

EFFECTIVE
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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

477 NAC 19

TITLE 477 MEDICAID ELIGIBILITY

CHAPTER 19 MODIFIED ADJUSTED GROSS INCOME (MAGI)-BASED PROGRAMS

Chapters 477 Nebraska Administrative Code (NAC) 14 through 19 apply to the following: Parents and Caretaker Relatives, Children, Pregnant Women, 599 CHIP, Former Wards, Hospital Presumptive

001. SCOPE AND AUTHORITY. These regulations govern the services provided under Nebraska's Medicaid program as defined by the Medical Assistance Act, Nebraska Revised Statute § 68-901 et seq.

002. PREGNANT WOMEN.

002.01 PREGNANT WOMEN. In order to be eligible as a pregnant woman, an individual must be pregnant and have income equal to or less than 194% of the Federal Poverty Level (FPL).

002.01(A) POST-PARTUM ELIGIBILITY. In order for a pregnant woman to be eligible for the post-partum period, she must have been eligible for and enrolled in Medicaid on the date her pregnancy ends. If a pregnant woman is found to be retroactively eligible for the date her pregnancy ends, she is eligible for the post-partum period.

002.02 PREGNANCY VERIFICATION. Verification of pregnancy is not required unless information is not reasonably compatible with an applicant or client's attestation.

003. PARENTS AND CARETAKER RELATIVES.

003.01 PARENTS AND CARETAKER RELATIVES. In order to be eligible as a Parent or Caretaker Relative, an individual must:

- (A) Have a dependent child, see 477 NAC 1; and
- (B) Have household income equal to or less than 58% of the Federal Poverty Level (FPL).

004. CHILDREN.

004.01 MEDICAID FOR CHILDREN UNDER AGE 19. Children may receive Medicaid if they meet one of the following the eligibility requirements:

- (A) Newborn children: Newborn children born to Medicaid eligible pregnant women are eligible at the time of birth for one year;
- (B) Infants under age one: Children under age one are eligible if their household income is equal to or less than 162% of the Federal Poverty Level (FPL);

- (C) Children age one through age five: Children age one through age five are eligible if their household income is equal to or less than 145% of the Federal Poverty Level (FPL);
- (D) Children age six through age 18: Children age six through age 18 are eligible if their household income is equal to or less than 133% of the Federal Poverty Level (FPL);
- (E) Children's Health Insurance Program (CHIP): Children age 18 or younger who do not meet income limits for Medicaid are eligible for Children's Health Insurance Program (CHIP) if their household income is equal to or less than 213% of the Federal Poverty Level (FPL) and the children are not covered by creditable health insurance; or
- (F) Minor pregnant women: Minor pregnant women who do not meet the income limits for children's Medicaid are eligible under the Pregnant Women's category if their household income is at or below the applicable Federal Poverty Level (FPL). Ongoing Medicaid eligibility must be reviewed prior to the end of the 60-day postpartum period.

004.02 CHILDREN IN AN INSTITUTION FOR MENTAL DISEASE (IMD).

004.02(A) INDIVIDUALS AGE 19 AND 20. Individuals age 19 and 20 may be found eligible for services under this category if they are receiving inpatient care in an institution for mental disease. If an individual is an inpatient in an institution for mental disease when he or she reaches age 21, he or she may remain eligible for services either until discharge or until he or she reaches age 22, whichever comes first.

004.03 CHILDREN WHO ARE STATE WARDS NOT ELIGIBLE FOR IV-E ASSISTANCE. Children who are state wards not eligible for IV-E assistance must complete an application for Medicaid. Eligibility will be determined using modified adjusted gross income (MAGI)-based methodologies.

004.04 CHILDREN ELIGIBLE FOR IV-E ASSISTANCE. See 477 NAC 28.

005. 599 CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP).

005.01 ELIGIBILITY REQUIREMENTS. A pregnant woman who is not otherwise eligible for Medicaid or Children's Health Insurance Program (CHIP) may have her unborn child's eligibility reviewed under the 599 Children's Health Insurance Program (CHIP) program. Eligibility for Medicaid must first be determined before 599 Children's Health Insurance Program (CHIP) eligibility can be reviewed. Eligibility is determined for unborn children from conception through birth, if the household income is equal to or less than 197% of the Federal Poverty Level (FPL).

005.01(A) CITIZENSHIP AND NON-CITIZEN STATUS. 599 Children's Health Insurance Program (CHIP) has no requirement for citizenship or alien status, as the unborn child's status is independent of that of the pregnant woman.

005.01(B) CREDITABLE HEALTH INSURANCE. There is no eligibility for the unborn child if the pregnant woman has creditable health insurance. Health insurance which does not provide prenatal or maternity care is not considered creditable coverage. For a definition of creditable health insurance, see 477 NAC 1.

005.01(C) NEBRASKA RESIDENCE. The residency of the unborn child will follow the residency of the pregnant woman.

005.01(D) RELATIVE RESPONSIBILITY. Relative responsibility in the 599 Children's Health Insurance Program (CHIP) is determined using relative responsibility regulations for modified adjusted gross income (MAGI) programs. For a pregnant minor, the income of her financially responsible parent shall not be used to determine eligibility for the unborn child.

005.01(E) AGE REQUIREMENT. For receipt of 599 Children's Health Insurance Program (CHIP) benefits, an individual is considered an unborn child from conception until birth.

005.01(F) THIRD PARTY LIABILITY. If an ineligible pregnant woman or her spouse fails or refuses to cooperate with third party liability, the unborn child is ineligible for 599 Children's Health Insurance Program (CHIP).

005.02 EFFECTIVE DATE OF ELIGIBILITY. The effective date of eligibility for 599 Children's Health Insurance Program (CHIP) is no earlier than the first day of the application month. There is no retroactive eligibility for 599 Children's Health Insurance Program (CHIP).

005.03 CONTINUOUS ELIGIBILITY. Unborn children are continuously eligible for up to six months or through their month of birth, whichever comes first. After six months of continuous eligibility, a full eligibility review is not required. However, information reported or known to the Department must be acted upon. An unborn child must have at least a thirty-day period of ineligibility before he or she would qualify for another six-month period of continuous eligibility.

005.03(A) ELIGIBILITY FOR THE CHILD UPON BIRTH. Following the birth of the child, eligibility will be determined for medical assistance based on any changes reported or known to the Department. If the newborn is determined eligible for medical assistance, the newborn is eligible for six months of continuous Medicaid eligibility.

005.03(B) POST-PARTUM SERVICES. The pregnant woman will not be eligible for post-partum services under 599 Children's Health Insurance Program (CHIP). If post-partum care is needed for complications following labor and delivery, the woman may apply for Emergency Medical Services Assistance (EMSA).

006. FORMER WARDS.

006.01 ELIGIBILITY REQUIREMENTS. In order for an individual to be eligible in the former ward program, he or she must:

- (A) Meet non-financial eligibility requirements for Medicaid;
- (B) Be age 18 through age 20;
- (C) Have income equal to or less than 51% of the Federal Poverty Level (FPL);
- (D) Be a former ward of the Department; and
- (E) Be regularly attending a school, college, or a course of vocational or technical training designed to prepare the individual for gainful employment.

007. NON-IV-E SUBSIDIZED ADOPTIONS AND GUARDIANSHIPS FOR YOUNG ADULTS.

007.01 ELIGIBILITY REQUIREMENTS. In order for an individual to be eligible for Medicaid in this program, he or she must:

- (A) Be 19 through age 20;
- (B) Have entered into a subsidized guardianship agreement or a subsidized adoption agreement after reaching age 16;
- (C) Meet at least one of the following criteria:
 - (i) The individual is completing secondary education or in an educational program leading to an equivalent credential;
 - (ii) The individual is enrolled in an institution that provides postsecondary or vocational education;
 - (iii) The individual is employed for at least 80 hours per month;
 - (iv) The individual is participating in a program or activity designed to promote employment or remove barriers to employment; or
 - (v) The individual is incapable of doing any part of these activities due to a medical condition. Incapacity must be supported by regularly updated information in the case plan of the individual; and
- (D) Have income equal to or less than 23% of the Federal Poverty Level (FPL).

008. PRESUMPTIVE ELIGIBILITY.

008.01 ELIGIBILITY REQUIREMENTS. To be presumptively eligible in accordance with the policies and procedures established by the Department, a presumptive eligibility determination must be made by a qualified provider on the basis of preliminary information indicating the individual has gross income at or below the income standard established for the applicable group, has attested to being a citizen or national of the United States or is in satisfactory non-citizen status, and is a resident of Nebraska.

008.02 EFFECTIVE DATE. Presumptive eligibility begins on the date the provider completes a presumptive eligibility determination.

008.03 ELIGIBILITY PERIOD. If the individual files an application for Medicaid by the last day of the month following the month in which the qualified provider made the determination of presumptive eligibility, the presumptive eligibility ends on the day the Department makes the determination of Medicaid eligibility based on that application. If the individual does not file an application for Medicaid by the last day of the month following the month in which the qualified provider made the determination, the presumptive eligibility ends on that day. A presumptive application approved in error will be closed by the Department upon discovery of the error.

008.04 NOTICES. Notice and fair hearing regulations do not apply to determinations and closures of presumptive eligibility.

008.05 RESPONSIBILITIES OF QUALIFIED ENTITIES. An entity qualified to make presumptive eligibility determinations must:

- (A) Notify the appropriate individual at the time a determination regarding presumptive eligibility is made, in writing or orally if appropriate, of such determination, and of the presumptive eligibility period, and
 - (i) If a Medicaid application on behalf of the eligible individual is not filed by the last day of the following month, the individual's presumptive eligibility will end on that last day;
 - (ii) If a Medicaid application on behalf of the eligible individual is filed by the last day of the following month, the individual's presumptive eligibility will end on the day that a decision is made on the Medicaid application;
 - (iii) If the individual is not determined presumptively eligible, the qualified entity must notify the appropriate individual of the reason for the determination and he or she may file an application for Medicaid with the Department;
- (B) Provide the individual with a Department approved application for Nebraska Medicaid;
- (C) Notify the Department the individual is presumptively eligible within five working days from the date the determination is made; and
- (D) Refrain from delegating the authority to determine presumptive eligibility to another entity.

008.06 FAILURE TO MEET CATEGORICAL ELIGIBILITY. If a client fails to satisfy any of the eligibility criteria for a presumptive eligibility Medicaid category, other than income, at any time during the client's presumptive eligibility period, presumptive eligibility must be discontinued regardless of the client's submission of an application.

008.07 PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN. Medicaid covers ambulatory prenatal care for pregnant women on the basis of presumptive eligibility. The qualified provider may authorize a period of presumptive eligibility once per pregnancy. There is no presumptive eligibility under the 599 Children's Health Insurance Program (CHIP).

008.07(A) AMBULATORY PRENATAL CARE. See 471 NAC 28.

010.07(B) QUALIFIED PROVIDER. Only a qualified provider may make presumptive eligibility determinations. See 471 NAC 28 for requirements of a qualified provider.

008.08 HOSPITAL PRESUMPTIVE ELIGIBILITY. The Department will provide Medicaid during a presumptive eligibility period to individuals who are determined eligible by a qualified hospital.

008.08(A) ELIGIBLE GROUPS. Determinations are limited to:

- (i) Children, see 477 NAC 19;
- (ii) Pregnant women, see 477 NAC 19. A pregnant woman is eligible for ambulatory care only;
- (iii) Parents and caretaker relatives, see 477 NAC 19;
- (iv) Effective October 1, 2020, the Heritage Health Adult Program, see 477 NAC 29;
- (v) Former foster care children, see 477 NAC 28; and
- (vi) Breast and cervical cancer patients, see Women's Cancer Program at 477 NAC 27. Hospitals which may determine presumptive eligibility for such patients are limited to those participating in the National Breast and Cervical Cancer Early

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Detection Program under authority of the Centers of Disease Control and Prevention.

008.08(B) FREQUENCY. Presumptive eligibility determination is limited to no more than one period within two calendar years per person. A qualified provider may authorize a period of presumptive eligibility once per pregnancy.

008.08(C) QUALIFIED HOSPITAL CRITERIA. A hospital qualified to make presumptive eligibility determinations must:

- (i) Participate as a Medicaid provider;
- (ii) Notify the Department of its decision to make presumptive determinations;
- (iii) Agree to make determinations consistent with state policy and procedures;
- (iv) Assist individuals in completing and submitting full Medicaid applications;
- (v) Assist individuals in understanding required documentation requirements; and
- (vi) Not be disqualified by the Department.