

## CHAPTER 9-000 EMERGENCY ASSISTANCE (EA) TO NEEDY FAMILIES WITH CHILDREN

9-001 Legal Basis: The Emergency Assistance to Needy Families with Children Program (EA) was established by Title IV-A of the Social Security Act, 45 CFR 233.120, and Section 68-28, Nebraska Revised Statutes.

EA must be provided in accordance with the following regulations. Assistance may be authorized only once per client under the Title IV-A/EA program in any 12 month period.

9-002 Purpose: The purpose of Emergency Assistance is to provide money and/or services to or on behalf of a needy child(ren) and any other members of the household to meet needs that have been caused by an emergency situation when the needs cannot be met because of destitution. The program provides a means to deal with financial situations that are threatening the health or well being of an eligible child and family. Emergency assistance benefits must be used to help return the family to a stable environment that they will be able to maintain.

EA services can be provided to alleviate five kinds of emergencies:

1. Abuse, neglect, or abandonment of children, or family violence.
2. Children who are in emergency situations where continued presence in the home is not in the best interests of the child.
3. Removal and/or risk of removal and/or continued need for out-of-home placement of a child due to an allegation of abuse or neglect; abandonment; or judicial determination of dependency, delinquency or status offense.
4. Risk of return of an adopted child or a child in a subsidized guardianship situation to foster care due to behavioral, medical, or special needs of the child.
5. Loss of housing or potential loss of housing and/or other essential services.

9-003 Definitions: For use within EA, the following definition of terms will apply unless the context in which the term is used denotes otherwise:

Applicant: Person on whose behalf application is being made.

Authorization Period: The 30-day period following application for EA.

Catastrophic Illness: An illness in which inpatient hospitalization is required, excluding childbirth, optional surgery, diagnostic work-ups, and services not included in Title XIX coverage.

Child Welfare Crisis: A circumstance, or combination of circumstances, which result in the need for protective services by NDSS or out-of-home placement in custody of NDSS or another state agency that has an interagency agreement with NDSS related to EA. The crisis must be the result of one of the following:

- Abuse, neglect, or abandonment of children, or family violence.
- Children who are in emergency situations where continued presence in the home is not in the best interests of the child.

- Removal and/or risk of removal and/or continued need for out-of-home placement of a child due to an allegation of abuse or neglect; abandonment; or judicial determination of dependency, delinquency or status offense.
- Risk of return of an adopted child or a child in a subsidized guardianship situation to foster care due to behavioral, medical, or special needs of the child.

Destitution: Lack of the necessities of life including but not limited to food, shelter, and medical care resulting from an emergency situation.

Domestic Abuse Crisis: A circumstance, or combination of circumstances, which result in physical or emotional mistreatment or the fear or continued fear of physical or emotional mistreatment of a family member.

Domestic Violence Project Personnel: Staff employed by Domestic Violence Projects under contract to the Nebraska Department of Social Services.

Emergency: A sudden and urgent situation requiring immediate action.

Financially Responsible Adult: The following are considered financially responsible adults:

1. A spouse; or
2. The parent or stepparent of a child age 18 or younger.

Gross Monthly Income: The earned and unearned income determined to be available to an applicant. Earned income includes gross (before taxes, FICA, or other potential withholdings from earnings) wages, tips, salary, self-employment income, etc.. Unearned income includes but is not limited to -

1. Retirement, Survivors, and Disability Insurance (RSDI);
2. Railroad Retirement;
3. Supplemental Security Income (SSI);
4. Aid to Dependent Children (ADC);
5. Assistance to the Aged, Blind, or Disabled;
6. Veteran's or military service benefits;
7. Unemployment Compensation or disability insurance benefits;
8. Disability benefits paid by the employer;
9. Child or spousal support; and
10. Contributions

Note: If a self-supporting member of the household is paying the entire expense for shelter the worker uses the figure from 479-000-321. If the client states that the self-supporting individual is paying a share of the shelter expenses, it is not counted as income to the client.

Presumptive Eligibility: A situation where it is "presumed" that a child is eligible for Title IV-A/EA services because s/he requires immediate services to begin the alleviation of a child welfare and/or a domestic violence emergency.

Specified Relative: A relative with which a child must be living or have been living within six months prior to the month in which EA is requested. A child's 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.

Unit: Person or persons who will be eligible to receive EA services under the same application. A unit must include at least one child.

#### 9-004 Application Processing

9-004.01 Application: An application for EA may be made by the client, his/her parent, guardian or conservator, a relative, caretaker, other interested party, or in the case of a child age 18 or younger, the Department acting on the child's behalf.

9-004.02 Approval/Authorization: Approval/authorization of the EA application and related services will be done in accordance with procedures at 479-000-321. Services related to an approved EA application must be authorized within 30 days of the application date in order to be reimbursable under Title IV-A/EA.

#### 9-005 Case Management Responsibilities: The case manager shall -

1. Ensure completion of an EA application including completion of the application document(s) for child welfare cases;
2. Determine presumptive eligibility for EA services related to child welfare;
3. Authorize services necessary to begin remediation of a child welfare emergency situation;
4. Explore and assist the applicant/individual in obtaining any other sources of aid available to alleviate the applicant's destitution or other crisis situation, including assisting the applicant in setting up payment plans with creditors;
5. Assist the applicant in developing a plan to alleviate and avoid a recurrence of the emergency situation;
6. Inform the applicant of his/her right to appeal to the Director of the Nebraska Department of Social Services for the purpose of having the Director review any action or inaction; and
7. Take all reasonable steps to act as promptly as possible on the application.

It is permissible for Program and Income Maintenance responsibilities to be carried out by the same NDSS employee where the employee normally performs duties of both positions. In domestic violence situations, program responsibilities may be performed by DVP personnel.

9-006 Income Maintenance Responsibilities: The Income Maintenance Worker shall -

1. Receive EA application forms from Program Workers and complete authorization sections as appropriate;
2. Determine eligibility for EA services;
3. Authorize necessary EA services for Domestic Violence services and for housing and other essential services;
4. Complete notice of finding when the application has been signed by the applicant.  
A notice is not required for applications made by Department staff in behalf of a child; and
5. File and maintain client case file.

It is permissible for Program and Income Maintenance responsibilities to be carried out by the same NDSS employee where the employee normally performs duties of both positions. In cases of domestic violence situations, income maintenance responsibilities must be performed by the DVP coordinator.

9-007 Client Responsibilities: The client shall -

1. Cooperate with the Program Worker in exploring all other sources of available aid, including setting up payment plans with creditors;
2. Accept any aid available to alleviate the emergency situation; and
3. Develop, with the Program Worker, a plan to alleviate and prevent a recurrence of the emergency situation.

9-008 Client Rights: The client has the right to -

1. Apply. Anyone who wishes to request and/or apply for EA must be given the opportunity to do so;
2. Reasonably prompt action on his/her application for EA;
3. Appeal any action or inaction with regard to an application, the amount of the benefit, or failure to act with reasonable promptness;
4. Adequate notice of any action affecting his/her EA case;
5. Have his/her information treated confidentially;
6. Have his/her civil rights upheld. No person may be subjected to discrimination on the grounds of his/her race, color, national origin, sex, age, handicap, religion, or political belief;
7. Have the program requirements and benefits fully explained;
8. Be represented and/or assisted in the application process by the person(s) of his/her choice; and
9. Referral to other social or private agencies.

9-009 Scope: The program has the following guidelines.

1. A case that is eligible under one of the ongoing programs may qualify for EA. For example, an emergency need may arise while an applicant is awaiting determination of eligibility for another program or while receiving other assistance.

2. This program includes migrant workers and transients statewide if they are otherwise eligible. There is no durational residence requirement.
3. EA should be used to pay for Foster Care only where the Foster Care cannot be claimed as a IV-E expense, unless specifically determined otherwise.

9-009.01 Time Period For Services: Payment can be made for services to meet needs which arose up to two months prior to, and which extend beyond, the application date.

To be included, the prior and subsequent needs must be directly related to the emergency need for which the application was made and must be such that, if they are met, the current emergency will be resolved. The maximum period for which payment for services can be authorized under an application for EA is 12 months. If the emergency continues beyond 12 months for child welfare/domestic violence-related needs, services may be reauthorized (see 479-000-321 for procedures).

Authorization for all benefits/services which are to be provided under a IV-A/EA application must be made within a period of 30 consecutive days beginning with the application date. This 30-day period is the authorization period.

Payment under Title IV-A/EA will be made only for services/benefits authorized during the 30-day authorization period and should be made as soon as possible in order to alleviate the emergency. Actual payment of services authorized as part of the EA application may extend beyond the 30-day authorization period but must not extend beyond 12 months following the date of initial authorization of services as previously defined.

Because services can only be authorized during one 30-day period in each 12 months, the worker should authorize all the types of EA services related to the emergency situation that are likely to be needed by the applicant during the 12-month period. For example, a family may need both payment of a rent arrearage and family support services to address an emergency so the worker would authorize both assistance related to housing and other essential services and child welfare services.

Note: See 479-000-321 for the maximum EA payment that can be authorized during any 12- month period for the services specified in 479 NAC 9-009.02.

If the Medically Handicapped Children's Program (MHCP), an insurance company, or other third party liability (TPL) is involved, approval for assistance may be made before the receipt of a decision by the third party.

If the availability of TPL cannot be resolved prior to payment being made using EA funds, the local office shall notify the third party of the Department's rights of subrogation according to 479 NAC 9-011.

9-009.02 EA Benefits Relating To Housing and Other Essential Services: Payment may be made for the following items if applicable eligibility requirements are met.

9-009.02A Shelter: Payment may be made for a mortgage payment, rent, and/or a rental deposit if the Program Worker verifies that payment will alleviate the emergency situation. If the applicant has received an eviction notice (or if an eviction notice is planned or threatened), payment may be made only if it will forestall the

eviction. Shelter payment may also be made if the applicant was forced to move with no other shelter arrangements.

9-009.02B Utility Bills: If the applicant has received a shut-off notice, the worker may authorize payment for electricity, gas, and/or water. Payment may also be made for delivery of bulk fuel. EA may be used for payment of heating and cooling bills only if the applicant is not eligible for the Nebraska Low Income Energy Assistance Program (see Title 476). The applicant and Program Worker shall develop a plan to avoid a recurrence of the shut-off or depletion of fuel.

Payment may be made if the utilities are in a name other than the applicant's if the Program Worker can establish that -

1. The applicant is the sole beneficiary of the service; and
2. The utilities are not included in the rent payment.

9-009.02C Home Furnishings: Payment may be made for the purchase or repair of only those home furnishings that are essential for health and safety.

9-009.02D Emergency Non-Food Items: Emergency non-food items such as toilet paper and cleaning supplies may be purchased.

9-009.02E Emergency Food: If food stamps cannot be used to meet the emergency, the Program Worker may authorize the purchase of food up to the amount of food stamps a family of that size would receive. If the family has already received its total food stamps and an emergency occurs, the Program Worker may supplement the food stamp allotment.

9-009.02F Emergency Clothing: Emergency clothing may be purchased if it is essential for health and safety.

9-009.02G Moving Costs: Moving costs may be paid if it is necessary for the applicant to move to lower cost housing or from substandard to adequate housing, or to accept a bona fide job offer. The moving cost must be by the least expensive means available consistent with the applicant's age and physical condition. EA must not be used if the applicant is moving from one job to another. The Program Worker shall give prior approval to the moving plan.

9-009.02H Transportation: Transportation may be paid for a family which was traveling through the county or the state when the emergency occurred. Transportation may also be paid to obtain emergency medical treatment.

9-009.02J Emergency Special Diets: Payment may be made for emergency special diets for members of families receiving Aid to Dependent Children. The case record must contain a copy of the diet and a written statement by a physician that the diet is necessary. EA funds may be used only if the diet is more expensive than a normal diet.

9-009.02K Medical Payments: Medical payments may be made to alleviate current needs of a family which is in a crisis situation because of a catastrophic illness. The illness must require hospitalization (see 479 NAC 9-003). Any member of the family may have the illness. Medical services related to the illness (such as physician's fees and ambulance charges) are included. Funeral expenses are not covered.

Before authorizing EA, the Income Maintenance worker shall determine that the family is not eligible for categorical medical assistance.

9-009.02L Emergency Telephone Installation: Payment may be made for emergency telephone installation when a phone is necessary because of medical needs.

9-009.03 EA Benefits Relating To Domestic Violence: Emergency Assistance benefits are available for crisis intervention activities intended to lessen the trauma of an event that is perceived as physically or emotionally threatening and to assist a person so that a more adaptive outcome will result, including the ability to better cope with a future crisis. Payment may be made for the following services if applicable eligibility requirements are met.

1. Crisis Counseling: Supportive listening; providing information on dynamics of domestic violence, impact of violence on self and children; and identification of needs and resources to meet needs;
2. Transportation: Transportation for victims and their dependents to and from community facilities and resources;
3. Safe Living Environment: Safe living environments which provide a supportive, non-threatening shelter to victims, their families, and household members including -
  - a. Residential facilities that provide an in-house program of individual and group counseling. The formula for reimbursement of shelter costs must be approved by the Central Office of the Nebraska Department of Social Services;
  - b. Motels and hotels (with support services provided by domestic violence project personnel, as needed);
  - c. Private homes (with support services provided by domestic violence project personnel and/or hosts);
4. Food: Food, if food is billed separately from shelter costs; and
5. Emergency Telephone: Emergency telephone installation when a phone is necessary because of safety needs.

9-009.04 EA Benefits Relating To Child Welfare Services: Emergency assistance benefits are available to clients of NDSS and other state agencies that have interagency agreements with NDSS related to EA for crisis intervention activities. These activities must be intended to lessen the trauma of an event that is perceived as physically or emotionally threatening to a child age 18 or younger and to assist the child and family so that a more adaptive outcome will result, including the ability to better cope with a future crisis. Payment may be made for the following items if applicable eligibility requirements are met.

9.009.04A Out of Home Care: Out of home care, including but not limited to shelter care, foster family care, group/residential care (including any out of home care, treatment and/or shelter necessary to meet special needs) for children separated from their parents, unless the child receives such assistance under Title IV-E, and needed medical care, unless the child is eligible for such care under Title XIX. Assistance will be provided at established Nebraska Department of Social Services rates.

9-009.04B Social Services: Case management, counseling, therapy, in-home intensive family services, and any other social services provided to alleviate the emergency condition, as determined appropriate and necessary by the local Department of Social Services agency.

Parenting education and training including household management training, family support, and development services provided to alleviate the emergency condition as determined appropriate and necessary by the local Nebraska Department of Social Services agency. Child care and respite care to alleviate the emergency condition and/or prevent out-of-home placement of the child at risk as determined appropriate and necessary by the local office.

9-010 General Eligibility Requirements: EA may be provided to a needy child and any other member of the household in which the child is living only if -

1. The child is age 18 or younger (a pregnant woman with no other children may be eligible);
2. The child is currently living with one or both parents, or, within six months prior to the month in which assistance is required, was living with a "specified relative" in a place of residence maintained as his or their own home.
3. The household is without income and resources immediately accessible to meet the needs that are caused by the emergency situation;
4. The child meets requirements of citizenship or permanent resident alien status (see 468 NAC 2-002);
5. The relevant income eligibility requirements, as set forth in sections 479 NAC 9-010.01, 9-010.02, and 9-010.03, are met; and
6. The destitution or need did not arise because the child (if age 16 or older and not in school) or the relative responsible for support and care refused without good cause to accept employment or training for employment or quit a job without good cause. However, if the child or family member refused without good cause to accept employment or training for employment or quit a job without good cause, but the emergency was not caused by this action, the family is still eligible for EA.

Note: EA is not limited to families eligible for or receiving ADC. Although the family must meet the eligibility requirements previously stated, it is not necessary that the child(ren) be deprived of parental support or care.

Nebraska's definition of Emergency covers three basic situations: (1) financial emergencies faced by families and children who need help to meet their basic living needs, (2) removal of a child into publicly funded care or supervision, or risk of same, and (3) parent with minor child in need of protection and services of a domestic violence/sexual assault project. Each situation has a financial needs restriction with a more severe limit for emergency #1 due to the very nature of the emergency - financial need - whereas there is a less severe income limit for emergencies #2 and #3 due to the fact that the nature of these emergencies is very different from that in #1. This reflects the state's desire to recognize and serve families with those specified emergency conditions if they do not have income sufficient to meet those emergent needs.

9-010.01 Income Eligibility Requirements For EA/Housing and Other Essential Service Benefits: The family's gross monthly income must not exceed 185 percent of the ADC standard for the family size (see chart at 479-000-321).

The client's statement of available income is accepted without further verification unless a prudent person would question the information.

9-010.02 Income Eligibility Requirements For EA/Domestic Violence Service Benefits: The applicant must be eligible for ADC, SSI, Food Stamps, or Medicaid or be without sufficient income immediately accessible to meet the unit's needs.

An applicant is considered to be without sufficient income immediately accessible to meet the unit's needs if the gross monthly income does not exceed 800 percent of the Federal Poverty Level (FPL) for their family size (see 479-000-321 for FPL chart).

In making a determination of an applicant's gross monthly income for the purposes of EA/Domestic Violence Service Benefits, a Program Worker considers only income that is available to the applicant. To determine if income of a financially responsible adult is available, the Worker shall explore the applicant's living situation. If the applicant states that s/he and the child(ren) included in the application are not living in the home, this is considered a separation and income of the financially responsible adult is not considered available to the applicant. If the applicant continues to reside with the financially responsible adult, the financially responsible adult's income is considered available.

If the applicant resides with an adult who is not financially responsible and the individual is paying the entire shelter and/or utility expense, the amount is counted as unearned income. If the individual gives cash to the applicant, the contribution is counted as unearned income.

The client's statement of available income is accepted without further verification unless a prudent person would question the information.

9-010.03 Income Eligibility Requirements For EA/Child Welfare Service Benefits: The applicant must be eligible for ADC, SSI, Food Stamps, or Medicaid or be without sufficient income immediately accessible to meet his/her needs.

An applicant is considered to be without sufficient income immediately accessible to meet his/her needs if his/her gross monthly income does not exceed 800 percent of the Federal Poverty Level (FPL) for the family size,(see 479-000-321 for FPL chart).

In determining the unit's gross monthly income, a Program Worker considers only income that is available to the unit. When a child applicant is placed in out-of-home care or when the parents of a child cannot be located or refuse to cooperate in supporting the child or applying for EA, and when the EA is necessary to avoid destitution of the child or to provide out of home living arrangements in a home or child care facility, the child's income alone is considered in determining eligibility. The client's statement of available income is accepted without further verification unless a prudent person would question the information.

9-011 General EA Payment Provisions: Payment for all approved EA is made by warrant directly to the provider or to the designated member of the family when appropriate. Payment may be made for all or a portion of the bills related to the family's crisis.

If insurance or third party liability is involved, every effort must be made to resolve issues of liability before EA payment is made. If it is impossible to resolve liability issues within 60 days from the EA application date, EA payment may be made but the insurance company must be notified of the Department's right of subrogation.

9-011.01 Payment Provisions Specific To EA/Housing and Other Essential Service Benefits: With the exception of catastrophic illness payments, total payments for the benefit period of 12 months of EA/Housing and Other Essential Service Benefits must not exceed one month's ADC standard of need for the applicant's family size (see chart at 479-000-321).

All payments for medical care must be made at rates no higher than those paid by the Nebraska Medical Assistance Program.

9-011.02 Payment Provisions Specific To EA/Domestic Violence Service Benefits: Payment for all authorized EA/Domestic Violence Service Benefits is made by Domestic Violence Personnel (DVP). There is no maximum on the amount of EA/Domestic Violence Service Benefits that may be authorized for an applicant within the 30-day authorization period.

9-011.03 Payment Provisions Specific To EA/Child Welfare Service Benefits: Payment for all authorized EA/Child Welfare Service Benefits is made at established NDSS rates. There is no maximum on the amount of EA/Child Welfare Service Benefits that may be authorized for an applicant within the 30-day authorization period.

9-012 Claims For Reimbursement: Claims for reimbursement under Title IV-A/EA will be paid only for services authorized within the 30-day authorization period.

9-013 Case Records: A separate case record or identifiable documents/documentation within the case record must be maintained for each EA case. The record must contain all the prescribed forms and documentation (see 479-000-321).

Case records on EA cases are required to be maintained for four years and are subject to state and federal audit.

9-014 Appeal Process: Every applicant for or recipient of EA has a right to appeal to the Director of the Nebraska Department of Social Services for a hearing on any action or inaction of any Department employee or official in regard to the EA Program. The appeal must be filed in writing within 90 days of the action or inaction. It is the responsibility of both the local office and the Central Office to inform the client of his/her right to appeal to the Department Director for the purpose of having the Director review any action or inaction.

9-014.01 Expedited Appeal: All EA hearings must be handled quickly. The following time limits govern an expedited appeal:

1. The appeal must be conducted within -
  - a. Ten days of receipt of a Notice of Appeal from the Omaha or Lincoln Offices; or
  - b. Twenty days of receipt of a Notice of Appeal from all other local offices; and
2. A determination must be made on the appeal within seven days of the hearing date.