TITLE 173 CONTROL OF COMMUNICABLE DISEASE

CHAPTER 2 CARE OF CLIENTS WITH TUBERCULOSIS

001. SCOPE AND AUTHORITY. 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.

002.09 THIRD PARTY PAYER. 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; but such term shall not mean the client, a provider providing services to a client, or the program.

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 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 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;
    (iii) Has competed treatment; and
(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.

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
(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. 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 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. RECORDS. The medical records of a client shall be available whenever requested. A discharge summary of the period of hospitalization or other care for which the program is to be billed shall accompany, or shall have been submitted prior thereto, the request of the payment. A discharge summary of the period of hospitalization or other care for diagnosis or treatment of any client, regardless of the source of payment, shall be transmitted by a provider 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. 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.

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.