

TITLE 468
AID TO DEPENDENT CHILDREN (ADC)

CHAPTER 1-000 GENERAL BACKGROUND

1-001 Legal Basis: The Nebraska Aid to Dependent Children (ADC) Program is governed and funded by state and federal sources. Title IV-A of the Social Security Act, 42, U.S.C. 601, et seq., governs the Temporary Assistance to Needy Families (TANF) federal block grant program which partially funds ADC. See also Neb. Rev. Stat. §§ 43-501 through 43-517 and various sections in chapters 45, 61, and 68 of Nebraska Revised Statutes.

1-002 Purpose and Scope: The purpose of ADC is to provide assistance to needy families so that children can be cared for in their own homes and to reduce the dependency of needy parents by promoting job preparation, work, and marriage.

1-003 Administration: The ADC Program is administered by the Nebraska Department of Health and Human Services in accordance with state laws and with rules, regulations, and procedures established by the Director.

1-004 Definitions of Terms: For use within the ADC Program, the following definitions will apply unless the context in which the term is used denotes otherwise.

Absent Parent: A parent who is not in the home where his/her child(ren) is living.

ADC: A categorical program consisting of financial assistance.

ADC Parent: Wherever the term Parent, Father, or Mother is used, it includes biological, adoptive, and stepparents.

ADC Payee: A parent, other specified relative (see 468 NAC 2-006.02), or a legally appointed guardian or conservator who exercises the responsibility for the care and control of the child(ren) and to whom the assistance payment for the child(ren) is made.

Adequate Notice: Notice of case action which includes a statement of what action(s) the worker intends to take, the reason(s) for the intended action(s), and the specific manual reference(s) that supports or the change in federal or state law that requires the action(s), (see also 468 NAC 1-009.03A1).

Additional 30 Day Period: The 30 day period after denying an application during which DHHS can make an eligibility determination without requiring a new application. The Additional 30 Day Period begins 30 days after the Application Date, lasts 30 days, and is available only if DHHS has denied an application because it was unable to determine eligibility within 30 days of the Application Date.

Applicant: An individual who applies for assistance.

Application: The action by which the individual indicates the desire to receive assistance by submission of an application.

Application Date: For new and reopened cases, the date a properly signed application is received. When adding a program to a properly signed application, this is the date that the new program is requested.

Application Signature: Applications may be signed in writing or by electronic signature.

Application Submission: Applications may be submitted in person, by mail, by fax or by electronic transmission.

Approval/Rejection Date: The date that the new or reopened case is determined eligible or rejected by the local office.

Arrearage: Unpaid child, spousal, and cash medical support which is due according to a court order.

Assignment: The legal transfer of an individual's right to benefits to the Nebraska Department of Health and Human Services. This includes child, spousal, and medical support.

Basic Education: Education which provides participants with the minimal literacy and computational skills required for occupational training and/or job performance.

Budget Month(s): The calendar month(s) for which the worker uses verification and information on income, resources, and household composition of the unit to compute the amount of the assistance.

Budgetary Need: The amount the client is eligible for before adjustments for over and underpayments and \$10 minimum payment.

Cash Medical Support: An amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise or for other medical costs not covered by insurance.

Categorical Assistance: Assistance administered by the Nebraska Department of Health and Human Services. For the purposes of this definition, it includes Aid to Dependent Children (ADC), Child Welfare Payment and Medical Services Program, Assistance to the Aged, Blind, or Disabled (AABD), State Disability Program (SDP), and the Refugee Resettlement Program.

Child Support: Money that is:

1. Ordered by a court of competent jurisdiction on behalf of a minor child (see 468 NAC 2-019.02); or
2. Paid by the noncustodial parent without a court order.

Client: An individual applying for or receiving ADC. This term is used when the same policies apply to an applicant and a recipient.

Components: Employment First activities in which ADC applicants and recipients participate. A participant may be in more than one activity.

Contributions: Verified payments which are paid by an individual other than a noncustodial parent:

1. Directly to a vendor on behalf of an ADC unit; or
2. To the client.

See 468 NAC 2-009.04B for further discussion of contributions.

Current Support: The monthly amount of child/spousal support ordered by a court.

Debt to the State: The amount of support owed to the State of Nebraska when a partial termination of the assignment is filed as a result of the ADC paid on behalf of the child(ren). The amount of the debt is the lesser of the following figures:

1. The total amount of ADC paid since February, 1976, (when the assignment provisions were first implemented) minus the collections received by the Department as a result of the assignment; or
2. The total court-ordered arrearage as of the date the partial termination is filed.

Department: The Nebraska Department of Health and Human Services.

Dependent Child: A child who is:

1. Age 17 or younger; or
2. Age 18 if a full-time student regularly attending a secondary school or participating in an Employment First component.

The child must be living in the home of a relative specified by law (see 468 NAC 2-006.02) or a legally appointed guardian or conservator unless removed from the home by judicial determination (see Title 479).

Emancipated Minor: A child age 18 or younger who is considered an adult because s/he has:

1. Married; or
2. Moved away from the parent(s)' home and is not receiving support from the parent(s) and it is in the child's best interests to be considered emancipated.
3. A minor who is considered emancipated pursuant to the provisions of Neb. Rev. Stat. § 71-6902.02.

Enumeration at Birth: The process of obtaining an SSN for a newborn by allowing the hospital to provide the Social Security Administration with the necessary information.

Equity: The fair market value of property minus the total amount owed on it.

Fair Market Value: The price an item of a particular make, model, size, material, or condition will sell for on the open market in the geographic area involved.

Final Termination of Assignment: The ending of an assignment of child/spousal support so that no additional funds will be transmitted to the Department by a court. A final termination is filed when an ADC case is closed, and no debt remains due to the State.

Fugitive Felon: A person who has been charged with a felony and who has fled from the jurisdiction of the court where the crime was committed.

Grant Case: A case receiving an ADC payment or eligible to receive payment but not receiving it because of the minimum payment.

Household: Individuals living together. There may be more than one public assistance unit within a household.

Inquiry: Any question received by phone, letter, or personal contact without any indication that the individual wishes to apply. This may or may not be followed by an request or application for assistance.

Intercept or Withholding Programs: Programs to capture benefits payable to an absent parent when the Department has identified a debt to the State or to the custodial parent. Intercept or withholding programs include:

1. IRS Federal Income Tax Offset Program;
2. State Income Tax Refund Offset Program; and
3. Unemployment Benefit Withholding Program.

Intentional Program Violation (IPV): Any action by an individual to intentionally:

1. Make a false statement, either verbally or in writing, to obtain benefits to which the individual is not entitled;
2. Conceal information to obtain benefits to which the individual is not entitled; or
3. Alter one or more documents to obtain benefits to which the individual is not entitled.

Legal Guardian: An individual appointed by a court of competent jurisdiction to be in charge of the affairs of a person who cannot effectively manage his/her own affairs because of his/her age or incapacity.

Minimum Payment: The smallest amount for which a grant is issued. No grant is issued for \$9.99 or less (for exceptions see 468 NAC 3-003).

Minor Parent: An individual age 18 or younger, with a child (see 468 NAC 2-007.02). If emancipated, a minor parent is treated as an adult for ADC purposes.

Note: For treatment of child support when a noncustodial parent pays support for his/her child who is a minor parent, see 468 NAC 2-009.04A1.

Need: Economic need when referred to as a condition of eligibility.

Needy Individual: One whose income and other resources for maintenance are found under assistance standards to be insufficient for meeting the basic requirements, and to be within the resource limits allowed an individual (see also 468 NAC 2-008.08 and 2-009.01).

Partial Termination of Assignment: A filing with the clerk of the district court when:

1. All children listed in the court order are terminated from ADC; or
2. The ADC case has been closed.

Current support and any arrearage owed to the former client is paid first; any additional support is collected by the State to reimburse the debt to the State.

Payment Effective Date: The month, day, and year that the grant payment is to be effective.

Payment Month: The calendar month in which assistance is paid.

Payment Standard: The maximum grant payment that an ADC family may receive. In “gap” budgeting, net earned income is subtracted from the Standard of Need and the result is compared to the payment standard (see 468 NAC 3-000).

Pending Case: A case in which the application has been taken and eligibility is yet undetermined. All pending cases must be entered into N-FOCUS within two working days.

Power of Attorney: A written statement allowing one person to act for another person. A power of attorney may be authorized generally for the management of a specified business or enterprise or more often specifically for the accomplishment of a particular transaction.

Prospective Budgeting: A procedure whereby the worker computes the amount of assistance for a payment month based on his/her best estimate of the client's income and circumstances which will exist in that month.

Prospective Eligibility: A procedure whereby the client's eligibility is based on the worker's best estimate of income, resources, and household composition for the payment month.

Prudent Person Principle: The practice of assessing all circumstances regarding case eligibility and using good judgment in requiring further verification or information before determining initial or continuing eligibility (see also 468 NAC 1-008).

Quarterly Report Form: A form that is sent quarterly to certain employed ADC households.

Recipient: An individual who is receiving ADC.

Rejected Case: A case in which an application was completed and signed, but the applicant did not meet the categorical, procedural, or financial requirements of the program.

Retroactive Payment: Any payment made during the current month but for a prior month.

Specified Relative: A relative with whom a dependent child may live and receive assistance. See 468 NAC 2-006.02 for the list of specified relatives.

Spousal Support: Alimony or maintenance support for a spouse or former spouse.

Standard of Need: The initial income test in ADC "gap" budgeting against which net earned income is measured (see 468 NAC 3-000).

Subsidized Employment: Employment for which the salary is wholly or partially paid by a source other than the employer.

Supplemental Payment: Any payment made for and during the current month after N-FOCUS cutoff.

TANF: Temporary Assistance for Needy Families. A block grant from the federal government which funds ADC, Employment First, and some child care.

Third Party Medical Payment: A payment from any health insurance plan, individual, or group for medical expenses.

Third Trimester of Pregnancy: Three calendar months prior to the month in which the child is expected to be born and the month of birth.

Timely Notice: A notice of case action dated and mailed at least ten calendar days before the date the action becomes effective (see 468 NAC 1-009.03A).

Transaction Month: The calendar month in which computation of payment is done.

Unit: Eligible individuals considered in determining the grant.

Unreimbursed Assistance: The total ADC paid by the State since February, 1976, minus any court-ordered child/spousal support collections received by the Department.

Unsubsidized Employment: Employment for which the salary is paid wholly by the employer.

Withdrawal: A voluntary written retraction of an application.

Work Experience: A component of Employment First that provides work experience for a mandatory participant of Employment First.

1-005 Worker Responsibilities: The worker has the following responsibilities.

1-005.01 Duties at Initial Application or Redetermination: At the time of initial application and redetermination, the worker must:

1. Allow anyone who requests assistance to complete an application;
2. Give an explanation of the program requirements;
3. Collect and review the information entered on the application form;
4. Explain the eligibility and payment factors and how changes will affect eligibility and payment;
5. Explain the eligibility and payment factors that require verification;
6. Obtain the client's written consent for the needed verifications;
7. Explore income that may be currently or potentially available such as RSDI, SSI, veteran's assistance benefits (VA), etc.;
8. Give information about the social and other financial services available through the agency;
9. Inform the client about his/her rights and responsibilities (see 468 NAC 1-006 and 1-007);
10. Explain the assignment of third party medical payments and the requirement to cooperate in obtaining third party medical payments and refund any payments received directly;
11. Complete necessary reports and information forms;
12. Act with reasonable promptness on the client's application for assistance;
13. Provide adequate notice to the client of:
 - a. Approval for a grant and the amount;

- b. Rejection of the application and the reason; or
 - c. Confirmation of the client's voluntary withdrawal;
16. Explain the minimum payment (see 468 NAC 3-003); and
 17. Explain the appeal process (see 465 NAC 2-001.02).

1-005.02 Continuing Responsibilities: The worker has the continuing responsibility to:

1. Provide adequate notice of any action affecting the client's assistance case (see 468 NAC 1-009.03C to determine if timely notice is necessary);
2. Treat the client's information confidentially. See 468 NAC 1-005.02A for disclosure of information regarding a fugitive felon;
3. Uphold the client's civil rights;
4. Inform the client when his/her case is closed that s/he has the right to reapply; and
5. Consider the client's eligibility for child care when s/he becomes ineligible for a grant.

1-005.02A Disclosure of Information Regarding Fugitive Felon: If a local or state law enforcement officer provides the recipient's Social Security number and verification that the recipient is a fugitive felon, a worker may disclose, with the approval of the local administrator, the name and current address of an ADC grant client.

1-005.02B Development of Self-Sufficiency Contract: The Employment First case manager has the responsibility to work with the client to develop and complete an Employment First Self-Sufficiency Contract. The Self-Sufficiency Contract must be developed and signed before the family's ADC eligibility can be determined.

If the client fails to cooperate, see 468 NAC 2-010.

1-006 Client Responsibilities: The client is required to:

1. Provide complete and accurate information. State and federal law provides penalties of a fine, imprisonment, or both for persons found guilty of obtaining assistance or services for which they are not eligible by making false statements or failing to report promptly any changes in their circumstances;
2. Report a change in circumstances no later than ten days following the change. This includes information regarding:
 - a. Change or receipt of a resource including cash on hand, stocks, bonds, money in a checking or savings account, or a motor vehicle;
 - b. Changes in unit composition, such as the addition or loss of a unit member;
 - c. Changes in residence;
 - d. New employment;
 - e. Termination of employment; and
 - f. Changes in the amount of monthly income, including:
 - (1) All changes in unearned income; and
 - (2) Changes in the source of employment, in the wage rate and in employment status, i.e., part-time to full-time or full-time to part-time. For reporting purposes for ADC, 30 hours per week is considered full-time. The client must report new employment within ten days of receipt of the first paycheck, and a change in wage rate or hours within ten days of the change.
3. Cooperate with Employment First requirements and complete an Employment First Self-Sufficiency Contract, if appropriate, and comply with its terms;
4. Cooperate in obtaining any third party medical payments;
5. Cooperate with state and federal quality control; and
6. Contact the agency for an interview within 30 days of the date of application if notified that an interview is required.

1-006.01 Sanction for Noncooperation With Quality Control: A client must cooperate with state and federal quality control as a condition of eligibility. If a client fails to cooperate, the whole unit is ineligible for one month only. The worker closes the case the first month possible, considering adequate and timely notice. The following month the worker reopens the case, if the unit is otherwise eligible. If at any time QC notifies the worker that the client has cooperated, assistance is restored for the month of closing.

1-007 Client Rights: The client has the right to:

1. Apply. Anyone who wishes to apply for assistance must be given the opportunity to do so. No one may be denied the right to apply for public assistance;
2. Reasonably prompt action on his/her application for assistance (see 468 NAC 1-009.02B);
3. Adequate notice of any action affecting his/her application or assistance case (see 468 NAC 1-009.03C to determine if timely notice is necessary);
4. Appeal to the Director for a hearing on any action or inaction with regard to an application, the amount of the assistance payment, or failure to act with reasonable promptness. The appeal must be filed in writing within 90 days of the action or inaction;
5. Have his/her information treated confidentially. See 468 NAC 1-005.02A for disclosure of information regarding a fugitive felon;
6. Have his/her civil rights upheld. No person may be subjected to discrimination on the grounds of his/her race, color, national origin, sex, age, disability, religion, or political belief;
7. Have the program requirements and benefits fully explained;
8. Be assisted in the application process by the person of his/her choice;
9. Referral to other agencies.

1-008 Prudent Person Principle: When the statements of the client are incomplete, unclear, or inconsistent, or when other circumstances in the particular case indicate to a prudent person that further inquiry must be made, the worker must obtain additional verification before eligibility is determined. The client has primary responsibility for providing verification of information relating to eligibility. Verification may be supplied in person, through the mail, or from another source (as an employer). If it would be extremely difficult or impossible for the client to furnish verification in a timely manner, the worker must offer assistance.

1-009 Application Processing

1-009.01 (RESERVED)

1-009.02 Application: An application must be properly signed. When adding a program to the application, the application date is the date the request to add the program is made. A properly signed application contains:

1. Name;
2. Address; and
3. Proper signature, as defined by the appropriate program.

An application may be signed by an individual for himself/herself or by the applicant's guardian, conservator, or an individual acting under a duly executed power of attorney.

1-009.02A Alterations: The application, when completed and signed by the client or his/her representative, constitutes his/her own statement in regard to eligibility. If the worker adds information received from a client to a properly signed application, the worker must date the information and:

1. Note the information received from the client; or
2. If the information is not received from the client, identify the source of the information.

The worker may add information to an application up to the date of approval or completed redetermination. An application form for a redetermination may be altered up to the date the redetermination has been completed.

1-009.02B Prompt Action on Applications: The worker must act with reasonable promptness on all applications for assistance. The worker must make a determination of eligibility on an application within 30 days from the date of application. If circumstances beyond the control of the worker prevent an eligibility determination within 30 days from the date of the application, the worker must record the reason for the delay in the case record and deny the application. The worker must send a Notice of Action informing the applicant of the denial and advise the client that the application is valid for an Additional 30 Day Period.

1-009.02B1 Additional 30 Day Period: If DHHS receives sufficient information to determine eligibility within the Additional 30 Day Period, it must pro-rate the ADC payment from the date it receives sufficient information to verify eligibility. If DHHS does not receive sufficient information to determine eligibility within the Additional 30 Day Period, DHHS can take no further action on the application. A client who wishes to establish ADC eligibility more than 60 days after the initial application date must submit a new application.

1-009.02C Application with Excess Resources: An application for assistance for an individual who has excess resources may be held pending until the resources are reduced (see 468 NAC 2-008.10 for eligibility for payment.)

1-009.02D Withdrawals: The applicant may voluntarily withdraw an application. The worker must make note of the withdrawal in the case record and give written confirmation of withdrawal to the applicant on a Notice of Action.

The worker shall deny the application based on the applicant's withdrawal as soon as possible. The worker must send a Notice of Action to the applicant notifying him/her of the rejection.

1-009.02E Authorization for Investigation: For some sources the worker asks the client to sign a Release of Information when it appears that information given is incorrect, when the client is unable to furnish the necessary information, or for sample quality control verification. A copy of the authorization for release of information from the Application for Assistance may be used if the source will accept it.

1-009.02F New Application: A new application is required after one calendar month of ineligibility or after an application has been denied, unless the application may be considered under 468 NAC 1-009.02B1.

1-009.03 Notice of Action: The worker must send adequate notice on a Notice of Action to notify the client of any action affecting his/her assistance case. The Notice of Action must be sent to the last-reported address. If the form is inadvertently sent to the wrong address, the worker must send a new form, allowing the client ten days from the date the corrected form is sent (if adequate and timely notice is required).

1-009.03A Types of Notices

1-009.03A1 Adequate Notice: An adequate notice must include a statement of what action(s) the worker intends to take, the reason(s) for the intended action(s), and the specific manual reference(s) that supports or the change in federal or state law that requires the action(s). The worker must send an adequate notice no later than the effective date of the action.

1-009.03A2 Timely Notice: A timely notice must be dated and mailed at least ten calendar days before the date that action would become effective, which is always the first day of the month.

1-009.03B Adequate and Timely Notice: In cases of intended adverse action (action to discontinue, terminate, or reduce assistance or to change the manner or form of payment or service to a more restrictive method, i.e., protective payee), the worker must give the client adequate and timely notice.

1-009.03C Situations Requiring Adequate Notice Only: In the following situations, the worker may dispense with timely notice but must send adequate notice no later than the effective date of action.

1. The agency has factual information confirming the death of a client;
2. The agency receives a written and signed statement from the client:
 - a. Stating that assistance is no longer required; or
 - b. Giving information which requires termination or reduction of assistance, and indicating, in writing, that the client understands the consequence of supplying such information;

3. The client has been admitted or committed to an institution, and no longer qualifies for assistance;
4. The client has been placed in skilled nursing care, intermediate care, or long-term hospitalization or the client is receiving assisted living waiver services;
5. The client's whereabouts are unknown and agency mail directed to the client has been returned by the post office indicating no known forwarding address. The agency shall make the client's grant available to the client if his/her whereabouts become known during the payment period covered by a grant;
6. The client has been accepted for assistance in another state and that fact has been established; or
7. An ADC child is removed from the home as a result of a judicial determination or is voluntarily placed in foster care.

1-009.03D Waiver of Notice: If a client agrees to waive his/her right to a timely notice in situations requiring timely notice, the worker must obtain a statement signed by the client to be filed in the case record.

1-009.03E In Fraud Cases: At least five days' advance written notice must be given if:

1. The agency has facts indicating that action should be taken to discontinue, terminate, or reduce assistance because of probable fraud by the client; and
2. The facts have been verified where possible through collateral sources.

1-009.03F Continuation of Benefits: The worker must not carry out an adverse action pending an appeal hearing if:

1. The case action being appealed required adequate and timely notice (see 468 NAC 1-009.03B and 1-009.03C);
2. The client requests an appeal hearing in writing within ten days following the date the Notice of Action is mailed; and
3. The client does not refuse continued assistance.

NOTE: For purposes of calculating the deadline described in #2 above, the mail date is not counted. If the last day of the 10-day period falls on a Saturday, Sunday, or state holiday, the deadline is extended to the next business day

In the situations listed in 468 NAC 1-009.03C, benefits are not restored pending a hearing.

This regulation does not restrict the worker from continuing normal case activities and implementing changes to the assistance case that are not directly related to the appeal issue.

If the worker's action is sustained by the hearing decision, the worker must institute recovery procedures against the client to recoup the disputed amount of assistance furnished the client during the appeal period (see 468 NAC 3-008.07B).

1-009.03F1 Refusal of Continued Benefits: A client may refuse continuation of benefits pending an appeal hearing. The client may refuse benefits by checking the statement to that effect on the Notice and Petition for Fair Hearing or handwriting a refusal.

1-010 Redetermination of Eligibility: The worker must redetermine eligibility for grant every six months. Eligibility may be redetermined in less than months to coordinate review dates for more than one program.

If a client who is receiving medical assistance becomes grant eligible, and there has not been a redetermination of eligibility within the last six months, the worker must complete a review before issuing a grant.

1-011 (Reserved)

1-012 Summary of Forms: Instructions for the forms used in this program are contained in the Public Assistance Forms Manual.