CHAPTER 6-001 - STATE RESIDENCY

6-001.01 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. Residence starts with the month the client moves into the state, even if the client received categorical assistance in another state.

6-001.02 Residence of Individuals Entering the State Into a Licensed Home: 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 Nebraska Department of Health and Human Services, Division of Public Health (nursing home or alternate care facility).

To determine the individual's intent to establish residence in Nebraska, the individual's purpose for entering the state must be considered.

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 client's intent to establish residence shall be evaluated by the department. If the client states that s/he plans to establish residence but the situation seems to indicate otherwise, other factors are reviewed 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.
It shall be taken into consideration 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, 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.

6-001.03 Non-Institutionalized Individuals

6-001.03A Individuals Age 19 and Over: Individuals who are not residing in an institution, state residence is the state where the individual is living, and:

1. Intends to reside, including without a fixed address; or
2. Has entered the state with a job commitment or seeking employment, whether or not currently employed.

6-001.03B Individuals Under Age 19: For an individual who is capable of indicating intent and who is emancipated, or is married, state residence is the State where the individual is living, and:

1. Intends to reside, including without a fixed address; or
2. Has entered the state with a job commitment or seeking employment, whether or not currently employed.

If the individual is not emancipated or married, the state residence is the state where the individual resides, including:

1. Without a fixed address; or
2. The state of residency of the parent or caretaker.

6-001.03C Children Attending School in Another State: Children who are age 19 or younger and attending school in another state other than where the parent/caretaker relative resides, the child must provide evidence of actual residency.

Note: If there is a discrepancy in Medicaid state residency, the individual is a resident in the state in which the individual is physically located.

6-001.03D Incapable of Indicating Intent: Individuals who are not institutionalized and incapable of indicating intent is considered a resident of the state in which the individual is living if one of the following is met:

1. His/her I.Q. is 49 or less or s/he has a mental age of 7 or less, based on tests acceptable to the developmental disability agency in the state;
2. S/he is judged legally incompetent; or
3. Medical documentation obtained from a physician, psychologist, or other person licensed by the state in the field of developmental disability, or other documentation acceptable to the state, supports a finding that s/he is incapable of indicating intent.

6-001.03E Individuals Receiving a State Supplementary Payment: For any individual who is receiving an SSP, the state paying the SSP is the state of residence.

6-001.03F Individuals Receiving Title IV-E payments: Individuals of any age who are receiving Federal payments for foster care and adoption assistance under title IV-E of the Social Security Act, the state of residence is the state where the child lives.

6-001.04 Institutionalized Individuals

6-001.04A Institutionalized Individuals: The state where the institution is located is the individual's state of residence unless it is determined that the individual is a resident of another state, according to the following regulations. For any institutionalized individual who is age 18 or younger or who is age 19 or older and became incapable of indicating intent before reaching age 19, the state of residence is:

1. That of his/her parent(s), or his/her legal guardian at the time of placement; or
2. That of the parent(s) or legal guardian if the individual is institutionalized in that state.

For any institutionalized individual who became incapable of indicating intent at or after reaching age 19, the state of residence is the state in which the individual is physically present except where another state makes a placement.

6-001.04B 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.

6-001.04C Discharge from an Out-of-State Institution: When an individual leaves the facility in which the individual is placed by a State, that individual's State of residence is the State where the individual is physically located.

6-001.05 Absence

6-001.05A Absence From the State: The agency may not deny assistance because an individual has not resided in the state for a specified period.

6-001.05B Temporary Absence: The agency may not terminate a resident's eligibility due to a person's temporary absence from the state, if the person intends to return. Temporary absence is generally 90 days. Temporary absence includes, but is not limited to, school attendance where the child returns home on a regular basis.

6-001.06 Loss of State Residence: Eligibility for assistance ends if the family unit leaves Nebraska with the intent of establishing its home in another state.

6-001.07 Disqualification for Misrepresenting Residence: Any person convicted in federal or state court of having fraudulently misrepresented his/her residence in order to obtain medical assistance in two or more states is ineligible for medical assistance for ten years from the date of conviction. Only the individual convicted of the misrepresentation is ineligible.