TITLE 468
AID TO DEPENDENT CHILDREN (ADC) ~~AND THE NEBRASKA MEDICAL ASSISTANCE PROGRAM (NMAP)~~

CHAPTER 1-000 GENERAL BACKGROUND

1-001 Legal Basis: The Aid to Dependent Children (ADC) Program was established by Title IV-A of the Social Security Act. Public Law 104-193, the Personal Responsibility and Work Opportunity Act of 1996, replaced the federal entitlement program with a block grant program called Temporary Assistance for Needy Families (TANF). ADC is funded by a combination of federal and state money.

~~Medicaid was established by Title XIX of the Social Security Act. The Nebraska Legislature established the program for Nebraska in Section 68-1018, Revised Statutes of Nebraska. NMAP is funded by federal and state money.~~

1-002 Purpose and Scope: The purpose of ADC is to maintain dependent children in their own homes if possible and to assist parents to provide care essential to healthy growth and development of children.

Assistance through ADC provides financial aid to needy dependent children and to needy parents or relatives with whom the children are living. The purpose of this assistance is to strengthen family life and help parents to reach and maintain self-sufficiency and independence.

~~NMAP, also known as Medicaid, provides medical services to dependent children and responsible relative(s) (as a family unit), any of whom are otherwise eligible and do not have sufficient income to meet their medical needs.~~

1-003 Administration: The ADC ~~and NMA~~ Programs ~~are~~ is administered by the Nebraska Department of Health and Human Services in accordance with state laws and with rules, regulations, and procedures established by the Director.

1-004 Definition of Terms: For use within the ADC program, the following definition of terms will apply unless the context in which the term is used denotes otherwise.

Absent Parent: A parent who is not in the home where his/her child(ren) is living.

ADC/~~MA~~: A categorical program consisting of financial ~~and medical~~ assistance ~~or medical assistance only~~. ~~Two types of cases are included in the medical assistance only category:~~

~~1. ADC/Medical Assistance With No Share of Cost (MA only): A case in which there is income sufficient to meet daily maintenance needs but insufficient to meet medical needs. The case is opened for medical assistance only with no grant payment.~~

~~2. ADC/Medical Assistance SOC Case: A case in which there is sufficient income to meet daily maintenance needs and a portion of the unit's medical needs but not all. The case is opened for medical assistance with no payment for medical services made until the SOC is obligated.~~

ADC Parent: Wherever the term Parent, Father, or Mother is used, it includes biological, adoptive, and stepparents.

ADC Payee: A parent, other specified relative (see 468 NAC 2-006.02), or a legally appointed guardian or conservator who exercises the responsibility for the care and control of the child(ren) and to whom the assistance payment for the child(ren) is made.

Adequate Notice: Notice of case action which includes a statement of what action(s) the worker intends to take, the reason(s) for the intended action(s), and the specific manual reference(s) that supports or the change in federal or state law that requires the action(s), (see also 468 NAC 1-009.03A1).

Applicant: An individual who applies for assistance.

Application: The action by which the individual indicates the desire to receive assistance by submission of an application.

Application Date: For new and reopened cases, the date a properly signed application is received. When adding a program to a properly signed application, this is the date that the new program is requested.

Application Signature: Applications may be signed in writing or by electronic signature.

Application Submission: Applications may be submitted in person, by mail, by fax or by electronic transmission.

Approval/Rejection Date: The date that the new or reopened case is determined eligible or rejected by the local office.

Arrearage: Unpaid child, spousal, and cash medical support which is due according to a court order.

Assignment: The legal transfer of an individual's right to benefits to the Nebraska Department of Health and Human Services. This includes child, spousal, and medical support ~~and third party medical~~.

Basic Education: Education which provides participants with the minimal literacy and computational skills required for occupational training and/or job performance.

Budget Month(s): The calendar month(s) for which the worker uses verification and information on income, resources, and household composition of the unit to compute the amount of the assistance.

Budgetary Need: The amount the client is eligible for before adjustments for over and underpayments and $10 minimum payment.

Cash Medical Support: An amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise or for other medical costs not covered by insurance.

Categorical Assistance: Categorical Assistance: Assistance administered by the Nebraska Department of Health and Human Services. For the purposes of this definition, it includes Aid to Dependent Children (ADC)/~~MA~~, Child Welfare Payment and Medical Services Program/~~MA~~, Assistance to the Aged, Blind, or Disabled (AABD)/~~MA~~, State Disability Program (SDP)/~~MA~~, Refugee Resettlement Program/~~MA~~; and ~~Children's Medical Assistance Programs.~~ Medicaid.

Child Support: Money that is:

1. Ordered by a court of competent jurisdiction on behalf of a minor child (see 468 NAC 2-019.02); or
2. Paid by the noncustodial parent without a court order.

Client: An individual applying for or receiving ADC/~~MA~~. This term is used when the same policies apply to an applicant and a recipient.

Components: Employment First activities in which ADC applicants and recipients participate. A participant may be in more than one activity.

Contributions: Verified payments which are paid by an individual other than a noncustodial parent:

1. Directly to a vendor on behalf of an ADC/~~MA~~ unit; or
2. To the client.

See 468 NAC 2-009.04B for further discussion of contributions.

Current Support: The monthly amount of child/spousal support ordered by a court.

Debt to the State: The amount of support owed to the State of Nebraska when a partial termination of the assignment is filed as a result of the ADC paid on behalf of the child(ren). The amount of the debt is the lesser of the following figures:

1. The total amount of ADC paid since February, 1976, (when the assignment provisions were first implemented) minus the collections received by the Department as a result of the assignment; or
2. The total court-ordered arrearage as of the date the partial termination is filed.

Department: The Nebraska Department of Health and Human Services.

Dependent Child: A child who is:

1. Age 17 or younger; or
2. Age 18 if a full-time student regularly attending a secondary school ~~(or the equivalent level of vocational or technical training)~~ or participating in an Employment First component.

The child must be living in the home of a relative specified by law (see 468 NAC 2-006.02) or a legally appointed guardian or conservator unless removed from the home by judicial determination (see Title 479). ~~For medical assistance, see 468 NAC 4-000.~~

Emancipated Minor: A child age 18 or younger who is considered an adult because s/he has:

1. Married; or
2. Moved away from the parent(s)' home and is not receiving support from the parent(s) and it is in the child's best interests to be considered emancipated.
3. A minor who is considered emancipated pursuant to the provisions of Neb. Rev. Stat.§71-6902.02.

Enumeration at Birth: The process of obtaining an SSN for a newborn by allowing the hospital to provide the Social Security Administration with the necessary information.

Equity: The fair market value of property minus the total amount owed on it.

Fair Market Value: The price an item of a particular make, model, size, material, or condition will sell for on the open market in the geographic area involved.

Final Termination of Assignment: The ending of an assignment of child/spousal support so that no additional funds will be transmitted to the Department by a court. A final termination is filed when an ADC case is closed, and no debt remains due to the State.

Fugitive Felon: A person who has been charged with a felony and who has fled from the jurisdiction of the court where the crime was committed.

Grant Case: A case receiving an ADC payment or eligible to receive payment but not receiving it because of the minimum payment.

Household: Individuals living together. There may be more than one public assistance unit within a household.

Inquiry: Any question received by phone, letter, or personal contact without any indication that the individual wishes to apply. This may or may not be followed by a request or application for assistance.

Intercept or Withholding Programs: Programs to capture benefits payable to an absent parent when the Department has identified a debt to the State or to the custodial parent. Intercept or withholding programs include:

1. IRS Federal Income Tax Offset Program;
2. State Income Tax Refund Offset Program; and
3. Unemployment Benefit Withholding Program.

Intentional Program Violation (IPV): Any action by an individual to intentionally:

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

Legal Guardian: An individual appointed by a court of competent jurisdiction to be in charge of the affairs of a person who cannot effectively manage his/her own affairs because of his/her age or incapacity.

Minimum Payment: The smallest amount for which a grant is issued. No grant is issued for $9.99 or less (for exceptions see 468 NAC 3-003).

Minor Parent: An individual age 18 or younger, with a child (see 468 NAC 2-007.02). If emancipated, a minor parent is treated as an adult for ADC/~~MA~~ purposes.

Note: For treatment of child support when a noncustodial parent pays support for his/her child who is a minor parent, see 468 NAC 2-009.04A1.

Need: Economic need when referred to as a condition of eligibility.

Needy Individual: One whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the basic requirements, and to be within the resource limits allowed an individual (see also 468 NAC 2-008.08 and 2-009.01).

Partial Termination of Assignment: A filing with the clerk of the district court when:

1. All children listed in the court order are terminated from ADC; or
2. The ADC case has been closed.

Current support and any arrearage owed to the former client is paid first; any additional support is collected by the State to reimburse the debt to the State.

Payment Effective Date: The month, day, and year that the grant payment is to be effective.

Payment Month: The calendar month in which assistance is paid.

Payment Standard: The maximum grant payment that an ADC family may receive. In "gap" budgeting, net earned income is subtracted from the Standard of Need and the result is compared to the payment standard (see 468 NAC 3-000).

Pending Case: A case in which the application has been taken and eligibility is yet undetermined. All pending cases must be entered into N-FOCUS within two working days.

Power of Attorney: A written statement allowing one person to act for another person. A power of attorney may be authorized generally for the management of a specified business or enterprise or more often specifically for the accomplishment of a particular transaction. ~~There is no court involvement or supervision in the appointment. The statement does not have to be notarized.~~

~~A standard or non-durable power of attorney automatically becomes null and void when the appointing individual becomes incompetent. A durable power of attorney continues in effect even when the appointing individual becomes incompetent. The power of attorney document should clearly specify if it is a durable power of attorney.~~

Prospective Budgeting: A procedure whereby the worker computes the amount of assistance for a payment month based on his/her best estimate of the client's income and circumstances which will exist in that month.

Prospective Eligibility: A procedure whereby the client's eligibility is based on the worker's best estimate of income, resources, and household composition for the payment month.

~~Prospective Eligibility for Medical Assistance (MA): The date of eligibility beginning the first day of the month of the date of request if the client was eligible for MA in that same month.~~

Prudent Person Principle: The practice of assessing all circumstances regarding case eligibility and using good judgment in requiring further verification or information before determining initial or continuing eligibility (see also 468 NAC 1-008).

Quarterly Report Form: A form that is sent quarterly to certain employed ADC households.

Recipient: An individual who is receiving ADC/~~MA~~.

Rejected Case: A case in which an application was completed and signed, but the applicant did not meet the categorical, procedural, or financial requirements of the program.

Request: An action by which an individual's desire to receive assistance is made known to the local office. A request may be made by telephone, letter, fax, electronic transmission, or in person.

Request Date: The date the client requests assistance. For reopened cases, this is the date of the new request. For program changes, this is the request date for the new program (see 468 NAC 1-009.01).

~~Retroactive Eligibility for MA: The date of eligibility beginning no earlier than the first day of the third month before the month of request if the following conditions were met:~~

1. ~~Eligibility was determined and a budget computed separately for each of the three months;~~
2. ~~A medical need existed; and~~
3. ~~Eligibility requirements were met at some time during each month.~~

Retroactive Payment: Any payment made during the current month but for a prior month.

Specified Relative: A relative with whom a dependent child may live and receive assistance. See 468 NAC 2-006.02 for the list of specified relatives.

Spousal Support: Alimony or maintenance support for a spouse or former spouse.

Standard of Need: The initial income test in ADC "gap" budgeting against which net earned income is measured (see 468 NAC 3-000).

Subsidized Employment: Employment for which the salary is wholly or partially paid by a source other than the employer.

Supplemental Payment: Any payment made for and during the current month after N-FOCUS cutoff.

TANF: Temporary Assistance for Needy Families. A block grant from the federal government which funds ADC, Employment First, ~~Emergency Assistance~~, and some child care.

Third Party Medical Payment: A payment from any health insurance plan, individual, or group for medical expenses.

Third Trimester of Pregnancy: Three calendar months prior to the month in which the child is expected to be born and the month of birth.

Timely Notice: A notice of case action dated and mailed at least ten calendar days before the date the action becomes effective (see 468 NAC 1-009.03A ~~ff.~~).

Transaction Month: The calendar month in which computation of payment is done.

Unit: Eligible individuals considered in determining the grant ~~and/or medical assistance~~.

Unreimbursed Assistance: The total ADC paid by the State since February, 1976, minus any court-ordered child/spousal support collections received by the Department.

Unsubsidized Employment: Employment for which the salary is paid wholly by the employer.

Withdrawal: A voluntary written retraction of an application.

Work Experience: A component of Employment First that provides work experience for a mandatory participant of Employment First.

1-005 Worker Responsibilities: The worker has the following responsibilities.

1-005.01 Duties at Initial Application or Redetermination: At the time of initial application and redetermination, the worker must:

1. Allow anyone who requests assistance to complete an application;
2. Give an explanation of the program requirements;
3. Collect and review the information entered on the application form;
4. Explain the eligibility and payment factors and how changes will affect eligibility and payment;
5. Explain the eligibility and payment factors that require verification;
6. Obtain the client's written consent for the needed verifications;
7. Explore income that may be currently or potentially available such as RSDI, SSI, veteran's assistance benefits (VA), etc.;
8. Give information about the social and other financial services available through the agency~~, such as social services; HEALTH CHECK; family planning; NMAP; and AABD~~;
9. Inform the client about his/her rights and responsibilities (see 468 NAC 1-006 and 1-007);
~~10. Inform the client that s/he must show his medical card to all providers and must inform the worker of any health insurance plan, any individual(s), or any group that may be liable for the client's medical expenses;~~
~~11.~~10. Explain the assignment of third party medical payments and the requirement to cooperate in obtaining third party medical payments and refund any payments received directly;
~~12. Inform the client of the requirement to participate in the Nebraska Health Connection, if applicable (see 468 NAC 4-012);~~
~~13.~~11. Complete necessary reports and information forms;
~~14.~~12. Act with reasonable promptness on the client's application for assistance;
~~15.~~13. Provide adequate notice to the client of:
    a. Approval for a grant and the amount;
    ~~b. Approval for medical assistance;~~

~~c.~~ b. Rejection of the application and the reason; or
~~d.~~ c. Confirmation of the client's voluntary withdrawal;

16. Explain the minimum payment (see 468 NAC 3-003); and
17. Explain the appeal process (see 465 NAC 2-001.02).

{Effective 10/10/2007}

1-005.02 Continuing Responsibilities: The worker has the continuing responsibility to:

1. Provide adequate notice of any action affecting the client's assistance case (see 468 NAC 1-009.03C to determine if timely notice is necessary);
2. Treat the client's information confidentially. See 468 NAC 1-005.02A for disclosure of information regarding a fugitive felon;
3. Uphold the client's civil rights;
4. Inform the client when his/her case is closed that s/he has the right to reapply; and
5. Consider the client's eligibility for ~~medical assistance and~~ child care when s/he becomes ineligible for a grant.

1-005.02A Disclosure of Information Regarding Fugitive Felon: If a local or state law enforcement officer provides the recipient's Social Security number and verification that the recipient is a fugitive felon, a worker may disclose, with the approval of the local administrator, the name and current address of an ADC grant client. ~~Information must not be released for ADC/MA only or MA with SOC.~~

1-005.02B Development of Self-Sufficiency Contract: The Employment First case manager has the responsibility to work with the client to develop and complete an Employment First Self-Sufficiency Contract. The Self-Sufficiency Contract must be developed and signed before the family's ADC eligibility can be determined.

If the client fails to cooperate, see 468 NAC 2-010.

{Effective 10/10/2007}

1-006 Client Responsibilities: The client is required to:

1. Provide complete and accurate information. State and federal law provides penalties of a fine, imprisonment, or both for persons found guilty of obtaining assistance or services for which they are not eligible by making false statements or failing to report promptly any changes in their circumstances;
2. Report a change in circumstances no later than ten days following the change. This includes information regarding:
   a. Change or receipt of a resource including cash on hand, stocks, bonds, money in a checking or savings account, or a motor vehicle;
   b. Changes in unit composition, such as the addition or loss of a unit member;
   c Changes in residence;
   d. New employment;
   e. Termination of employment; and
   f. Changes in the amount of monthly income, including:
      (1) All changes in unearned income; and
      (2) 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.
3. Cooperate with Employment First requirements and complete an Employment First Self-Sufficiency Contract, if appropriate, and comply with its terms;
~~4. Present his/her medical card to providers;~~
~~5. Inform the medical provider and worker of any health insurance plan, any individual, or any group that may be liable for his/her medical expenses;~~
~~6.~~ 4. Cooperate in obtaining any third party medical payments;
~~7. Enroll in a health plan and maintain enrollment if:~~
~~a. One is available to the client;~~
~~b. The client is able to enroll on his/her own behalf; and~~
~~c. The Department has determined that enrollment in the plan is cost effective.~~
~~8.~~5. Reimburse to the Department or pay to the provider any third party medical payments received directly for services which are payable by ~~NMAP~~Medicaid;
~~9. Pay any unauthorized medical expenses;~~
~~10. Pay any required medical copayment (see 468 NAC 4-011 ff.);~~
~~11. Meet the requirements of the Nebraska Health Connection, if applicable (see 468 NAC 4-012);~~
12.6. Cooperate with state and federal quality control; and
13.7. Contact the agency for an interview within 30 days of the date of application if notified that an interview is required.

{Effective 6/28/11}

1-006.01 Sanction for Noncooperation With Quality Control: A client must cooperate with state and federal quality control as a condition of eligibility. If a client fails to cooperate, the whole unit is ineligible for one month only. The worker closes the case the first month possible, considering adequate and timely notice. The following month the worker reopens the case, if the unit is otherwise eligible. If at anytime QC notifies the worker that the client has cooperated, assistance is restored for the month of closing. ~~Children age 18 or younger in their initial six months of continuous eligibility are not closed~~.

{Effective 5/8/05}

1-007 Client Rights: The client has the right to:

1. Apply. Anyone who wishes to request and/or apply for assistance must be given the opportunity to do so. No one may be denied the right to apply for public assistance;
2. Reasonably prompt action on his/her application for assistance (see 468 NAC 1-009.02B);
3. Adequate notice of any action affecting his/her application or assistance case (see 468 NAC 1-009.03C to determine if timely notice is necessary);
4. Appeal to the Director for a hearing on any action or inaction with regard to an application, the amount of the assistance payment, or failure to act with reasonable promptness. The appeal must be filed in writing within 90 days of the action or inaction;
5. Have his/her information treated confidentially. See 468 NAC 1-005.02A for disclosure of information regarding a fugitive felon;
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, disability, religion, or political belief;
7. Have the program requirements and benefits fully explained;
8. Be assisted in the application process by the person of his/her choice;
9. ~~Receive medical assistance without a separate application if s/he is eligible for categorical assistance; and~~
10. 9. Referral to other agencies.

1-008 Prudent Person Principle: When the statements of the client are incomplete, unclear, or inconsistent, or when other circumstances in the particular case indicate to a prudent person that further inquiry must be made, the worker must obtain additional verification before eligibility is determined. The client has primary responsibility for providing verification of information relating to eligibility. Verification may be supplied in person, through the mail, or from another source (as an employer). If it would be extremely difficult or impossible for the client to furnish verification in a timely manner, the worker must offer assistance.

1-009 Application Processing

1-009.01 Request: A request for assistance may be made in person, by letter, telephone, fax, or electronic submission and may be made by the applicant, his/her guardian or conservator, an individual acting under a duly executed power of attorney (see 468 NAC 1-004), or another person authorized to act for the applicant. ~~The worker must record the request date on the application. If an interview cannot be scheduled within 14 days from the date of request, the application must be mailed promptly or the client must be informed of the electronic application.~~

A request is terminated:

1. When a properly signed application is received. When adding a program to the application, the date of request is also the application date;
2. When the applicant or his/her representative notifies the worker of withdrawal; or
3. After 30 days if the worker has heard nothing further from the applicant or his/her representative. However, the worker may continue to hold a request pending if there is reason to believe the applicant intends to complete his/her application.

~~1-009.01A Presumptive Eligibility (PE) for Pregnant Women: See 468 NAC 4-001.01D.~~

1-009.02 Application: A request becomes an application when a properly signed application is received. ~~The prescribed application is incorporated into the Public Assistance Forms Manual~~. When adding a program to the application, the date of request on the application is also the application date. A properly signed application contains:

1. Name;
2. Address; and
3. Proper signature, as defined by the appropriate program.

An application may be signed by an individual for himself/herself or by the applicant's guardian, conservator, or an individual acting under a duly executed power of attorney. ~~If the application is for medical benefits only, the client's relative or another individual acting on the client's behalf may sign the application.~~

~~An application for medical benefits only may be taken on behalf of a deceased person. If there is no one to represent the deceased person, the administrator of the estate may sign the application. The eligibility requirements must have been met at the time medical services were rendered.~~

1-009.02A Alterations: The application, when completed and signed by the client or his/her representative, constitutes his/her own statement in regard to eligibility. If the worker adds information received from a client to a properly signed application, the worker must date the information and:

1. Note the information received from the client; or
2. If the information is not received from the client, identify the source of the information.

The worker may add information to an application up to the date of approval or completed redetermination. An application form for a redetermination may be altered up to the date the redetermination has been completed.

1-009.02B Prompt Action on Applications: The worker must act with reasonable promptness on all applications for assistance. The worker must make a determination of eligibility on an application within 45 days from the date of the request. If circumstances beyond the control of the worker prevent action within 45 days, the worker must record the reason for the delay in the case record. The worker must send a Notice of Action informing the applicant of the reason for the delay.

~~1-009.02C Medical Assistance (MA) Application with Share of Cost: An application for medical assistance for an individual with a share of cost who has a medical need may be approved with no medical payments authorized until the applicant has met his/her obligation.~~

1-009.02~~D~~C Application with Excess Resources: An application for assistance for an individual who has excess resources may be held pending until the resources are reduced (see 468 NAC 2-008.10 for eligibility for payment.) ~~and 468 NAC 4-006.04 for medical eligibility dates).~~

~~1-009.02E Application with a Designated Provider: Any individual may apply for medical assistance with a designated outreach provider who has contracted with the Department to accept Medicaid applications at their location.~~

1-009.02~~F~~D Withdrawals: The applicant may voluntarily withdraw an application. ~~If the applicant verbally withdraws the application, the worker must request a written statement of withdrawal.~~ The worker must make note of the withdrawal in the case record and give written confirmation of withdrawal to the applicant on a Notice of Action.

~~If the applicant does not provide written confirmation of the withdrawal within 30 days from the application date, the worker must reject the application~~. The worker shall deny the application based on the applicant's withdrawal as soon as possible. The worker must send a Notice of Action to the applicant notifying him/her of the rejection.

1-009.02~~G~~E.Authorization for Investigation: For some sources the worker asks the client to sign a Release of Information when it appears that information given is incorrect, when the client is unable to furnish the necessary information, or for sample quality control verification. A copy of the authorization for release of information from the Application for Assistance may be used if the source will accept it.

1-009.02~~H~~ F. New Application: A new application is required after one calendar month of ineligibility. ~~If eligible, children must receive a new period of six months' continuous eligibility (see 468 NAC 4-001.01H).~~

1-009.03 Notice of Action: The worker must send adequate notice on a Notice of Action to notify the client of any action affecting his/her assistance case. The Notice of Action must be sent to the last-reported address. If the form is inadvertently sent to the wrong address, the worker must send a new form, allowing the client ten days from the date the corrected form is sent (if adequate and timely notice is required).

1-009.03A Types of Notices

1-009.03A1 Adequate Notice: An adequate notice must include a statement of what action(s) the worker intends to take, the reason(s) for the intended action(s), and the specific manual reference(s) that supports or the change in federal or state law that requires the action(s). The worker must send an adequate notice no later than the effective date of the action.

1-009.03A2 Timely Notice: A timely notice must be dated and mailed at least ten calendar days before the date that action would become effective, which is always the first day of the month.

1-009.03B Adequate and Timely Notice: In cases of intended adverse action (action to discontinue, terminate, or reduce assistance or to change the manner or form of payment or service to a more restrictive method, i.e., protective payee~~, medical lock-in~~), the worker must give the client adequate and timely notice.

1-009.03C Situations Requiring Adequate Notice Only: In the following situations, the worker may dispense with timely notice but must send adequate notice no later than the effective date of action.

1. The agency has factual information confirming the death of a client;
2. The agency receives a written and signed statement from the client:
   a. Stating that assistance is no longer required; or
   b. Giving information which requires termination or reduction of assistance, and indicating, in writing, that the client understands the consequence of supplying such information;

3. The client has been admitted or committed to an institution, and no longer qualifies for assistance;
4. The client has been placed in skilled nursing care, intermediate care, or long-term hospitalization or the client is receiving assisted living waiver services;
5. The client's whereabouts are unknown and agency mail directed to the client has been returned by the post office indicating no known forwarding address. The agency shall make the client's ~~check~~ grant available to the client if his/her whereabouts become known during the payment period covered by a ~~returned check~~ grant;
6. The client has been accepted for assistance in another state and that fact has been established; or
7. An ADC/~~MA~~ child is removed from the home as a result of a judicial determination or is voluntarily placed in foster care.

1-009.03D Waiver of Notice: If a client agrees to waive his/her right to a timely notice in situations requiring timely notice, the worker must obtain a statement signed by the client to be filed in the case record.

1-009.03E In Fraud Cases: At least five days' advance written notice must be given if:

1. The agency has facts indicating that action should be taken to discontinue, terminate, or reduce assistance because of probable fraud by the client; and
2. The facts have been verified where possible through collateral sources.

1-009.03F Continuation of Benefits: The worker must not carry out an adverse action pending an appeal hearing if:

1. The case action being appealed required adequate and timely notice (see 468 NAC 1-009.03B and 1-009.03C);
2. The client requests an appeal hearing in writing within ten days following the date the Notice of Action is mailed; and
3. The client does not refuse continued assistance.

NOTE: For purposes of calculating the deadline described in #2 above, the mail date is not counted. If the last day of the 10-day period falls on a Saturday, Sunday, or state holiday, the deadline is extended to the next business day

In the situations listed in 468 NAC 1-009.03C, benefits are not restored pending a hearing.

This regulation does not restrict the worker from continuing normal case activities and implementing changes to the assistance case that are not directly related to the appeal issue.

If the worker's action is sustained by the hearing decision, the worker must institute recovery procedures against the client to recoup the disputed amount of assistance furnished the client during the appeal period (see 468 NAC 3-008.07B).

~~1-009.03F1 Continuation of Benefits in Transitional Medical Assistance Cases: Assistance is continued for a Transitional Medical Assistance unit only if:~~

~~1. The worker has determined that the unit members are not eligible for another assistance program; and~~
~~2. The basis of the appeal is the accuracy of that determination.~~

1-009.03F~~2~~1. Refusal of Continued Benefits: A client may refuse continuation of benefits pending an appeal hearing. The client may refuse benefits by checking the statement to that effect on the Notice and Petition for Fair Hearing or handwriting a refusal.

1-010 Redetermination of Eligibility: The worker must redetermine eligibility for grant ~~and medical assistance~~ every ~~12~~ six months. Eligibility may be redetermined in less than ~~12~~ six months to coordinate review dates for more than one program. ~~An early review does not shorten six months continuous eligibility.~~

~~For NMAP, an application may be signed by the client's relative or another individual acting on the client's behalf~~.

~~If the client is eligible for medical assistance only or medical assistance with share of cost but no further medical needs are apparent or indicated, or the case is ineligible, the worker must close the case and send a ten-day notice. The worker must determine if the client has a medical need by discussing the situation with the client, using the client's medical profile, etc. The worker closes the case if there is no medical need.~~

If a client who is receiving medical assistance becomes grant eligible, and there has not been a redetermination of eligibility within the last ~~12~~ six months, the worker must complete a review before issuing a grant.

~~Note: The worker must explain on a Notice of Action that the client may reapply if there is a medical need at a later date.~~

{Effective 6/28/11}

1-011 (Reserved)

1-012 Summary of Forms: Instructions for the forms used in this program are contained in the Public Assistance Forms Manual.

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).

{Effective 07/02/2013}

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.

~~For medical benefits only, an application may be signed by and an interview held with a relative or another individual acting on the client's behalf.~~

{Effective 07/02/2013}

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;
   Note: A child born in the United States is a U.S. citizen. A newborn who was determined to be eligible for Medicaid in the month of birth meets citizenship and identity requirements without further verification; this includes newborns whose birth expenses were paid through Emergency Medicaid Assistance for Aliens.
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 ~~quarters~~ 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.

~~Note: Aliens who do not meet the requirements above may be eligible for emergency medical services only (see 468 NAC 4-001.01B2a1). A pregnant alien woman or alien child who does not meet the above may be eligible for Medicaid as lawfully present and will need Central Office approval.~~

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.

{Effective 07/02/2013}

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

2-002.02~~D~~(C) 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.

2-002.02~~E~~(D) 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 ~~NDHHS~~Department, Regulation and Licensure (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. ~~The worker must also consider if the client was eligible for medical assistance in the state in which s/he previously resided, how the client was referred to the facility in Nebraska (e.g., family member, hospital staff, social service worker in the other state, etc.), and where the client would reside if s/he moved out of the facility in Nebraska, and any other related factors.~~

{Effective 11/23/85}

~~2-003.02 Placement in an Out-of-State Institution: If a state arranges for an individual to be placed in an institution located in another state, the state making the placement is the individual's state of residence, regardless of the individual's indicated intent or ability to indicate intent~~.

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/~~MA~~ 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.

~~2-003.03C Out-of-State Medical: If an out-of-state provider does not sign an agreement with NMAP and accept the reimbursement rate, the client is liable for any medical bills. Payment may be approved for services provided outside Nebraska in the following situations:~~

1. ~~When an emergency arises from accident or sudden illness while a client is visiting in another state and the client's health would be endangered if care is postponed until s/he returned to Nebraska or if s/he traveled to Nebraska;~~
2. ~~When a client customarily obtains service in another state because the service is more accessible;~~
3. ~~When the client requires a medically necessary service that is not available in Nebraska but is available in another state; and~~
4. ~~When long term care services are provided in another state.~~

~~Payment for items 3 and 4 must be prior authorized by the Division of Medical Services before the services are provided. The provider shall request prior authorization of payment from the appropriate staff of the Division of Medical Services. Prior authorization of item 3 may include economical transportation as a provider payment if needed.~~

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/~~MA~~ assistance in two or more states is ineligible for ADC/~~MA~~ 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/~~MA~~ 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.

~~Note: Application for an SSN for a newborn is not an eligibility requirement during the six months of continuous eligibility for MA (see 477 NAC 1-012.02C).~~

{Effective 10/15/2002}

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. ~~Children who are eligible for one month are eligible for their initial six months of continuous medical eligibility even though they do not have an SSN.~~

{Effective 5/8/05}

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.

{Effective 12/27/97}

2-005.01 Voluntary Quit for Applicants ~~or Medicaid Recipients Who Are Applying for a Grant~~: 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.

{Effective 12/27/97}

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.

{Effective 12/27/97}

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~~ff~~).

{Effective 10/7/98}

2-006 Parental Responsibility: The worker shall determine the ability of the parent to support each dependent child in whose behalf ADC/~~MA~~ 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/~~MA~~, 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 ~~Form ASD-17~~ a Policy Question to the Central Office requesting an extension to keep the case open. On ~~Form ASD-17~~ 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 ~~and the medical~~ 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/~~MA~~ 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/~~MA~~ 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/~~MA~~.

{Effective 5/8/05}

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. ~~For Medicaid eligibility of the pregnant woman, see 468 NAC 4-001.01B.~~

   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~~.ff.~~).

   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 the equivalent level of vocational or technical training (this does~~ not ~~include college)~~; or
   b. Participating in an Employment First component.

   An 18-year-old is eligible through the month of graduation from high school ~~or the equivalent level of vocational or technical training~~.

   ~~If an 18-year-old who is not in school or participating in EF has a medical need, see 477 NAC 3-000 and 4-000.~~

{Effective 6/28/11}

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.

{Effective 10/10/2007}

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/~~MA~~: If a minor parent is living with his/her parent(s) who is receiving ADC/~~MA~~ 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 ~~or vocational training~~ must participate in EF and remains a dependent child (see 468-000-305).

~~If the grandparent (minor parent's parent) has a share of cost, see 468-000-303 for budgeting instructions.~~

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.

~~Note: The family is not required to receive medical assistance for the minor's child. If they want to apply for one of the children's Medical Assistance Programs for the minor's child, see Title 477.~~

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.

{Effective 5/8/05}

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 the equivalent level of vocational or technical training)~~ or participating in Employment First.

{Effective 5/8/05}

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.

{Effective 12/27/97}

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.

{Effective 12/27/97}

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.

{Effective 12/27/97}

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

{Effective 4/11/95}

2-008.01 Verification of Resources: Before determining eligibility of an ADC/~~MA~~ 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.

{Effective 6/28/11}

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.

{Effective 4/11/95}

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/~~MA~~ unit (see 468 NAC 2-008.07A5~~-ff.~~);
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.

{Effective 8/2/2000}

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/~~MA~~ 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/~~MA~~ or SDP/~~MA~~ 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.

{Effective 3/7/88}

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.

{Effective 12/27/97}

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. ~~Up to $3,000 may be disregarded if it is set aside for the purpose of paying burial expenses.~~ 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. ~~However, $3,000 is the maximum that is disregarded.~~ If the client has more than the maximum, ~~$3,000~~ in a burial trust, the excess is considered an available resource. If the client has more than the maximum ~~$3,000~~ 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 ~~$3,000~~ 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.

~~See 468 NAC 2-008.07B15 for the treatment of burial spaces.~~ 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.

~~2-008.07A3a Burial Funds: The cash value of a burial fund is considered an available resource if the individual is allowed to withdraw money from the fund.~~

~~If the money is in an irrevocable burial trust contracted on July 16, 1982, or later, it is not considered an available resource. According to Nebraska law, an individual is allowed to deposit funds up to $3,000 in an irrevocable trust fund created for the purpose of a prearranged funeral plan.~~

~~Therefore, the value up to $3,000 of an irrevocable burial trust and any accrued interest or dividends on that amount, if irrevocable, are considered unavailable and are disregarded.~~

~~An irrevocable burial trust fund must be deposited with a financial institution. For burial trusts contracted on December 31, 1986, or earlier, a written copy of the contract for a prearranged funeral plan must be on file with the financial institution. For burial trusts contracted on January 1, 1987, or later, a written copy of the contract may be retained by the client or the funeral home.~~

~~In determining whether the value of a burial fund contracted in Nebraska is considered available, the worker verifies the terms of the contract with the financial institution. The worker determines also if the contract stipulates that the interest or dividends are irrevocable. If a burial fund is drawn up in another state, the worker verifies the contract terms and determines whether that state allows irrevocable burial funds or whether the value of the fund is available to the client regardless of the contract terms.~~

~~2-008.07A3a(1) Interest on Burial Trusts: For irrevocable burial trusts contracted on December 31, 1986, or earlier, the individual was allowed to stipulate whether the interest or dividends accruing to the trust fund were irrevocable. If the interest or dividends are irrevocable, they are disregarded. The worker shall determine if the contract stipulates that the interest or dividends are irrevocable.~~

~~For irrevocable burial trusts contracted on January 1, 1987, or later, all accrued interest or dividends are also irrevocable.~~

~~2-008.07A3b Burial Insurance: Burial insurance is defined as insurance whose terms specifically provide that the proceeds can be used only to pay the burial expenses of the insured, or a life insurance policy that is irrevocably assigned for the specific purpose of burial. When the proceeds of a life insurance policy are irrevocably assigned for the purpose of burial, the cash value is not available and is disregarded as a resource. If a separate administrative fee is charged in addition to the premium for the insurance policy, it is not included in the $3,000 maximum.~~

~~If the amount of insurance designated for burial exceeds $3,000, the worker shall determine whether the individual deprived himself/herself of the amount in excess of $3,000 for the purpose of qualifying for public assistance, according to 468 NAC 2-008.10.~~

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: ~~For treatment of trusts, guardianships/conservatorships, and annuity funds, see 469 NAC 2-009.07A5 ff.~~ Questions related to the availability and treatment of Trust, Guardianship/Conservatorship or Annuity funds should be addressed to the ADC Policy Unit, Central Office.

~~{Effective 5/8/05}~~

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/~~MA~~ 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/~~MA~~ 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/~~MA~~ 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/~~MA~~. 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.
   {Effective 4/11/95}

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 ~~ff.~~)

2-008.07B5c(1) Repayment Period: For initial cases with excess resources due to real property, the repayment period begins with the month of ~~request~~ application. ~~Since the liquidation provision is not allowed for months of retroactive medical eligibility, the repayment period will never include these months.~~

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 ~~ff.~~).

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 2-008.07B2a).

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–ff. 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.

{Effective 10/1/97}

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 ~~$3,000 limit~~ allowed maximum if the policy is irrevocably assigned (see 468 NAC 2-008.07A3b). ~~If the policy is not irrevocably assigned, it is considered life insurance and the cash surrender value is considered a resource (see 468 NAC 2-008.07A).~~

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. ~~For resource levels for NMAP, see 468 NAC 4-006.01.~~

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. ~~If the total value is in excess of the limit allowable for an ADC grant, the unit is ineligible for a grant but may be eligible for NMAP~~

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. ~~Medical eligibility begins with the first day of the month of the incurred obligation which was used to reduce the resources to the allowable maximum (see 468 NAC 4-006.01). Medical eligibility may not be established earlier than the three-month retroactive period.~~

~~2-008.12 ADC/MA Units Ineligible for Grant Due to Resources: Eligibility for NMAP is determined based on the medical only requirement when:~~

~~1. The ADC/MA unit has excess resources for a grant (see 468 NAC 4-006.04); and~~
~~2. The ADC/MA unit has a medical need.~~

2-009 Income

2-009.01 Standard of Need: The standard of need is a consolidation of items necessary for basic subsistence. Included in this standard are food, clothing, sundries, home supplies, utilities, laundry, and shelter. (Shelter includes rent, mortgage payment, taxes, and insurance.) Also included in this standard amount are meals prepared away from home, therapeutic diet, meals furnished to a household employee, transportation other than for employment, subsistence to obtain medical care, moving expenses, Social Security tax paid to an approved household employee, back taxes, furniture, appliances, etc.

2-009.01A Standard of Need Chart: Effective July 1, ~~2011~~ 2013, the standard of need by unit size for the determination of eligibility and payment is as follows:

Number in Unit	1	2	3	4	5	6	7	8	9	10
Standard	529 ~~505~~	652 ~~623~~	775 ~~740~~	898 ~~858~~	1,021 ~~975~~	1,144 ~~1,093~~	1,269 ~~1,211~~	1,392 ~~1,329~~	1,515 ~~1,446~~	1,638 ~~1,563~~

One hundred ~~seventeen~~ twenty-three dollars are added for each eligible individual.

The standard of need for a grandparent whose income is deemed to a minor parent is ~~$505~~ 529; ~~$117~~ 123 are added for each additional individual whose income is considered.

Note: Even if a woman has verification that she is expecting twins or a multiple birth, the grant unit may be increased by only one unborn in the final trimester.

~~For eligibility for Medicaid, see 468 NAC 4-000.~~

~~{Effective 6/28/11}~~

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.

{Effective 12/27/97}

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).

{Effective }

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.

{Effective 6/28/11}

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 ff. 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 ff. for treatment of an excess collection.
3. Distributed arrearages collected for months where the custodial parent was not an ADC/~~Medicaid~~ recipient.

{Effective 6/28/11}

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.

{Effective 12/27/97}

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.

{Effective 4/11/95}

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.

{Effective 4/11/95}

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, ~~a MAC-eligible infant~~.

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/~~MA~~ 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/~~MA~~ unit size.

{Effective 4/11/95}

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.

{Effective 12/27/97}

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

1. AABD/~~MA~~ Parent and ADC/~~MA~~ Child: If the lump sum is intended for an AABD/~~MA~~ parent, see 469 NAC 2-010.01B5a;
2. AABD/MA Child and ADC/~~MA~~ Parent: If the lump sum is intended for an AABD/~~MA~~ child, see 469 NAC 2-010.01B5b; or
3. ADC/~~MA~~ Parent or Child: If the lump sum is intended for an ADC/~~MA~~ parent or child, the income is applied only to the ADC/~~MA~~ 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 ~~medical assistance~~ 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~~/MA~~ 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. ~~; the children are eligible for the remainder of their period of continuous medical eligibility.~~

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~~/MA~~ and the other benefit at any time during which the overpayment occurred and the overpaid amount was included in the ADC~~/MA~~ 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. ~~Medicaid eligibility for all family members, parents as well as children, must be determined~~.

{Effective 10/10/2007}

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. ~~The children are eligible for the remainder of their initial six months of continuous eligibility.~~

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 ~~every 12 months~~ 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.

{Effective 6/28/11}

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). ~~The client may use a quarterly form to report income; however, the client is not required to return the quarterly form as a condition of eligibility.~~

{Effective 5/8/05}

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 ~~next three months'~~ 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 ~~made~~ 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.

{Effective 7/3/91}

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.

{Effective 7/3/91}

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.
{Effective 10/7/98}
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 Retroactive Medical Eligibility: To determine retroactive medical eligibility, the worker must use each month's actual income (see 468 NAC 4-004.02).~~

2-015.02JH. 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). Exception: 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~~-ff.~~).
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.

{Effective 7/10/2000}

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~~-ff~~).
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.

~~{Effective 8/2/2000}~~

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 ~~NMAP~~ 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 ~~NMAP~~ 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 ~~NMAP~~ 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.

~~Exception: This provision does not apply to Medicaid-eligible pregnant women and children in 468 NAC 4-001.01B1 or to restricted medical assistance in 468 NAC 4-001.01B2a(1).~~

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.

{Effective 12/27/97}

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.

~~Medicaid recipients are mandated to receive Child Support Enforcement services related to securing medical support, including the establishment of paternity when appropriate. Medicaid recipients do have the option of refusing other Child Support Enforcement services, i.e. establishment and/or enforcement of a child support order, but the Medicaid recipient must notify Child Support Enforcement that s/he is requesting only IV-D services that relate to securing medical support.~~

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.

{Effective 5/8/05}

2-019.01A1 Assignment: As a condition of receiving ADC, Medicaid, 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.

{Effective 5/8/05}

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.

~~2-019.01A2b Assignment as It Relates to Medicaid: In Medicaid cases, the application for, and acceptance of medical assistance constitutes an automatic assignment of the client's rights to third party medical payments.~~

{Effective 5/8/05}

2-019.01A2eb. 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.

{Effective 5/8/05}

2-019.02 Definitions of Child Support, Spousal Support, and Medical Support: For ADC~~/MA~~ 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.

{Effective 5/8/05}

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).

{Effective 5/8/05}

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.

{Effective 5/8/05}

~~2-019.04B Medicaid Recipients: Medicaid recipients referred for IV-D services 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 medical assistance benefits;~~
~~2. Establishment of paternity;~~
~~3. Establishment of medical support;~~
~~4. Enforcement of medical support; and~~
~~5. Collection and distribution of medical support.~~

{Effective 5/8/05}

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.

{Effective }

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. ~~Identifying and providing relevant information about any third parties who may be liable for Medicaid costs;~~
8.7. Providing dependent Social Security numbers when requested;
9.8. Providing information about payments made directly from any third party;
10.9. Forwarding any payments made for medical expenses to the Department or to the health care provider; and
11.10. Repaying the Department any support incorrectly paid to the custodial party.

{Effective 5/8/2005}

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.

{Effective 7/10/2000}

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 ~~and remove the individual's needs from the medical unit~~.

~~Note: If the individual is age 18 or younger, medical assistance cannot be closed until the end of his/her initial six months of continuous eligibility~~.

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.

{Effective 10/10/2007}

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.

{Effective 10/31/2009}

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.

~~For TANF work program information, see 468-000-351~~.

{Effective 10/31/2009}

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.

{Effective 10/31/2009}

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.

{Effective 10/10/2007}

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.

{Effective 10/31/2009}

2-020.01A3 Special Rule for ~~Minor Parents~~ Education: ~~A minor parent head-of household counts as engaged in the minimum number of hours required for the month, which is an average of 30 hours per week, if s/he is:~~

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; ~~or~~
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.

~~{Effective 10/3/12009}~~

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.

{Effective 10/10/2007}

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 the equivalent level of vocational or technical 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 ~~or~~ 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 ~~and making a referral to SRT~~, 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 ~~or~~ 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 ~~and making a referral to SRT~~, 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 ~~ADC~~ 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.

{Effective 10/31/2009}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 10/31/2009}

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.

{Effective 12/02/2006}

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 2-020.09B~~2f(5)~~ 1a(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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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 ~~(PAF 15-4).~~

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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 ~~legal,~~ 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.

{Effective 10/31/2009}

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.

{Effective 10/10/2007}

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.

{Effective 10/31/2009}

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.

{Effective 12/02/2006}

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.

{Effective 10/10/2007}

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 wages ~~and the same benefits as a nonsubsidized employee who performs similar work~~, 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. ~~At the end of the subsidy period, the employer is expected to retain the participant as a regular employee without receiving a subsidy.~~

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

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 10/31/2009}

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 2-020.07C1ff.

Short term training or similar activities may be counted as community services 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.

{Effective 12/02/2006}

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 Associates 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.

{Effective 10/31/2009}

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.

{Effective 10/31/2009}

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 ~~minimum~~ deeming hours of participation for ~~minor~~ parents ~~age 23 or younger~~ and dependent children, see 468 NAC 2-020.01A3.

{Effective 12/02/2006}

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 ~~minimum~~ deeming hours of participation for ~~minor~~ parents age 19 or younger and dependent children, see 468 NAC 2-020.01A3.

{Effective 10/31/2009}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/27/97}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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.

{Effective 12/02/2006}

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 ff 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.

{Effective 10/31/2009}

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 ~~as well as the medical assistance for the adult(s)~~. 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 ~~cash assistance~~ for the entire family ~~and medical assistance for both adults.~~

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 ~~loss of ADC cash assistance and medical assistance for the caretaker only.~~ Rremoval of the caretaker's needs from the ADC ~~cash assistance~~ 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 ~~cash assistance~~ unit. ~~The child may be eligible for medical assistance.~~

{Effective 10/31/2009}

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 ~~cash assistance~~ once a sanction notice has been mailed does not prohibit the sanction from taking effect.

{Effective 10/31/2009}

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~~(3)~~ (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 ~~cash payment and adult medical assistance~~ 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 ~~cash payment~~ is prorated from the date of the new application for ADC. ~~medical assistance for the adult(s) will resume effective the first day of the month during which the individual qualifies for the exemption.~~

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 ~~cash payment~~ for the individual is prorated from the date the individual qualifies for the exemption. ~~; medical assistance for the adult will resume effective the first day of the month during which 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.

{Effective 10/31/2009}

~~2-020.09B1a(2) Length of Sanction on Adult Medical Assistance: The adult(s)' medical assistance can be reinstated once the minimum penalty period for that sequence of sanction has been served. The individual must request medical assistance and his/her eligibility for medical assistance will be determined.~~

{Effective 10/31/2009}

2-020.09B1a~~(3)~~ (2) Lifting of Sanction: Once a sanction is imposed, ADC ~~cash assistance~~ 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 ~~cash payment~~ prorated from the date of the new application for ADC. ~~; medical assistance for the adult(s) will resume effective the first day of the month for which eligibility for ADC is established.~~ 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 ~~cash payment and adult medical assistance~~ 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 ~~cash payment~~ for the individual will resume effective the date s/he requested the sanction be lifted. ~~; medical assistance for the adult will resume effective the first day of the month for which eligibility for ADC is established for the individual.~~

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

{Effective 10/31/2009}

2-020.09B1a~~(4)~~ (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.

{Effective 12/02/2006}

2-020.09B1a~~(5)~~(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.

{Effective 12/02/2006}

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 ~~cash assistance and medical assistance~~ 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).

{Effective 10/31/2009}

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.

{Effective 10/31/2009}

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.

{Effective 12/02/2006}

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 ~~t~~Title 465.

{Effective 12/02/2006}

2-020.10 Time Limits

2-020.10A Time Limit for ADC ~~Cash Assistance~~: 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 ~~cash payment~~ 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 ~~cash assistance~~.

TANF ~~cash assistance~~ 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.

{Effective 10/31/2009}

2-020.10A1 Situations Where the ADC ~~Cash Assistance~~ Is Not Limited to 60 Months: The ADC ~~cash assistance~~ 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 ~~cash assistance~~, found a job, and then lost it through no fault of his/her own.

{Effective 10/31/2009}

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.

{Effective 12/02/2006}

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 ~~ff~~. This assignment includes the rights of the client as well as the rights of any other member of the ADC/~~MA~~ 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.

~~This assignment gives the Department the right to pursue and receive payments from any third party liable to pay for the cost of medical care and services of the client or any other unit member and which otherwise would be covered by NMAP.~~

~~The assignment of the rights to third party medical payments is effective with the date of eligibility for assistance. For MA cases with a Share of Cost, the assignment becomes effective the first day of the month when the case status changes to 450, "Share of Cost met."~~

~~Note: No sanction is taken if a client who is receiving Transitional Medical Assistance does not cooperate in obtaining third party medical payments.~~

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 Cooperation in Obtaining Third Party Payments: Cooperation includes any or all of the following:

1. Providing complete information regarding the extent of third party coverage which s/he or any other unit member has or may have. This includes coverage provided by a person not in the unit or by an agency;
2. Providing any additional information or signing claim forms which may be necessary for identification and collection of potential third party payments;
3. Appearing as a witness in a court or another proceeding, if necessary;
4. Notifying the Department of any action s/he is initiating to recover money from a liable third party for medical care or services. This includes the identity of the third party as well as the entire amount of any settlement, court award, or judgment;
5. Reimbursing the Department or paying to the provider any payments received directly from a third party for any services payable by NMAP; and
6. Taking any other reasonable steps to secure medical support payments.

2-021.03A Refusal to Cooperate: The worker is responsible for determining noncooperation by the client. This determination is based on the client's failure or refusal to fulfill the requirements listed in 468 NAC 2-021.03.

2-021.03B Opportunity to Claim Good Cause

2-021.03B1 Notification of Right: The worker must notify the client of the right to claim good cause for noncooperation at the intake interview, redetermination, and whenever cooperation becomes an issue.

The worker must give the client a verbal explanation of good cause and the opportunity to ask questions.

A written explanation of good cause is included in the Application for Assistance.

2-021.03B2 Worker's Responsibilities if Good Cause Claimed: if the client claims good cause, the worker must:

1. Explain that the client has the burden of establishing the existence of a good cause circumstance; and
2. Obtain a signed statement from the client listing the reason(s) for claiming good cause. The client is allowed 20 days to present evidence of the claim.

~~2-021.03B3 Acceptable Circumstances for Good Cause: Good cause claims must be substantiated by signed statements. When documentary evidence is not available, the client must furnish sufficient information as to the location of the information.~~

~~To establish good cause, the evidence must show that cooperation would not be in the best interest of the client or another unit member for whom assignment is sought. Good cause includes the following circumstances, provided proper evidence is obtained.~~

~~2-021.03B3a Physical or Emotional Harm to the Client or Other Unit Member: Good cause exists if the client's cooperation in assigning benefits is reasonably anticipated to result in physical or emotional harm to the client or another unit member. Emotional harm must only be based upon a demonstration of an emotional impairment that substantially reduces the individual's functioning.~~

~~2-021.03B3a(1) Documentary Evidence: Documentary evidence which indicates these circumstances includes:~~

1. ~~Medical records which document emotional health history and present emotional health status of the client or other unit member;~~
2. ~~Written statements from a mental health professional indicating the diagnosis or prognosis concerning the emotional health of the client or other unit member;~~
3. ~~Court, medical, criminal, protective services, social services, psychological, or law enforcement records which indicate that the third party might inflict serious physical or emotional harm on the child or parent/needy caretaker relative; or~~
4. ~~Signed statements from individuals other than the client with knowledge of the circumstances which provide the basis for the claim.~~

~~2-021.03B3a(2) Evidence Not Submitted by Client: When the claim is based on the client's anticipation of physical harm and corroborative evidence is not submitted in support of the claim the worker must:~~

1. ~~Investigate the good cause claim when s/he believes that the claim is credible without corroborative evidence and corroborative evidence is not available; and~~
2. ~~Find good cause if the client's statement and the investigation indicate that the client has good cause for refusing to cooperate.~~

~~2-021.03B3a(3) Worker Considerations: If the determination of good cause is not substantiated by documentary evidence, the worker must consider and document the following evidence:~~

1. ~~The present physical or mental state of the client;~~
2. ~~The physical or mental health history of the client;~~
3. ~~Intensity and probable duration of the physical or mental upset; and~~
4. ~~The degree of cooperation required by the client.~~

~~2-021.03B4 Decision On Good Cause: Within 30 calendar days of receiving the good cause claim, HHS IV-D staff must evaluate the evidence and determine whether good cause exists. In determining good cause, HHS IV-D staff or designated IV-D contract staff must consider the recommendations of the case manager. HHS IV-D staff or designated IV-D contract staff must notify the custodial party and the case manager of the determination in writing. If the client does not cooperate, withdraw the application, or request the case closed, a sanction is imposed (see 468 NAC 2-021.03C).~~

~~{Effective 5/8/05}~~

~~2-021.03B5 Delay of Assistance Pending Determination: The agency must not deny, delay, or discontinue assistance pending a determination of good cause 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.~~

~~2-021.03B6 Review of Good Cause: At the time of each redetermination, the worker must review a good cause claim based on a circumstance that is subject to change.~~

~~If circumstances remain the same, no action is required. A new determination is necessary if circumstances have changed.~~

~~If good cause no longer exists, the requirement to cooperate must be enforced.~~

2-021.03C 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 failsed or refusesd 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 ~~and medical assistance~~. 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.

{Effective 7/10/2000}

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 ~~NMAP~~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 ~~NMAP~~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 Willfully Withheld Information: When the evidence clearly establishes that a client willfully withheld information regarding a third party medical payment which resulted in an overpayment of NMAP expenditures, the worker must refer the case to the Special Investigation Unit, Central Office, or in the Omaha Office to the Omaha Special Investigation Unit. Once a case has been referred to the Special Investigation Unit, the worker must take no action with regard to the prosecution of the suspected fraud except in accordance with instructions or approval by the Special Investigation Unit. However, the worker must complete normal case actions which include applying the appropriate sanction~~

~~2-021.06 Termination of Assignment: When a client's grant and medical case is rejected, or closed, or an individual is removed from the unit, the assignment provision is terminated. The client's rights to any future third party and medical support payments are automatically restored effective with the date of ineligibility. However, the assignment remains in effect for the time period during which the client was on assistance.~~

2-021.07 Cooperation in Obtaining Health Insurance: ~~As a condition of eligibility for MA, a client is required to enroll in an available health plan if the Department has determined that it is cost effective and the client is able to enroll on his/her own behalf. The Department then pays the premiums, deductibles, coinsurance, and other cost sharing obligations.~~ 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 ~~and medical~~ 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~~/MA~~ budget.

If a child is eligible to receive both ADC~~/MA~~ 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~~/MA~~ 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.

{Effective 12/27/97}

2-023 Eligibility for Child Care Assistance: Child care may be provided for an ADC parent if s/he has a child who is:

1. Age 12 or younger; or
2. Age 18 or younger if:
   a. Physically or mentally incapable of caring for himself/herself (as determined by a physician or a licensed or certified psychologist);
   b. Under court supervision; or
   c. Receiving SSI or foster care.

2-023.01 Purpose of Child Care: The Department must provide child care services to the extent determined necessary by the case manager to permit a family member who receives ADC to:

1. Accept or retain employment regardless of participation in Employment First;
2. Participate in Employment First;
3. Participate in a work program that is authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and identified as the Native Employment Works (NEW) Program and operated by an Indian Tribal organization; or
4. Participate in an education or training activity outside Employment First if the program is approved through a needs assessment.

The Department is responsible for providing the client with information regarding the types and location of child care services available as well as tips on selecting quality care for the child(ren). The client will be assisted in locating appropriate child care if it is requested.

2-023.02 Payment of Child Care: The client is given the choice of the following payment methods:

1. Through providers authorized by the Child Care Subsidy process (see Title 392); or
2. Claiming the cost of child care as an earnings disregard if there are earnings. If the client pays weekly or bi-weekly, the worker uses income conversion tables (see 468-000-201).

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 ~~(see 468 NAC 2-024.02)~~;
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.

{Effective 6/28/11}

2-024.02 Transitional Medical Assistance: An ADC case may receive up to 12 months of transitional medical assistance without a share of cost if:

1. The case has earned income which results in ineligibility for a grant (or in conjunction with other factors results in ineligibility for a grant);
2. The unit received a grant (or did not receive a grant but met income and resource eligibility to receive a grant) in three of the last six months preceding ineligibility; and
3. The parent or needy caretaker relative or guardian or conservator is employed.

See 468 NAC 4-001.01A2 for regulations on TMA.

TMA begins with the month of ineligibility for an ADC grant. If the worker determines that the unit was ineligible for a grant, TMA is determined to have begun with the first month in which ADC/MA was erroneously paid. See 468 NAC 3-008.07 ff. for recoupment procedures.
Note: The TMA unit may be subject to a premium beginning with Month 7.

{Effective 8/20/2007}

2-024.02A Eligibility for TMA Following an Absent Parent's Return or the Client's Marriage: If the client marries or an absent parent returns, the new spouse or returning parent is added to the unit. The unit with the new spouse or returning parent may receive TMA.

{Effective 10/7/98}

2-024.03 Transitional Child Care (TCC): Transitional child care must be provided for 24 consecutive months if:

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

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

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

{Effective 10/10/2007}

~~2-024.03A Delayed Request for TCC: A family may request TCC at anytime during the 24-month period. Retroactive benefits are available, if needed, beginning with the first month of ineligibility for ADC.~~

~~{Effective 6/17/2002}~~

~~2-024.03B Fee Requirement: A family that is eligible for transitional child care is required to pay a fee unless the family's income is below the minimum income for the fee schedule. If the family's income is below the minimum, the family does not owe a fee.~~

~~{Effective 6/17/2002}~~

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

~~{Effective 6/17/2002}~~

CHAPTER 3-000 DETERMINATION OF ADC~~/MA~~ BENEFITS: ADC~~/MA~~ assistance consists of money payments to the ADC~~/MA~~ payee ~~and/or payments made directly to the provider for medical care and services~~. The amount of the assistance payment to the ADC~~/MA~~ payee is determined by completing the following steps:

1. Total gross countable earned income;
2. Subtract 20 percent of earned income;
3. Subtract child care paid out-of-pocket;
4. Subtract the remaining earned income from the appropriate Standard of Need (see 468 NAC 2-009.01A);
5. Compare the result of step 4 to the appropriate payment standard;
6. Show the lower of the payment standard or the difference from step 4;
7. Subtract unearned income from the amount shown in step 6;
8. The result of step 7 is the amount of the grant.

~~Provider payments for medical requirements are determined according to the standards and regulations established for the Nebraska Medical Assistance Program (see Title 471).~~

{Effective 12/27/97}

3-001 Prorated Payment: When an application for assistance is approved, the first month's payment begins with date of application, if all eligibility factors are met. Prorated payment amounts are calculated by N-FOCUS. If eligibility occurs after the date of application, payment is prorated from the date eligibility begins. For administrative efficiency, a standard 30-day month is used in determining prorated payments. ~~For date of medical eligibility, see 468 NAC 4-004~~.

Prorated payments apply to the first month a payment is issued or an individual is added to an existing unit.

If the only dependent child is a qualified unborn, grant eligibility begins with the third trimester of pregnancy.

{Effective 10/10/2007}

3-001.01 Individual Added to the Unit: When an individual is added to a unit that is already receiving a grant, the payment of the new individual begins with the date the addition to the unit was requested if all eligibility factors are met. ~~For date of medical eligibility, see 468 NAC 4-004. If adding the income of the added individual makes the entire unit ineligible for a grant, medical eligibility is determined for the entire unit.~~

Note: Even if a woman has verification that she is expecting twins or a multiple birth, the unit may be increased by only one unborn in the final trimester.

{Effective 6/28/11}

3-001.02 Individual Removed from the Unit: When an individual leaves an ADC~~/MA~~ unit, s/he is not considered prospectively in determining the unit size. If there is not time to recalculate and give timely notice, the worker must remove the individual the next month. If the client reported timely, there is no overpayment for the month that the individual left; if there is not time to remove the individual the following month because of the timely notice provision, there is no overpayment for that month, either.

3-001.03 Client Receiving Other TANF Assistance: A client is ineligible to receive an ADC/TANF grant in the same month from two entities, i.e., a state and a tribe.

{Effective 6/18/2001}

3-001.03A Client Moving From Another State: An applicant may have received assistance from another state in the same month that s/he applies in Nebraska. If the applicant received a grant for a partial month from a state that divides monthly issuance into two or more grants, the grant from the other state is considered income in determining the first month's eligibility. Payment begins with the first day of the month of application if all eligibility factors are met.

3-001.03B Client Receiving Tribal TANF Assistance: An applicant is ineligible to receive an ADC grant in the same month s/he received a TANF-funded grant from a Native American Tribe.

{Effective 6/18/2001}

3-002 Rounded Down Payment: When the grant amount is not a whole dollar figure, the computer rounds down the grant to the next lower whole dollar amount. A case that would be eligible for a grant of less than $1 (which would be rounded down to 0) is still considered a grant case. ~~The unit would still receive medical assistance~~. See 468 NAC 3-003 for payments of $9.99 or less. ~~The worker lists the rounded down figure on the Notice of Action sent to the client.~~

3-003 Minimum Payment: An ADC cash payment is not issued if the amount would be less than $10 before any adjustment is made. A unit that is denied an ADC cash payment solely because of the $10 minimum payment is still considered an ADC cash assistance case. ~~The unit continues to be eligible for other forms of assistance such as medical assistance and social services~~. The unit is not subject to Employment First requirements and is non-time limited. The adult(s) or minor parent head-of-household included in the ADC unit may choose to volunteer to participate in Employment First (see 468 NAC 2-020.03 and 2-020.09B~~2f(5~~ 1a(4). The worker must send a Notice of Action notifying the client that s/he will not receive a payment because of the minimum payment provision. An ADC cash payment is issued if an individual is added to an existing unit and the combined unit (the original unit plus the added individual) is eligible for an ADC cash payment of $10 or more.

3-004 Family Members Included in ADC Grant: The following individuals are considered in determining the grant unit and appropriate standard of need:

1. Children age 17 and younger, beginning with the first day of the month of the mother's third trimester of pregnancy;
2. Children age 18 who are full-time students regularly attending a secondary school ~~or the equivalent level of vocational or technical training (this does not include college)~~ (see 468 NAC 2-007 ~~ff.~~ and 2-020 ~~ff.~~);
3. Parent(s), including both parents in a two-parent family; or

4. Parent(s)/needy caretaker relative - when the person is the only eligible individual remaining in the unit with all children receiving SSI or an adoption subsidy and not included in the ADC/~~MA~~ unit.

{Effective 12/27/97}

3-005 Family Members Not Included in the Grant

3-005.01 Those Who Refuse Potential Income: The needs of an individual other than the parent/caretaker relative are not included in the grant if s/he refuses to apply for:

1. Categorical assistance for which s/he is apparently entitled; or
2. Benefit payments from a program not administered by the Department to which s/he is apparently entitled.

If the parent/caretaker relative refuses to apply for potential income, see 468 NAC 2-020.08B2e.

It is the worker's responsibility to explain the application procedure and benefits to the apparently eligible family member and explain the consequences of not applying.

3-005.02 Those Who Receive Other Assistance

3-005.02A Parent: The parent of an ADC/~~MA~~ child is not included in the ADC grant when:

1. The parent is receiving an SSI payment;
2. The parent is receiving or is eligible to receive AABD/~~MA~~; or
3. The parent is a Department ward.

The parent's income is not included in the budget computations for the unit if the parent receives SSI or is a Department ward. If the parent receives RSDI but not SSI, income in excess of the parent's AABD budgetary need is allocated to the ADC unit.

{Effective 2/14/09}

3-005.02B Ward: If a ward who is receiving a foster care payment is in the home of an assistance unit, the ward is not included in the unit and his/her income is not included in the budget computations for the unit.

If the family has an adopted child(ren) for whom they are receiving an adoption subsidy that is administered by the Department (either IV-E or child welfare), the child(ren) is not included in the assistance unit. The subsidy is not counted as income to the family.

3-005.02B1 Child of a Ward: If a ward who is receiving a foster care payment has a child living with him/her in a foster home, group home, or child caring institution, the ward's child may receive a separate foster care grant (see 479 NAC 2-002.10). The ward's child is not eligible for a grant from ADC funds. Neither the ward nor the ward's child is included in the foster family's ADC unit.

3-005.02B2 Department Ward With Specified Relative: The following situation is an exception to the regulations in 468 NAC 3-005.02B and 3-005.02B1: If a Department ward is placed in the home of a specified relative who is a licensed or approved foster care provider and the specified relative is receiving ADC, the relative has the choice of adding the ward to the ADC unit or receiving a foster care payment for the ward (see 468-000-322). The case manager/worker must explain the payment options to the foster parent. If the ward has a child, the child goes with the ward, i.e., if the ward is in the ADC unit, the ward's child is also in the ADC unit; if the ward receives a foster care payment, the ward's child also receives a foster care payment.

If the ward loses his/her eligibility for ADC, e.g., an 18-year-old who is not in school, the ADC case is closed and a foster care case is opened (see 479 NAC 2-000). The grant for the ward's child would also be changed from ADC to FC (see 468 NAC 3-005.02B1).

{Effective 7/3/91}

3-005.03 Those Who Receive SSI: The needs of any family members who are receiving SSI benefits are not included in the ADC~~/MA~~ unit.

SSI regulations require that SSI benefits due must be reduced by the amount of ADC paid or to be paid up to the date given by the ADC worker for terminating the ADC grant. Failure to reduce the SSI payment before the date provided by the ADC worker constitutes an SSI overpayment. ADC payments to SSI recipients following that date are ADC overpayments and must be recovered.

{Effective 5/8/05}

3-005.04 Those Who Refuse to Cooperate

3-005.04A Removal from Grant Unit: The needs of a dependent child are not considered in the ADC standard of need if the child is a mandatory participant who refuses to cooperate with Employment First and is sanctioned.

3-005.04B Removal from Grant ~~and Medical~~ Unit: A parent or needy caretaker relative, guardian, or conservator is not eligible to receive a grant ~~or medical assistance~~ for himself/herself if the individual fails or refuses to provide information about or obtain third party medical payments (see 468 NAC 4-002.03C).

{Effective 12/27/97}

~~3-005.04C Removal from Medical Unit: A parent or needy caretaker relative is not eligible to receive medical assistance for himself/herself if s/he fails or refuses to cooperate:~~

~~1. With the Child Support Enforcement Unit (see 468 NAC 3-005.04D); or~~
~~2. In obtaining third party medical payments (see 468 NAC 4-002 ff.). This includes medical coverage that the client has for himself/herself and for the child(ren), or coverage provided by an individual other than the noncustodial parent.~~

{Effective 12/27/97}

3-005.04D 25 Percent Reduction in Grant: The grant is reduced by 25 percent if a parent ~~or needy caretaker relative or needy guardian or conservator~~ fails or refuses to cooperate with the Child Support Enforcement Unit. The needs of a needy caretaker relative, guardian or conservator who fails or refuses to cooperate with CSE are removed from the Grant unit.

{Effective 12/27/97}

3-005.05 Intentional Program Violation (IPV): Effective January 1, 2004, an individual who is found to have committed IPV is disqualified according to the following regulations.

3-005.05A Disqualification Hearing: A disqualification hearing will be initiated by the Central Office whenever sufficient documentary evidence has been established to substantiate that a household member has committed one or more acts of intentional program violation. An intentional program violation consists of any action by an individual to purposely:

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

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

3-005.05B Initiating the Disqualification Hearing

3-005.05B1 Reporting Requirements: The worker must report cases of suspected IPV to the Special Investigations Unit (SIU), Central Office.

3-005.05B2 Central Office Guidelines: The Central Office uses the following guidelines in determining the need for a disqualification hearing:

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

3-005.05B3 Disqualification Hearing Procedures: See 465 NAC 2-007.06 ~~ff.~~

3-005.05C IPV Disqualification: If an individual is found to have committed an IPV, a period of disqualification must be imposed. The period may be determined by the Director after an administrative disqualification hearing, or without a hearing if the individual waives his or her right to a hearing. The period of disqualification is:

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

The disqualification applies only to the individual found to have committed the IPV.

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

3-005.06 Undocumented Aliens: An undocumented alien is not included in the grant. An undocumented alien parent's income and resources are used in eligibility and budget computations.

3-005.07 Incarcerated Individuals: Any individual who is incarcerated is ineligible to be included in the ADC~~/MA~~ unit. If the incarcerated individual is the parent or needy caretaker relative in an ongoing case, s/he may be the payee for the unit for a maximum of three months. After three months if the parent or needy caretaker relative is still incarcerated, the case must be closed. An application may be taken with a specified relative, or guardian or conservator (see 468 NAC 2-006.02) as payee for the child(ren).

An applicant who is incarcerated and is the parent or needy caretaker relative may be the payee for the unit for a maximum of one month if s/he is maintaining a home for the child(ren). After one month, the case must be closed and an application may be taken with a specified relative, or guardian or conservator (see 468 NAC 2-006.02) as payee for the child(ren). An incarcerated applicant whose only child is an unborn may be eligible to receive ADC cash payment for the unborn in the last trimester.

{Effective 6/28/11}

3-006 Standard Filing Unit: The parent does not have a choice of whom s/he wants to include in the grant unit. All parents and dependent children must be included in the grant unit, except:

1. An unborn child during the first two trimesters of the mother's pregnancy;
2. Recipients of SSI or AABD/MA;
3. Sanctioned individuals;
4. Undocumented aliens;
5. An alleged father when the parents are unmarried and paternity has not been established;
6. A parent and his/her child when unmarried parents are living together, have a child in common, and the household does not qualify for a grant as a single unit. (See 468 NAC 2-006.07A1 for eligibility of the other family members, see 468-000-305 for examples of the standard filing unit); and
7. Department wards, children of Department wards (for exceptions see 468 NAC 3-005.02B2), and children who are receiving an adoption or guardianship subsidy.

All siblings who meet the definition of a dependent child must be included in the unit. The income and resources of all unit members, sanctioned or undocumented alien parents, and sanctioned 16 or 17-year-olds are used in determining eligibility. See 468 NAC 2-007.01 ff. for determination of the unit for a minor parent.

{Effective 10/10/2007}

3-007 Budget Computation

3-007.01 Budgeting Process: ADC budgeting measures the household's income for maintenance against the appropriate need and payment standards. The standard of need and payment standard are based on the number of eligible individuals in the unit.

3-007.02 Budget of an ADC/~~MA~~ Unit and Other Clients in a Household (Living as a Family Unit): When an ADC unit shares a household with individuals who are receiving assistance from another categorical program, the cases are budgeted separately. The worker must show the income of each client or ADC unit on its own budget.

3-007.03 Budget of an ADC/~~MA~~ Unit Living with an AABD/~~MA~~ or SDP/~~MA~~ Parent: See 468-000-303.

3-007.04 ADC Budget with Child, Spousal, and Cash Medical Support

3-007.04A Initial and Continuing Eligibility: Any child, spousal, and cash medical support, including arrears, (see definitions in 468 NAC 1-004) paid to the Nebraska Child Support Payment Center or paid directly to the client by the noncustodial parent before the approval date is considered in determining eligibility. The total amount of child, spousal, and cash medical support received by the client is considered. The worker must use in the budget the actual amount of support received and retained by the client.

To determine initial eligibility, the worker considers the total anticipated monthly child/spousal support.

For ongoing eligibility of an active ADC grant case, the worker considers the actual dollar amount of child, spousal, and cash support paid directly to the client by the noncustodial parent or paid to the Nebraska Child Support Payment Center and assigned to the Department. See 468 NAC 2-015.01 and 2-015.02 for eligibility and budgeting regulations. See 468 NAC 2-015.01 for regulations on projecting income. Spousal support that is not linked to child support is not assigned.

If the average monthly child, spousal, or cash medical support collection exceeds the family's ADC payment, the ADC grant is to be closed. ~~(See 468 NAC 4-001.01A, #3 for Medicaid eligibility.)~~

Child support (for months where the family did not receive an ADC grant) which is distributed to the custodial parent is counted as unearned income on the ADC budget. To determine the amount which is reflected on the ADC budget, the worker must use a three-month average of the amount distributed.

~~Cash medical support ordered as part of a support order is assigned for Medicaid-only cases as well as ADC grant cases.~~

{Effective 6/28/11}

3-007.04A1 Overpayment Due to Child Support: If the client receives child/spousal support before the approval date but it has not been budgeted, there is a IV-A overpayment. If the client receives child/spousal support after the approval date, the support is not counted in the budget because it is assigned. Child support that is received and retained by the client after approval of the case constitutes a IV-D overpayment.

{Effective 5/8/05}

3-007.04B Disbursed Collections: The following child support collections are returned to the court-ordered payee:

1. Child/spousal support collection for children not receiving an ADC grant; and
2. Current child/spousal support collection if the ADC grant is zero.

A payment received by the client is used in the first month possible, considering the unit's budgeting procedures.

3-008 Payments for Assistance

3-008.01 Source of Funds: Assistance payments are made from federal and/or state funds by state ~~warrant~~ payment. ~~Payments for medical care are made directly to the provider from federal and state funds by state warrant. The regulations and standards established for the Nebraska Medical Assistance Program are contained in Title 471.~~

3-008.02 Non-Restricted Payments: ADC assistance payments are made with no restriction on the use of the funds.

3-008.02A Federal TANF Payment Restrictions: Pursuant to Sec. 4004 of Public Law 112-96, effective 02/22/2012 it is a violation of Federal law to access TANF funds from an ATM located at or via a point-of-sale purchase at the following types of businesses:

1. Liquor stores;
2. Casinos, Gambling Casinos or Gaming Establishments; or
3. Any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

3-008.03 Temporary Payee: For situations requiring a temporary payee, see 468 NAC 2-006.01D.

3-008.04 Protective Payments: A protective payee is assigned temporarily when the worker has documented that the assistance is being mismanaged and is not being used in the best interests of the child. The protective payee must be an interested third party who is concerned with the welfare of the child and family.

3-008.04A Selection of Payee: The client must participate and consent to the extent possible in the selection of the payee for protective payments.

The payee must be a responsible and dependable person with the ability to relate positively to the client. The payee may be a relative, friend, neighbor, or a member of the clergy or of a church or community service group. The payee must be either geographically close to the client or have means of transportation for frequent contact.

The payee must not be:

1. A ~~local office~~ Department administrator;
2. A Department employee who determines eligibility for a categorical program for the client in question; or
3. Landlords, grocers, or other vendors of goods and services dealing directly with the client.

All other community resources must be explored before a worker may accept the payee assignment.

Care must be taken that the protective payee has ability in ordinary household budgeting; experience in purchasing food, clothing, and household supplies within a restricted income; and knowledge of effective household practices.

3-008.04A1 Service Provider: The worker must obtain Central Office approval before a service provider who contracts with the Department may act as protective payee for a client s/he serves.

Exception: Central Office approval is not required for a Family Support worker to act as a protective payee.

3-008.04B Responsibilities of Payee: Responsibilities of protective payees include:

1. Paying maintenance needs from the ADC grant (i.e., rent, utilities, food, clothing, etc.);
2. Explaining to the client how the grant will be spent;
3. Keeping records of payments received and disbursements of funds; and
4. Treating confidentially all personal information concerning the family.

3-008.04C Review of Payee: The worker must review as necessary the way in which a protective payee's responsibilities are being carried out.

3-008.04D In Mismanagement Cases: Protective payments are to be used only for those clients who have the capacity to learn to manage their funds and are not intended for those whose mental or physical limitations would prevent them from learning how to manage their own affairs.

The protective payments are designed for those persons who exhibit a deliberate mismanagement of money, or whose lack of experience or previous training in money management and budgeting creates mismanagement.

The worker must take into account whether:

1. The family has experienced some emergency or extraordinary event for which it was appropriate for available funds to be spent;
2. Expenses for necessary bills exceed the client's grant and other income; or
3. The family has withheld the payment as a reasonable exercise of consumer rights when there is a legitimate dispute as to whether terms of an agreement have been met.

It is necessary to identify children whose relatives have demonstrated such an inability to manage funds that payments have not been or are not currently being used in the best interests of the child.

Before a protective payee can be assigned, the client must have consistently mismanaged current ADC funds.

3-008.04D1 Evidence of Mismanagement: Evidence of persistent mismanagement of assistance payments consists of:

1. Continued inability to plan and spread necessary expenditures over the usual assistance planning period;
2. Continued evidence that the children are not properly fed or clothed and that expenditures for them are made in a way that threatens their chances for healthy growth and development;
3. Persistent and deliberate failure to meet obligations for rent, food, school supplies, and other essentials; or
4. Repeated evictions or incurrence of debts with attachments or levies made against current income.

The supervisor or local office administrator, after a review of the evidence presented by the worker, must decide whether protective payments are necessary.

3-008.04D2 Notification of Client: The worker must notify the client when:

1. A creditor requests a protective payment for mismanagement because the client has not paid his/her bills; or
2. The decision has been made not to use a protective payment when requested by a creditor.

3-008.04D3 Preliminary Services: Before assigning a protective payee, the agency must try to develop the client's ability to manage funds. The agency must give specialized services on family budgeting and purchasing, meeting financial obligations, debt management, etc. The worker must then advise the client that a continued misuse of the payments will result in protective payments. If the client continues to mismanage his/her assistance payments, the worker must arrange for a protective payee.

3-008.04D4 Role of Payee: The protective payee has a teaching and supervisory role. S/he should recognize the objectives of the protective payment plan and share the responsibility of planning and evaluation with the agency. This entails reports to the agency of funds spent for the family and of progress made by the client in learning better money management.

The worker must release information to the payee about the family members and their situation that is pertinent to the objectives of the plan. The payee must agree to safeguard all personal information concerning the family. A proper understanding of the rights of the client and confidential nature of the agency-client-payee relationship is of the utmost importance.

3-008.04D5 Services

3-008.04D5a: The worker will determine if there is need for protective services and offer all appropriate defined services.

3-008.04D5b: The worker must utilize the information to determine if protective payments are required and if protective payments should be continued.

3-008.04D5c: Services designed to improve management of funds must be provided to all protective payment cases. Such services should include instruction in household budgeting; purchasing of food, clothing, home furnishing, repair of clothing and equipment; balanced diets; and organization of the work of housekeeping.

3-008.04D5d: The worker must review and evaluate each case at least every six months to determine if the client has demonstrated sufficient improved ability to properly use payments so that protective payments are no longer necessary, or if the protective payment status should continue.

3-008.04D6 Case Record: The case record must include:

1. Evidence that the client had been advised that continued misuse of payments would result in protective payments;
2. Specific evidence that the client has shown persistent mismanagement of assistance payments;
3. A description of the plan and provision of services;
4. Information regarding the qualifications and choice of payee; and
5. Evaluation information giving specific reasons for determining whether protective payments should be continued or are no longer necessary.

3-008.04D7 Time Limit: Mismanagement cases must not remain on regular protective payment status for more than two years. After this period of time, if the client is unable to assume responsibility for the assistance grant, arrangement must be made for the appointment of a guardian or conservator.

3-008.04E Fair Hearing: The client must be given the opportunity to appeal the initial decision or continuance of protective payments and the choice of the protective payee.

3-008.05 Revision of Budget and Payment: The worker must revise the assistance budget and modify the payment whenever changes in the client's circumstances indicate a need to reconsider requirements or resources.

~~3-008.06 Home Repair - Vendor Payment: A request for home repair(s) is made if the following conditions apply and are documented in the case file:~~

~~1. The home is so defective that continued occupancy is unwarranted;~~
~~2. Rental costs elsewhere over a two-year period would exceed necessary repair costs;~~
~~3. Prior authorization has been given by the local office administrator for repairs being made;~~
~~4. The authorized amount does not exceed $500; and~~
~~5. The client is currently grant status.~~

~~No more than one request per home for repair(s) may be authorized for a home owned and occupied by a client.~~

3-008.07 Erroneous Payments: The following regulations apply to incorrect payments identified after October 31, 1981.

In cases which have both an underpayment and an overpayment, the worker ~~must~~ may offset one against the other in correcting the payment.

3-008.07A Underpayments: All underpayments must be corrected. In no case may one month's corrected payment exceed the maximum payment which can be made for any one month. If the unit is already receiving the maximum payment, the worker may correct an underpayment with a retroactive payment. Retroactive payments are not considered income or a resource in the month paid or in the following month. If underpayments have not been corrected when a case is closed, corrective payments must be made if the payee is eligible for assistance at a later date.

3-008.07B Overpayments: The agency must take all reasonable steps necessary to promptly correct all overpayments regardless of cause. The worker must record in the case record all steps taken to recoup any overpayments.

The worker must first send a demand letter, giving the client the choice of reimbursing all or part of the overpayment or having future assistance reduced. If the client reimburses part of the overpayment, the remainder must be recouped by grant reduction. The worker must allow the client ten days to respond to the demand letter. If the client requests recoupment within the last ten days, the worker must take necessary action at that time. If the client does not respond within ten days, the worker must begin recoupment procedures in the first month possible, taking into account adequate and timely notice.

If the client chooses to repay but fails to do so, the worker must immediately take necessary action to recoup the overpayment.

If a case with an overpayment is closed ~~or becomes MA only or MA with SOC~~, the agency must collect an overpayment of $35 or more if the client becomes eligible for a grant at a future date. The worker must send a demand letter advising the client that s/he is still liable for the overpayment.

A grant that is not issued because of the $10 minimum is not applied to an overpayment.

{Effective 10/10/2007}

3-008.07B1 Identification of an Overpayment: There are two types of overpayments:

1. Agency/Administrative errors: Worker errors caused by inaccurate computation or the worker's failure to take action;
2. Client errors: Errors caused because the client supplies inaccurate or incomplete information or fails to provide information resulting in an overpayment.

All overpayments, regardless of cause, must be recouped (if there is an active ADC grant case) or recovery must be attempted (from a closed ADC case) if the outstanding overpayment amount is $35 or more.

{Effective 10/10/2007}

3-008.07B2 Recoupment Calculation: The following calculation is used to determine the amount of the allowable grant reduction for one month.

When an overpayment is determined to be due to client or agency/administrative error, the ADC grant is reduced by ten percent of the family's payment.

When the overpayment is determined to have occurred due to an Intentional Program Violation or due to fraud as determined by a court of law, the ADC grant is reduced by 20 percent of the family's payment.

In cases where child/spousal support is assigned, the payment must not be reduced below $10.

{Effective 2/14/09}

3-008.07B3 Treatment of Child/Spousal Support in Determining Overpayments: When a client receives a grant for which s/he is ineligible, following is the treatment of ~~the client has two options regarding~~ any child/spousal support collected during the month of ineligibility:

~~1. After the entire grant is recouped, the Child Support, Central Office will return to the client any current child/spousal support collected for the month of ineligibility. The IV-A worker notifies the Division of Finance and Accounting, Child Support, Central Office, once the grant has been recouped.~~

~~2.~~ The collected child/spousal support for the month(s) of overpayment ~~may~~ will be used to offset the grant overpayment. ~~if the client requests this option in writing~~. The worker waits until the month of ineligibility is over to ensure that all child/spousal support for the month if considered. Any support collected and kept is subtracted from the total overpayment to arrive at the amount of overpayment to be recouped.

3-008.07B4 Retroactive SSI Payment: The first month of ineligibility for ADC~~/MA~~ for an individual with continuing SSI entitlement is the month s/he receives an SSI retroactive payment unless the SSI payment has been reduced by the amount of ADC paid for that month. Since ineligibility for ADC~~/MA~~ does not begin before receipt of an SSI payment, ADC payments issued before the receipt of SSI do not constitute overpayments (see 468 NAC 3-005.03).

3-008.07B5 Ninety Percent of the Payment Maximum:

Number in Unit	1	2	3	4	5	6	7	8	9	10
Standard	222	293	364	435	506	577	648	719	790	861
90 Percent	200	264	328	392	455	519	583	647	711	775

Ninety percent of the payment maximum is $200 for one parent/ needy caretaker relative of an SSI child with no other children eligible to receive assistance; for two eligible parents, 90 percent of the payment maximum is $264.

{Effective 12/27/97}

3-008.07B6 Zero Grant: If the assistance grant is reduced to zero, members of the assistance unit are still considered a grant case. In cases where child support is assigned, the payment must not be reduced below $10 to prevent termination of the assignment.

3-009 Child/Spousal Support Services: See Title 466.

3-010 Case Records: The case record of the ADC~~/MA~~ unit must be complete and must contain facts to substantiate each action with respect to assistance payments. Case records must be retained for four years from the closing of the case.

3-011 Fraud: See 465 NAC 2-007 ff.

CHAPTER 4 (RESERVED)

CHAPTER 5 (RESERVED)

CHAPTER 6-000 EMERGENCY ASSISTANCE (EA) TO NEEDY FAMILIES WITH CHILDREN

6-001 Legal Basis: The Emergency Assistance to Needy Families with Children Program (EA) is authorized by Section 68-128, Nebraska Revised Statutes.

EA must be provided in accordance with the following regulations. Assistance may be authorized only once per household in any 12 month period.

{Effective 12/27/97}

6-002 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.

{Effective 12/27/97}

6-003 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.

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

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

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 468-000-334. 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.

Household: Person or persons who will be eligible to receive EA services under the same application. A household must include at least one child who is a U.S. citizen or ~~eligible~~ qualified alien.

Specified Relative: A relative with which a child who is a U.S. citizen or ~~eligible~~ qualified alien must be living or have been living within six months prior to the month in which EA is requested. A specified relative includes a child's father, mother, grandfather, grandmother, brother, sister, stepfather, 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.

{Effective 12/27/97}

6-004 Application Processing

6-004.01 Application: An application for EA may be made by the client; his/her parent, guardian or conservator; a relative, caretaker, or another interested party.

{Effective 12/27/97}

6-004.02 Approval/Authorization: Approval/authorization of the EA application and related services will be done in accordance with procedures at 468-000-334. Services related to an approved EA application must be authorized as soon as possible.

{Effective 12/27/97}

6-005 Worker Responsibilities: The worker must:

1. Ensure completion of an EA application;
2. Determine eligibility for EA services;
3. Authorize necessary services;
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 Health and Human Services for the purpose of having the Director review any action or inaction;
7. Take all reasonable steps to act as promptly as possible on the application; and
8. Complete the notice of finding when eligibility has been determined.

{Effective 12/27/97}

6-006 Client Responsibilities: The client shall -

1. Cooperate with the 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 worker, a plan to alleviate and prevent a recurrence of the emergency situation.

{Effective 2/28/96}

6-007 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.

6-008 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. 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.
4. 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 468 NAC 6-010.
5. EA must not be used to supplement foster care.
6. EA is intended to be the program of last resort when no other sources of assistance are available.

{Effective 12/27/97}

6-008.01 Time Period For Services: Payment can be made for services to meet needs which arose up to 60 days before and which extend 60 days 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. Payment of services should be authorized as soon as possible in order to alleviate the emergency.

{Effective 12/27/97}

6-008.02 EA Benefits: Payment may be made for the following items if applicable eligibility requirements are met.

6-008.02A Shelter: Payment may be made for a mortgage payment, rent, and/or a rental deposit if the 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.

6-008.02B 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 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 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.

6-008.02C Home Furnishings: Payment may be made for the purchase or repair of only those home furnishings that are essential for health and safety.

6-008.02D Emergency Non-Food Items: Emergency non-food items such as toilet paper and cleaning supplies may be purchased.

6-008.02E Emergency Food: If food stamps cannot be used to meet the emergency, the 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 worker may supplement the food stamp allotment.

6-008.02F Emergency Clothing: Emergency clothing may be purchased if it is essential for health and safety.

6-008.02G 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 worker shall give prior approval to the moving plan.

6-008.02H Transportation: Transportation may be paid for a family who was traveling through the county or the state when the emergency occurred. Transportation may also be paid to obtain emergency medical treatment.

6-008.02J 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.

6-008.02K Medical Payments: Medical payments may be made to alleviate current needs of a family who are in a crisis situation because of a catastrophic illness. The illness must require hospitalization (see 468 NAC 6-003). 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 worker must determine that the family is not eligible for ~~categorical medical assistance~~ Medicaid.

6-008.02L Emergency Telephone Installation: Payment may be made for emergency telephone installation when a phone is necessary because of medical needs.

6-009 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 (an eligible pregnant woman in her third trimester with no other children may be eligible);
2. The child is currently living with one or both parents, or, within six months before the month in which assistance is required, was living with a specified relative or a legally appointed guardian or conservator in a place of residence maintained as their own home (see 468 NAC 6-003 for the definition of a specified relative);
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 eligible alien status (see 468 NAC 2-002);
5. The household meets relevant income eligibility requirements, as set forth in 468 NAC 6-009.01;
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. This includes situations in which the adult in the family has been sanctioned for failure to participate in the Employment First Program.

Note: EA is not limited to families eligible for or receiving ADC.

{Effective 6/28/11}

6-009.01 Income Eligibility Requirements: The family's gross monthly income must not exceed 185 percent of the ADC standard of need for the family size (see chart at 468-000-207).

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

{Effective 2/14/09}

6-010 General EA Payment Provisions: Payment for all approved EA is made by ~~warrant~~ payment 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.

With the exception of catastrophic illness payments, total payments for the benefit period of 12 months of EA must not exceed one month's ADC payment maximum for the applicant's family size (see 468-000-207).

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

6-011 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.

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

6-012 Appeal Process: Every applicant for or recipient of EA has a right to appeal to the Director of the Nebraska Department of Health and Human 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 Director for the purpose of having the Director review any action or inaction.

6-012.01 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.

CHAPTER 4-000 NEBRASKA MEDICAL ASSISTANCE PROGRAM (MEDICAID): Medicaid provides medical care and services to dependent children and responsible relatives living as a family unit who do not have sufficient income to meet their medical needs, and who qualify according to the program definitions.

4-001 Eligibility Criteria

4-001.01 Eligibility Requirements: To be eligible for ADC/MA only, the individual must meet the following requirements:

1. Application (see 468 NAC 2-001);
2. U.S. citizenship or alien status (see 468 NAC 2-002, 4-001.01B1, and 4-005);
3. Nebraska residence (see 468 NAC 2-003);
4. Social Security number (see 468 NAC 2-004);
5. Deprivation of parental support or care (see 468 NAC 4-001.01F);
6. Relative responsibility (see 468 NAC 2-006);
7. Age requirements for dependent children (see 468 NAC 4-003);
8. Resources (see 468 NAC 4-006);
9. Income (see 468 NAC 4-007);
10. Cooperation with requirements for third party medical payments (see 468 NAC 4-002);
11. Enrollment in an available health plan (see 468 NAC 4-001.01C); and
12. Cooperation with the Child Support Enforcement Unit (see 468 NAC 4-002.07).

{Effective 6/28/11}

4-001.01A Individuals Eligible for MA Without a Separate Application: The following individuals are automatically eligible for MA without a separate eligibility determination:

1. Clients who receive an assistance grant, including clients who do not receive a payment because of the $10 minimum payment are eligible for MA.
2. ADC/MA clients who become ineligible for an assistance payment because of increased earnings or increased hours of employment are eligible for up to 12 months of MA (see 468 NAC 4-001.01A2).
3. ADC/MA clients who become ineligible wholly or partially because of the collection or increased collection of child/spousal support are eligible for four months of MA if the case received a grant in three of the six months preceding ineligibility.

4. Essential children, as defined by SSI, of AABD recipient(s) who would receive a state supplemental payment, or would receive a payment except the SSI exceeds the AABD budgetary need are eligible for MA.

For numbers 2, 3, and 4, medical eligibility begins with the month after the last grant payment is issued (or the unit was eligible but did not receive a payment because of the $10 minimum). If the worker determines that the unit was ineligible for a grant, medical eligibility is determined to have begun with the first month in which the ADC grant was erroneously paid.

5. A pregnant woman is eligible for post-partum medical services. The 60-day post-partum period ends at the end of the second month following the month the pregnancy ended.

6. Once a newborn has been determined eligible for the month of birth or if Medicaid paid for the birth, the eligibility continues through the month the child turns age one, without regard to changes in the household income, as long as the newborn continues to reside in Nebraska.

{Effective 6/28/11}

4-001.01A1 Eligibility of Family Members: The Medicaid eligibility of each family member must be determined based on the family's total countable income. The family's income is compared to the appropriate income standard for a family of that size. The worker must determine the eligibility of:

1. Uninsured children at an income level no greater than 200% of the Federal Poverty Level;
2. Insured children at an income no greater than the appropriate Federal Poverty Level determined by the child's age;
3. Adults using income standards no greater than the applicable medical categorical eligibility standards established by federal or state law.

For examples, see 468-000-303.

4-001.01A2 Eligibility for Transitional Medical Assistance (TMA): ADC/MA clients are eligible for up to 12 months of TMA without a share of cost if all of the following are met:

1. The case has earned income which results in ineligibility for a grant and/or ADC related medical assistance (or in conjunction with other factors results in ineligibility for a grant and/or ADC related medical assistance); Note: The parent or needy caretaker relative or guardian or conservator must be in the household.
2. The unit received a grant and/or ADC related medical assistance for which they were eligible (or did not receive a grant and/or ADC related medical assistance but met income and resource eligibility to receive a grant and/or ADC related medical assistance in three of the last six months preceding ineligibility;
3. The parent or needy caretaker relative or needy guardian or conservator is employed.

The unit is ineligible for TMA if it received a grant and/or ADC related medical assistance in one or more of the three qualifying months as a result of convicted fraud during the last six months before the beginning of the transitional period.

The unit must submit the required reports [see 468 NAC 4-001.01A2c(1)] in order to continue to receive TMA in the second six months. See 468-000-327 for the ADC Transitional Timeline.

There is no resource test while the unit is in TMA.

Note: The TMA unit may be subject to a premium beginning with Month 7. Failure to pay the required premium by the 21st of the following month will result in ineligibility for the month for which the premium was owed.

A family that was granted TMA eligibility before November 1, 2002, will have their total period of TMA reduced to a maximum of 12 months.

{Effective 2/14/09}

4-001.01A2a Eligible Family Members: If a family member, such as a parent or a child, returns to the home, the worker must consider grant or ADC related medical assistance eligibility for the whole family. If the returning family member is a responsible relative, the worker must add in the relative's income and compare the family's income to the income guideline for the unit plus the responsible relative. If the family is ineligible for a grant or ADC related medical assistance, the returning family member is added to the TMA unit. A child who is born or adopted while the family is receiving TMA is added to the TMA unit.

A parent who has been sanctioned while on grant for failure to cooperate with Employment First may be included in the TMA unit. A parent who has been sanctioned for noncooperation with child support or TPL is not eligible until cooperation is resolved.

Once a client is in TMA, s/he is not required to cooperate with program requirements such as Employment First, TPL, and child support.

{Effective 2/14/09}

4-001.01A2b Removed Family Members: If a unit member leaves the home, the worker must consider grant eligibility for the remaining unit members. If the family is ineligible for a grant and/or ADC related medical assistance, the remaining unit members may continue to be eligible for TMA. If it is the only dependent child who leaves, the whole unit loses eligibility for TMA.

If the only child no longer meets the age qualification (see 468 NAC 4-003), the unit loses eligibility for TMA. Before closing the case, the worker must determine if the child is eligible for another assistance program, such as Ribicoff, SAM, or Kids Connection.

{Effective 2/14/09}

4-001.01A2c Initial Six Months

4-001.01A2c(1) Report Requirement: The unit must report the gross monthly earnings and child care costs as billed or paid for each of the first three months of the transitional period. The first report is due by the 21st day of the fourth month. The second report is due by the 21st of the seventh month.

Note: The unit is not required to report unearned income.

4-001.01A2c(2) Causes of Termination: The unit become ineligible for TMA if:

1. The unit becomes eligible for a grant or ADC related medical assistance;
2. The unit moves out of the state;
3. There no longer is an eligible dependent child in the unit.
   Note: If the only child is receiving AABD or SSI, the parent(s) may be eligible for TMA.

If the unit regains grant or ADC related medical assistance eligibility for one or two months because of a temporary reduction or loss of income, then again loses grant or ADC related medical assistance eligibility because of earnings, the original TMA cycle resumes. If the unit receives three or more ADC grants or months of ADC related medical assistance, then again loses grant or ADC related medical assistance eligibility because of earnings, a new TMA cycle begins.

If the unit becomes grant or ADC related medical assistance eligible again because of loss of income, the client may refuse the grant or ADC related medical assistance in order to continue receiving TMA.

{Effective2/14/09}

4-001.01A2d Months 7 through 12: Beginning with month 7, the household is subject to payment of a monthly premium if their countable income is between 100 and 185 percent of the Federal Poverty Level, see 468-000-215.

{Effective 5/8/05}

4-001.01A2d(1) Causes for Termination: The unit is ineligible for the remaining months of TMA if it:

1. Fails without good cause [see 468 NAC 4-001.01A2d(6)] to submit required reports of earnings and child care costs;
2. No longer includes a dependent child; or
3. Has gross monthly earnings (less child care costs) during the preceding three-month period in excess of 185 percent of the FPL.

If the unit regains grant or ADC related medical eligibility for one or two months because of a temporary reduction or loss of income, then again loses grant or ADC related medical assistance eligibility because of earnings, the original TMA cycle resumes. If the unit receives three or more ADC grants or months of ADC related medical assistance, then again loses grant or ADC related medical assistance eligibility because of earnings, a new TMA cycle begins.

{Effective 2/14/09}

4-001.01A2d(2) Report Requirement: The unit must provide a report of gross monthly earnings and child care costs as billed or paid for each three-month period of months 7 through 12.

Note: The unit is not required to report unearned income.

{Effective 10/15/2002}

4-001.01A2d(3) Change in Unit: If a unit member leaves, the worker must redetermine income eligibility for the remaining unit members.

If a responsible relative returns to the home, the unit size is increased and the responsible relative's income is budgeted to the TMA unit.

4-001.01A2d(4) Income Eligibility: The worker averages the unit's earned income for the three-month report period to determine income eligibility. If the unit has earned income (minus the cost of child care) equal to or less than 185 percent of the Federal Poverty Level, they are eligible for TMA.

4-001.01A2d(5) Good Cause for Terminating Employment: Some examples of good cause for terminating employment include:

1. Illness of the employed unit member;
2. Illness of another unit 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 unit member to leave other employment;
6. Acceptance of a bona fide job offer which, because of circumstances beyond the control of the unit member, subsequently does not materialize; or
7. 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.

4-001.01A2d(6) Good Cause for Failing to Submit a Quarterly Report Form (QRF): The following are some examples of good cause for failing to submit a QRF:

1. Death of the parent or caretaker relative;
2. Hospitalization of a unit member during the due period for the QRF (the client is responsible for providing verification of hospitalization);
3. Natural disaster (the Central Office will issue instructions when these situations occur);

4-001.01A2e After Month 12: When a client has exhausted his/her months of TMA, s/he may still be eligible for ADC/MA or another medical assistance program.

{Effective 10/15/2002}

4-001.01B Individuals Ineligible for Assistance Grant But Eligible for MA: Eligibility for the following individuals is determined using eligibility requirements listed in 468 NAC 4-001.01. The worker must assess eligibility for these individuals.

1. Individuals who have resources in excess of resource limits for an ADC grant;
2. Individuals who have income in excess of budgetary standards for an ADC grant;
3. Essential children, as defined by SSI, or medical assistance only recipients;
4. Children sanctioned for failure or refusal to cooperate with Employment First;
5. Pregnant women beginning with the date of the pregnancy verification (the date of request or the date that the pregnancy is known to the agency), through the end of the second trimester; and
6. An individual who is ineligible to be included in the grant unit because of a drug-related felony conviction for an offense after August 22, 1996.

{Effective 6/28/11}

4-001.01B1 Medical Assistance for Certain Pregnant Woman and Children: A child or pregnant woman may be Medicaid eligible if s/he is a Nebraska resident, and is "lawfully present" in the United States. A child or pregnant woman shall be considered "lawfully present" if s/he is:

1. A qualified alien as defined in section 431 of PRWORA (8 U.S.C. §1641). Specific documentation requirements for this category are set forth at 468 NAC 2-002;
2. An alien in nonimmigrant status who has not violated the terms of the status under which s/he was admitted or to which he or she has changed after admission;
3. An alien who has been paroled into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act (INA) (8 U.S.C. §1182(d)(5)) for less than one year, except for an alien paroled for prosecution, for deferred inspection or pending removal proceedings;
4. An alien who belongs to one of the following classes:

    a. Aliens currently in temporary resident status pursuant to section 210 or 245A of the INA (8 U.S.C. §§1160 or 1255a, respectively);
    b. Aliens currently under Temporary Protected Status (TPS) pursuant to section 244 of the INA (8 U.S.C. §1254a), and pending applicants for TPS who have been granted employment authorization;

c. Aliens who have been granted employment authorization under 8 CFR 274a.12(c)(9), (10), (16), (18), (20), (22), or (24);
d. Family Unity beneficiaries pursuant to section 301 of Pub. L. 101-649, as amended;
e. Aliens currently under Deferred Enforced Departure (DED) pursuant to a decision made by the President;
f. Aliens currently in deferred action status; or
g. Aliens whose visa petition has been approved and who have a pending application for adjustment of status;

5. An alien who has a pending application for asylum under section 208(a) of the INA (8 U.S.C. § 1158) or for withholding of removal under section 241(b)(3) of the INA (8 U.S.C. § 1231) or under the Convention Against Torture who has been granted employment authorization, and such an applicant under the age of 14 who has had an application pending for at least 180 days;
6. An alien who has been granted withholding of removal under the Convention Against Torture;
7. A child who has a pending application for Special Immigrant Juvenile status as described in section 101(a)(27)(J) of the INA (8 U.S.C. § 1101(a)(27)(J));
8. An alien who is lawfully present in the Commonwealth of the Northern Mariana Islands under 48 U.S.C. § 1806(e); or
9. An alien who is lawfully present in American Samoa under the immigration laws of American Samoa.

Note: See the Exception for sponsor deeming at 468 NAC 2-018.04.

4-001.01B2 Medical Assistance for Aliens:

4-001.01B2a Restricted Medical Assistance: An alien who meets ADC eligibility requirements (see 468 NAC 2-000) may receive medical assistance if s/he has the sudden onset of an emergency medical condition (see 468 NAC 4-001.01B2a(1)) and is not lawfully admitted for permanent residence in the United States.

Note: For an alien who is aged, blind, or disabled, see 469 NAC 4-001.02A. If an alien age 18 or younger does not meet the deprivation requirement, see Title 477.

{Effective 5/8/05}

4-001.01B2a(1) Emergency Medical Condition: An emergency medical condition is defined as a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) where the absence of immediate medical attention could reasonably be expected to result in:

1. Serious jeopardy to the patient's health;
2. Serious impairment to bodily functions; or
3. Serious dysfunction of any bodily organ or part.

The State Review Team (SRT) makes the determination that the client has an emergency medical condition.

4-001.01C Cooperation in Obtaining Health Insurance: As a condition for eligibility for MA, a client is required to enroll in an available health plan if the Department has determined that it is cost effective and the client is able to enroll on his/her own behalf. The Department then pays the premiums, deductibles, coinsurance, and other cost sharing obligations. A client who refuses to enroll or remain enrolled is removed from the MA unit but the ADC child(ren) remains eligible.

4-001.01D Presumptive Eligibility (PE) for Pregnant Women: A pregnant woman may apply at a qualified provider's office (see 471 NAC 28-001.01) for ambulatory prenatal services. The provider makes a presumptive determination of the woman's eligibility based only on declared income and citizenship/eligibility alien status. Income of the woman and spouse (if he is in the home) or the responsible parent(s) of a pregnant minor is counted. The provider does not investigate resources or other eligibility requirements. For income levels, see 471-000-202.

The provider must forward the application, along with the attestation form if applicable, to the Department within five working days after the determination of presumptive eligibility. The application date is the date the provider determines presumptive eligibility for assistance. The presumptive eligibility form is an application for Medicaid for the pregnant woman program and serves as verification for pregnancy. This form also serves as a Medicaid application for the pregnant woman's children. The presumptive application includes the requirement of attestation of citizenship/eligible alien status, third party liability insurance cooperation, child support cooperation, and options to claim good cause. Upon receiving the presumptive eligibility form, the Department opens the PE case on N-FOCUS and also pends the pregnant woman and children listed on the application. The Department reviews the application and mails a verification checklist to requesting all the verifications needed to determine eligibility. The presumptive case remains open until a determination of eligibility is made. The determination of eligibility must be made within 45 days. PE will automatically close when Medicaid is approved or denied. A presumptive application approved in error will be closed by the Department upon discovery of the error. The Department is not required to notify the woman that her PE case has closed, but the Department is required to send notice when Medicaid eligibility has been determined.

A pregnant woman may receive only one period of presumptive eligibility per pregnancy. {Effective 6/28/11}

4-001.01D1 Continuous Eligibility for Pregnant Women: Once a pregnant woman is determined Medicaid eligible, she remains continuously eligible through the 60-day postpartum period unless:

1. The mother moves out of state;
2. The worker determines that the original eligibility was based on erroneous or incomplete information; or
3. The mother enters an ineligible living arrangement (see 468 NAC 3-005.07).

4-001.01E Guidelines for Parental Responsibility: The worker must use the following guidelines to determine if a child is considered part of the household:

1. If the child is living in the same household with parent(s), the parent(s)' income must be included.
   Exceptions: Home and Community Based and MR Waiver: If a child, living in the parent(s)' home is receiving Medicaid services through a Home and Community Based Service waiver or an MR waiver, the parent(s)' income and resources are not deemed. This does not require Central Office review.

   Katie Beckett: If the child is not receiving waiver services, the income and resources of a parent are not deemed if the minor is severely disabled, AABD-eligible, and would require the level of care provided in a medical institution (Katie Beckett child) and requires certain medical services for special needs (see 471 NAC 12-014). This exception applies only if the cost of care in the home is less expensive than the cost of care in a medical institution.

   Autism Waiver: If a child, living in the parent(s)' home is receiving Medicaid services through Nebraska's Home and Community Based Waiver for Children with Autism Spectrum Disorder, both the parent(s)' income and Autism waiver child's income must be verified solely to determine a premium due amount when the gross income exceeds 185% FPL.

2. If the child is temporarily absent from the home (generally 90 days or less) but is still considered part of the household, the parent(s)' income must be included. Temporary absence includes, but is not limited to, school attendance where the child returns to the home on a regular basis (weekends, vacations, or summers). Residence in an institution for mental retardation or mental illness for 90 days or less may be considered temporary absence if the child was living in the parent(s)' household before institutionalization and will return to the parent(s)' household upon discharge.
3. If the child is permanently out of the home and no longer considered part of the household, the parent(s)' income must not be included.

If income is deemed from a parent to a child in an IMD, see 477 NAC 2-007.04.

4-001.01F Requirements for Two-Parent Families: Two-parent families must meet the following eligibility requirements.

4-001.01F1 Hundred-Hour Rule: Neither medically needy parent can be working more than 100 hours in a calendar month. The case manager will consider if the parent(s) worked more than 100 hours in any of the three previous calendar months, or if the parent(s) is scheduled to work more than 100 hours for the month of application.

Work study is considered employment when determining the 100 hours.

4-001.01F2 Physical or Mental Incapacity of a Parent: A needy child is considered deprived of parental support or care if either parent has a physical or mental incapacity. If the incapacitated parent is an ineligible alien, s/he is not eligible to be included in the medical unit. However, the children - who must be citizens or lawfully admitted aliens - and the spouse of the incapacitated ineligible alien, if otherwise eligible, may receive assistance. If a citizen or legal alien who qualifies as an incapacitated parent is married to an ineligible alien, the ineligible alien is ineligible, but the rest of the unit may be eligible.

The incapacitated parent does not have to be included in the unit if s/he is receiving AABD/MA and is considered disabled or blind. An incapacitated parent who is receiving SDP/MA must be included in the ADC unit (see 468 NAC 3-006). If the parent is receiving Aid to the Aged, s/he must be determined incapacitated according to 468 NAC 4-001.01F2a.

4-001.01F2a Definition of Physical or Mental Incapacity: "Physical or mental incapacity" means any physical or mental illness, impairment, or defect which is so severe as to substantially reduce or eliminate the parent's ability to provide support or care for a child(ren). The incapacity must be expected to last at least 30 days.

Note: Age itself is not considered incapacity.

4-001.01F2b Determination of Incapacity: If a parent is receiving RSDI, SSI, AABD, or SDP based on disability or blindness, s/he qualifies as incapacitated. For all others the determination of incapacity is made by the State Review Team (SRT). For eligibility of the parent for AABD/MA or SDP/MA, see Title 469.

4-001.01F2b(1) Release to Work: If the client is released by the doctor to return to work before the review set by the State Review Team, the client is determined no longer incapacitated if s/he returns to work.

4-001.01F2b(2) Requirement to Cooperate: The incapacitated parent is required to cooperate in obtaining treatment or rehabilitative or vocational services that are recommended on Form DM-5R. If the incapacitated parent fails to obtain the treatment or services, the case is ineligible.

4-001.01G Medical Assistance and Employment First Limits: Medical assistance is not time limited for individuals who refuse a grant or those who are ineligible for a grant because of the $10 payment minimum (see 468 NAC 3-003).

4-001.01H Six Months' Continuous Eligibility: Children from birth through age 18 are eligible for 6 months of continuous Medicaid from the date of initial eligibility unless:

1. The child turns 19 within the 6 months;
2. The child moves out of state;
3. The worker determines that the original eligibility was based on erroneous or incomplete information;
4. The child dies; or
5. The child enters an ineligible living arrangement (see 477 NAC 2-008.01).

No income or resource review is required.

For budgeting after the six month's continuous Medicaid, see 477 NAC 1-010.01.

4-002 Assignment of Third Party Medical Payments: Application for medical assistance constitutes an automatic assignment to the Nebraska Department of Health and Human Services of the client's rights to third party medical payments. For child support requirements, see 468 NAC 2-019 ff. This assignment includes the rights of the client as well as the rights of any other member of the ADC/MA unit.

This assignment gives the Department the right to pursue and receive payments from any third party liable to pay for the cost of medical care and services of the client or any other unit member and which otherwise would be covered by NMAP.

4-002.01 (Reserved)

4-002.02 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 care, regardless of the type of medical service being provided.

4-002.03 Cooperation in Obtaining Third Party Payments: As a condition of eligibility for medical assistance, the client must cooperate in obtaining third party payments unless s/he has good cause for noncooperation (see 468 NAC 4-002.03B3 ff.). Cooperation includes any or all of the following:

1. Providing complete information regarding the extent of third party coverage which s/he or any other unit member has or may have. This includes coverage provided by a person not in the unit or by an agency;
2. Providing any additional information or signing claim forms which may be necessary for identification and collection of potential third party payments;
3. Appearing as a witness in a court or another proceeding, if necessary;
4. Notifying the Department of any action s/he is initiating to recover money from a liable third party for medical care or services. This includes the identity of the third party as well as the entire amount of any settlement, court award, or judgment;
5. Reimbursing the Department or paying to the provider any payments received directly from a third party for any services payable by NMAP; and
6. Taking any other reasonable steps to secure medical support payments.

4-002.03A Refusal to Cooperate: The worker is responsible for determining noncooperation by the client. This determination is based on the client's failure or refusal to fulfill the requirements listed in 468 NAC 4-002.03.

4-002.03B Opportunity to Claim Good Cause

4-002.03B1 Notification of Right: The worker must notify the client of the right to claim good cause for noncooperation at the intake interview, redetermination, and whenever cooperation becomes an issue.

The worker must give the client a verbal explanation of good cause and the opportunity to ask questions.

A written explanation of good cause is included in the Application for Assistance.

{Effective 6/28/11}

4-002.03B2 Worker's Responsibilities If Good Cause Claimed: If the client claims good cause, the worker must:

1. Explain that the client has the burden of establishing the existence of a good cause circumstance; and
2. Obtain a signed statement from the client listing the reason(s) for claiming good cause. The client is allowed 20 days to present evidence of the claim.

4-002.03B3 Acceptable Circumstances for Good Cause: Good cause claims must be substantiated by signed statements. When documentary evidence is not available the client shall furnish sufficient information as to the location of the information.

To establish good cause, the evidence must show that cooperation would not be in the best interest of the client or another unit member for whom assignment is sought. Good cause includes the following circumstances, provided proper evidence is obtained.

4-002.03B3a Physical or Emotional Harm to the Client or Other Unit Member: Good cause exists if the client's cooperation in assigning benefits is reasonably anticipated to result in physical or emotional harm to the client or another unit member. Emotional harm must only be based upon a demonstration of an emotional impairment that substantially reduces the individual's functioning.

4-002.03B3a(1) Documentary Evidence: Documentary evidence which indicates these circumstances includes:

1. Medical records which document emotional health history and present emotional health status of the client or other unit member;
2. Written statements from a mental health professional indicating the diagnosis or prognosis concerning the emotional health of the client or other unit member;
3. Court, medical, criminal, protective services, social services, psychological, or law enforcement records which indicate that the third party might inflict serious physical or emotional harm on the child or parent/needy caretaker relative; or
4. Signed statements from individuals other than the client with knowledge of the circumstances which provide the basis for the claim.

4-002.03B3a(2) Evidence Not Submitted by Client: When the claim is based on the client's anticipation of physical harm and corroborative evidence is not submitted in support of the claim the worker must:

1. Investigate the good cause claim when s/he believes that the claim is credible without corroborative evidence and corroborative evidence is not available; and
2. Find good cause if the client's statement and the investigation indicate that the client has good cause for refusing to cooperate.

4-002.03B3a(3) Worker Considerations: If the determination of good cause is not substantiated by documentary evidence, the worker must consider and document the following evidence:

1. The present physical or mental state of the client;
2. The physical or mental health history of the client;
3. Intensity and probable duration of the physical or mental upset; and
4. The degree of cooperation required by the client.

4-002.03B4 Decision on Good Cause: The worker must determine good cause and notify the client of the decision on a Notice of Action. If the worker determines that good cause does not exist, s/he allows the client ten days to respond from the date that the Notice of Action was mailed. If the client does not cooperate, withdraw the application, or request the case closed, a sanction is imposed (see 468 NAC 4-002.03C).

4-002.03B5 Delay of Assistance Pending Determination: The agency must not deny, delay, or discontinue assistance pending a determination of good cause 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.

4-002.03B6 Review of Good Cause: At the time of each redetermination, the worker must review a good cause claim based on a circumstance that is subject to change.

If circumstances remain the same, no action is required. A new determination is necessary if circumstances have changed. If good cause no longer exists, the requirement to cooperate must be enforced.

4-002.03C Sanction for Refusal to Cooperate: If the client fails or refuses 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 4-002.03), the client is ineligible for grant and MA. 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.

4-002.04 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 payment is intended is payable by NMAP, 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 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.

If the insurance payment exceeds NMAP 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.

4-002.05 Willfully Withheld Information: When the evidence clearly establishes that a client willfully withheld information regarding a third party medical payment which resulted in an overpayment of NMAP expenditures, the worker must refer the case to the Special Investigation Unit, Central Office, or in the Omaha Office to the Omaha Special Investigation Unit. Once a case has been referred to the Special Investigation Unit, the worker must take no action with regard to the prosecution of the suspected fraud except in accordance with instructions or approval by the Special Investigation Unit. However, the worker must complete normal case actions which include applying the appropriate sanction in this section.

4-002.06 Termination of Assignment: When a client's grant and medical case is rejected or closed, or an individual is removed from the medical unit, the assignment provision is terminated. The client's rights to any future third party and medical support payments are automatically restored effective with the date of ineligibility. However, the assignment remains in effect for the time period during which the client was on medical assistance.

4-002.07 Child Support Enforcement Services: Child Support Enforcement Services are provided to an ADC/MA child age 18 or younger. Unless the custodian has good cause (see 468 NAC 4-002.03B), s/he is required to cooperate with the Child Support Enforcement Unit in obtaining support. If the custodian fails or refuses to cooperate with CSE, the ADC child continues to be eligible.

{Effective 5/8/05}

4-003 Age Requirement for a Dependent Child: A dependent child is eligible through the month of his/her 18th birthday. A child is eligible through the entire month of his/her 19th birthday if s/he is a full-time student regularly attending a secondary school, or the equivalent level of vocational or technical training (this does not include college).

An 18-year-old is eligible through the month of graduation from high school or the equivalent level of vocational or technical training.

For medical eligibility for a child age 18 or younger who no longer meets the definition of a dependent child, see Title 477.

{Effective 8/18/03}

4-004 Effective Date of Medical Eligibility: The effective date of eligibility for MA is determined according to provisions in the following regulations. If an individual is eligible one day of the month, s/he is eligible the entire month.

4-004.01 Prospective Eligibility: Prospective eligibility is effective the first day of the month of request if the client was eligible for Medicaid in that same month and had a medical need.

4-004.02 Retroactive Eligibility: Retroactive eligibility is effective no earlier than the first day of the third month before the month of request if the following conditions are met:

1. Eligibility is determined and a budget computed separately for each of the three months;
2. A medical need exists; and
3. Elements of eligibility were met at some time during each month.

An applicant may be eligible for the retroactive period (or any single month(s) of the retroactive period) even though ineligible for the prospective period.

If a client at the time of application declares that s/he incurred medical expenses during the retroactive period and eligibility is not approved, the case record must contain documentation of the reason the client was not eligible in one or more months of the retroactive period.

4-004.02A Medicaid Effective Date of a Pregnant Woman: The Medicaid effective date for an otherwise eligible pregnant woman can be determined up to three months before the request for Medicaid, as long as the pregnancy is medically verified to have existed at the beginning of this retroactive period.

If the physician or licensed medical professional verifies that the woman was pregnant during one or more of the three months before the month of request, application for retroactive Medicaid eligibility may be approved for the month(s) in which all other criteria were met and medical expenses were incurred. The worker shall determine eligibility for each month individually.

See 468 NAC 2-004.02 for the requirement for an SSN for a newborn.

{Effective 5/8/05}

4-004.03 Parent Not in the Unit: When the parent is not in the unit, e.g., an ineligible or sanctioned parent who is out of the unit, retroactive eligibility may be determined for the eligible dependent child(ren) if a medical need exists.

If the income of a parent (eligible or ineligible) is considered in determining MA for the dependent child, then the medical obligations and/or expenses of that parent must be considered to meet the share of cost of the unit. If income of a minor's parent(s) is considered in determining MA for the minor parent and his/her child(ren), the worker must consider the medical obligations and/or expenses of the minor's parent(s) and any other dependents of the parent(s) who are in the home and who are or could be claimed by the parent(s) as dependents for income tax purposes.

4-005 Citizenship and Alien Status: In order to be eligible for ADC/MA only, 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;
   Note: A child born in the United States is a U.S. citizen. A newborn who was determined to be eligible for Medicaid in the month of birth meets citizenship and identify requirements without further verification; this includes newborns whose birth expenses were paid through Emergency Medical Assistance for Aliens.
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 the 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 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. 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, 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 honorable discharge (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 INA, but only after having 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; and
7. For Medical assistance only, certain American Indian tribe members born in Canada or outside the United States or who are a member of an Indian tribe.

Note: Aliens who do not meet the requirements above may be eligible for emergency medical services only (see 469 NAC 4-002.02A). A pregnant alien woman or alien child who does not meet the above may be eligible as lawfully present and will need Central Office approval.

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. Medical benefits must not be denied, delayed, reduced, or terminated pending receipt of the requested citizenship verification. 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.

{Effective 08/28/2013}

4-005.01 Verification of Alien Status: When a client states that one or more of the unit members is an alien, the worker must require the client to present verification for each alien member. If the client has documentation containing an alien registration number, the worker must verify the alien status using the Systematic Alien Verification for Entitlements (SAVE) system. For further verification procedures, see 468-000-300 and 468-000-321.

4-005.02 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 be provided for up to 90 days from the date the individual arrives in the United States. This assistance may include reception service, food, shelter, clothing, and transportation. It may also include payment for special services such as medical and psychiatric care. Any assistance that is provided through General Assistance or Emergency Assistance may be reimbursed through federal funds. The individual is required to sign an agreement to repay the U.S. government for the cost of the assistance provided.

4-006 Resources

4-006.01 Maximum Resource Levels: The established maximums for available resources which the client may own and still be eligible for MA only are as follows:

One member unit	$4,000
Two member unit or family	6,000
Three member unit or family	6,025
Four member unit or family	6,050
Each additional individual	+ 25

4-006.02 (Reserved)

4-006.03 Treatment of Resources: For the treatment of all resources except those in the following regulations, the criteria outlined in 468 NAC 2-008 ff. are used.

4-006.03A 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 client has more than one motor 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.

4-006.03B Essential Property: If the client owns a resource that is used in his/her trade or business, the resource is disregarded, regardless of the value. This includes real property such as land, houses, or buildings as well as personal property such as farm machinery, business equipment, livestock, poultry, crops, tools, safety equipment, or business bank accounts as long as the funds are separated from other liquid resources. The client or a responsible relative must be actively involved in the trade or business. See 468-000-330 for examples.

4-006.03B1 Nonbusiness Property: A maximum of $6,000 equity value of nonbusiness property (real or personal) that is used to produce goods or services essential to daily activities is excluded from resources. For instance, an individual may maintain livestock for consumption in his/her own household. There is no limit on the value of livestock, poultry, and crops for the household's own consumption (see 468 NAC 2-008.02B).

The property must be in current use or there is the reasonable expectation that use will resume.

Any equity in excess of $6,000 is counted as a resource. If the excess resource is real property, see 468 NAC 2-008.07B5 for regulations on liquidating real property.

4-006.03C Funds Set Aside for Burial: See 469 NAC 2-009.07A3.

4-006.04 Reduction of Resources: An application for an individual who has excess resources may be held pending until the resources are reduced. Excess resources may be reduced by paying obligations for medical costs. Medical eligibility begins with the first day of the month of the incurred obligation which was used to reduce the resources to the allowable maximum (see 468 NAC 4-006.01). Medical eligibility may not be established earlier than the three-month retroactive period.

4-006.05 Individual Added to an Existing Unit: The resources of the total unit (the previous unit plus the added individual) are compared to the resource maximums (see 468 NAC 4-006.01) based on the total unit size.

{Effective 12/02/2006}

4-006.06 Deprivation of Resources for Medical Assistance: See 469 NAC 2-009.10Bff.

{Effective 12/02/2006}

4-007 Treatment of Income: For the treatment of income in NMAP, the criteria outlined in 468 NAC 2-009 ff. are used, with the exceptions in the following regulations. For consideration of income deemed to a minor parent, see 468 NAC 2-007.02B1. For earned income, see 468 NAC 2-009.02; for unearned income, see 468 NAC 2-009.04.

4-007.01 Medical Insurance Disregards: The cost of medical insurance premiums is deducted if a member of the unit (or a grandparent whose income is deemed to a minor parent) is responsible for payment. The Medicare Part B premium which the client is responsible for paying is included in this disregard.

Exception: The cost of premiums for income-producing policies is not allowed as a medical deduction on a medical budget.

4-007.02 Earned Income Disregards

4-007.02A One Hundred Dollar Disregard: A $100 disregard is applied to gross earned income of each employed individual.

{Effective 10/15/2002}

4-007.02B Child Care Disregard: If a client requires child care, s/he is allowed the actual cost of child care as billed or as paid for the month.

When a client goes to MA only or MA with a Share of Cost, the client is no longer eligible for Child Care Subsidy as Current Family. If the child care expense makes the client eligible for medical, the worker budgets the actual child care expense (including what is paid by Child Care Assistance, if any).

4-007.02C Parent in the Home But Not the Unit: When the parent is in the home but not in the unit, his/her income is counted toward the unit. The parent's gross earned income minus the $100 earned income disregard and child care disregard, if appropriate, is counted.

Unearned income is counted in full toward the unit.

{Effective 10/15/2002}

4-009 Prospective Budgeting: The N-FOCUS System averages the income used on the Medicaid budget based on what data the worker has entered. If the household income fluctuates (i.e., paid hourly and hours/pay period vary), the worker must enter income from the three most recent consecutive months. If the income is stable (i.e., client receives the same amount of pay each pay period), one month's income is used. Weekly or bi-weekly earnings are converted by N-FOCUS. This converted monthly amount is used to project eligibility for the next 12 months unless:

1. A significant change occurs within the next 12 months and is reported by the client; or
2. The worker can anticipate a significant change, such as a benefit ending.

{Effective 6/28/11}

4-009.01 Change: The 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. Change in unit composition, such as the addition or loss of a unit member;
3. Changes in residence;
4. New employment;
5. Termination of employment;
6. Changes 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, 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; and
7. Change in health insurance premium.

4-009.01A General Rules: For procedures used in handling changes in income, see 468 NAC 2-015.02A.

{Effective 5/8/05}

4-009.01B Procedures for Changes: The worker must first determine if the change(s) affects MA eligibility. If it does, the system:

1. Compares resources to the resource limit; (see 468 NAC 4-006.01);
2. Compares the income to the appropriate income level (see 477 NAC 4-001.02 ff.);
3. Determines eligibility based on the household composition;
4. Recomputes the budget; and
5. Generates an adequate and/or timely Notice of Action (see 468 NAC 1-009.03Aff.).

4-009.01C Lump Sum Treatment for ADC/MA: If the client is receiving medical only when a lump sum is received, the lump sum is not considered income. Any unspent remainder is considered a resource in the month following the month of receipt or report taking into account timely notice provision.

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

{Effective 5/8/05}

4-010 Medically Needy Income Level (MNIL): The medically needy income level is determined by the number of family members. Ineligible or sanctioned parents, or children who the parent chooses not to include in the unit are included in the MNIL for those family members who are subject to the MNIL. If the parent chooses to exclude a child, any income of the child is also excluded from the Medicaid budgeting process. Children eligible under other Medicaid categories, such as Poverty Level Children's Medicaid or Kids Connection, are still considered when setting the family size for purposes of establishing the appropriate MNIL.

If income of a minor's parent(s) is considered in determining Medicaid eligibility for a minor parent and child(ren), the minor's parent(s) and any other dependents of the parent(s) who are in the home and who are or could be claimed by the parent(s) as dependents for income tax purposes are counted in setting the medically needy income level.

In determining the MNIL, the following individuals are considered:

1. Client;
2. Spouse; and
3. Minor child(ren) (including unborn(s) that are medically verified).

The parent may decide what family members will be included as participants in the Medicaid unit.

The countable income is compared to the appropriate MNIL to determine if those family members who are subject to the MNIL are eligible or are subject to a Share of Cost.

For examples of Medicaid budgeting, see 468-000-303.

{Effective 6/28/11}

4-010.01 Medical Budget Periods: The medical budget is normally computed on a monthly basis. See 468-000-313 for procedures.

{Effective 5/8/05}

4-011 Required Copayments: Effective April 1, 1994, ADC adults are required to pay a copayment for the medical services listed at 468-000-205. Copayment amounts are also listed at 468-000-205.

4-011.01 Covered Persons: With the exceptions listed at 468 NAC 4-011.02, ADC adults are subject to the copayment requirement.

The provider must verify the client's copayment status by accessing the Department Internet Access for Enrolled Providers (www.dhhs.ne.gov/med/internetaccess.htm); the Nebraska Medicaid Eligibility System (NMES) at 800-642-6092 (in Lincoln, 471-9580); or the Medicaid Inquiry Line at 877-255-3092 (in Lincoln 471-9128).

4-011.02 Exempted Persons: The following individuals are exempted from the copayment requirement:

1. Individuals age 18 or younger;
2. Pregnant women through the immediate postpartum period (the immediate postpartum period begins on the last day of pregnancy and extends through the end of the month in which the 60-day period following termination of pregnancy ends);
3. Any individual who is an inpatient in a hospital, long term care facility (NF or ICF/MR), or other medical institution if the individual is required, as a condition of receiving services in the institution, to spend all but a minimal amount of his/her income required for personal needs for medical care costs;
4. Individuals residing in alternate care, which is defined as assisted living facilities, and adult family homes;
5. Individuals who are receiving waiver services, provided under a 1915(c) waiver, such as the Community Based Waiver for Adults with Mental Retardation or Related Conditions; the Home and Community Based Model Waiver for Children with Mental Retardation and Their Families; or the Home and Community Based Waiver for Aged Persons or Adults or Children with Disabilities; and
6. Individuals with SOC (both before and after the obligation is met);
7. Individuals who receive assistance under SDP (program 07); and
8. Individuals who are enrolled in Health Maintenance Organizations.

{Effective 5/8/05}

4-011.03 Covered Services: For covered and excluded services, see 468-000-205.

4-011.04 (Reserved)

4-011.05 Client Rights: If a client believes that a provider has charged the client incorrectly, the client must continue to pay the copayments charged by that provider until the Department determines whether the copayment amounts are correct.

If the client is unable to pay the required copayment, s/he may inform the provider of the inability to pay. While the provider must not refuse to provide services to the client in this situation, the client is still liable for the copayment and the provider may attempt to collect it from the client.

The client has the right to appeal under 465 NAC 2-001.02.

4-012 Nebraska Health Connection (NHC): Managed care is required for all active Medicaid-eligible individuals except those excluded groups listed at 468-000-347. For more information, see Title 482.

Chapter 5-000 HEALTH CHECKS and Treatment Services for Conditions Disclosed During HEALTH CHECKS (EPSDT)

5-001 Introduction

5-001.01 Legal Basis: HEALTH CHECKS are covered under the Early and Periodic Screening, Diagnosis, and Treatment Program which was established by Title XIX of the Social Security Act. Section 1905(r) of the Social Security Act was added by the Omnibus Budget Reconciliation Act of 1989 (P.L. 101-239).

5-001.02 Purpose and Scope: HEALTH CHECK, the Nebraska Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program is a service available to all individuals age 20 and younger eligible for medical assistance. The goal is to provide each eligible individual the opportunity for achieving and maintaining optimal health status. This can be facilitated by early detection of illness or defects through regular and periodic screening examinations, by providing follow-up care of the conditions detected through regular and periodic by screening examinations by providing continuity of care, and by promoting healthy lifestyles. It is intended to encourage and ensure that treatment is available and received by those eligible and in need of treatment by the application of medical knowledge and technology to cure, correct, or alleviate health problems. Preventive health care provides the following benefits:

1. Early detection and treatment of health problems to prevent serious impairment and to increase the chance of successful treatment;
2. Protection from certain preventable diseases by immunization for children at an early age;
3. Maintenance of good health and assurance of normal development through periodic check-ups and the establishment of a "medical home." In most cases, this will be a continuing relationship with a primary care physician; and
4. Savings of future medical costs.

The EPSDT program's objectives are ensuring the availability and accessibility of required health care resources and helping Medicaid eligible children and their parents or caretakers effectively use them. This may be accomplished through care coordination. Care coordination includes:

1. Provision of effective outreach/education activities which inform parents of the benefits of having their children receive HEALTH CHECK screening, diagnosis, and treatment services;
2. Provision of consumer education to parents which assists in making responsible decisions about participation in preventive health care and appropriate utilization of health care resources;
3. Assurance of continuing and comprehensive health care beginning with the screening through diagnosis and treatment for conditions identified during screening;
4. Provision of assistance to families in making medical and dental appointments and in obtaining needed transportation; and
5. Establishment of case management of screening services to monitor and document that all HEALTH CHECK (EPSDT) services are delivered within established time frames.

This may be accomplished through interagency agreement, managed care contract, or fee for service with qualified Medicaid-enrolled providers as determined by the NMAP. Examples of EPSDT participants in particular need of care coordination may be pregnant adolescents, children with special health care needs, medically fragile children, foster care children, and children with significantly environmental risk.

{Effective 5/8/05}

5-001.03 Definition of Terms: The following terms are defined in relation to HEALTH CHECK and treatment services under the EPSDT program.

Early: As soon as an individual's or a family's eligibility for assistance has been established; or, in the case of a family already receiving assistance, as early as possible in the individual's life. This includes informing Medicaid-eligible pregnant women so that prevention begins prenatally.

Periodic: Intervals established for examination or screening to ensure continued health and to detect conditions requiring treatment. Dental screening examinations are recommended for children three and older according to the American Dental Association. If a dental problem is suspected before age three, a dental screening should occur at that time. Medical, visual, and hearing exams are to begin with a neonatal exam and follow, at a minimum, the periodicity schedule based on the American Academy of Pediatrics schedule for health supervision visits (see 471 NAC 33-002.03). The physician may establish an alternate periodicity schedule based on medical necessity. The initial examination of a newborn is considered an initial HEALTH CHECK (EPSDT) examination and the child is considered participating in the program. All well-baby and well-child examinations are to be reported as HEALTH CHECK examinations through the HEALTH CHECK EPSDT program.

Screening Services: Periodic child health assessments which are regularly scheduled to examine and evaluate the general physical and mental health, growth, development and nutritional status of eligible children. The screenings are performed to identify individuals who may require diagnosis, further examination, and/or treatment. Prior authorization approval of health, dental, vision, and hearing screening examinations for EPSDT participants is prohibited. The following screening services are included in the EPSDT benefit:

1. Health Screening Services:
   a. Comprehensive health and developmental history (including assessment of both physical and mental health development);
   b. Comprehensive unclothed physical examination;
   c. Appropriate immunizations for age and for health history;
   d. Appropriate laboratory procedures, including blood lead testing, for age and populations groups; and
   e. Health education (including anticipatory guidance);

2. Dental Screening Services: For children age three and older, dental screening services are furnished by direct referral to a dentist. Children age two and younger are screened by the screening physician as part of the health screening exam. If a dental problem is suspected before age three, a referral to a dentist for a dental screening should occur. Medically necessary and reasonable diagnosis and treatment including, at a minimum, relief of pain and infections, restoration of teeth, and maintenance of health are covered;
3. Vision Screening Services: An age-appropriate visual assessment. Medically necessary and reasonable diagnosis and treatment for defects in vision are covered; and
4. Hearing Screening Services: An age-appropriate hearing assessment. Medically necessary and reasonable diagnosis and treatment for defects in hearing are covered.

Diagnosis: The determination of the nature or cause of a physical or mental disease or abnormality. A diagnosis enables a physician to make a plan for treatment specific to the EPSDT participant's problems. Under certain circumstances, diagnosis may be provided at the same time as screening. In other circumstances, diagnosis may be provided during a second appointment. The diagnosis may or may not require further follow-up. It may result in referral for treatment.

Treatment Services: HEALTH CHECK (EPSDT) follow-up services necessary to diagnose or to treat a condition identified during a HEALTH CHECK (EPSDT) health, visual, hearing, or dental screening examination are covered under the following conditions:

1. The service is required to treat the condition (i.e., to correct or ameliorate defects and physical or mental illnesses or conditions) identified during a periodic or interperiodic HEALTH CHECK (EPSDT) screening examination and documented on the screening claim form (Form MC-5 Form HCFA-1500, or dental claim form);
2. The provider of services is a Medicaid-enrolled provider;
3. The service is consistent with applicable federal and state laws that govern the provision of health care;
4. The service must be medically necessary, safe and effective, not considered experimental/investigational (see 471 NAC 10-004.05), and must be generally employed by the medical profession;
5. Supplies, items, or equipment that is determined to be not medical in nature will not be covered;
6. Where alternative and medically appropriate modes of treatment exist and are available the NMAP may choose among the alternatives which services are available based on cost-effectiveness;
7. Services currently covered under the Nebraska Medical Assistance Program will be governed by the guidelines of NMAP;

8. Services not covered under the Nebraska Medical Assistance Program but defined in Section 1905(a) of the Social Security Act must meet the conditions of items 1 through 6 (above). Criteria and requirements for certain services are outlined in 471 NAC 33-000. Unless otherwise outlined, all services not covered under NMAP must be prior authorized by the Medical Services Division, Health and Human Services. Requests for prior authorization must be sent to: Nebraska Health and Human Services Finance and Support, Medical Services Division, EPSDT Coordinator. The request must include:
   a. A copy of the screening exam form or the name of the screening practitioner and the date of the screening exam which identified the condition; and
   b. A plan of care which includes:
      (1) History of the condition;
      (2) Physical findings and other signs and symptoms, including appropriate laboratory data;
      (3) Recommended service/procedure, including (if unknown) the potential provider of service (e.g., equipment, supplies) or where the services will be obtained;
      (4) Estimated cost, if available; and
      (5) Expected outcome(s).

The plan of care may be submitted on Form EPSDT-5, "Plan of Care," or as a statement by the screening practitioner. The Medical Director or designee must make a decision on each request in an expeditious manner. Appropriate health care professionals may be consulted during the decision-making process. A copy of the decision will be sent to the screening practitioner, managed care plan if an enrollee, and the client's worker in the local Health and Human Services office. For wards of the Department, a copy of the decision is sent to the client's case manager in the local office. If the initial request is denied, additional information may be sent for reconsideration.

{Effective 5/8/05}

5-002 Worker Responsibilities

5-002.01 Informing Client: The worker must inform the client of HEALTH CHECK (EPSDT) at the time of application and redetermination. The worker must accomplish this by giving the client:

1. A verbal explanation of HEALTH CHECK (EPSDT), including a review of the HEALTH CHECK (EPSDT) pamphlet;
2. A pamphlet explaining HEALTH CHECK (EPSDT); and
3. The opportunity to ask questions.

Special emphasis is to be placed on informing for first time eligibles, mothers and families with infants or adolescents, or those not participating for over two years, or other eligible children considered 'at risk' for health care. A Medicaid-eligible woman's positive response to an offer of HEALTH CHECK (EPSDT) services during her pregnancy constitutes a request for services for the child at birth. For a child eligible at birth, the request for HEALTH CHECK (EPSDT) services is effective with the birth of the child.

These informing procedures are to be adapted to meet the needs of persons who are illiterate, blind, deaf, or who cannot understand the English language.

In addition, notifications are sent to clients informing them of when they are due for health and dental exams according to the periodicity schedule. All Claims Inquiry (CICS41, Selection 17) is a resource for the eligibility worker to determine when the last screening examination was covered by Medicaid.

For those families requesting HEALTH CHECK (EPSDT) and also requesting support services, the worker must provide assistance or refer to the appropriate unit for assistance in arranging transportation, locating a doctor, dentist or other screening practitioner, or setting appointments. If the client has entered into a continuing care formal agreement, the continuing care provider may be responsible for some or all of the support services and follow-up (see 471 NAC 33-002.07A). For wards, see 471 NAC 41-004.

{Effective 6/28/11}

5-002.02 Assisting With Appointments: The designated worker must:

1. Offer and provide, if requested and necessary, assistance or referral in scheduling appointments and providing transportation for the screening exam and treatment services. A request for support services applies to screening, diagnosis, and treatment services unless otherwise indicated on the application or narrative. To ensure timely delivery of services, the worker shall have available, upon request, the names and locations of Medicaid providers (physicians, clinics, dentists, including Title V providers);
2. Upon request for HEALTH CHECK (EPSDT) dental and/or health screening (including vision and hearing screens), provide the client or send to the screening physician, the Form MC-5 (many physician offices have a supply), and/or send the dental claim form to the screening dentist. The screening exams are to be performed within 120 days of the initial and periodic request. If the screening is overdue, one follow-up contact, documented and dated, is considered a good faith effort to provide timely delivery of services. This may be accomplished by the worker or by an automated client notice. A personal contact is the most effective method;
3. As follow-up, inform the client of the need for further diagnosis or treatment services and provide assistance in transportation and appointment scheduling, if requested and necessary to enable the client to receive necessary diagnosis and treatment within 120 days after the date of the initial request for screening. This is accomplished by the worker or by an automated client notice. A personal contact is the most effective method. One follow-up contact, documented and dated, is considered a good faith effort to ensure initiation of treatment.

5-002.03 Documenting Contact and Assistance: Written documentation in the client file is necessary to show:

1. That the client has been informed and offered HEALTH CHECK (EPSDT) by written and oral explanation at the eligibility determination or redetermination.
2. That the supportive services of appointment scheduling and transportation assistance have been offered to the client and are provided at the client's request if necessary.
3. The steps taken by the designated worker to:
   a. Assist the client to receive a screening examination(s);
   b. Ensure that treatment has begun within 120 days of the screening request for those who needed further diagnosis and treatment. The local office copy of Form MC-5 is the record of the completed health screening, and the local office copy of the dental claim form is the record of a completed dental screening for children or verification of health and/or dental screening or need for further diagnosis and treatment may be accomplished by utilizing All Claims Inquiry, CICS1, Selection 17; and
   c. Assist clients to receive periodic services according to the periodicity schedules in 471 NAC 33-002.03.

5-003 Coordination With Other Requirements for Physical Examinations: Efforts must be made to coordinate screening with programs such as required physicals in the public schools, Head Start, and other programs which require examinations. Form MC-5 is to be used by physicians to avoid duplication.

5-004 Referral for Services Not Covered by Medical Assistance: Referral assistance must be provided for treatment not covered by NMAP (i.e., those services not covered under 1905(a) of the Social Security Act) but found to be needed as a result of conditions disclosed during the screening exam.

This includes giving the family or client the names, addresses, and the telephone numbers of providers who have expressed a willingness to furnish uncovered services at little or no expense to the family. Workers may contact the EPSDT coordinator in the Medical Services Division for referral resources. Workers may utilize the Nebraska Resource Referral System to attempt to provide referral assistance.

5-005 Relations with Special Supplemental Food Programs for Women, Infants, and Children (WIC): Coordination with the WIC program is required. WIC provides specific nutritious supplemental food and nutrition education at no cost to Medicaid-eligible pregnant, postpartum, and breast-feeding women, infants, and children up to their fifth birthday. Referrals, when appropriate for the family, are required to local WIC agencies to access nutritional services and education.

5-006 Payment Procedure: For payment procedure, see 471 NAC 33-002.08.