

EFFECTIVE
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NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

477 NAC 20

TITLE 477 MEDICAID ELIGIBILITY

CHAPTER 20 DEFINITIONS PERTAINING TO NON-MODIFIED ADJUSTED GROSS
INCOME (MAGI) PROGRAMS

001. APPLICABILITY. Chapters 477 Nebraska Administrative Code (NAC) 20 through 28 apply to the following: Aged, Blind, and Disabled (ABD); Medically Needy (MN); Medicaid Insurance for Workers with Disabilities (MIWD); Women's Cancer Program; Transitional Medical Assistance (TMA); Former Foster Care; Emergency Medical Services Assistance (EMSA); and Children and Young Adults Eligible for IV-E Assistance.

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

003. DEFINITIONS. The following definitions apply to 477 NAC 20 through 28:

003.01 ACHIEVING A BETTER LIFE EXPERIENCE (ABLE) ACCOUNT. An Achieving a Better Life Experience (ABLE) Account is a special type of investment account under Section 529A of the Internal Revenue Code. These accounts are for individuals who have a medically determinable physical or mental impairment, which results in marked and severe functional limitation, and which can be expected to result in death or which has lasted, or can be expected to last for a continuous period of not less than 12 months. The accounts must be held at designated institutions and can only be used for qualified disability expenses, as defined by the Internal Revenue Code. All amounts remaining in an Achieving a Better Life Experience (ABLE) account are transferred to the state at the time the account holder dies.

003.02 AGED, BLIND, AND DISABLED (ABD). A category of medical assistance for aged, blind, and disabled (ABD) persons who meet the appropriate criteria for assistance.

003.03 AGED. A client who is 65 years old or older.

003.04 ANNUITY. A prepaid investment which pays periodic, usually monthly, payments for a set period of time. Payments may begin immediately or at a future date.

003.05 ANNUITY TRANSACTION. The purchase of an annuity, changing the annuity beneficiary, or annuitizing, which is authorizing the commencement of the pay-out period.

003.06 ASSETS. Assets are all income and resources of an applicant or client and the spouse of an applicant or client, including income or resources to which the applicant or client or the spouse of the applicant or client is entitled but does not receive because of action or inaction by the applicant or client; the spouse of the applicant or client; a person or entity, including a court or administrative body with legal authority to act in place of, or on behalf of, the applicant or client or the spouse of the applicant or client; or, a person or entity, including a court or administrative body, acting at the direction or upon the request of the applicant or client or the spouse of the applicant or client.

003.07 AVAILABLE RESOURCES. For the determination of eligibility, available resources include cash or other liquid assets, or any type of real or personal property or interest in property which the client owns and may convert into cash to be used for support and maintenance.

003.08 BLIND. A category of eligibility for clients who are 64 years old and younger and who are blind in accordance with program standards.

003.09 BURIAL INSURANCE. Insurance policies in which the terms specifically provide proceeds can be used only to pay the burial expenses of the insured.

003.10 CASH SURRENDER VALUE. Amount which the insurer will pay, usually to the owner, upon cancellation of the policy before death of the insured or before maturity of the policy.

003.11 CHILD. For aged, blind, and disabled programs, a child is an individual aged 17 years or younger. For medically needy children, a child is an individual aged 18 or younger.

003.12 CLIENT. An applicant or recipient of Medicaid. For the purposes of these regulations, a reference to a client may also refer to the person's guardian, legal representative, or authorized representative.

003.13 CONTRIBUTIONS OR CASH SUPPORT. Verified payments paid to or for a Medicaid unit.

003.14 COUNTABLE INCOME. The amount of income, after all appropriate disregards are applied, used to determine eligibility for medical assistance.

003.15 DISABLED. A category of eligibility for clients who are 64 years old and younger and who are disabled as determined by the Social Security Administration or the State Review Team. An individual is disabled if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. See Titles II and XVI of the federal Social Security Act, as amended, for further disability criteria.

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

003.17 ESSENTIAL PROPERTY. Property or equipment owned solely by the client or the client's spouse in his or her name, or held in a partnership or corporation interest.

003.18 FACE VALUE. Basic death benefit of the policy exclusive of dividend additions or additional amounts payable because of accidental death or under other special provisions. In determining the face value of a policy, the original face value of the policy is used.

003.19 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.

003.20 FORMER FOSTER CARE. A client less than 26 years old who was in foster care under Nebraska or the tribe's responsibility and receiving Medicaid when he or she became eighteen (18) or nineteen (19) years old, or such higher age at which federal foster care assistance ends.

003.21 FORMER WARD. An individual between the ages of 18 and 21 who has been discharged as a ward by the Department and who is in a continuing educational program.

003.22 GRANTOR OF A TRUST. Any individual who creates a trust is the grantor of the trust. A grantor may be:

- (A) An applicant or client;
- (B) The spouse of an applicant or client;
- (C) A person or entity, including a court or administrative body, with legal authority to act in place of, or on behalf of, the applicant or client or the spouse of the applicant or client; or
- (D) A person or entity, including a court or administrative body, acting at the direction or on the request of the applicant or client or the spouse of the applicant or client.

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

003.24 HOUSEHOLD SIZE. The total number of individuals living together on the basis of relative responsibility.

003.25 INCOME. Gain or recurrent benefit received in money or in-kind from employment, business, property, investments, gifts, benefits, annuities, or trusts at regular or irregular intervals of time.

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

003.27 IRREVOCABLE TRUST. A trust which cannot in any way be revoked by the grantor of the trust.

003.28 MEDICAID-QUALIFYING TRUST. An irrevocable trust or similar legal device which was established prior to August 11, 1993, by an applicant or client or the spouse of an applicant or client under which:

- (A) The applicant or client is the beneficiary of all or part of the distributions from the trust; and
- (B) The amount of the distribution is determined by a trustee who is permitted to exercise any discretion with respect to the amount to be distributed to the individual and the distributable amount from a Medicaid-qualifying trust has no use limitation.

003.29 MEDICALLY NEEDY. A program which extends Medicaid coverage to eligible individuals with high medical expenses whose income exceeds the maximum threshold, but who would otherwise be eligible.

003.30 POOLED TRUST. An irrevocable trust containing the assets of a disabled individual established and managed by a nonprofit association in a separate account solely for the benefit of a disabled individual.

003.31 QUALIFIED LONG-TERM CARE (LTC) PARTNERSHIP POLICY. A qualified long-term care (LTC) partnership policy is a long-term care insurance policy which has been approved by the Nebraska Department of Insurance. The Department of Health and Human Services accepts the Department of Insurance's certification of the policy. If an individual has a long term care insurance policy which does not meet the requirements for a qualified long-term care partnership policy because it was issued before July 1, 2006, the individual may exchange the policy for another.

003.32 REAL PROPERTY. Land, houses, or buildings.

003.33 REVOCABLE TRUST. A trust which can be revoked by the grantor of the trust. A trust which allows a court to modify, terminate, or revoke the trust and allow the grantor to receive the trust's assets is a revocable trust. A trust claiming to be irrevocable and indicates the trust would terminate if certain action is taken by the grantor is a revocable trust.

003.34 SHARE OF COST. A client's monthly financial out-of-pocket obligation for medical services when the client's income exceeds the program limits.

003.35 SPECIAL NEEDS TRUST. An irrevocable trust containing the assets of a disabled individual and established solely for his or her benefit by the individual (if established on or after December 12, 2016) or the individual's, parent, grandparent, legal guardian, or a court, if the state will receive all amounts remaining in the trust upon the death of the individual or on termination of the trust up to the amount of total medical assistance paid on behalf of the individual.

003.36 SUPPLEMENTAL SECURITY INCOME (SSI) FEDERAL BENEFIT RATE. The maximum Supplemental Security Income benefit payable based on an individual's living arrangement.

003.37 TESTAMENTARY TRUST. A trust created and funded by a grantor's will.

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003.38 TRUST. A trust is any written legal instrument, arrangement, or device which is otherwise valid under applicable law and by which an individual, the grantor, transfers property to another person, the trustee, with the intention it be held, managed, or administered under a fiduciary duty by the trustee for the benefit of a designated beneficiary. Trusts can include escrow accounts, investment accounts, pension funds, irrevocable burial trusts, and annuities.

003.39 TRUST BENEFICIARY. An individual, designated by a trust to receive any distribution from the income or principal for the benefit of the individual is a beneficiary of the trust. A distribution from a trust may include cash, non-cash, or property disbursements, including the right to use or occupy real property.

003.40 WOMEN'S CANCER PROGRAM. Health care coverage for eligible women who need treatment for breast and cervical cancer. This program was established by the Breast and Cervical Cancer Prevention and Treatment Act of 2000.