TITLE 469 ASSISTANCE TO THE AGED, BLIND, OR DISABLED PROGRAM

CHAPTER 1 GENERAL BACKGROUND

001. SCOPE AND AUTHORITY. The Assistance to the Aged, Blind, or Disabled Program was established to provide financial aid and medical assistance to individuals in need who are age 65 and older, or, who are age 64 and younger and have been determined to be blind or disabled according to the Retirement, Survivors, and Disabled Insurance or Supplemental Security Income Program via the Social Security Administration. The State Disability Program was established to provide financial aid and medical assistance to individuals who are blind or disabled and who meet the program definition of blindness or disability but do not meet the duration requirements.

002. DEFINITIONS. The following definitions apply:

002.01 ASSISTANCE TO THE AGED, BLIND, OR DISABLED PAYMENT. The financial assistance payment portion of the Assistance to the Aged, Blind, or Disabled Program.

002.02 ADEQUATE NOTICE. A notice of the case action, which includes a statement of what action is intended, the reason for the intended action, and the specific regulation that supports the action, or a change in federal or state law that requires the action.

002.03 AGED. An individual who is age 65 or older.

002.04 APPLICANT. An individual who is seeking an eligibility for himself or herself through the submission of an application.

002.05 APPLICATION. The request for Economic Assistance benefits submitted by, or on behalf of, an individual via a Department approved format.

002.06 APPLICATION DATE. For new and reopened cases, the date a valid application is received, or the received date by the Department on a paper application, a phone application, or an electronic application. When adding a program to a properly signed application, this is the date that the new program is requested.

002.07 APPLICATION SIGNATURE. Applications may be signed in writing, telephonic signature, or electronic signature.

002.08 APPLICATION SUBMISSION. Applications may be submitted in person, by mail, fax, phone, or electronic device.

002.09 APPROVAL OR DENIAL DATE. The date that the new or reopened case is determined eligible, or eligibility is denied, by the Department.

002.10 AVAILABLE RESOURCES. For the determination of eligibility, available resources include cash, or other liquid assets of any type, of real or personal property, or interest in property that the applicant or recipient owns and may convert into cash to be used for the care and support of the individuals applying.

002.11 AUTHORIZED REPRESENTATIVE. A person or organization authorized by an applicant, recipient, or court of competent jurisdiction to represent the applicant or recipient in any matters.

002.12 BLIND. A category of eligibility for individuals who are age 64 and younger and are blind.

002.13 BURIAL INSURANCE. Insurance whose terms specifically indicate that the proceeds can only be used to pay the burial expenses of the insured.

002.14 CASH SURRENDER VALUE. The amount in which the insurer will pay the owner if the policy is cancelled before maturity of the policy or death of the insured.

002.15 CATEGORICAL ASSISTANCE. Assistance administered by the Department. For the purposes of this definition, it includes the following programs: Aid to Dependent Children; Child Welfare Payment and Medical Services Program; Assistance to the Aged, Blind, or Disabled Program; State Disability Program; and Refugee Resettlement Program.

002.16 CONTRIBUTIONS OR CASH SUPPORT. Verified payments that are paid to or for a State Disability Program recipient.

002.17 DEEMING. The process of determining the amount of income and resources of a parent or sponsor which must be considered available to meet the recipient's needs.

002.18 DEPARTMENT. The Nebraska Department of Health and Human Services.

002.19 DISABLED. A category of eligibility for individuals who are age 64 and younger and are disabled as determined by the Social Security Administration or State Review Team.

002.20 ELIGIBILITY DETERMINATION. An approval, denial, renewal, or termination of eligibility.

002.21 ELIGIBILITY OF RELEASE OF INFORMATION. Before information can be released about an applicant or recipient, the Department must obtain the applicant or recipient's written permission.

002.22 EQUITY. The fair market value of property minus the total amount owed on it.

002.23 ESSENTIAL PERSON. A spouse or other specified adult relative who is needed in the home full-time to help take care of the aged, blind, or disabled recipient. The related individual will meet the following criteria:

(A) The individual lives in the home of the recipient;
(B) The individual is not eligible for medical assistance under another program; and
(C) It has been established, via the Assistance to the Aged, Blind, or Disabled Essential Person Medically Necessary Form, that the individual's presence is medically necessary in the home, full-time, in order to assist the recipient with the recipient's needs and well-being.

002.24 FAIR MARKET VALUE. The price an item of a particular make, model, size, material, or condition will sell for on the open market.

002.25 GRANT CASE. A case receiving a state supplement payment. Either term, grant or payment, may be used to make reference to the state supplement.

002.26 HEARING. An administrative proceeding before the Director of Children and Family Services, or the Director's representative.

002.27 HOME. Any shelter which the individual owns and uses as his or her principle place of residence. The home includes any land on which the house is located and any related outbuildings necessary for the operation of the residence.

002.28 IN-KIND INCOME. The value of food, clothing, shelter, or other items received in lieu of wages.

002.29 IRREGULAR INCOME. Earned or unearned income which varies in the amount from month-to-month, or, which is received at irregular intervals.

002.30 LEGAL GUARDIAN. An individual appointed by a court of competent jurisdiction to be in charge of the affairs for a person who cannot effectively manage his or her own affairs due to his or her incapacity.

002.31 NOTICE OF ACTION. A statement sent by the Department to an applicant, recipient, or their authorized representative that includes a short, plain statement of actions taken by the Department, the factual reasons for the actions, and the references of the applicable regulatory laws that authorize the actions.

002.32 PARENT OR RELATIVE CAREGIVER. A relative of a dependent child by blood, adoption, or marriage with whom the child is living, who assumes primary responsibility for the child's care, and is one of the following:

(A) The child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece;
(B) The spouse of such parent or relative, even after the marriage has terminated by death or divorce; or
(C) Another relative of the child based on blood, adoption, or marriage recognized by the State of Nebraska, or an adult with whom the child is living, and who has verified guardianship or conservatorship of the child.

002.33 PAYMENT. A recipient receiving a state supplement grant. Either term, payment or grant, may be used to make reference to the state supplement.

002.34 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 for the accomplishment of a particular transaction.

002.35 RECIPIENT. An individual receiving assistance.

002.36 RETROACTIVE PAYMENT. Any payment made during the current month for a previous month.

002.37 SHARE OF COST. A recipient's financial out-of-pocket obligation for State Disability Program medical services when countable income exceeds the medical maintenance income level. The share of cost amount is the difference between the recipient's countable income and the appropriate medical maintenance income level. This amount must be obligated or paid to medical providers before Medicaid will pay towards the remaining medical bills.

002.38 SPECIFIED LIVING ARRANGEMENT. The specified living arrangements are:

(A) An adult family home,
(B) A long term care facility including assisted living with waiver,
(C) An assisted living facility, or
(D) A center for the developmentally disabled.

002.39 STATE DISABILITY PROGRAM. A program consisting of financial assistance and medical assistance, or medical assistance only. The term State Disability Program is used when reference is made to both the grant and medical portions of the program.

002.40 STATE DISABILITY PROGRAM MEDICAL. The medical assistance portion of the State Disability Program. Two types of state disability cases are included in the medical assistance only category:

(A) State Disability Program medical assistance with no share of cost medical only is a case in which there is income sufficient to meet daily maintenance needs but insufficient to meet medical needs.
(B) State Disability Program medical assistance with a share of cost medical only is a case in which there is sufficient income to meet daily maintenance needs and a portion, but not all the unit's medical needs. The case is opened for medical assistance with no payment for medical services made until the share of cost is obligated toward medical services that have been paid for.

002.41 STATE DISABILITY PROGRAM PAYMENT. The financial assistance payment portion of the State Disability Program.

002.42 STANDARD OF NEED. The maximum standard allowed according to eligible unit size and living arrangement.

002.43 THIRD PARTY MEDICAL PAYMENT. A payment from any health insurance plan, individual or group, for medical expenses.

002.44 TIMELY NOTICE. A notice of case action dated and mailed at least ten calendar days before the date the action becomes effective.

002.44 WITHDRAWAL. A voluntary written retraction of an application.

003. APPLICANT OR RECIPEINT RESPONSIBILITIES. The applicant or recipient is required to:

(A) Provide complete and accurate information. State and federal law provides penalties of a fine, imprisonment, or both for individuals found guilty of obtaining assistance or services, for which they are not eligible, by making false statements or failing to report any changes in their circumstances within the timeframe allowed, depending upon the request and its requirements;

(B) Report a change in circumstances no later than ten days following the change. This includes reporting:
- (i) Change of address;
- (ii) Change in living arrangement;
- (iii) Change of payee;
- (iv) Change of payment method for grant such as a debit card, bank account, or facility resident account;
- (v) Disability or blind status;
- (vi) Monthly expenses;
- (vii) Resources or other financial circumstances;
- (viii) Employment status;
- (ix) The composition of the household;
- (x) A temporary absence from the home of any unit member; and
- (xi) 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, such as part-time to full-time or fulltime to part-time. For reporting purposes for Assistance to the Aged, Blind, or Disabled Program, 30 hours per week is considered full-time;

(C) Present his or her medical card to providers;

(D) Inform the medical provider and Department of any health insurance plan, any individual, or any group that may be liable for his or her medical expenses;

(E) Cooperate in obtaining any third party medical payments;

(F) Enroll in a health plan and maintain enrollment if:
- (i) One is available to the applicant or recipient;
- (ii) The applicant or recipient is able to enroll on his or her own behalf; and
- (iii) The Department has determined that enrollment in the plan is cost effective;

(G) Reimburse to the Department or pay the provider any third party medical payments received directly for services which are payable by State Disability Program or the Nebraska Medicaid Program;

(H) Pay any unauthorized medical expenses;

(I) Pay any required medical copayment;

(J) Cooperate with state and federal quality control; and

(K) Contact the agency for an interview as advised by the agency.

003.01 SANCTION FOR REFUSAL TO COOPERATE. Failure to cooperate with the Department may result in a loss of benefits.

003.01(A) SANCTION FOR NON-COOPERATION WITH THE CHILD SUPPORT PROGRAM. If the applicant or recipient fails, or refuses, to cooperate and there is no good cause shown, a sanction will be applied. If the reason for the noncooperation is the applicant or recipient's failure, or refusal, to provide information about, or obtain third-party resources, the applicant or recipient is ineligible. Eligibility of a child, or the children, is not affected. Ineligibility continues for the applicant or recipient until the individual cooperates.

003.01(B) SANCTION FOR NON-COOPERATION WITH QUALITY CONTROL. The applicant or recipient is expected to cooperate with state and federal quality control as a condition of eligibility. If an applicant or recipient fails to cooperate, the individual is ineligible for one month.

004. APPLICANT'S AND RECIPIENT'S RIGHTS. The applicant or recipient has the right to:

(A) Apply. Anyone who wishes to apply for assistance must be given the opportunity to do so. No one is denied the right to apply for public assistance;
(B) Action on the individual's application for assistance within the allowed timeframe per regulation;
(C) Adequate notice of any action affecting his or her application or assistance case;
(D) 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 within the allowed timeframe per regulation. The appeal must be filed in writing within 90 days of the action or inaction.
(E) Have his or her information treated confidentially;
(F) Have his or her civil rights upheld. No person may be subjected to discrimination on the grounds of his or her race, color, national origin, sex, age, disability, religion, or political belief; and
(G) Have the program requirements and benefits fully explained.

005. APPLICATION SUBMITTAL. An application for assistance may be made in person, by mail, telephone, fax, or electronic submission and may be made by the applicant, the applicant's guardian or conservator, an individual acting under a duly executed power of attorney, or another person authorized to act for the applicant.

005.01 VALID APPLICATION. An application is considered valid the date it is received by the Department and contains:

(A) Name;
(B) Address; and
(C) Proper signature of the applicant or authorized representative.

005.02 ALTERATIONS TO THE APPLICATION. Information may be added to an application up to the decision date.

005.03 ACTION TAKEN ON APPLICATIONS WITHIN ALLOWED TIMEFRAMES PER REGULATION. Eligibility determinations are made 45 days from the date of the application for the blind or aged category, and within 60 days from the date of application for the disabled category.

005.04 STATE DISABILITY PROGRAM MEDICAL APPLICATION WITH SHARE OF COST. An application for State Disability Program medical assistance for an individual with a share of cost who has a medical need may be approved with no medical payments authorized until the applicant has met the share of cost obligation.

005.06 ASSISTANCE TO AGED, BLIND, OR DISABLED AND STATE DISABILITY PROGRAM APPLICATION WITH EXCESS RESOURCES. An application for assistance for an individual who has excess resources is denied. The applicant can reapply when the resources have been spent down.

005.07 APPLICATION WITHDRAWAL. The applicant may voluntarily withdraw an application verbally or in writing. A notice of action is sent to the applicant.

005.08 AUTHORIZATION FOR RELEASE OF INFORMATION. The applicant or recipient must sign a release of information form if the Department requests.

005.09 NEW APPLICATION NEEDED. A new application is required after one calendar month of ineligibility.

005.10 NOTICE OF FINDING. A notice of action is sent to inform the applicant or recipient of any action affecting the assistance case. The types of notices are:

005.10(A) ADEQUATE NOTICE. An adequate notice includes a statement of what actions are being taken, the reasons for the intended actions, and the regulation that support the actions or the change in federal, or state, law that requires the actions.

005.10(B) TIMELY NOTICE. A timely notice is 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.

005.10(C) ADEQUATE AND TIMELY NOTICE. In cases of intended adverse action, including action to discontinue, terminate, suspend, or reduce assistance, or to change the manner, or form, of payment, or service, to a more restrictive method, such as a protective payee, the applicant or recipient is given adequate and timely notice.

005.11 SITUATIONS REQUIRING ADEQUATE NOTICE. In some instances, timely notice is not needed, but adequate notice is still required.

(A) The agency has factual information confirming the death of a client;
(B) The agency receives a written and signed statement from the client
  (i) Stating that assistance is no longer required; or
  (ii) Giving information which requires termination or reduction of assistance; and
  (iii) Indicating, in writing, that the client understands the consequence of supplying the information;
(C) The client has been admitted or committed to an institution, and no longer qualifies for assistance;
(D) The client has been placed in skilled nursing care, intermediate care, long-term hospitalization, or Assisted Living Waiver;

(F) 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;
(G) The client has been accepted for assistance in another state and that fact has been established;
(H) A change in level of medical care; or
(I) A special allowance granted for a specific period is terminated and the client has been informed in writing at the time of initation that the allowance automatically terminates at the end of the specified period.

005.12 WAIVER OF NOTICE. An applicant or recipient may agree to waive his or her right to a timely notice in situations requiring timely notice by providing a signed statement indicating his or her choice to waive the notice.

005.13 NOTICES IN FRAUD CASES. At least five days advance written notice is given if:
(A) The agency has facts indicating that action should be taken to discontinue, suspend, terminate, or reduce assistance because of probable fraud by the applicant or recipient; and
(B) The facts have been verified where possible through collateral sources.

005.14 CONTINUATION OF BENEFITS DURING AN APPEAL. In cases of adverse action, a timely and adequate notice is sent. When the applicant or recipient requests an appeal hearing within ten days following the date a notice of action is mailed, the adverse action is not taken until a fair hearing decision is made. This regulation does not apply to those situations where only an adequate, but not timely, notice is needed.

005.14(A) ON-GOING CASE MANAGEMENT. Normal case activities, and implementing changes to the assistance case, that are not directly related to the appeal issue is still completed.

005.14(B) ADVERSE ACTION. Adverse action pending an appeal is not carried out if:
(i) The case action being appealed required adequate and timely notice;
(ii) The applicant or recipient requests an appeal hearing within ten days following the date the notice of finding is mailed; and
(iii) The applicant or recipient does not refuse continued assistance.

005.14(C) RECOUPMENT CIRCUMSTANCES. If the appealed action is sustained by the hearing decision, the benefits received by the applicant or recipient while the hearing was pending will be subject to recoupment.

005.15 REFUSAL OF CONTINUED BENEFITS DURING AN APPEAL. An applicant or recipient has the right to refuse the continuation of benefits pending an appeal hearing by checking the statement to that effect on the Request for Fair Hearing form, or by handwriting a refusal request.

005.16 REDETERMINATION OF ELIGIBILITY FOR THE AGED, BLIND, OR DISABLED PAYMENT OR STATE DISABILITY PROGRAM. Whenever there is a reported, or suspected, ineligibility of benefits for an applicant or recipient, immediate action to determine current

eligibility is taken. A review and eligibility determination is completed according to the following:

005.16(A) REDETERMINATION FOR THE ASSISTANCE TO THE AGED, BLIND OR DISABLED PROGRAM. Every twelve months for the Assistance to the Aged, Blind, or Disabled Payment program, although the eligibility may be redetermined in less than twelve months to coordinate review dates for more than one program.

005.16(B) REDETERMINATION FOR THE STATE DISABILITY PROGRAM. At the end of twelve months or the disability ruling by a medical consultant for the State Disability Program medical assistance only, or State Disability Program medical assistance with a share of cost and no further medical needs are apparent or indicated. The disability time frame from the medical consultant may dictate less than twelve months of eligibility and the individual is ineligible when the disability ruling ends. The case is then closed and a notice sent.

005.16(C) REDETERMINATION FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS. Every twelve months, or less, for a recipient who are current pay Supplemental Security Income status. An application is not required at the time of the review.

005.16(D) REDETERMINATION FOR SUPPLEMENTAL SECURITY INCOME 1619(b) PROVISION RECIPIENTS. Every twelve months, or less, for individuals who are determined eligible by Supplemental Security Income for the 1619(b) provision are not required to complete an application at the time of review.

005.16(E) TEMPORARY NONPAY STATUS FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS. A determination of eligibility review is not required for periodic Supplemental Security Income non-pay status for income due to an extra pay period.

005.17 INCOME REVIEW. An income review is completed every twelve months for the Assistance to the Aged, Blind, or Disabled Payment program.

005.17(A) INCOME REVIEW NOT REQUIRED. An income review is not required for recipients of Supplemental Security Income.

005.18 DISABILITY REVIEW. When the initial disability determination was made by the Department, all procedures necessary for a redetermination of disability are required for recipients of the Assistance to the Aged, Blind or Disabled payment program or the State Disability Program. A redetermination of disability must be made no later than twelve months after the initial determination of disability.

005.19 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, additional verification is obtained before eligibility is determined.

005.19(A) PRIMARY RESPONSIBILITY. The client has the primary responsibility for providing verification of information relating to eligibility.

005.19(B) VERIFICATION METHODS. Verification may be supplied in person, through electronic submission, the mail, or another source.

005.19(C) AVAILABLE ASSISTANCE. When it would be extremely difficult, or impossible, for the individual to provide verification in a timely manner, the individual may ask the Department for assistance.