CHAPTER 17-001 - RELATIVE RESPONSIBILITY FOR NON-FILING HOUSEHOLDS

17-001.01 Relative Responsibility:

1. Spouse for spouse; and
2. Parent (biological, adoptive, or step) for child if the child is age 18 or younger and is still considered part of the household.

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.
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.

    a. Temporary absence includes, but is not limited to:
        i. School attendance where the child returns to the home on a regular basis (weekends, vacations, or summers).
        ii. Residence in an institution for a developmental disability 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 18-003.2A.

17-001.02 Financial Responsibility

17-001.02A Unmarried Parents: When unmarried parents are living together as a family, the alleged father is not financially responsible unless he has acknowledged paternity or a court has determined that he is the father of the child after the birth.

17-001.02B 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, establishment of paternity must be pursued, unless good cause exists.

17-001.03 Determination of Paternity: Paternity cannot be established unless an alleged father has signed a written and notarized paternity acknowledgment form or a court has determined him to be the father.

Note: Paternity cannot be established for an unborn.

17-001.03A 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.

17-001.04 Special Provisions Pertaining to Minor Parents

17-001.04A Minor Parent: If a minor parent has a legal guardian, according to Nebraska law the guardian has no financial responsibility for the minor.

17-001.04B Minor's Parent(s) Receiving Medicaid: If a minor parent is living with his/her parent(s) who is receiving Medicaid for another child, the minor parent must be in his/her parent(s)' unit.

17-001.05 Sponsors for Aliens

17-001.05A Sponsors for Aliens: 100 percent of the income of a sponsor (and sponsor's spouse, if they are living together) shall be considered when determining the eligibility of an alien who applies for medical assistance if the sponsor has signed an affidavit of support under Section 213A of the Immigration and Nationality Act. The sponsor's income 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. This provision does not apply to restricted medical assistance;
3. If the individual is pregnant (including 60 day post partum);
4. If the individual is under age 19.

17-001.05B 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 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 is applied to the needs of the aliens who apply for assistance. 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's 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.

17-001.05C Deeming Exception: If a sponsored immigrant demonstrates that s/he or his/her children have been battered or subjected to extreme cruelty 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, deeming may be waived if a judge, an administrative judge, or INS recognize the battery or cruelty.

17-001.06 Alien Duties: As an eligibility requirement, the alien is responsible for –

1. Providing income 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.