

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

August 17, 2021
10:00 a.m. Central Time
Nebraska State Office Building – Lower Level A
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on the proposed amendment of Title 173 NAC 2 of the Nebraska Administrative Code (NAC) – *Rules and Regulations Governing Care of Tuberculous Person*. The proposed changes update the chapter name; specify the regulations' scope; update definitions; update the application, eligibility, and termination process for receiving assistance; add process for right to a fair hearing; specify the provider payment reimbursement rate paid by the Department, payment procedures, and denial of payment and refunds; update lab requirements to reflect new technology; remove outdated and unnecessary language; and update formatting.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

In order to encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments. Interested persons may provide verbal comments in person or by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

Interested persons may provide written comments by mail, fax, or email, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals with hearing impairments may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.



FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 173	Prepared by: Kristin Bertrang, RN, MSN
Chapter: 2	Date prepared: 3/03/2021
Subject: Care of Clients with Tuberculosis	Telephone: 402-471-6441

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency: Indeterminable

Political Subdivision: Indeterminable

Regulated Public: Indeterminable

If indeterminable, explain why:

The majority of funding supports financial assistance for patients. It is unknown the number of patients, drugs needed per year, contact investigation support, and if drug resistance is encountered which would all impact cost to the program. A decreased possibility exists regarding less cost with limiting patient services.

TITLE 173 — NEBRASKA DEPARTMENT OF HEALTH/CONTROL OF
COMMUNICABLE DISEASE/REGULATIONS

CHAPTER 2 — RULES AND REGULATIONS GOVERNING CARE OF
TUBERCULOUS PERSONS

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~~TITLE 173 — NEBRASKA DEPARTMENT OF HEALTH~~

~~CHAPTER 2 — RULES AND REGULATIONS GOVERNING CARE OF TUBERCULOUS
PERSONS~~

TITLE 173 CONTROL OF COMMUNICABLE DISEASE

CHAPTER 2 CARE OF CLIENTS WITH TUBERCULOSIS

~~001. DEFINITIONS, SCOPE AND AUTHORITY. As used in these Rules and Regulations, unless the context to be intelligible or to prevent absurdity otherwise requires: These regulations are authorized by and implement the Tuberculosis and Detection and Prevention Act, Nebraska Revised Statutes (Neb. Rev. Stats.) §§ 71-3601 to 71-3614.~~

002. DEFINITIONS. The definitions set out in Neb. Rev. Stats. §§ 71-3601 to 71-3614 and the following apply to this chapter:

002.01 CLASS B TUBERCULOSIS DESIGNATION. A designation given by the Centers for Disease Control for a person who upon arrival to the United States was determined to have communicable tuberculosis.

002.02 CLIENT. An individual applying for or receiving assistance from the program.

002.03 COMPLETE APPLICATION. An application that contains all of the information requested on the application, with attestation to its truth and completeness, and submitted with all required documentation.

002.04 CONTACT. An individual who has had exposure from a client with active infectious tuberculosis.

002.05 EXPLANATION OF BENEFITS. An insurance company's written explanation or remittance advice regarding a claim showing what is paid on a client's behalf.

002.06 PATIENT. A person with or suspected to have communicable tuberculosis.

002.07 PROGRAM. The Nebraska Department of Health and Human Services Tuberculosis Program.

002.08 PROVIDER. A health care facility defined in Neb. Rev. Stat. § 71-419, a health care service defined in Neb. Rev. Stat. § 71-415, or a physician, physician assistant, advanced practice registered nurse, or doctor of osteopathic medicine.

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~~001.01 Department shall mean the Department of Health of the State of Nebraska.~~

~~001.02 Drugs or medications shall mean only those types of drugs and other medications specifically authorized by the Department of Health as appropriate for the care, treatment or maintenance of persons afflicted with communicable tuberculosis, or as otherwise approved as necessary and proper by the Department.~~

~~001.03 Health Care Facility shall mean any health care facility other than a hospital, licensed by the Department of Health pursuant to Chapter 71, article 20, Reissue Revised Statutes of Nebraska, 1943 and under contract to the Department of Health for the care, treatment or maintenance of communicable tuberculous persons.~~

~~001.04 Hospital shall mean any hospital licensed by the Department of Health pursuant to Chapter 71, article 20, Reissue Revised Statutes of Nebraska, 1943 and under contract to the Department of Health for the care, treatment or maintenance of communicable tuberculous persons.~~

~~001.05 002.09 THIRD PARTY PAYER. Third Party Payer shall mean a~~Any individual, firm, partnership, corporation, company, association or any other entity responsible for, or otherwise under an obligation to provide, the payment of all or part of the cost of the care, treatment or maintenance or of the transportation of a client ~~tuberculous person; but such term shall not mean the client, a provider providing services to a client, or the program tuberculous person himself, any health care practitioner or any hospital or other health care facility providing services to such person, or the Department of Health.~~

~~001.06 Tuberculosis Consultant shall mean a physician licensed in the State of Nebraska who, associated with a hospital or other health care facility under contract to the Department of Health for the care, treatment or maintenance of communicable tuberculous persons, well versed in the current tuberculosis management and treatment practices, and acting under the supervision of the Department of Health, advised the Department on each case of communicable tuberculosis occurring in hospitals and other health care facilities under contract to the Department in his specifically assigned region of the state (or as otherwise agreed upon between the physician and the Department) and on the appropriate method of treatment of the same.~~

~~001.07 Tuberculosis Person shall mean a person afflicted with communicable tuberculosis.~~

002 PROVIDERS OF CARE

~~002.01 Health Care Facilities. In order to provide an effective program of care, treatment and maintenance for those persons infected with communicable tuberculosis the Department of Health of the State of Nebraska is authorized to contract with qualified~~

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~~licensed hospitals or other licensed health care facilities throughout the State of Nebraska for the provision of immediate acute care and other necessary care for such persons. All such contracting facilities must be able to effectively prevent the transmission of tubercle bacilli through the heating-cooling system of the facility and be otherwise capable of caring for, treating and maintaining tuberculous persons. Only inactive, arrested cases, which are not considered infectious, shall be accepted as residents or cared for in a home for the aged, or infirm unless otherwise specifically authorized by the Department of Health pursuant to prescribed conditions. All such contracting facilities must also comply with all applicable provisions of these Rules and Regulations, including, but not limited to, Sections 003, 004, and 005.~~

~~002.02 Tuberculosis Consultants. The Department of Health shall enter into arrangements with physicians who are associated with hospitals or other health care facilities under contract to the Department of Health for treatment, care, or maintenance of the tuberculosis and who are well versed in the Current tuberculosis management and treatment practices, whereby such physicians shall act as regional tuberculosis consultants on behalf of the Department of Health. Such Regional Tuberculosis Consultants shall act under the supervision of the Department of Health.~~

003 PROGRAM PROCEDURES

~~003.01 Admission of Patients. The admission of patients into a contracting hospital or other health care facility for tuberculosis services must be authorized by the Regional Tuberculosis Consultant assigned to such participating hospital.~~

~~003.01A Diagnostic admissions will be authorized by the appropriate Tuberculosis Consultant. The duration of the patient's admission will be adjudged by the Consultant.~~

~~003.01B Therapeutic admissions will be authorized by the appropriate Tuberculosis Consultant. The duration of the patient's hospitalization or other care will be continued as long as medically indicated. A transfer to an extended care or domiciliary type of facility, including a home for the aged or infirm (nursing home), shall be implemented upon the authorization of the Consultant.~~

~~003.01C Prior to a patient's admission to the Tuberculosis Consultant will prescribe the tuberculosis services indicated. He may choose to:~~

~~003.01C1 require the presentation of the patient for examination,~~

~~003.01C2 review medical records or other information pertaining to the case,~~

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~~003.01C3 consult with the referring physician;~~

~~003.01C4 visit with or review medical records of patients currently hospitalized or otherwise cared for other reasons;~~

~~003.01C5 if the hospital authorized to do cultures for mycobacterium tuberculosis has a culture identified as positive for mycobacterium tuberculosis, this culture or a subculture is required to be sent to the State Health Laboratory, or~~

~~003.01C6 perform any other necessary act that may be medically advisable for the patient's welfare, as authorized by the Department.~~

~~003.02 Determination of Consultant. If there is any difference of medical opinion between the Tuberculosis Consultant and the patient's physician, the determinations of the Consultant, insofar as payment for services by the Department is concerned, shall prevail. Continued hospitalization or other care, when not recommended by the Tuberculosis Consultant, shall in all such instances be at the expense of the patient or any responsible third party payer, not the Department. In such cases, payment by the Department shall terminate with the day on which the Patient is considered eligible for discharge by the Tuberculosis Consultant. In any such case of difference of medical opinion, the Tuberculosis Consultant shall transmit notice of his recommendations accompanied by the recommendations of the patient's physician of record to the Department no less than five (5) days before or no more than five (5) days after the date that the disputed services or event is scheduled to occur or has occurred respectively. These statements shall become a part of the patient's record and shall be used primarily to determine action for billing and for payment purposes.~~

~~003.03 Eligibility for Admission. There shall be medical, financial and residency requirements for admission.~~

~~003.03A Reasonable evidence must be presented that the patient is either bacteriologically active or strongly suspected of being so. Such evidence shall include a positive tuberculin test (10 mm. or more of induration to a 5TU Mantoux), or x ray evidence compatible with tuberculosis, or the demonstration of acid fast bacilli or M. tuberculosis. The recent exposure of an individual and signs or symptoms in themselves merely warrant consultation rather than admission. However, the Tuberculosis Consultant must be satisfied that in-patient services are required.~~

~~003.03B Financial restrictions imposed for admission eligibility on a patient shall be as prescribed in Section 009. The hospital or other health care facility will bill third party payers as applicable. Any payment received by the hospital or other health care facility~~

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~~from such sources will be credited to the hospital or facility charges before a statement is submitted for allowable balances to the Department.~~

~~003.03C There shall be no residency restrictions or requirements relative to the length of residency except that a person must be a legal resident of the State of Nebraska. Exceptions may be made in the case of residents of other states who might choose to be cared for in Nebraska provided that financial commitments are first affirmed by the appropriate officials or other responsible persons in the state of legal residency.~~

~~003.04 Notice of Admission. A notice of admission for tuberculosis services will be mailed to the Department of Health preferably within forty-eight (48), but no later than seventy-two (72), hours of admission upon forms provided by the Department.~~

~~003.05 Physician Services. The patient's private physician shall be encourage to provide primary management during the stay in the hospital or other health care facility consistent with the hospital or facility policies regarding Physician Privileges. However, he may choose to relinquish the tuberculosis case management to the Tuberculosis Consultant.~~

~~In either case there shall be consultation between the private physician and the Tuberculosis Consultant no less frequently than once every two weeks with notice given to the Department prior to any surgery for tuberculosis or any other surgical procedures except in case of medical emergency, regardless of whether or not the Department will be billed, and also prior to discharge from the hospital or other health care facility or transfer to another level of care.~~

003. ELIGIBILITY. To be eligible for assistance from the Tuberculosis Program, a client must:

- (A) Be diagnosed with communicable tuberculosis, be suspected to have communicable tuberculosis, be a contact, or have a Class B tuberculosis designation;
- (B) Be residing in Nebraska;
- (C) Meet income and resource requirements based on household size; and
- (D) Meet all statutory requirements for receiving assistance from the program.

003.01 INCOME AND RESOURCE REQUIREMENTS. A client's annual income for the household must be at or below two hundred and fifteen percent of the federal poverty level in order to participate in the program. The income level is adjusted based on household size. A client's available resources may not exceed an estimated total of four thousand dollars. Available resources includes 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. A resource which appears on record in the name of a client is deemed to belong to the client. Jointly owned resources other than in joint tenancy are to be given the proportionate share based on the number of owners of the resource available to each owner. Resources that are owned jointly, are to be given the proportionate share based on the number of owners of the resource available to each owner. Resources that are owned in joint tenancy are considered available in total to the client. If the encumbrances against the

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property equal or exceed the price for which the property could be sold, the property is not an available resource. The value of the property is determined after any the amount of debt secured by mortgages, liens, promissory notes, and judgements are subtracted from the gross value of the encumbered property. The following resources are excluded in making a determination of eligibility:

- (A) Real property which is owned by the client or the client's household and which the client occupies as a home. Lots adjacent to a home are considered an available resource if they can be sold separately;
- (B) Household goods;
- (C) Clothing;
- (D) A motor vehicle if used for employment or medical transportation;
- (E) A motor vehicle used as the client's home;
- (F) The cash value of life insurance policies;
- (G) Irrevocable burial trusts;
- (H) Burial spaces;
- (I) Stocks, inventories, and supplies used in self-employment;
- (J) U.S. savings bonds;
- (K) Any unavailable employment related retirement account that is held by the employer;
and
- (L) Earned income from a child 18 years of age and younger.

003.02 APPLICATION. Application to the program is made by submission of a complete application to the Department. Prior to eligibility being determined, a client must also provide the following as requested by the Department:

- (A) Documentation to verify income and resources;
- (B) Documentation to verify household size;
- (C) Documentation of health insurance or a sworn statement that the client does not have health insurance from any third party payer; and
- (D) Documentation of meeting the requirement of 173 Nebraska Administrative Code (NAC) 2-003(A).

003.03 APPROVAL. An approved application establishes client eligibility for 12 months provided the client continues to meet the eligibility requirements in statue and this chapter. The service start date for a client may be set for when a client is identified as a contact, or a suspect, receives a Class B Tuberculosis designation, or receives a diagnosis of communicable tuberculosis.

003.04 DENIAL. When the Department determines a client does not meet the eligibility requirements or is in violation of any provision set out in this chapter the Department will send written notice to the client stating the reason for the denial.

003.05 MAINTENANCE OF CLIENT ELIGIBILITY. The client, or the client's representative, is responsible for informing the program in writing, within thirty (30) days of the following

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changes:

- (A) When the client's annual income increases above the two hundred fifteen percent of the federal poverty level;
- (B) When the client's resources increases above four thousand dollars;
- (C) In the number of individuals living in the household;
- (D) In treatment status which includes:
 - (i) Is no longer receiving treatment for communicable tuberculosis;
 - (ii) Has died; or
 - (iii) Has completed treatment; or
- (E) Address or primary telephone number changes.

003.06 TERMINATION. When the Department determines a client meets the requirements for termination from participation in the program the Department will send written notice to the client stating the reason for the termination. Clients are ineligible for the program and may be terminated from it under the following circumstances:

- (A) Misrepresentation by the client;
- (B) The client does not meet eligibility requirement or violates a provision set out in this chapter;
- (C) Fails to provide documentation upon request; or
- (D) Death.

003.07 INACTIVITY. If there have been no payments processed on a client's behalf in a state fiscal year the client's participation in the program shall be terminated.

004. RIGHT TO A FAIR HEARING. If an individual is denied participation in the program or is terminated from participation in the program the individual may request a fair hearing. The request must be in writing and filed with the Department within thirty (30) days of the mailing date on the written notice from the Department. The request must:

- (A) Include a brief summary of the Department's action being challenged;
- (B) Describe the reason for the challenge; and
- (C) Be sent to the Director of the Department Division of Public Health.

004.01 HEARING PROCEDURE. The hearing is conducted in accordance with 184 (NAC) 1.

~~004 IN-PATIENT SERVICES - HOSPITAL SERVICES~~

~~004.01 Follow-up and Support. A nurse from a local health department or one from the Department of Health or both shall visit the patients after admission and during their stay in order to insure that all appropriate epidemiology is performed and to effect a continuity of care after discharge or transfer from the inpatient tuberculosis service. The Tuberculosis Consultant and the patient's private physician shall be advised prior to all such visits; the~~

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~~nurses shall provide each physician with a written summary of the results of such visits.
The patient's records shall be made available to such public health nurses.~~

~~004.02 Medical Services. All services customarily provided by the contracting hospital shall be made available to patients hospitalized for tuberculosis, including services for the management of acute problems which are present at admission or arise during hospitalization for tuberculosis and for maintenance management of pre-existing chronic conditions, except as required by this Section 004.~~

~~004.02 Medical Services. All services customarily provided by the contracting hospital shall be made available to patients hospitalized for tuberculosis, including services for the management of acute problems which are present at admission or arise during hospitalization for tuberculosis and for maintenance management of pre-existing chronic conditions, except as required by this Section 004.~~

~~The Tuberculosis Consultant shall review each case:~~

~~004.02A To determine the need for continued hospitalization every two weeks.~~

~~004.02B Prior to any surgery and must be consulted prior to any surgical procedure except in case of medical emergency.~~

~~004.02C Prior to any elective procedure; certain elective procedures such as herniorrhaphy shall not be authorized by the Department and if performed must be at the expense of the patient or other responsible party.~~

~~004.02D Prior to any extraordinary surgical procedures; extraordinary surgical procedures such as open heart or organ transplants shall not be authorized by the Department and if performed must be at the expense of the patient or other responsible party.~~

~~004.02E Prior to the institution of private duty nursing, which must be authorized by the Tuberculosis Consultant before any payment will be allowed by the Department; generally, the provision of private duty nursing shall be limited to those instances in which cardiac or other intensive care facilities are necessary but not available or when, in the opinion of the Tuberculosis Consultant, transfer to such a facility is contraindicated.~~

~~004.03 Nursing Services. All customary nursing services provided by the contracting hospital shall be available to the patient hospitalized for tuberculosis services.~~

~~004.04 Rehabilitative Services. The usual rehabilitative services offered by the contracting hospital shall be available to patients hospitalized for tuberculosis services. Such services~~

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~~shall include physical therapy, occupational therapy, and speech therapy; however, all such services must be authorized by the Tuberculosis Consultant in writing.~~

~~004.05 Social Services. Social services customarily provided by the contracting hospital shall be available to patients hospitalized for tuberculosis services. Such services are especially important to many tuberculosis patients such as those patients who are elderly and without funds; hence, such services must be provided whenever available. In many cases there will be a need for continuing assistance in regard to obtaining services from other categorical aid programs and in regard to the subsequent transfer or discharge from the tuberculosis program of care and treatment.~~

~~005 IN PATIENT SERVICES - EXTENDED CARE FACILITIES~~

~~005.01 Homes for Aged or Infirm. The nature of each individual patient's problem shall be evaluated in terms of his response to his medical care and to his social and economic background. Those patients requiring some type of extended nursing care rather than hospitalization per se shall be placed in hospitals or homes for the aged or infirm (nursing homes) licensed and approved by the Department for such particular type of care. Such patients or residents shall have the benefit of appropriate medical supervision, clinical laboratory services, and rehabilitative, social and supportive services as necessary.~~

~~005.02 Personal Care Homes. Those other patients, such as the homeless patient, who are in need of medication for tuberculosis but are unreliable, for reasons such as alcoholism, and therefore remain as continuing potential hazards to public health, require someone to insure that their evaluations are performed on schedule. Such patients shall be cared for in a Personal care type of home for the aged or infirm, an alcoholic treatment center, or other appropriate health care facility.~~

~~005. PAYMENT. The program assists in paying for services that are directly related to the care and treatment of communicable tuberculosis, that are ordered or prescribed by a licensed health care provider possessing appropriate specialized knowledge in the diagnosis and treatment of communicable tuberculosis, and which are authorized by the Department. Such services may include:~~

- ~~(A) Pharmaceutical products necessary for the treatment of communicable tuberculosis;~~
- ~~(B) Latent tuberculosis pharmaceutical products and the cost associated with the dispensing of these products;~~
- ~~(C) The initial evaluation and diagnosis of contacts of a client;~~
- ~~(D) Visiting nursing services as allowed under Neb. Rev. Stat. § 71-3613; and~~
- ~~(E) Services received by a client from providers participating in the program.~~

~~005.01 NON COVERED SERVICES. The program does not pay for:~~

- ~~(A) Any services denied by Medicare, Medicaid, or any other health insurance as not medically necessary for the client;~~
- ~~(B) Any service not related to the treatment of communicable tuberculosis; or~~

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(C) Any service not authorized by the Department.

005.02 LIMITATIONS. The program is a payer of last resort. Third party payers must be invoiced first and have paid on a client's behalf before an invoice is sent to the program for payment consideration. The program does not pay for services required by statute to be paid by a county. The total amount of payments by the program cannot exceed the amount allocated to the program by the Nebraska Legislature for that state fiscal year. The program makes payments on behalf of a client directly to a provider.

006 TRANSFER AND DISCHARGE PROCEDURE

006.01 Authority for Transfer. The Tuberculosis Consultant must give a written recommendation for the transfer to another level of service of any patient admitted to a contracting hospital or other health care facility for either diagnostic or therapeutic tuberculosis services for which any unpaid balances will be the responsibility of the Department of Health. Transfer to another level of care, such as from a hospital to a home for the aged or infirm, will be authorized by the Department only upon recommendation of the Tuberculosis Consultant. The recommendation must be in writing and sent to the administrator or to the social service department or its functional counterpart of the contracting hospital or other health care facility and to the Department of Health at least five days prior to the prospective date of transfer. The department, after affirming such recommendation, shall arrange for such care as is ordered and advise the social service coordinator of the hospital or other health care facility of the location of the facility to which the patient is to be transferred. Such notice shall be by telephone, but, if required, confirmatory written statements from both parties may be submitted after the fact.

006.02 Notice of Discharge. The Tuberculosis Consultant must have given written recommendation for the discharge from a contracting hospital or other health care facility of any person afflicted with communicable tuberculosis for which any expenses will be the responsibility of the Department of Health. Actual notice of discharge from a contracting health care facility shall precede the event by no less than five days. Notification by the Department following affirmation of the recommendation, may first be made by telephone but it must be confirmed by a written referral. The written referral must include a medical diagnosis, a copy of the laboratory slip if culture is done at admitting hospital, and medical, nursing, and social service recommendations as well as the type and daily amount of drugs ordered. The referral shall also include an outline of the planned medical follow-up care by the patient's physician or by an out patient clinic; notice of an appointment and its delivery to a patient must be provided.

006. PROVIDER PAYMENT. The rate of reimbursement paid by the Department to a health care facility or a healthcare provider will not exceed the applicable rate set by Nebraska Medicaid for the services provided. Participating providers agree to accept as payment in full the amount paid according to the Department's payment methodologies after all other sources have been exhausted. The provider shall not bill the client for services covered by the program. If the client

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agrees in advance in writing to pay for a non-covered service, the provider may bill the client for such service. It is not a violation for a provider to bill the client for services when it is determined the client received funds from a third party resource, such funds were designated to pay for covered services, and payment of the funds has not been submitted to the provider.

007 PAYMENT FOR SERVICES

~~007.01 Arbitration. A contract between the Department of Health and a contracting hospital or other health care facility shall include a provision for arbitration of disputes by third parties. Such arbitration clause shall require each party to the contract to Select an arbitrator within a period of thirty (30) days after both parties agree that an impasse has been reached relative to a disagreement concerning the correct interpretation of a contractual provision. There shall then be another thirty (30) day period in which these two arbitrators shall select a third, neutral person. Within fifteen (15) days after the selection of the arbitration panel, it shall commence its duties.~~

~~007.02 Mode of Payment. The Department shall reimburse a contracting hospital or other health care facility for its provision of those services authorized by the Tuberculosis Consultant and the Department, but only after payment by any third party payer responsible for, or otherwise under obligation to provide, the payment of the costs of the care, treatment, or maintenance of a person suffering from communicable tuberculosis. Statements of all inclusive charges must be submitted to the Department no more than thirty (30) days following the day of discharge or transfer, or the day on which hospitalization or other care in a contracting hospital or other health care facility is considered no longer necessary for tuberculosis but is indicated for other reasons. Statements must be submitted on an original billhead. Each statement must contain the name, age, address, and social security number of the patient, the dates of admission (or service start) and discharge (or service stop), and an itemized listing of charges with balance owed. It shall be the responsibility of the billing office of the hospital or other health care facility to determine the availability of and to submit statements to responsible third party payers. Any applicable third party payer must be billed and its payment received or otherwise acknowledged in manner satisfactory to the Department and the hospital or other health care facility before any final billing showing balance due is submitted to the Department.~~

~~007.03 Non-Participating Facility. Payment may be provided by the Department for diagnostic services rendered to a patient in a non-participating and non-contracting hospital or other health care facility which results in transfer of the patient to the tuberculosis service of a contracting hospital or other health care facility. Such situations shall be individually evaluated.~~

~~007.04 Rates of Reimbursement. No contract between the Department of Health and a hospital or other health care facility shall be longer than one year in duration. The rate of~~

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~~reimbursement paid by the Department to such hospital or other health care facility pursuant to such contract for care, treatment or maintenance of persons infected with communicable tuberculosis shall not exceed the applicable Medicare (Title XVIII of the Social Security Act) prevailing interim rate or Medicaid (Title XIX of the Social Security Act) prevailing interim rate for such persons.~~

~~0087. RECORDS. 008.01 Medical Records.~~ The medical records of a patient client shall be available to Tuberculosis Consultant and to the Department of Health whenever requested. A discharge summary of the period of hospitalization or other care for which the program the Department is to be billed shall accompany, or shall have been submitted prior thereto, the request of the hospital or other health care facility for payment. Since tuberculosis is a communicable disease requiring epidemiological follow-up, since the Department maintains a registry of all tuberculosis patients, and since the Department is responsible for insuring that all such patients are provided with continuing care, a A discharge summary of the period of hospitalization or other care for diagnosis or treatment of any client tuberculosis patient, regardless of the source of payment, shall be transmitted by a provider the contracting hospital or other health care facility to the Department to the program within five days after his or her discharge.

008. LABORATORY REQUIREMENT. A provider or local public health department that receives a laboratory report of M. tuberculosis complex will have the laboratory submit, within 48 hours of a growth of such culture or subculture, a specimen from the culture for genotyping and identification as directed by the program.

009 PATIENT FINANCIAL ELIGIBILITY

~~009.01 Limitations on Assistance.~~ The Department of Health will assist patients within budget limitations, who are unable to pay for their own care in whole or in part. The Department shall consider each patient's income, age, the ages and physical condition of his dependents, his assets, and his liabilities before authorizing any care, treatment or maintenance in a contracting hospital or other health care facility for which payment can be made. Such determinations shall take into account the medical evaluations of the Tuberculosis Consultant. No payment shall be made for any services not significantly related to the care, treatment or maintenance of an individual infected with communicable tuberculosis, as determined by the Department.

~~009.02 Patient Resources - Exclusions.~~ The following economic resources of a patient shall not be considered as excluding him from eligibility for assistance by the Department:

009.02A Personal property, such as income producing equipment, inventory of a small business, or tools shall not be considered as a resource if such property is needed to produce income during or following care, treatment, or maintenance.

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~~009.02B Ownership of a residence and contiguous land will be regarded as the patient's homestead and will not be considered as a resource.~~

~~009.02C Personal property such as household furniture, life insurance policies, and an automobile will not be considered in determining economic need.~~

~~009.02D Property will not be considered as a resource when it represents an income-producing enterprise and the net income derived therefrom is within the normal living requirements.~~

~~In such determinations both the income and the estate of the patient are to be considered. Where there are spouse and children, the estate will not be depleted to the extent that the~~

~~spouse and children are likely to be pauperized in the case of extensive treatment or care of the patient.~~

~~009.03 Third Party Payers. The Department of Health shall not pay for any patient care, treatment, maintenance or transportation to the extent that assistance is available through other sources or that third party payers are required to provide the same.~~

009. PROVIDER PARTICIPATION AND PAYMENTS. To participate in the program, providers must be licensed by the Department or its equivalent in another state. Providers that do not meet these standards are not eligible to participate with the program.

009.01 PAYMENT PROCEDURES. Payments are made in accordance with the standards and payment procedures set out in this chapter. Claims may be approved for payment when all of the following conditions are met:

- (A) The client was approved for participation in the program when the service was provided;
- (B) The services provided are for program covered services as described in this chapter; and
- (C) No more than 6 months have elapsed from the date of service and when the program is received the claim. If circumstances beyond the entity's or individual's control delayed submittal to the program the program may make payment. The determination of whether the circumstances were beyond the entities or individual's control is at the program's discretion and may be based on documentation submitted by the entity or individual or other information received by the program.

009.02 FAILURE TO COOPERATE IN SECURING THIRD PARTY PAYMENT. The program may deny payment of a claim if the entity or client fails to apply third-party payments to covered services, file necessary claims, or to cooperate in matters necessary to secure payments by insurance or other responsible third-parties.

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009.03 REFUNDS. Whenever a provider or client receives a third-party payment after a claim has been paid by the program, the provider or client is to refund the program the full amount of the payment within thirty days. The refund is to be accompanied by a copy of the documentation from the third party-payer.

SOURCE: ~~Section 71-3613(5)~~