

CHAPTER 6-000 STATE RESIDENCY

6-001 RESIDENCE: To be eligible for assistance, an applicant/client must be a Nebraska resident. A resident is an individual living in the state voluntarily with the intent of making Nebraska his/her home. Residence starts with the month the applicant/client moves into the state, even if the applicant/client received categorical assistance in another state.

6-002 RESIDENCE OF APPLICANTS ENTERING THE STATE INTO A LICENSED HOME: The intent of an applicant to establish Nebraska residence must be investigated if the applicant comes into the state and immediately enters a home licensed by the Nebraska Department of Health and Human Services, Division of Public Health (nursing home or alternate care facility).

To determine the applicant's intent to establish residence in Nebraska, the applicant's purpose for entering the state must be considered.

The applicant is a Nebraska resident if his/her purpose for entering the state was because s/he

1. Desired to be near to close friends or relatives in the state;
2. Previously resided in the state; or
3. Has other contacts in the state.

If none of these conditions exist, the applicant's intent to establish residence shall be evaluated by the Department. If the applicant states that s/he plans to establish residence, but the situation seems to indicate otherwise, other factors are reviewed, including when the applicant entered the state, whether the applicant maintains a residence or owns property (including real and/or personal property) in another state, and the place of residence of the applicant's spouse and other immediate family members, if any.

Relevant factors to take into consideration include if the applicant was eligible for Medicaid in the state in which s/he previously resided, how the applicant was referred to the facility in Nebraska, and where the applicant would reside if s/he moved out of the facility in Nebraska, and any other related factors.

6-003 NON-INSTITUTIONALIZED APPLICANTS/CLIENTS

6-003.01 Age 21 and Over: For applicants/clients who are not residing in an institution and who are not capable of indicating intent, the state of residence is the state where the applicant/client is living.

6-003.02 If an applicant/client is under age twenty-one (21), not emancipated or married, and not Title IV-E eligible, the state of residence is the state where the individual resides, including

1. With or without a fixed address; or
2. The state of residency of the parent or caretaker.

6-003.03 Any Age

6-003.03A For an individual who is capable of indicating intent and who is emancipated or married, the state of residence is the state where the individual is living, and

1. Intends to reside, including without a fixed address; or
2. Has entered with a job commitment or seeking employment, whether or not currently employed.

6-003.04 Incapable of Indicating Intent: An applicant/client who is not institutionalized and is incapable of indicating intent is considered a resident of the state in which the individual is living if one of the following is met:

1. His/her I.Q. is 49 or less or s/he has a mental age of seven (7) or less, based on tests acceptable to the developmental disability agency in the state;
2. S/he is judged legally incompetent; or
3. Medical documentation obtained from a physician, psychologist, or other person licensed by the state in the field of developmental disability, or other documentation acceptable to the state, supports a finding that s/he is incapable of indicating intent.

6-003.05 Applicants/Clients Receiving a State Supplementary Payment (SSP): For any applicant/client who is receiving an SSP, the state paying the SSP is the state of residence.

6-003.06 Applicants/Clients Receiving Title IV-E Payments: For applicants/clients of any age who are receiving federal payments for foster care and/or adoption assistance under Title IV-E of the Social Security Act, as amended, the state of residence is the state where the applicant/client lives.

6-004 INSTITUTIONALIZED APPLICANTS/CLIENTS

6-004.01 Institutionalized Applicants/Clients: The state where the institution is located is an institutionalized applicant/client's state of residence unless it is determined that the applicant/client is a resident of another state, according to the following: For any institutionalized applicant/client who is twenty (20) years old or younger, or who is twenty-one (21) years old or older and became incapable of indicating intent before reaching twenty-one (21) years old, the state of residence is

1. That of his/her parent(s) or his/her legal guardian at the time of placement, or
2. That of his/her parent(s) or his/her legal guardian if the applicant/client is institutionalized in that state.

For any institutionalized applicant/client who became incapable of indicating intent at or after reaching twenty-one (21) years old, the state of residence is the state in which the applicant/client is physically present except where another state makes a placement.

6-004.02 Placement in an Out-of-State Institution: If a state arranges for an applicant/client to be placed in an institution located in another state, the state making the placement is the applicant/client's state of residence, regardless of the applicant/client's indicated intent or ability to indicate intent.

6-004.03 Discharge from an Out-of-State Institution: When an applicant/client leaves the facility in which the applicant/client is placed by a state, that applicant/client's state of residence is the state where the applicant/client is physically located.

6-005 ABSENCE

6-005.01 Absence From the State: The Department may not deny assistance because an individual has not resided in the state for a specified period.

6-005.02 Temporary Absence: The Department may not deny or terminate eligibility due to an applicant/client's temporary absence from the state, if the applicant/client intends to return. A temporary absence is ninety (90) days or less, except in extraordinary circumstances.

6-006 LOSS OF STATE RESIDENCE: Eligibility is terminated if the family unit leaves Nebraska with the intent of establishing its home in another state.