

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

October 30, 2023
1:00 p.m. Central Time
Nebraska State Office Building – Lower Level
Meadowlark Conference Room
301 Centennial Mall South, Lincoln, Nebraska

The purpose of this hearing is to receive comments on proposed changes to Title 395, Chapter 10 of the Nebraska Administrative Code (NAC) – *Young Adult Voluntary Services and Support Bridge to Independence*. The proposed changes incorporate LB 50, 2023, Neb. Rev. Stat. § 43-4504 which modify the requirements governing the definition of a Nebraska resident. The proposed changes would allow the Department to determine a young adult of Nebraska if probation placed the young adult out of state as part of a juvenile court proceeding for purposes of determining eligibility for the Bridge to Independence Program.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7) and § 43-4514.

Interested persons may attend the hearing and provide verbal or written comments, or mail, fax, or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 (fax) 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 who are deaf or hard of hearing may call DHHS via 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: 395	Prepared by: Andrew Keck
Chapter: 10	Date prepared: 8/31/2023
Subject: Young Adult Voluntary Services And Support Bridge to Independence	Telephone: 531-207-2770

Type of Fiscal Impact:

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

Provide an Estimated Cost & Description of Impact:

State Agency: The Department was appropriated general funds (LB 50 in 2023), Neb. Rev. Stat. § 43-4502, totaling \$1,148,322 per year. It is assumed that this would be enough funding for 50 youths once the program starts in January 2025. Part of the appropriation is for 3 CFS Specialists, 1 CFS Specialist Supervisor, and a Program Specialist.

If there are more than 50 youth, DHHS would need to have increased appropriation for the aid payments to the young adults as well as case management staff to maintain appropriate ratios.

Political Subdivision: N/A.

Regulated Public: N/A.

If indeterminable, explain why:

TITLE 395 CHILDREN AND FAMILY SERVICES: PROTECTION AND SAFETY

CHAPTER 10 YOUNG ADULT VOLUNTARY SERVICES AND SUPPORT BRIDGE TO
INDEPENDENCE

001. SCOPE AND AUTHORITY. These regulations are authorized by and implement the Young Adult Bridge to Independence Act, Nebraska Revised Statute (Neb. Rev. Stat.) §§ 43-4501 to 43-4514.

002. DEFINITIONS. The following definitions apply:

002.01 CASE MANAGEMENT. Support provided by the Department to a young adult to complement his or her own efforts toward self-sufficiency.

002.02 FOSTER CARE MAINTENANCE PAYMENT. A financial payment made to or on behalf of a young adult to cover the cost the young adult's basic needs. Foster care maintenance payments under Bridge to Independence shall remain at least at the rate set immediately prior to the young adult's exit from foster care.

002.03 HOST HOME. A setting in which a young adult resides in the home of an adult or family (who may or may not be related to the young adult), shares basic facilities, and agrees to basic expectations as established by the host home, young adult, and the Department.

002.04 INDEPENDENCE COORDINATOR. A Department employee who is responsible for providing case management to a young adult.

002.05 MEDICAL ASSISTANCE PROGRAM. The medical assistance program established by Neb. Rev. Stat. § 68-903, which is also known as Nebraska Medicaid.

002.06 PART-TIME ENROLLMENT. Enrollment in an education program for at least 6 credit hours per semester.

002.07 POST-SECONDARY EDUCATION. Education beyond secondary education including university, college, vocational or trade schools, and other settings of higher education.

002.08 SECONDARY EDUCATION. High school or a program leading to an equivalent to a high school diploma.

003. ELIGIBILITY REQUIREMENTS. In order to participate in Bridge to Independence, the following elements of eligibility must be met:

- (A) Individual eligibility as established by Neb. Rev. Stat. § 43-4504 and the requirements of this chapter;
- (B) United States Citizenship or lawful presence as established by this chapter;
- (C) Educational or employment conditions;
- (D) Placement and living arrangement; and
- (E) Voluntary Services and Support Agreement.

003.01 CITIZENSHIP REQUIREMENTS. In order to participate in Bridge to Independence, a young adult must be a citizen of the United States or a qualified alien as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). When a non-citizen applies for Bridge to Independence the applicant's qualified alien status must be verified through the Systemic Alien Verification for Entitlements (SAVE) program operated by the Citizenship and Immigration Services. At the time of application, the young adult making the application must sign a Department approved attestation form, confirming citizenship or qualified alien status.

003.02 NEBRASKA RESIDENT REQUIREMENT. In order to participate in Bridge to Independence, a young adult must be a resident of Nebraska. The Department will determine whether a young adult is a Nebraska resident using the criteria set forth in this section.

003.02(A) LIVING IN NEBRASKA. A young adult living in the state of Nebraska voluntarily with the intent of making Nebraska his or her home will be considered a Nebraska resident.

003.02(B) LIVING OUTSIDE NEBRASKA. A young adult living outside the state of Nebraska may be deemed to be a Nebraska resident if the young adult:

- (i) Is temporarily absent from the state as the result of enrollment in post-secondary Education, a trade school, or the Job Corps, and the young adult intends to return to Nebraska when the purpose of the temporary absence has been accomplished;
- (ii) Is a member of the United States Armed Forces and he or she is stationed in a state other than Nebraska and the young adult does not claim the other state as his or her residence for voting or tax purposes;
- (iii) Prior to age 19, was placed in another state by the Department or probation as part of a court proceeding filed under the Nebraska juvenile code and the young adult has continuously lived in the state where he or she was placed by the Department or probation; or
- (iv) Prior to age 19, was living in the State of Nebraska when a Federally Recognized Indian Tribe obtained jurisdiction over the young adult due to child abuse or neglect and, prior to the Federally Recognized Indian Tribe's age of majority, the young adult was placed outside of the State of Nebraska by a court order issued by that Tribal Court.

003.02(C) EXCEPTION. A young adult who was a Nebraska resident but was placed outside Nebraska pursuant to the Interstate Compact for the Placement of Children (ICPC) is not subject to the residency requirement.

003.02(D) DETERMINATION OF INTENT. A young adult's intent to make Nebraska his or her home will be evaluated by the Department. The Department may consider whether the young adult has a Nebraska driver's license, a motor vehicle registration in Nebraska, owns or leases property in Nebraska or another state, or has accepted employment in Nebraska or another state.

003.02(D)(i) INCAPABLE OF INDICATING INTENT. A young adult is considered to be incapable of indicating intent if documentation from a medical or mental health professional indicates that the young adult is not capable of indicating intent.

003.02(D)(ii) RESIDENCY DETERMINATION. A young adult who is incapable of indicating intent is considered to be a resident of the state in which the young adult is living, unless the young adult was placed out of state as part of a court proceeding filed under the Nebraska juvenile code and the young adult has continuously lived in the state where he or she was placed by the Department, in which case the young adult will be considered a resident of Nebraska.

003.03 EDUCATIONAL OR EMPLOYMENT CONDITIONS. A young adult must meet at least one of the participation requirements described in this section in order to be eligible for Bridge to Independence:

003.03(A) EDUCATION. To be eligible under the education category, the young adult must have part-time enrollment in a secondary or post-secondary education program.

003.03(A)(i) ENROLLMENT. A young adult who is on semester, summer, or other break, but was enrolled the previous semester and will be enrolled after the break, is considered to be enrolled in school.

003.03(A)(ii) EQUIVALENT PROGRAM. A secondary or post-secondary education program that is equivalent to part-time enrollment may be accepted if agreed to by the Department and the young adult.

003.03(B) EMPLOYMENT. To be eligible under the employment category, the young adult must be employed for at least eighty hours per month. The employment requirement may be satisfied through one or more places of employment, so long as the young adult meets the minimum of eighty hours per month.

003.03(C) BARRIERS PROGRAMS. To be eligible under this category, the following must be met:

003.03(C)(i) PARTICIPATE IN PROGRAM. A young adult must be participating in programs or activities that improve, enhance, or teach job-related skills applicable to the workplace or careers. These types of programs and activities include:

- (1) Activities and classroom instruction on career awareness, exploration, and preparation such as those provided through the local workforce centers;
- (2) Internships, job shadowing, on-the-job training positions and volunteer projects;

- (3) Supported employment;
- (4) Apprenticeship programs;
- (5) Programs such as Job Corps or other young adult initiatives that improve workplace knowledge and skills;
- (6) Enrollment in an education program less than part-time;
- (7) Job Search; or
- (8) Other programs or activities as agreed to by the Department and the young adult.

003.03(C)(ii) REQUIRED HOURS. A young adult must participate in a program or activity or a combination of programs or activities described in in this section for a minimum of 40 hours a month. Job search activities may account for no more than 20 hours of the 40 hours required each month.

003.03(D) INCAPABLE OF PARTICIPATION. To be eligible under this category, a young adult must be incapable of participating in the education, employment, or barriers program activities set forth in this chapter due to a medical condition.

003.03(E) TRANSITIONING BETWEEN ELIGIBILITY CATEGORIES. If a young adult is no longer engaged in one of the educational, employment, or work-related programs or activities necessary to meet eligibility requirements, the young adult may become eligible under a different category. The young adult must meet eligibility requirements within 30 days or the Department may terminate the young adult from the program.

003.04 HOUSING OR LIVING ARRANGEMENT REQUIREMENTS. In order to be eligible for the Bridge to Independence program, a young adult must agree to give the Department continued care and placement responsibility. Young adults participating in Bridge to Independence must reside in one of the following housing or living arrangements that have been approved by the Department:

- (i) Licensed foster care facility, licensed group home, licensed child-caring agency, or residential child-caring agency; or
- (ii) A supervised independent living setting, which includes:
 - (1) Single or shared residence, such as an apartment or house;
 - (2) Host home;
 - (3) College dormitory or other post-secondary education housing;
 - (4) Emergency shelter;
 - (5) Parental home;
 - (6) Transitional living program;
 - (7) Military housing or residence;
 - (8) Other supervised independent living setting approved by the Department; or
 - (9) Institutions in which a young adult is living voluntarily, including:
 - (a) Licensed mental health treatment facility;
 - (b) Licensed substance abuse treatment facility; or
 - (c) Other Adult Treatment Facility.

003.04(A) SUPERVISED INDEPENDENT LIVING SETTING. A young adult residing in an approved supervised independent living setting must be supervised or monitored by a Department employee a minimum of once every calendar month.

003.04(B) CHANGES IN LIVING ARRANGEMENTS. The young adult must report changes in living arrangements to the assigned Independence Coordinator within 10 business days. To remain eligible for the Bridge to Independence program, the young adult's new living arrangements must be approved by the Department.

003.05 VOLUNTARY SERVICES AND SUPPORT AGREEMENT. A young adult must sign a voluntary services and support agreement on a Department-approved form in order to participate in Bridge to Independence. The agreement is not final until it is signed by both the young adult and an authorized Department representative.

003.05(A) AGE AT TIME OF SIGNING. If a voluntary services and support agreement is initially signed when the young adult is under age 19, in order to continue participation in Bridge to Independence, the young adult must re-affirm the voluntary services and support agreement by re-signing it within 30 days after reaching age 19.

004. ELIGIBILITY CERTIFICATION AND VERIFICATION. To be eligible for the Bridge to Independence program, a young adult must provide the verification documents required by this section.

004.01 INITIAL VERIFICATION OF EDUCATIONAL OR EMPLOYMENT CONDITIONS. A young adult must provide the Department with verification that he or she meets the educational or employment conditions of eligibility by submitting written documentation as agreed to by the Department and young adult.

004.02 ON-GOING VERIFICATION OF ELIGIBILITY. The Department may request verification of a young adult's eligibility at any time. The Department will issue all verification requests in writing to the address of the current living arrangement approved by the Department. A young adult's eligibility will be subject to review at least once every six months.

004.02(A) ACCEPTABLE DOCUMENTATION FOR ELIGIBILITY REVIEWS. Upon receipt of an on-going verification request from the Department, the young adult must provide the Department with the type of documentation previously agreed upon between the young adult and the Department to determine eligibility. The young adult may provide different documentation than had been previously provided if the new documentation is agreed to by both the young adult and the Department.

004.02(B) DUTY TO RESPOND TO VERIFICATION REQUESTS. A young adult must provide verification of continued eligibility no later than 30 days after the written verification request is issued to the young adult. If the Department cannot verify if a young adult continues to meet the eligibility criteria, the Department may pursue termination from the program.

004.03 DUTY TO REPORT CHANGES. A young adult has a duty to report any changes that may affect eligibility. The report shall be made to the assigned Independence Coordinator within 10 business days of the change. Failure to timely report may affect eligibility.

005. CASE MANAGEMENT. Case Management services will be provided as outlined in Neb. Rev. Stat. § 43-4505.

005.01 EXCLUDED SERVICES. Case management does not include certain functions. The Department will not:

- (A) Assume responsibility or liability for any losses or damages incurred by a young adult;
- (B) Sign releases of information or other forms requiring the young adult's consent on behalf of a young adult;
- (C) Assume responsibility for any contracts entered into by a young adult;
- (D) Co-sign leases or contracts with a young adult;
- (E) Provide legal advice to a young adult;
- (F) Be responsible for any filing fees, court costs, attorney's fees, and other costs associated with actions related to obtaining Special Immigrant Juvenile Status or residency status;
- (G) Be responsible for application fees, tuition costs, course fees, and other associated education costs; or
- (H) Pay any fines, restitution, or other penalties arising out of any court proceeding.

006. TERMINATION. A young adult may be terminated from the Bridge to Independence program as set forth in this chapter.

006.01 TERMINATION INITIATED BY THE DEPARTMENT. The Department may terminate a young adult from the Bridge to Independence program if any of the following occur:

- (A) The young adult fails to meet any of the eligibility requirements;
- (B) The young adult is incarcerated or committed to or placed in a residential treatment facility by a court;
- (C) The young adult fails to make contact with or respond to contact from the Independence Coordinator for at least 30 calendar days;
- (D) The young adult cannot be located for at least 30 calendar days; or
- (E) The young adult moves outside of Nebraska and does not meet the definition of Nebraska resident.

007. RIGHT TO APPEAL.

007.01 TIME FRAME. Young adults have the right to appeal as allowed by law. The young adult must file a written request to appeal with the Department within 30 days of the date of the Notice of Action which is being appealed. If a timely appeal request is received by the Department, no change in the young adult's enrollment in the Bridge to Independence program will occur while the appeal is pending.

007.02 APPEAL PROCESS. All administrative appeal hearings will be held in accordance with the Administrative Procedure Act.