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07/29/2020

NEBRASKA DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

477 NAC 11

TITLE 477 MEDICAID ELIGIBILITY

CHAPTER 11 LIVING ARRANGEMENTS

001. SCOPE AND AUTHORITY. The regulations govern the services provided under the Medical Assistance Act, Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 68 901 et seq.

002. DEFINITIONS. The following definitions are used in the administration of Medicaid:

002.01 INPATIENT. A patient who has been admitted to a medical institution on the recommendation of a physician or dentist and is receiving room, board, and professional services in the institution on a continuous 24 hour-a-day basis.

002.02 INSTITUTION. An establishment which furnishes, in single or multiple facilities, food and shelter to four or more persons unrelated to the proprietor and, in addition, provides some treatment or services which meet some need beyond the basic provision of food and shelter.

002.03 INSTITUTION FOR MENTAL DISEASE (IMD). An institution of more than 16 beds which is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases. Such care includes medical attention, nursing care, and related services. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such.

002.04 LEVEL OF CARE. A category of living arrangement. Levels of care funded by Medicaid include nursing facility (NF), intermediate care facility for individuals with developmental disabilities (ICF/DD), acute hospital, and institution for mental disease (IMD).

002.05 MEDICAL INSTITUTION. An institution which is organized to provide medical care, including nursing and convalescent care, and has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards. The institution must be authorized under state law to provide medical care.

002.06 PUBLIC INSTITUTION. An institution which is the responsibility of a governmental unit, or over which a governmental unit exercises administrative control.

002.07 PUBLICLY OPERATED COMMUNITY RESIDENCE. A publicly operated residence to serve no more than 16 residents and provide some services beyond food and shelter, such as social services, help with personal living activities, or training in socialization or life skills. Occasional or incidental medical or remedial care may also be provided.

002.07(A) EXCEPTIONS. The following facilities are not considered publicly operated community residences, even if their accommodations are for 16 or fewer residents:

- (i) Residential facilities adjacent to any large institution or multi-purposes complex;
- (ii) Education or vocational training institutions;
- (iii) Correctional or holding facilities for individuals whose personal freedom is restricted because of a court sentence, holding, or pending disposition; and
- (iv) Medical treatment facilities such as hospitals and skilled nursing facilities.

003. LIVING ARRANGEMENTS.

003.01 ELIGIBLE LIVING ARRANGEMENTS. An applicant or client is eligible regardless of his or her living arrangement.

003.01(A) INSTITUTIONALIZED INDIVIDUALS. An inmate of a public institution, as defined by 42 Code of Federal Regulations (CFR) 435.1009, who meets inpatient status in a medical institution, as defined by 42 CFR 435.1010, and who is otherwise eligible may only receive payment for services received during his or her inpatient stay over 24 hours.

003.01(A)(i) EXCEPTION. This does not apply to infants or young children who reside with their mother at the Nebraska Correctional Center for Women.

003.01(B) INSTITUTES OF MENTAL DISEASE (IMD). Psychiatric care is only covered by Medicaid to individuals in an institute for mental disease who are age 21 or younger or age 65 or older. If an individual is receiving treatment in a facility on the individual's twenty-first birthday, eligibility continues until either release or the month of the twenty-second birthday, whichever is sooner.

003.02 DETERMINING THE NATURE OF AN INSTITUTION. The Department is responsible for determining the public or private nature of an institution, and whether a public institution is one in which otherwise eligible individuals may receive Medicaid.

003.03 CRITERIA FOR DETERMINING PUBLIC NATURE OF INSTITUTIONS. Governmental participation in financial support of an institution, in policy formulation, or in the application of policy to specific situations, is evidence of the public nature control which makes it a public institution. Payment from public funds to, or in support of, individuals in a private institution is not considered governmental participation in support of the institution.

003.04 PRIVATE INSTITUTION AND HOME. The private institution in which a Medicaid applicant or recipient chooses to reside may be a fraternal, benevolent, or charitable institution, or an individual may make plans for living in a home which is privately owned and operated which furnishes shelter, board, and care according to the person's needs.

003.04(A) ELIGIBILITY IN A PRIVATE INSTITUTION OR HOME. In determining the Medicaid eligibility of a person living in a private institution or home, it is necessary to determine if the person has entered into any agreement with the institution to receive shelter and care in return for a transfer of property, insurance, or other assets. It is also necessary to determine what the institution is able to furnish its residents from its own resources. The individual may be eligible to receive Medicaid if residing in a facility if the terms of the individual's stay do not in any way restrict the use of personal assets or income and if the individual has a medical need.

003.05 PATIENTS IN A MEDICAL INSTITUTION. Medicaid may be provided for a person who is a patient in a medical institution if all other eligibility factors are met. Psychiatric wards of medical hospitals are considered part of the medical institution and are not subject to the restriction on psychiatric care for individuals in an institute for mental disease (IMD).

003.06 MEDICAID APPROVED PROVIDERS. In order to receive Medicaid payment, an institution, whether public or private, must be a Medicaid approved provider and have signed a Medicaid provider agreement in accordance with 471 of the Nebraska Administrative Code (NAC).

#### 004. ABSENCE.

004.01 ABSENCE BECAUSE OF SCHOOLING. The child's absence from home for the purpose of attending school does not affect eligibility.

004.02 TEMPORARY ABSENCE FROM THE HOME. A child is still considered part of the household while he or she is out of the home for a visit not to exceed three months. A child is still considered part of the original household while he or she is on summer visitation.

004.03 TEMPORARY ABSENCE DUE TO EMERGENCY SITUATIONS. In emergency situations which deprive a child of the care of a parent relative, guardian, or conservator, temporary plans may be made to care for the child in the home of an individual or institution acting in the place of the caretaker. The unit may continue to receive assistance for the period of the emergency or the time actually required to make new arrangements for care, but the assistance must not continue beyond three months.

004.04 CONVALESCENT LEAVE. Eligibility for individuals on convalescent leave or visit from public medical institutions is determined in accordance with the applicable program standards. Eligibility is based on an individual's living situation and needs while on leave.