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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

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TITLE 392 CHILD CARE SUBSIDY

CHAPTER 2 ELEMENTS OF ELIGIBILITY

001. REQUESTS. Any person may request information, explore eligibility, or apply for the Child Care Subsidy program as an individual or a representative of another person. Interested persons may contact the local office by telephone, in writing, by fax, by email or electronic application, or in person to obtain information about child care, explore eligibility, or make arrangements to apply for services.

002. REQUEST TIME LIMITS. If the applicant does not keep appointments or cannot be contacted within 30 days of the request for information or submitting an application, the application is rejected.

003. APPLICATION. A person wishing to apply for Child Care Subsidy assistance must submit a completed and signed application.

003.01 INTERVIEW. An interview is required to apply for child care services. The interview may be in person or telephonic.

003.02 VERIFICATION. When the statements of the applicant are incomplete, unclear, or inconsistent, or when other circumstances in the particular case indicate further inquiry must be made, additional verification may be requested before eligibility is determined. Applicants and recipients are responsible for providing verification of information relating to eligibility. Verification may be supplied in person, through mail, or from another source, such as an employer.

003.03 ACTION ON APPLICATION. If the applicant or a third party prevents an eligibility determination within 30 days, the application will be denied. The applicant has 60 days from the date of application to complete the application process without having to fill out a new application. Service is authorized once all eligibility criteria have been met.

004. ELEMENTS OF ELIGIBILITY. In order to receive Child Care Subsidy, the family must:

- (A) Qualify as a family;
- (B) Meet citizenship or alien status requirements for the child(ren);
- (C) Qualify as residents;
- (D) Not exceed income limits;
- (E) Have a child within the age limit. Child care is available for children age 12 or younger. Children who turn age 13 during their eligibility period remain eligible through the end of

their eligibility period. Children age 18 or younger with special needs are eligible. The child's age must be verified in order to qualify for assistance;

- (F) Have at least one of the allowed needs for service;
- (G) Pay the sliding fee, if required;
- (H) Use an approved provider;
- (I) Agree to obtain immunizations for the child(ren); and
- (J) Cooperate with the Child Support Enforcement Unit, unless the recipient shows good cause for failing or refusing to do so.

005. ELIGIBILITY REDETERMINATION. All recipients must cooperate with eligibility redeterminations. All requested documentation or information must be provided by the recipient within 30 days of the date of the request.

005.01 CHANGE IN STATUS. A redetermination of eligibility is conducted when information is obtained about a change in a recipient's circumstances that may affect the recipient's eligibility.

005.01 PERIODIC REDETERMINATION. Recipient eligibility will be redetermined at least once every 18 months, but not more than once every 12 months.

006. QUALIFICATION AS A FAMILY. For a family to be eligible for Child Care Subsidy, the family must consist of one or more adults age 19 or older or a minor parent(s) and one or more children related by blood, marriage, legal guardianship, or adoption who reside in the same household. Foster children may be included when determining the size of the family unit if Child Care Subsidy is required for a biological child and the foster child. In a three-generation household, a minor parent and his or her child are considered a separate family.

006.01 UNMARRIED PARENTS. Unmarried parents with a child in common and at least one child with a different parent may receive Child Care Subsidy for all the children if the household meets all eligibility requirements. If one parent is receiving Aid to Dependent Children for his or her child(ren), the parent receiving Aid to Dependent Children may receive Child Care Subsidy, however, the other parent, the parent's child(ren), and the child in common are ineligible.

006.02 PARENTS WITH SHARED CUSTODY. If parents are separated, divorced, or unmarried but have shared custody of a child, both parents may be eligible for Child Care Subsidy. Eligibility is based on the income of the parent with whom the child is residing at the time and any child support or other financial assistance from the other parent.

006.03 PARENT'S TEMPORARY ABSENCE. In a one parent home, if the parent is temporarily absent for 90 days or less because of employment, training, education, illness, or incarceration a substitute caretaker may receive Child Care Subsidy using the parent's income eligibility. The substitute caretaker must meet the needs criteria. If the parent is absent for more than 90 days, eligibility is determined based on the need of the substitute caretaker and his or her situation and income.

006.04 UNBORN CHILD. An unborn child is included in the unit size if proof of pregnancy is obtained.

007. SOCIAL SECURITY NUMBER. A Social Security Number is not required as a condition of eligibility for Child Care Subsidy.

008. CITIZENSHIP AND ALIEN STATUS. In order to receive Child Care Subsidy, a child must be a citizen of the United States or a qualified alien as defined in Neb. Rev. Stat. § 4-111.

008.01 VERIFICATION OF ALIEN STATUS. When an applicant or recipient states that one or more of the children are qualified aliens, the applicant or recipient must sign an attestation and present verification of qualified alien status for each child. If the applicant or recipient has documentation containing an alien registration number, the information will be verified.

009. RESIDENCE. To be eligible for Child Care Subsidy, applicants and recipients must be Nebraska residents living in the state of Nebraska voluntarily with the intent of making Nebraska the person's home. Migrants and itinerant workers are considered residents of Nebraska if they are living in Nebraska and entered the state to seek employment or to fulfill a job commitment.

010. INCOME. In determining eligibility, the Department shall consider income received by a family. In order to initially qualify for child care subsidy benefits, the family's income must not exceed the income limits established by Neb. Rev. Stat. § 68-1206.

010.01 INCOME VERIFICATION. Individuals must provide verification of earned income, with a copy of check stubs, a statement from his or her employer, or some other documentation. When possible, the Department utilizes electronic data sources to verify income. A self-employed individual must submit a copy of his or her latest income tax return or his or her self-employment records. The individual can contact the Department to request assistance with verification.

010.01(A) An individual's declaration of unearned income is sufficient unless there is inconsistent information or the individual has a previous history of overpayments or abuse of the program. In these instances, the individual must provide verification of income before services will be approved. If the individual fails to provide required proof within 10 days of request, the application is rejected or services are terminated.

010.02 SELF-EMPLOYMENT DISREGARD. Individuals receiving self-employment income are allowed disregards to gross income.

010.02(A) STANDARD DISREGARD FOR SELF-EMPLOYMENT. For individuals who incur expenses related to producing goods or services but provide no tax return to document such expenses, the Department applies a standard disregard of 49% to the gross income and does not calculate actual expenses.

010.02(B) ITEMIZED DISREGARDS FOR SELF-EMPLOYMENT. For individuals who incur operating expenses related to producing the goods or services which are itemized on the individual's tax return, the actual allowable operating expenses are deducted from gross income.

010.02(C) OPERATING EXPENSES-FARM INCOME. For individuals who incur operating expenses related to farming, the operating expenses will be deducted from income.

010.02(D) OFFSET OF EARNINGS. If a household has a combination of farm, self-employment, or regular earned income, a loss from one source of income may be used to offset a gain from another source.

010.02(E) EXPENSES NOT DISREGARDED. The following expenses are not allowed as self-employment expenses:

- (i) Net losses from previous tax years;
- (ii) Federal, state, and local income taxes, money set aside for retirement purposes, and other work related personal expenses, such as transportation to and from work;
- (iii) Depreciation; and
- (iv) Depletion.

010.03 EARNED INCOME DISREGARD. Ten percent of a household's gross earned income shall be disregarded after 12 months of continuous eligibility where there has been an open case, and at each subsequent redetermination.

010.04 INCOME EXCLUSIONS. In determining a family's eligibility, the following income is excluded when determining eligibility

- (1) Aid to Dependent Children grant;
- (2) Money received from participation in the Foster Grandparent Program authorized by the ACTION Program;
- (3) Money awarded by the Indian Claims Commission or the Court of Claims;
- (4) Alaska Native Claims Settlement Act payments (to the extent that these payments are exempt from taxation under section 21(a) of the Act);
- (5) Money received from the sale of property such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling the property in which case the net proceeds would be counted as income from self-employment);
- (6) Work study for an undergraduate student;
- (7) Withdrawals of bank deposits;
- (8) Tax refunds;
- (9) Earned Income Credits and Advanced Earned Income Credits;
- (10) Gifts;
- (11) Lump sum inheritances or insurance payments;
- (12) Capital gains;
- (13) The value of the coupon allotment under the Food Stamp Act of 1964, as amended;
- (14) The value of U.S. Department of Agriculture (USDA) donated foods;
- (15) The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;
- (16) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

- (17) Earnings of a child age 18 or younger and in school; Note: Summer earnings of a child age 18 or younger are excluded if the worker verifies that the child plans to return to school in the fall;
- (18) Loans;
- (19) Any grant to a student for educational purposes;
- (20) Adoption or guardianship subsidy payments;
- (21) Home produce used for household consumption;
- (22) Income received for work experience paid by a Title I Workforce Innovation and Opportunity Act program;
- (23) Title I Workforce Innovation and Opportunity Act program allowance paid for supportive services such as transportation, meals, special tools, and clothing. This includes temporary Welfare-to-Work payments made through Workforce Development;
- (24) Payments to AmeriCorps volunteers;
- (25) Reimbursement from the Senior Companion Program;
- (26) Low Income Energy Assistance funds;
- (27) Housing assistance provided by Housing and Urban Development or by a local housing program;
- (28) Assistance received under the Disaster Relief Act of 1974 or under a federal law because of a presidentially declared major disaster;
- (29) Payments to a client participating in training or school attendance subsidized by the Division of Vocational Rehabilitation;
- (30) Payments made by Veterans Administration under the Veterans Education and Employment Assistance Act for education expenses of a veteran;
- (31) Payment made by an absent parent to a child care provider, landlord, or mortgage holder on behalf of the client;
- (32) Benefits under Public Law 104-204 for children of Vietnam veterans who were born with spina bifida;
- (33) Monetary allowance paid by the Veterans Administration under Public Law 106-419 to the child of a woman Vietnam veteran because of a birth defect associated with the veteran's service in Vietnam;
- (34) Reimbursement for employment-related expenses such as mileage, lodging, or meals; and
- (35) Military combat pay.

011. CATEGORIES OF ELIGIBILITY BASED ON INCOME. There are five categories of family eligibility, depending on income:

- (A) Current family;
- (B) Low income family;
- (C) Low income sliding fee family;
- (D) Transitional child care family; and
- (E) Without regard to income family.

011.01 TRANSITIONAL CHILD CARE FAMILY. Families may receive Transitional Child Care in accordance with Neb. Rev. Stat. § 68-1206.

011.02 PARENTS OF DEPARTMENT WARDS OR TRIBAL WARDS. The parent of a child who is a ward of the Department or the parent of a tribal ward who attests the parent is unable

to receive child care services from the tribe, is eligible for services without regard to income if the plan is to reunify the family or maintain the child in the home of the parent and the following conditions are met:

- (A) One of the following applies:
 - (i) The parent is not eligible as low income;
 - (ii) The parent is not willing to be determined eligible as low income; or
 - (iii) Due to the circumstances of the case, it is not possible for the worker to make an eligibility determination regarding income;
- (B) There is an agreement for the parent to pay part of the cost of services or the worker has determined that it is in the best interests of the family to authorize services at no cost to the family;
- (C) The family meets the needs eligibility requirements; and
- (D) The services are directly supportive of the family case plan or any written service agreement.

011.03 FOSTER PARENTS. The foster parent(s) of a child who is a ward of the Department or a foster parent of a tribal ward who attests the foster parent is unable to receive child care services from the tribe, is eligible for services without regard to income if the Department verifies that the foster parent(s) meets the needs eligibility requirements.

012. ASSETS. A family's net worth may not exceed \$1,000,000.

013. NEED FOR SERVICE. Child care services for eligible individuals are approved only if each parent or usual caretaker:

- (A) Is employed;
- (B) Is actively seeking employment. Each time the recipient loses employment, the recipient is entitled to three months of child care to seek employment.
 - (i) Child care for job search activities cannot be authorized at initial application except when job search is required by a federally funded workforce program;
- (C) Is participating in an Employment First activity;
- (D) Requires child care to obtain medical services including physicians' services, mental health services, and drug and alcoholism treatment;
- (E) Is enrolled in and regularly attending vocational or educational training to attain a high school or equivalent diploma, an undergraduate degree or certificate, or English as second language classes;
- (F) Is participating in on the job training;
- (G) Is incapacitated with a medically determinable physical or mental impairment which prevents the individual from caring for the child(ren) in the home. The incapacity must be evaluated and approved by the Department; or
- (H) Meets the definition of homeless. Child care may be authorized up to forty hours per week for three months to provide stability to the individual's child(ren) and to allow the parent(s) or usual caretaker the opportunity to seek out community resources. If the individual is not meeting another need for service by the end of the three months period, the authorization will end.

013.01 QUALIFICATION OF NEED REQUIREMENTS. If more than one parent or usual caretaker is included in the family size, each adult must meet the qualification of need requirements.

013.02 VOLUNTEER PROGRAMS. Participation in Americorp Vista and other volunteer programs are not qualifying needs.

013.03 LIMIT ON QUALIFICATION OF NEEDED HOURS. There are weekly and daily limits on the hours of child care subsidy that will be approved.

013.03(A) WEEKLY LIMIT. A recipient is limited to a maximum of sixty hours of Child Care Subsidy per week. A week is defined as the seven day period from Sunday through Saturday.

013.03(B) DAILY LIMIT. Recipients may receive a maximum of eighteen hours of subsidized care in a twenty four hour period. This must comply with the sixty hour a week limit.

013.04 QUALIFYING FOR CHILD CARE TO ATTEND CLASSES. A recipient who is attending secondary education or training is allowed two hours per week of child care for each credit hour. Study time beyond the scheduled hours are not allowed. Recipients attending high school or equivalent are allowed hours reflective of their school schedule. A recipient taking on-line classes is allowed one hour per credit hour.

013.04(A) VERIFICATION OF ENROLLMENT. Applicants and recipients must provide verification of enrollment in school or training at the time of application and redetermination.

013.05 QUALIFYING FOR CHILD CARE FOR EMPLOYMENT. If the individual is requesting child care for employment, the employment must have the potential to allow the individual to achieve or maintain economic self-sufficiency.

013.05(A) EMPLOYMENT AS CHILD CARE PROVIDER. A child care provider is not eligible to receive subsidy to provide child care to the provider's child(ren), this includes owners and directors of child care centers. The Department will not pay for providers to send their own children to another provider for care. This does not apply to a foster parent, subsidized guardian, or subsidized adoptive parent who is also a child care provider and sends his/her child to another child care provider.

013.05(A)(i) EXCEPTION. When child care providers are engaged in employment or training activities not related to child care, they may receive subsidy benefits as long as the hours do not overlap.

013.05(B) EMPLOYEE OF A CHILD CARE FACILITY. Child Care subsidies are not paid for the recipient's child(ren) when the recipient works at a home based facility during the same hours the recipient's child(ren) attend(s) the facility. For center-based care, a recipient can work at the facility as long as the recipient is not in the same room as the recipient's child(ren).

013.06 QUALIFYING FOR CHILD CARE NEEDED FOR TRAVEL TIME. Recipients are allowed Child Care Subsidy to cover a reasonable amount of time for travel between the child care site and the work or training site.

013.07 QUALIFYING FOR CHILD CARE FOR SLEEP TIME. A recipient who works through the night is allowed a maximum of eight non-work hours per day for sleep time.

014. CLIENT'S RIGHT TO CHOOSE PROVIDER. A recipient has the right to choose a provider, regardless of the availability of other providers. The provider must be licensed or approved as license-exempt. The recipient may choose from:

- (A) Licensed Child Care Center;
- (B) Licensed Family Child Care Home I;
- (C) Licensed Family Child Care Home II;
- (D) License-Exempt Family Child Care Home; or
- (E) In-home provider.

014.01 QUALIFYING FOR IN-HOME PROVIDER SERVICES. In order to qualify for in-home provider care, at least one of the following criteria must be met:

- (A) The child must have a verified special need;
- (B) The recipient needs child care during verified non-traditional hours. Non-traditional hours are the hours between 7:00 p.m. through 7:00 a.m. or any time on a Saturday or Sunday; or
- (C) There are three or more children in care.

014.02 LIMITATIONS ON AUTHORIZATION OF IN-HOME CHILD CARE. The following limitations apply to in-home care:

- (1) The provider cannot reside in the same home as the child unless the child has a special need.

014.02(A) RATE. All in-home providers must be paid a rate that equates to federal minimum wage.

015. IMMUNIZATIONS. At the time of application, the applicant must agree to obtain immunizations according to state immunization guidelines for his or her child(ren) who is (are) receiving Child Care Subsidy within 30 days of enrollment with a provider. The following are exempt from the immunization requirement:

- (A) Children whose parents object to immunization on religious grounds; and
- (B) Children whose health would be harmed by immunization. This requires certification by a physician, certified nurse practitioner, or physician assistant.

016. RECIPIENT OVERPAYMENT. Overpayments caused by recipient error will be recouped or collected by any lawful means. When the overpayment appears to be the result of fraud, the case will be referred to the Special Investigation Unit, Central Office, or the Omaha Special Investigation Unit for Omaha cases.

017. INTENTIONAL PROGRAM VIOLATION. An individual who is found to have committed an intentional program violation is disqualified from receiving Child Care Subsidy services.

017.01 DISQUALIFICATION HEARING. A disqualification hearing will be initiated by the Department whenever sufficient documentary evidence has been established to substantiate that a household member has committed one or more acts of an Intentional Program Violation.

017.01(A) INTENTIONAL VIOLATION DISQUALIFICATION. If an individual is found to have committed an intentional program violation, a period of disqualification must be imposed. The disqualification applies to the individual found to have committed the intentional program violation and the household. These penalties will also be imposed if the individual is found by a court to have committed an intentional program violation. The period will be determined by the Department after an administrative disqualification hearing, or without a hearing if the individual waives his or her right to a hearing. The period of disqualification is:

- (i) For a first violation, the individual is disqualified for one year;
- (ii) For a second violation, the individual is disqualified for two years; and
- (iii) For a third violation, the individual is permanently disqualified.

018. COOPERATION WITH THE CHILD SUPPORT ENFORCEMENT UNIT. Child Care Subsidy recipients are required to cooperate with Child Support Enforcement.

018.01 SANCTION FOR REFUSAL TO COOPERATE. Upon receiving notification from Child Support Enforcement that the parent or usual caregiver refuses to cooperate, a child support sanction is placed on the recipient and relevant child(ren). A sanction may only be imposed at the initial application period or at redetermination.

018.02 EMPLOYMENT FIRST PARTICIPANT. No child support sanction will be imposed on an Employment First participant so that the recipient may continue to participate in Employment First.

018.03 OPPORTUNITY TO CLAIM FAMILY VIOLENCE EXCEPTION. A recipient may claim a Family Violence exception by indicating that cooperation with Child Support Enforcement could cause serious risk of harm from the noncustodial parent. Eligibility for a Family Violence exception is determined by Child Support Enforcement.