minor parent is eligible for this exemption. Only one parent in a two-parent household can qualify for this exemption.
6. A pregnant woman beginning the first of the month before the month of the mother's due date. The individual becomes non-time limited for the period of time she qualifies for this temporary exemption.
7. A single custodial parent who is unable to participate because s/he cannot obtain child care for his/her child age five or younger for one or more of the following reasons:
   a. Unavailability of appropriate child care within a reasonable distance from the client's home or work site;
   b. Unavailability or unsuitability of informal child care by a relative or under other arrangements; or
   c. Unavailability of appropriate and affordable formal child care arrangements.

   It is the client's responsibility to prove that s/he cannot obtain child care. For the definition of the reasons, see 468 NAC 2-020.02A.

   The individual becomes non-time limited for the period of time s/he qualifies for this exemption.
8. A victim of domestic violence. A victim of domestic violence is defined as someone who is battered or subject to extreme cruelty. For an individual to qualify for this exemption, the case manager must determine that participation in EF would make it more difficult for the individual to escape domestic violence, would penalize the individual, or would put him/her at risk of further domestic violence. For more information, see 468 NAC 2-020.02C.

The individual becomes non-time limited for the period of time s/he qualifies for this exemption.

The case manager must develop an individualized service plan with the individual who qualifies for this exemption, see 468 NAC 2-020.02D.

The EF record must contain documentation to substantiate the decision on each individual's exempt status.

An individual becomes mandatory to participate in the Employment First program the first of the month following the month in which s/he no longer qualifies for an exemption.

2-020.02A Definitions for Exemption Number 7: For the purposes of the exemption listed in number 7 in 468 NAC 2-020.02, the following definitions apply:

Affordable child care: Care at no cost to the client.

Appropriate child care: Care that is or can be licensed or approved by DHHS.

Reasonable distance: A round trip of two hours or less from home to the site of child care. If a normal round trip commuting time in the area is more than two hours, that is considered the generally accepted community standard.

Unsuitability of informal care: Unpaid care or personally arranged care by a friend or relative that would be unsafe or harmful to the child.

2-020.02B Review of Exempt Status: The case manager must review the exempt status:

1. At the time of redetermination of eligibility for ADC;
2. When the case manager becomes aware of a change which may affect exempt status; or
3. Within 30 calendar days of a request by the client or another case manager to reconsider “mandatory” status.

2-020.02C Victims of Domestic Violence: For the purposes of the domestic violence exemption, an individual is considered to be battered or subjected to extreme cruelty if s/he has been subjected to:

1. Physical acts that resulted in, or threatened to result in, physical injury to the individual;
2. Sexual abuse;
3. Sexual activity involving a dependent child;
4. Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;
5. Threats of, or attempts at, physical or sexual abuse;
6. Mental abuse;
7. Neglect or deprivation of medical care; or
8. Stalking.

In order to qualify for the exemption, the individual must have an assessment for domestic violence. There must be verification of the domestic violence from such sources as a domestic violence/sexual assault program representative; police records; child protective service records; court records; or a statement or report from a licensed physician, certified psychologist, or licensed mental health practitioner.

The case manager must refer the individual for counseling and appropriate services.

The exemption may last for up to six months. The exemption must be reassessed at least every six months or sooner depending on the service plan, and the exemption may be extended beyond six months, if necessary.

All EF participants must be screened for domestic violence.

2-020.02D Service Plan: The case manager must develop an individualized service plan with an individual who qualifies for exemption 2a, 2b, or 8 in 468 NAC 2-020.02. The service plan outlines the steps necessary to overcome the individual's barriers to work and/or participation in other EF component activities. If the individual fails to follow the service plan without good cause, s/he loses the exemption, becomes mandatory for EF participation, and returns to time-limited status.

2-020.03 Voluntary Participation: An individual who qualifies for an exemption from participation in EF may elect to volunteer to participate in the EF program. The time limit does not apply until the individual no longer qualifies for an exemption.

Any resulting failure to participate in the activities agreed upon in the Self-Sufficiency Contract would restrict the individual from participating as outlined in 468 NAC 2-020.09B1a(4) and depending on his/her status s/he may be subject to a sanction.

Note: The case manager must notify a voluntary participant if s/he becomes mandatory.

2-020.04 Orientation: Orientation to Employment First may be accomplished in two phases. The first phase may be performed at the time of application for ADC cash assistance. The caseworker highlights the responsibilities that the client will be expected to fulfill if s/he becomes eligible for ADC cash assistance.

The second phase of orientation to Employment First is done as an introduction to the comprehensive assets assessment. It occurs when the individual's exempt, mandatory or voluntary status is known. The family must receive detailed information on all EF requirements, program expectations, participation options, services, and time limits.

2-020.05 Assets Assessment: The client must participate in agency and/or vendor-provided assessment(s) designed to provide a framework for self-sufficiency planning. The purpose of assessment is to gather and organize information about the client's skills, aptitudes, strengths, interests and family circumstances. Assessment must be conducted when a participant's circumstances change, when s/he is not able to continue forward movement in his/her Self-Sufficiency Contract activities, or at any time the case manager and/or the participant determines it is necessary.

For the EF Assessment Guide, see Form WP-10.

2-020.05A Refugees Receiving ADC: For refugees receiving ADC cash assistance in counties with a refugee resettlement agency or a contracted or volunteer organization that works with refugees, the case manager must coordinate with the resettlement agency and/or the contracted or volunteer organization to develop the Self-Sufficiency Contract. All other provisions of EF apply to the refugee ADC recipient.

2-020.06 Self-Sufficiency Contract: Based on the results of assessment, the case manager and the client will develop an individualized Self-Sufficiency Contract. The Self-Sufficiency Contract should stress urgent action toward economic self-sufficiency. The Self-Sufficiency Contract will identify the goals to be achieved and will include time lines and benchmarks that facilitate forward momentum. Each mandatory adult and minor parent will outline his/her path to achieving economic self-sufficiency. The responsibilities, roles, and expectations of the client, the case manager, the Department, and all other service providers must be detailed in the Self-Sufficiency Contract. Final approval of the Self-Sufficiency Contract is a responsibility of the Department.

The Department's responsibilities must be listed as measurable and clear. In every Self-Sufficiency Contract, there must be included (but not limited to) the following Department responsibilities, including when and how each will be provided: components under 468 NAC 2-020.07 and allowable supportive services needed to fulfill the Self-Sufficiency Contract.

The Self-Sufficiency Contract is to be used as a flexible tool. If the participant is not achieving progress in his/her Self-Sufficiency Contract, it should be evaluated and changed accordingly. Adjustments to the goals, components, or scheduled activities within components may be necessary as a result of changes in labor market conditions, or a variety of individual circumstances.

The Self-Sufficiency Contract is a binding document to be signed by the individual and by the case manager representing the Department. By signing the Self-Sufficiency Contract, the client signifies his/her agreement with the terms and conditions of the Self-Sufficiency Contract.

2-020.07 Components: Components make up the menu of activities that the participant and case manager choose from when developing the Self-Sufficiency Contract. Activities that the participant engages in should build on his/her strengths, help to remove barriers to self-sufficiency and prepare him/her for entry into the labor market. Successful completion of activities within the components should build momentum and forward movement toward the achievement of the participant's vocational goal and eventual self-sufficiency.

1. Core activities: At least 20 hours per week must come from participation in core activities. The component activities from which at least 20 hours per week of participation must come are:
   a. Unsubsidized Employment;
      (1) Microbusiness Enterprise;
      (2) Apprenticeship;
   b. Subsidized Private or Public Sector Employment;
   c. Work Experience;
   d. On-the-Job Training;
   e. Job Search/Job Readiness;
   f. Community Service;
   g. Vocational Training;
   h. Providing Child Care Services to an Individual Who Is Participating in a Community Service Program; and
   i. Post-Secondary Education.

   Note: For a two-parent household, at least 30 or 50 combined hours per week must come from participation in core activities, depending on whether they receive federally funded child care.
2. Non-Core activities: Non-core activities cannot count towards participation hours without at least 20 hours a week coming from participation in core activities. Above 20 hours per week in a core activity(ies), the following component activities may count towards participation:
   a. Job Skills Training Directly Related to Employment;
   b. Education Directly Related to Employment; and
   c. Satisfactory Attendance at Secondary School or in a Course of Study Leading to a Certificate of General Equivalence.

A participant may participate in one or more core activities at a time or a combination of core and non-core activities at the same time in order to comprise full-time participation. The case manager will reflect each component activity as a separate element in the Self-Sufficiency Contract.

Participation in component activities must be supervised. Participation hours must be tracked, documented and verified. For the requirements, see 468-000-307.

2-020.07A Unsubsidized Employment: The employment may be full or part-time in the public or private sector and is not subsidized by TANF or any other public program. Employment must consist of work for pay. Pay must not be less than the state minimum wage.

2-020.07A1 Microbusiness Enterprise: When a microbusiness enterprise is included in the Self-Sufficiency Contract, the client should be referred to an entrepreneurial assistance program. In order for the Self-Sufficiency Contract to contain this component activity, an assessment of the likelihood of business success must be obtained and benchmarks established to assess measurable progress, including profits and continued likelihood of achieving economic self-sufficiency within the individual's time limits.

For counting hours of participation for microbusiness enterprise and self-employment, see 468-000-307.

2-020.07A2 Apprenticeship: An apprenticeship may be applied for and entered into with a trade organization. An individual participating in an apprenticeship must complete the program and be fully employed in the trade within the individual's time limit. An apprenticeship program cannot be included in the Self-Sufficiency Contract if the client has a skill that can be marketed and can be reasonably expected to provide a wage leading to economic self-sufficiency in the current, area-specific labor market and the client is physically, mentally and emotionally able to utilize those skills through employment.

2-020.07B Subsidized Private and Public Sector Employment: The subsidized employment component is employment in the public or private sector for which the participant is paid wage~~s~~, while the employer receives a temporary subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a participant. Subsidized employment provides the participant with an opportunity to gain job skills and experience. The goal of this activity must be to prepare participants for and assist them in securing permanent unsubsidized employment and achieving economic self-sufficiency.

During the subsidized period the employer must provide necessary training, guidance, and direction to the participant.

For worker protection, see 468 NAC 2-020.07C8.

2-020.07C Work Experience: The work experience component is structured unpaid work in any public, private, for-profit, or nonprofit business or organization. The purpose of the work experience activity is to improve the employability of participants who have been assessed as not being job ready and/or cannot find unsubsidized employment by providing an individual with an opportunity to acquire the general workplace skills, training, knowledge, and work habits necessary to obtain unsubsidized employment. The goal of work experience is to prepare participants for and move them into unsubsidized employment or other component activities that can help in this transition. Other component activities may be combined with work experience.

The prior education, training, experience, work history, as well as job skills, vocational interests and goals, and limitations, etc. of a participant must be taken into account in making appropriate work experience placements. A work experience placement must not exceed six months.

The Department must have a written agreement with the work site. Daily supervision is required. The hours of participation in a work experience activity must be detailed in the agreement and the Self-Sufficiency Contract.

2-020.07C1 Selection Criteria and Placement: The case manager must take into account the participant's vocational interests and goals, job skills, training, education, work history, experience, limitations, etc., so that the participant can be matched to the appropriate work site. The case manager recommends the participant to the work site. Then the potential work site personnel have the option of interviewing the participant.

2-020.07C2 Scheduling: The case manager is responsible for coordinating with the work site and participant for the number of hours and the days the participant will participate.

2-020.07C3 Time and Attendance: Participants are required to report to their work site as scheduled, following the business' rules and regulations regarding timeliness, attendance, and absences.

Time and attendance records for participants are maintained by the work site as they are for regular employees. The work site submits a time sheet and progress report to the case manager at the end of each week, see 468-000-307.

2-020.07C4 Communication with the Work Site: Communication with the work site must be maintained on a regular basis. The case manager must request that the work site notify him/her immediately if there is a problem with an individual's participation.

2-020.07C5 Termination of Assignment: If the work site determines that a participant is unsuitable for the assignment, the work site must inform the case manager immediately. The participant may then be reassigned to another work site. Termination from a work site is not considered nonparticipation unless the participant failed or refused to participate without good cause.

2-020.07C6 Review of Placement: The effectiveness of the placement must be reviewed regularly. If the assignment is determined to be inappropriate or ineffective, the Self-Sufficiency Contract must be reviewed.

2-020.07C7 Participant Protection: Work experience and community service participants are insured by the Department against injury on the work site.

2-020.07C8 Worker Protection: No work experience, on-the-job training, subsidized employment, or community service placement may result in the displacement of or infringement of promotional opportunities of any currently employed worker, nor will an assignment be made to fill a position when the employer has reduced its work force with the effect of filling the vacancy with a participant subsidized by the program or when any other individual is on layoff from the same or equivalent job within the same organizational unit.

Regular employees or their representatives may register complaints with the agency that the assignment of an individual violates the previously described provisions. The Department offers the individual a conciliation period of up to 30 days in which to resolve the dispute. The conciliation process includes a face-to-face interview or telephone conference with a Department representative. This process may be initiated by either the Department or the employee.

If the conciliation process does not resolve the issue, the dissatisfied employee may file a request for a formal hearing.

2-020.07C8a Hearing Process: The Department's hearing portion of the grievance procedure must provide the following:

1. A written notice of the date, time, and place of the hearing;
2. A hearing on the record;
3. An opportunity to present evidence, bring witnesses, and cross examine witnesses;
4. Representation by counsel at the discretion and cost of the employee; and
5. A written decision.

This process must not exceed 90 days from the date of the complaint, by which time the complainant must be provided the written decision by the Department.

2-020.07C8b Appeal to Administrative Law Judges: The written decision may be appealed by any dissatisfied party within 20 days of the receipt of the Department's written decision. The appeal must be sent to the Office of Administrative Law Judges, U.S. Department of Labor, Vanguard Building, Room 600, 1111 20th Street NW, Washington, D.C. 20036. The appeal must contain:

1. The full name, address, and telephone number of the appellant;
2. The provisions of the Social Security Act or regulations believed to have been violated;
3. A copy of the original complaint filed with the Department; and
4. A copy of the Department's findings and decision regarding the appellant's complaint.

The appellant must send copies of the appeal and any brief in support of it to the Assistant Secretary for Employment and Training, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 and to the Assistant Secretary for the Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, SW, 6th Floor, Washington, D.C. 20447.

The Department must certify and file with the Office of Administrative Law Judges the entire administrative record of the matter under appeal within 30 days of that office's request for it.

The Department must send copies of this record to the Assistant Secretary for Employment and Training and the Assistant Secretary for the Administration for Children and Families. The decision of the Office of Administrative Law Judges is the final decision of the Secretary of Labor on the appeal and must be transmitted to the parties to the appeal, the Department, and the Assistant Secretary for the Administration for Children and Families, Department of Health and Human Services, for appropriate action.

2-020.07C9 Rights and Benefits: Work experience participants are treated as regular employees of the work site to which they are assigned. The work site provides supervision of clients in accordance with the policies and procedures used for regular employees including orientation, absenteeism, disciplinary actions, and terminations. At the time of assignment the work site personnel policies and procedures relating to these topics should be discussed and/or provided in writing by the work site personnel.

The work site must maintain reasonable work conditions which are not in violation of federal, state, or local health and safety standards.

The work site must not discriminate against any participant because of race, religion, color, sex, physical handicap unrelated to the participant's ability to perform the work, or national origin or ancestry.

2-020.07D On-the-Job Training (OJT): The basic principles which govern an OJT placement are:

1. An OJT can be developed in the public or private sector;
2. An assessment of the participant must determine that s/he is job ready;
3. The participant is first hired by the employer on a full-time basis;
4. The Department must have a written contract with the employer;
5. Daily supervision is required;
6. S/he is provided training which gives the knowledge and skills essential to the full and adequate performance of that job;
7. S/he is compensated at a wage (plus fringe benefits, as applicable), including periodic increases, comparable to that of other employees performing the same or similar jobs. The employer and the sponsoring agency negotiate a contract in which the employer will be reimbursed up to 50 percent of the hourly wage for actual hours worked for a set period of time, not to exceed six months to help offset the cost of training;
8. The wage reimbursement rate and length of the on-the-job training are contingent upon the nature and complexity of the work and how much training is actually required for the individual to be able to perform the job adequately;

9. The OJT may include classroom training, either in the workplace or elsewhere, in job-related basic skills, literacy, English as a Second Language (ESL), and/or occupational skills training that is required by the employer and would assist the participant to complete his/her assigned duties and/or upgrade his/her job skills. The classroom hours can count towards hours of OJT participation but are not eligible for wage reimbursement; and
10. Upon successful completion of the OJT, the employer will continue to employ the participant as a regular employee.

For treatment of income from an OJT, see 468 NAC 2-016; for worker protection, see 468 NAC 2-020.07C8.

2-020.07E Job Search/Job Readiness: Job search and job readiness assistance means the act of seeking or obtaining employment, preparation to seek or obtain employment, including life skills training, and substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable. Such treatment or therapy must be determined to be necessary and documented by a qualified medical, substance abuse, or mental health professional. Participation in job search and job readiness is limited to 240 or 360 hours in a 12-month period. The total hourly limit for participation in job search and job readiness activities is 240 hours for a single custodial parent or needy caretaker relative, guardian or conservator of a child under 6 years of age, and 360 hours for all other work-eligible individuals. The 12-month period begins with the first month in which hours of job search or job readiness are counted. Not more than 4 weeks may be consecutive. The 240 or 360 hour limit applies to the job search and job readiness components as a whole, not separately. Daily supervision is required.

The Job Search component offers two formats for job search: group job search workshop and independent job search.

2-020.07F Community Service: The community service component is a structured program in which the participant performs unpaid work under the auspices of public or nonprofit organizations. Community service programs must be limited to projects that serve a useful community purpose. Community service programs must include structured activities that both provide a community service and also improve the employability of the participant. Community service programs are designed to improve the employability of participants not otherwise able to obtain employment.

The prior training, experience, and job skills of a participant must be taken into account, to the extent possible, in making appropriate community service assignments. The Department must have a written agreement with the work site. Daily supervision is required. The hours of participation in a community service program must be detailed in the agreement and the Self-Sufficiency Contract.

For selection criteria and placement, scheduling, time and attendance, communication with the work site, termination of assignment, participant protection, and worker protection, see 468 NAC 2-020.07C1.

Short term training or similar activities may be counted as community service~~s~~ as long as such activities are of limited duration and are a necessary or regular part of the community service.

The case manager is responsible for determining the maximum number of hours of community service allowed for the Employment First participant each month. This is determined by adding the family's ADC cash payment amount and their Food Stamp allotment then dividing the total monthly benefit amount by the federal minimum wage. For determining the maximum number of hours for participation in a community service program, see 468-000-308.

2-020.07G Vocational Training: Vocational training is organized educational programs directly related to the preparation of individuals for employment in current or emerging occupations. It may consist of both academic and occupational course work. Basic skills education such as work-focused general education and language instruction may be counted as long as it is a necessary and regular part of the vocational training. Vocational training programs should be limited to activities that give participants the knowledge and skills to perform a specific occupation. The completion of vocational training leads to the attainment of a vocational certificate, diploma, or an Associate degree.

Vocational training is limited to that which is directly related to the fulfillment of an individual's vocational goal. Participation in vocational training cannot exceed 36 months in a lifetime for any individual. Vocational training programs that can be included in the Self-Sufficiency Contract must be for occupations that facilitate economic self-sufficiency. In order for vocational training to be included in the Self-Sufficiency Contract, the participant must demonstrate that the training program will lead to economic self-sufficiency within the individual's time limits. The participant and case manager must have substantiating labor market information.

A vocational training program cannot be included in the Self-Sufficiency Contract if the participant has a skill that can be marketed and can be reasonably expected to provide a wage leading to economic self-sufficiency in the current, area-specific labor market and the participant is physically, mentally and emotionally able to utilize those skills through employment. The case manager may need to assist the participant in this process.

Before vocational training can be approved and included in the Self-Sufficiency Contract, the participant must apply for student financial aid, unless the program is not eligible for student financial aid, or have other financial resources available to pay for the cost of training. If the participant elects to apply for student loans, see 468 NAC 2-016 for treatment in the budget.

If the participant is ineligible for student financial aid because of a default on a student loan, the Self-Sufficiency Contract cannot contain vocational training until the loan is rehabilitated through arrangements made with the lending institution. The case manager may need to assist the participant in this process.

The cost of vocational training may not be paid with program money except under special circumstances.

In order to ensure that participation in vocational training is meaningful and productive, the participant must be in good standing and making good or satisfactory progress in his/her training program using the educational institution's standard. There must be demonstrated progress using a qualitative measure (grade point average) and a quantitative measure (time frame within which the individual is expected to complete his/her training program). The Self-Sufficiency Contract must detail the qualitative and quantitative measures. Daily supervision is required.

For information on study time that can count as actual hours of participation in this component, see 468-000-307.

2-020.07H Job Skills Training Directly Related to Employment: This is defined as training or education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace. This can include customized training to meet an employer's needs or general training that prepares a participant for employment. This can include literacy instruction or language instruction or barrier-removal activities when such instruction is explicitly focused on skills needed for employment or combined in a unified whole with job training. Daily supervision is required.

Job skills training may include short-term training programs or coursework designed to refresh, upgrade, advance, or renew job-related skills.

Adult Basic Education (ABE) and English as a Second Language (ESL) courses can count as stand-alone activities, but must be combined with a core activity.

The cost of job skills training may not be paid with program money except under special circumstances.

For information on study time that can count as actual hours of participation in this component, see 468-000-307.

2-020.07I Education Directly Related to Employment: For an individual who has not received a high school diploma or a certificate of high school equivalency, this is defined as education related to a specific occupation, job, or job offer. This can include Adult Basic Education (ABE) which is basic and remedial education designed to help an individual achieve a basic literacy level (i.e. the equivalent of an eighth grade education), and English as a Second Language (ESL), and other courses designed to provide the knowledge and skills for specific occupations or work settings. General Educational Development (GED) can be counted when it is required as a prerequisite for employers or an occupation.

ABE and ESL courses can count as stand-alone activities, but must be combined with a core activity.

Participants must be in good standing and making good or satisfactory progress using the educational institution's standards. There must be demonstrated progress using a qualitative measure, such as grade point average, and a quantitative measure, such as a time frame within which the individual is expected to complete his/her educational program. The Self-Sufficiency Contract must detail the qualitative and quantitative elements. Daily supervision is required.

For information on study time that can count as actual hours of participation in this component, see 468-000-307.

For information on deeming hours of participation for parents age 23 or younger and dependent children, see 468 NAC 2-020.01A3.

2-020.07J Satisfactory Attendance at Secondary School or in a Course of Study Leading to a Certificate of General Equivalence: This is defined as secondary education, whether an academic or vocational track, the completion of which leads to the attainment of a high school diploma (HSD); or General Educational Development (GED), the completion of which leads to the attainment of a State of Nebraska High School Diploma (certificate of general equivalence).

Participants must be in good standing and making good or satisfactory progress using the educational institution's standards. There must be demonstrated progress using a qualitative measure, such as grade point average, and a quantitative measure, such as a time frame within which the individual is expected to complete his/her educational program. The Self-Sufficiency Contract must detail the qualitative and quantitative measures. Daily supervision is required.

If a dependent child drops out of school when s/he reaches the mandatory education age of 16, a Self-Sufficiency Contract must be developed. However, participation in this component cannot be mandated to the dependent child who drops out of school at the age of 16.

For information on study time that can count as actual hours of participation in this component, see 468-000-307.

For information on deeming hours of participation for parents age 19 or younger and dependent children, see 468 NAC 2-020.01A3.

2-020.07K Providing Child Care Services to an Individual Who Is Participating in a Community Service Program: An individual who is providing child care services to the children of another EF participant to enable him/her to participate in the community service component activity.

This activity must be effective in helping move the child care provider toward economic self-sufficiency. The activity should be made meaningful through training, certification or mentoring, and work towards certification as a child care provider and be a first step toward the participant's employment in the child care field.

The participant may or may not be paid for services rendered. The individual who is participating in the community service component activity is not required to pay the participant for providing the child care services. The participant should be encouraged to apply to DHHS to be an approved provider and receive payment for their services as an approved child care provider. Daily supervision is required.

For child care provider age requirements, see 392 NAC 5-001.02, 5-001.02A, and 5-001.02B.

2-020.07L Post-Secondary Education: Post-secondary education is a specific educational program at a college or university. The completion of post-secondary education leads to the attainment of a baccalaureate degree. Post-graduate programs may not be approved in the Self-Sufficiency Contract.

Post-secondary education is limited to that which is directly related to the fulfillment of an individual's occupational goal. Post-secondary education programs that can be included in the Self-Sufficiency Contract must be for occupations that facilitate economic self-sufficiency. In order for post-secondary education to be included in the Self-Sufficiency Contract, the participant must demonstrate that the educational program will lead to economic self-sufficiency within the individual's time limits. The participant and case manager must have substantiating labor market information.

A post-secondary education program cannot be included in the Self-Sufficiency Contract if the participant has a skill that can be marketed and can be reasonably expected to provide a wage leading to economic self-sufficiency in the current, area-specific labor market and the participant is physically, mentally and emotionally able to utilize those skills through employment. The case manager may need to assist the participant in this process

Before post-secondary education can be approved and included in the Self-Sufficiency Contract, the participant must apply for student financial aid or have other financial resources available to pay for the cost of schooling. If the participant elects to apply for student loans, see 468 NAC 2-016 for treatment in the budget.

If the participant is ineligible for student financial aid because of a default on a student loan, the Self-Sufficiency Contract cannot contain post-secondary education until the loan is rehabilitated through arrangements made with the lending institution. The case manager may need to assist the participant in this process.

The cost of post-secondary education may not be paid with program money except under special circumstances.

In order to ensure that participation in post-secondary education is meaningful and productive, the participant must be in good standing and making good or satisfactory progress in his/her educational activity using the educational institution's standard. There must be demonstrated progress using a qualitative measure (grade point average) and a quantitative measure (time frame within which the individual is expected to complete his/her educational program). The Self-Sufficiency Contract must detail the qualitative and quantitative measures. Daily supervision is required.

For information on study time that can count as actual hours of participation in this component, see 468-000-307.

2-020.08 Supportive Services: A participant must be provided with allowable and appropriate supportive services to the extent determined necessary by the case manager to enable the individual to participate in any Employment First component as agreed upon in the Self-Sufficiency Contract if no other source is available at no cost to the participant or to the agency. The case manager must prior approve the use of these funds.

Participants who qualify for an exemption are eligible for supportive services if they are required to cooperate in obtaining treatment, counseling, rehabilitative or vocational services identified in a service plan. For information on the service plan, see 468 NAC 2-020.02D.

Applicants for ADC cash assistance are eligible for supportive services only if they are participating in Employment First orientation, assessment, self-sufficiency planning, Self-Sufficiency Contract development, community service, job search, or employment.

For guidelines on supportive services, see 468-000-309.

2-020.08A Duration of Services: Case management and necessary supportive services may be provided for the duration of the individual's participation in all EF components and, if needed, after the loss of eligibility for ADC cash assistance if the loss of ADC was due to earned income, and if the individual was either cooperating with or participating in EF at the time. For information on extended and transitional supportive services, see 468-000-309.

2-020.08B Refusal to Accept Supportive Services: A client or participant may refuse supportive services. However, the refusal of supportive services must not then be used as a reason for not cooperating with EF requirements or participating in EF component activities.

2-020.08C Transportation: The case manager may authorize payment for transportation to enable a participant to participate in any EF component. Bus tokens/tickets, commercial transportation, gasoline vouchers, car repairs, and relocation assistance are some examples of transportation services that can be provided. Public transportation must be used when available.

Transportation services provided by an approved transportation provider are authorized at the rate established by the Department.

Court costs, fines, fees, restitution, and attorney fees must not be paid with EF funds. The cost of reinstating a driver's license, when the loss of the license was due to driving while intoxicated or under the influence of drugs, must not be paid with EF funds.

2-020.08D Work-Related Expenses: The case manager may authorize vendor payments for expenses incurred in obtaining and beginning work, such as uniforms, special clothing and footwear, tools and equipment required for work, etc.

2-020.08E Medical-Related Services: Employment-related medical services not covered by the Medicaid program may be authorized.

Medical-related services are authorized at Medicaid rates.

2-020.09 Nonparticipation: Nonparticipation may occur only after a client has signed a Self-Sufficiency Contract. Some examples of failing to participate include, but are not limited to:

1. Not participating in Self-Sufficiency Contract revisions;
2. Not meeting the terms of the Self-Sufficiency Contract;
3. Failing to appear for a job interview or follow up on a job opening when the potential job meets the appropriate work criteria;
4. Failing to keep appointments with the case manager or with another agency providing service to the participant;
5. Voluntarily leaving a component activity before its completion;
6. Failing or refusing to report on his/her job search as required; or
7. Quitting employment or refusing a bona fide offer of employment without good cause.

2-020.09A Good Cause: The following are some examples of good cause for failing or refusing to participate in EF.

1. The participant's illness or incapacitation;
2. Incarceration or court-required appearance of the participant;
3. A family crisis or change in family circumstances which interfere with participation;
4. Unavailability or a breakdown in transportation or child care arrangements with no readily accessible alternative;
5. Weather conditions which would prohibit the client from participating in the prescribed activity;
6. A wage which results in a net loss of cash income. For explanation of net loss of income, see 468 NAC 2-020.09A1;
7. Hazardous work conditions;
8. The participant's mental or physical inability to do the job; or
9. The presence of domestic violence in the participant's life which interferes with his/her ability to secure child care or transportation; his/her ability to attend school, training, or work; and/or which compromises him/her or his/her children's physical and/or emotional safety.

If the participant terminates employment, see 468 NAC 2-005.01A for good cause provisions.

2-020.09A1 Net Loss of Income: If employment would result in a net loss of cash income, the participant would have good cause for not accepting that job. S/he may still choose to accept the employment, but is not subject to sanction if s/he does not.

The participant experiences a net loss of income if the income from employment does not equal the ADC cash benefit plus work related expenses minus any unearned income received by the family. Work related expenses are defined as:

1. Mandatory payroll deductions;
2. Transportation, limited to gas and oil and routine maintenance or city bus fare (not paid for by other sources);
3. The portion of child care paid by the participant; and
4. Uniforms not paid for by other sources.

These must be expenses that would not otherwise be incurred.

2-020.09B Action Following Nonparticipation: Before imposing the first or second sanction, the case manager must present the recommendation to his/her supervisor for review to ensure that the case manager has:

1. Reviewed the contracted activities to assure that they are reasonable and appropriate; and that they are consistent with the participant's physical and mental abilities;
2. Discussed the nonparticipation issue with the participant to determine whether there was good cause for his/her failure or refusal to participate; and
3. Worked with the participant to assist them in removing any barriers to participation.

This supervisory review may last a maximum of ten days.

The recommendation for imposing the third sanction must be approved by the case manager's supervisor and a second level supervisor, as well.

If the participation issue is resolved or good cause is established, no sanction is imposed. If not, the sanction in 468 NAC 2-020.09B1 must be imposed and the case manager sends an adequate and timely notice (see 468 NAC 1-009.03B), notifying the participant of a sanction.

2-020.09B1 Failure to Participate in Employment First: If the parent(s) fails or refuses to participate in EF without good cause, the result is the loss of ADC cash assistance for the entire family. In a two-parent family, failure or refusal to participate in EF without good cause by one parent will result in the loss of ADC for the entire family.

If the needy caretaker relative, guardian, or conservator who is not a parent fails or refuses to participate in EF without good cause, the result is the removal of the caretaker's needs from the ADC unit.

If a dependent child age 16, 17, or 18 fails to attend school and fails or refuses to participate in any other EF component without good cause, the result is the removal of the child's needs from the ADC unit.

2-020.09B1a Sanction for Mandatory Participant's Failure or Refusal to Participate: A sanction is effective the first of the specified month following adequate and timely notice.

A waiver of receipt of ADC once a sanction notice has been mailed does not prohibit the sanction from taking effect.

2-020.09B1a(1) Length of Sanction: If the individual who has failed or refused to participate in EF is a parent, the sanctions will be as follows:

1. The first imposition of a sanction will last one month or until the failure to participate ceases, whichever is longer.
2. The second sanction will last for three months or until the failure to participate ceases, whichever is longer.
3. The third and subsequent sanctions must not be imposed without a second-level supervisory review. This sanction will last for a minimum of 12 months or until the failure to participate ceases, whichever is longer.

There is no minimum penalty period for a sanction imposed upon a needy caretaker relative, guardian, conservator, or dependent child. The sanction will last until the failure to participate ceases. For lifting of sanction, see 468 NAC 2-020.09B1a(2).

If the parent qualifies for an exemption at any time during the sanction period, the exemption will be granted and the sanction will be lifted. If during the first month of the penalty period, the ADC will resume effective the first day of the month during which the parent qualifies for the exemption. If after the first month of the penalty period, the ADC is prorated from the date of the new application for ADC.
If the needy caretaker relative, guardian, conservator, or dependent child qualifies for an exemption, the exemption will be granted and the sanction will be lifted. The ADC for the individual is prorated from the date the individual qualifies for the exemption.

Once a sanction has been lifted due to the participant qualifying for an exemption, the sanction cannot be re-imposed once the individual no longer qualifies for the exemption.

For information on the application process and prorated payment, see 468 NAC 1-009 and 3-001.

The time period while a sanction is imposed is not included in the 60-month lifetime limit.

<u>2-020.09B1a(2) Lifting of Sanction:</u> Once a sanction is imposed, ADC cannot be reinstated unless the participant qualifies for an exemption or exhausts the minimum penalty period prescribed for that sequence of sanction and fulfills the participation requirement.

The participant must engage in the component activity(ies) included in his/her Self-Sufficiency Contract or in another activity mutually agreed upon for a minimum of five consecutive work days in order to demonstrate his/her willingness to participate. The participant may receive supportive services while engaging in the required activity(ies). If the individual does not complete the five days of activity, his/her request is no longer valid.

If the parent successfully fulfills the participation requirement, the sanction will be lifted and the ADC prorated from the date of the new application for ADC. If the parent submits a new application for ADC before the minimum penalty period has been served and successfully fulfills the participation requirement, the ADC will resume the first day of the month following the end of the minimum penalty period.

If the needy caretaker relative, guardian, conservator or dependent child successfully fulfills the participation requirement, the sanction will be lifted~~,~~ and the ADC for the individual will resume effective the date s/he requested the sanction be lifted.

For information on the application process and prorated payment, see 468 NAC 1-009 and 3-001.

2-020.09B1a(3) Participation Notice: The case manager must notify a participant whose minimum sanction has been served of the participant's option to end the sanction by demonstrating a willingness to participate in EF.

2-020.09B1a(4) Action Following a Volunteer's Failure or Refusal to Participate: When a volunteer fails or refuses to participate in the activities agreed upon in the Self-Sufficiency Contract, his/her status should be examined. If the volunteer would actually be a mandatory participant when the failure to participate occurred, the sanction should be imposed as indicated in 468 NAC 2-020.09B.

If the individual still qualifies as a volunteer, there is no monetary sanction if s/he fails or refuses to participate in EF. However, a volunteer is restricted from participation until the failure to participate ceases.

The volunteer is considered to be participating once s/he engages in the component activity to which s/he previously agreed in the Self-Sufficiency Contract or in another activity mutually agreed upon for a minimum of five consecutive work days in order to demonstrate his/her willingness to participate. The voluntary participant may receive supportive services while engaging in the assigned activity. If the voluntary participant does not complete the five days of activity, his/her request to volunteer is no longer valid.

2-020.09C Right to Appeal: Employment First participants have the right to mediation and/or appeal:

1. The determination by the Department that the individual has not complied with EF requirements or with terms of the Self-Sufficiency Contract; or
2. The participant's contention that the Department has not complied with the terms of the Self-Sufficiency Contract.

The ADC and EF supportive services must not be reduced or terminated pending mediation or the appeal hearing if the individual requests mediation or a fair hearing within ten days following the date the notice of adverse action is mailed and the participant does not refuse continued assistance (see 468 NAC 1-009.03F).

2-020.09C1 Mediation Process

2-020.09C1a As a Result of a Notice of Adverse Action: The individual must request mediation within 90 days following the date the notice of adverse action is mailed.

Mediation may be requested in writing. The individual may request mediation services by calling or writing the local office or the mediation center that serves the county in which the participant resides.

The Department may also request mediation. The participant has the choice whether to participate in mediation.

If the individual submits a request for mediation within ten days following the date the notice is mailed, the case manager must not take the adverse action until a decision is reached through mediation.

2-020.09C1b Not as a Result of a Notice of Adverse Action: If the individual is dissatisfied with a case manager's action or inaction, the individual may request a conference with the case manager's supervisor. If the individual continues to disagree with the supervisor's conclusion, s/he has 30 days in which to request mediation.

If the individual does not choose to confer with the supervisor, the individual has 30 days from the date of the case manager's action or inaction or the date the individual became aware of the case manager's action or inaction to request mediation.

2-020.09C1c Conclusion of Mediation: When the mediation has concluded, the mediator notifies the individual and the case manager in writing. If the individual is dissatisfied with the result of mediation, s/he has five days from the date of notification from the mediator to request a fair hearing for an issue that may be appealed. For issues that may be appealed, see Title 465.

2-020.10 Time Limits

2-020.10A Time Limit for ADC: ADC recipient families that include an adult or minor parent who meets the definition of a work-eligible individual are subject to the time limit, unless otherwise exempt. For the definition of a work-eligible individual, see 468 NAC 2-020.01.

Families subject to the time limit may receive an ADC for which they are eligible for a total of 60 months in a lifetime. The 60-month lifetime limit begins with the first month the family is determined to be eligible for and receives ADC.

TANF received from another state will apply towards the family's 60-month lifetime limit. The benefit state's policies will determine which months count towards the federal 60-month lifetime limit.

2-020.10A1 Situations Where the ADC Is Not Limited to 60 Months: The ADC is not limited to 60 months if:

1. The case manager establishes that there is no job available to the participant where the unearned income and the net earned income (earned income after deduction of 20 percent earned income disregard and child care disregard, if appropriate) would exceed the ADC payment level.
   Exception: This does not apply where the participant has voluntarily quit or failed to accept a job offer without good cause or has been sanctioned for failure to comply with the job-related requirements of the Self-Sufficiency Contract;
2. Without ADC cash assistance the family would not have sufficient funds to avoid extreme hardship;
3. The adult(s) or minor parent head-of-household is no longer able to meet the conditions of the Self-Sufficiency Contract;
4. The Department has failed to meet the terms of the Self-Sufficiency Contract; or
5. The case manager has determined that the family is incapable of achieving total economic self-sufficiency because of the mental or physical conditions, or intellectual limitations of the adult(s) or minor parent(s).

These conditions apply at any time where a participant has used up his/her 60 months of time-limited ADC, found a job, and then lost it through no fault of his/her own.

2-020.10A1a Extreme Hardship: A family is considered to be suffering from extreme hardship if they do not have adequate cash resources to meet the costs of the basic needs of food, clothing, and housing without assistance or the child or children are at risk of losing care by and residence with their parent(s) or usual caretaker.

A family is considered to have inadequate cash resources if their unearned income and net earned income (earned income after deduction of 20 percent earned income disregard and child care disregard, if appropriate) is insufficient to meet their current payment level.

2-021 Cooperation in Obtaining Third Party Medical Payments: The application for assistance constitutes an automatic assignment to the Department of the client's rights to third party medical payments. For child support requirements, see 468 NAC 2-019. This assignment includes the rights of the client as well as the rights of any other member of the ADC unit for whom the client may legally make an assignment. As a requirement for assistance the client must cooperate (unless s/he has good cause for noncooperation) in securing any third party medical payments. This includes payments from:

1. The client's own medical coverage for any member of the unit, e.g., the client's health insurance; and
2. An individual not in the unit who has medical coverage for any member of the unit, e.g., health insurance of an absent parent or another individual which covers a child in the unit.

2-021.01 (Reserved)

2-021.02 Third Party Payments Not Assigned: The following third party payments are not subject to the automatic assignment provision:

1. Medicare benefits; and
2. Payments from income-producing policies which subsidize the client's income while s/he is hospitalized or receiving medical care, regardless of the type of medical service being provided.

2-021.03 Sanction for Refusal to Cooperate in Obtaining Third Party Medical Payments: If the Department's Division of Medicaid and Long-Term Care determines that a client has failed or refused to cooperate and there is no good cause claim or determination, the appropriate sanction is applied.

If the reason for noncooperation is the client's failure or refusal to provide information about or obtain third party medical payments (see 468 NAC 2-021.03), the client is ineligible for inclusion in the grant unit. Eligibility of the dependent child(ren) is not affected. Ineligibility continues for the client until s/he cooperates or cooperation is no longer an issue, and the grant is increased effective the first day of the month during which cooperation is restored. A protective payee is required for the case unless the worker is unable to find a protective payee.

2-021.04 Third Party Payments Received Directly: If the client receives a third party medical payment directly and the medical expense for which the third party medical payments is intended is payable by Medicaid, the worker must take the following actions:

1. Send a demand letter advising the client that s/he must reimburse the Department or the provider. The client is allowed ten days from the date of notification to reimburse the medical payment. For an applicant, the worker must not delay determination of eligibility for assistance and authorization for payment pending the applicant's reimbursement. At the time the application is approved, the worker must notify the client of the number of days left in which to reimburse the payment;
2. If the client refunds within ten days, take no further action; or
3. If the client fails or refuses to refund within ten days, consider the entire third party payment up to the grant amount as unearned income in the first month possible, taking into account adequate and timely notice. Any balance remaining is considered a resource in the following month. See 468 NAC 2-016, #47.

If the insurance payment exceeds Medicaid rates, the excess is considered unearned income unless paid out on other medical services or supplies.

Regardless of the existence of a good cause claim, any third party medical payment that is received directly by the client must be reimbursed.

2-021.05 Cooperation in Obtaining Health Insurance: Where the Department's Division of Medicaid and Long-Term Care has determined that a client has refused to enroll or remain enrolled in cost-effective health insurance, the client is removed from the grant but the ADC child(ren) remains eligible.

2-022 Other Related Eligibility Requirements

2-022.01 Receipt of Other Assistance: An individual whose needs are included in the ADC payment must not at the same time receive a payment of another type of categorical assistance that is administered by the Department. This does not preclude the client of another type of assistance from being the payee for an ADC payment made on behalf of any child(ren) in that client's care.

Assistance from a source other than the Department may be used to supplement, but not to duplicate, an assistance payment made for a particular case.

2-022.01A SSI and ADC: A client or an essential person in the Supplemental Security Income Program (SSI) is not included in the ADC budget.

If a child is eligible to receive both ADC and SSI, the payee or responsible caretaker of the child must select one of the programs. The worker must inform the payee or responsible caretaker of the benefits available under each program so that the choice of a program can be made in the best interest of the child. The worker-must refer individuals to the Social Security Office when appropriate.

2-022.02 Ineligibility of Fleeing Felon: An individual is ineligible for ADC during any period in which the individual is:

1. Fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the law of the place from which the individual is fleeing; or
2. Violating a condition of federal or state probation or parole.

2-022.03 Ineligibility for Drug Related Felonies: An individual who commits any offense after August 22, 1996, which is classified as a felony and which has as an element the possession, use, or distribution of a controlled substance and is convicted under federal or state law after August 22, 1996, is permanently ineligible for ADC cash assistance. Other family members may continue to receive benefits. If the ineligible individual is a parent, his/her income is used in determining eligibility for the remaining family members.

2-023 (Reserved)

2-024 Eligibility for Transitional Assistance

2-024.01 Transitional Grant: An ADC case may receive up to five transitional grants, each grant being equal to 1/5 of the ADC Payment Standard for the family's size at the time the family becomes ineligible for an ADC grant payment if:

1. The unit lost eligibility for a grant because of increased earnings or increased hours of employment of the parent or needy caretaker relative or guardian or conservator; Note: The parent or needy caretaker relative or guardian or conservator must be in the household.
2. The unit meets the requirements to qualify for Transitional Medical Assistance;
3. The unit must have lost eligibility for an ADC grant in the month immediately preceding the first month of eligibility for the transitional grant; (A month in which the unit was eligible but did not receive a grant because of the $10 minimum does not qualify as a month of grant; the family must have actually received an ADC grant from Nebraska for the month immediately preceding ineligibility in order to receive transitional grants.)
4. In order to continue to receive transitional grants for the full five-month period, the family must meet the following requirements:
   a. The family's earned income cannot exceed 185 percent of the federal poverty level for the family's size;
   b. The parent or needy caretaker relative or guardian or conservator must be employed;
   c. The family continues to reside in the State of Nebraska;
   d. The family must continue to include a dependent child (see 468 NAC 4-003);
   e. The family must remain ineligible to receive an ADC grant.

Before terminating eligibility for further transitional grants due to one of the reasons listed above, timely and adequate notice of adverse action must be sent.

There is no limit to the number of times a case may receive transitional grants as long as the family meets the requirements each time they lose eligibility for an ADC grant due to earnings.