

TITLE 464 - NEBRASKA LIFESPAN RESPITE SERVICES PROGRAM

CHAPTER 1 - PROGRAM REQUIREMENTS

001. SCOPE AND AUTHORITY. The Lifespan Respite Services Program provides funding for eligible unpaid primary family caregivers, hereinafter “caregivers”, to purchase respite services. The Program is authorized by Nebraska Revised Statutes (Neb. Rev. Stat.) §§ 68-1520 through 68-1528. The Program is administered by the Nebraska Department of Health and Human Services hereinafter, “The Department.”

001.01 RESPITE SERVICES. Respite is a service designed to give caregivers a break from the demands of providing ongoing care for recipients with special needs unable to care for themselves without regard to age, type of special needs or other status. The basic intent of respite is to:

- (A) Prevent or postpone out-of-home placements or care at public expense;
- (B) Reduce family and caregiver stress;
- (C) Enhance the family and the caregiver’s coping abilities;
- (D) Strengthen the family and the caregiver’s ability to meet the demands of caring for family members; and
- (E) Reduce the risk of abuse or neglect of children, the elderly and other vulnerable individuals.

002. CONFIDENTIALITY. All information regarding applicants, recipients, and caregivers is kept confidential.

003. NON-DISCRIMINATION. The Department does not discriminate against any person applying for or receiving benefits through the Program on the basis of race, color, national origin, sex, age, disability, religion, or political belief.

004. FRAUD. Any person who knowingly provides false information or knowingly withholds pertinent information to obtain or attempt to obtain services under this Program may have services denied or ended, be charged an overpayment, and be criminally prosecuted for fraud.

005. ELIGIBILITY FOR OTHER RESPITE SERVICES. The assistance provided by the Program must not replace or reduce services and support by other government-administered programs for which the applicant or recipient is eligible or may be eligible.

005.01 APPLICATION REQUIREMENTS. The applicant or recipient must apply for and provide evidence of current application and eligibility denial or lack of available funds from other federal or state-funded programs offering respite services before eligibility can be determined:

(A) The applicant or recipient must accept respite available through another government administered program.

(B) A lack of cooperation with other respite support programs is grounds for denial or termination from the Program.

006. INELIGIBILITY DUE TO OTHER AVAILABLE ASSISTANCE. The applicant or recipient is ineligible if:

(A) The applicant or recipient has available insurance, financial means or other available support programs to cover the cost of requested program services;

(B) The applicant or recipient failed to apply for, failed to cooperate with the application process; or

(C) The applicant or recipient failed to notify the program of services provided by other funding source and continued to bill for the same service on the same dates.

007. INDIVIDUAL RESPONSIBILITIES. Each applicant or recipient must comply with the responsibilities listed below.

007.01 COMPLETE AND ACCURATE INFORMATION. Each applicant or recipient must provide complete and accurate information. State law provides penalties of a fine, imprisonment, or both for persons found guilty of obtaining assistance or services for which the individual is not eligible by making false statements or failing to report promptly any changes in his or her circumstances.

007.02 CHANGE IN CIRCUMSTANCES. Each applicant or recipient must report a change in the following circumstances no later than ten calendar days following the change of:

(A) Earned and unearned income;

(B) Resources;

(C) Living arrangement;

(D) Address;

(E) Family composition;

(F) Household composition;

(G) Need for services; or

(H) Recipient's medical condition or health.

007.03 COOPERATION. Each applicant or recipient must cooperate with the Department or auditors during an audit.

007.04 VERIFICATION OF INFORMATION. Each applicant or recipient must provide verification of information when requested by the Department. An applicant or recipient who fails to provide information to the Department by the due date, may have the application denied. A recipient receiving services who fails to provide information requested may have payments delayed, services terminated and the Department may establish an overpayment for services previously provided. In renewal cases, if the completed application and requested supporting documentation is not returned for the eligibility renewal before the existing eligibility period expires, the Program case will be closed at the end of the eligibility period.

007.05 CLIENT NOTIFICATIONS. The recipient must provide written notice to the Department of preference for receiving notifications through the United States Postal Service or a designated email address. Recipient is responsible to provide the Department with a current and accurate mailing or email address as well updating the Department with any changes.

008. APPLICATION PROCESS. Anyone may submit an application on a Department approved form. Anyone may submit a completed, dated, and signed program application electronically, by mail, fax, or in person.

009. ELIGIBILITY CRITERIA. In order to be eligible, applicants must:

- (A) Reside in the State of Nebraska;
- (B) Reside in a non-institutional setting;
- (C) Have a special need requiring ongoing care without regard to age, type of special needs or other status;
- (D) Meet the income and resource criteria for the Program;
- (E) The applicant or recipient must be a United States citizen or meet the qualified alien status as required by Neb. Rev. Stat. § 4-111; and
- (F) Inform the Department of everyone who lives in household regardless of relative status.

010. CAREGIVER REQUIREMENTS. To be eligible, caregivers must:

- (A) Be providing care or supervision of applicant or recipient with special needs without reimbursement or payment;
- (B) Need respite services;
- (C) Reside in the same home as the person with special needs or be providing care to recipient in the recipient's home for a minimum of 4 hours per day Sunday through Saturday; and
- (D) Caregivers may not use respite services while engaging in employment activities.

011. FINANCIAL ELIGIBILITY. To determine financial eligibility, the Program considers the applicant or recipient's family size, income and resources. Applicants or recipients who have access to financial or other resources sufficient to meet their needs may be found ineligible for services.

011.01 FAMILY SIZE. Family size is determined by the number of adults and children related by blood, marriage, or adoption who reside in the same household. An unborn child may be included.

011.02 INCOME AND RESOURCE ELIGIBILITY. In order to be eligible, applicants and recipients must have gross income, minus Department allowable income exclusions that is at or below 312% of the federal poverty level, adjusted for family size to meet income criteria for the Program. Applicants or recipients with family resources exceeding \$35,000 for a family of one or \$50,000 for a family of two or more are ineligible. Applicants or recipients actively eligible for Social Security Supplemental Security Income, Medicaid, Supplemental Nutrition Assistance Program, Aid to Dependent Children or Assistance to the Aged, Blind and Disabled are waived from additional requirements for income and resource testing for this Program.

011.02(A) TOTAL FAMILY INCOME. For persons who have reached the age of 19, only the income of the applicant or recipient and the applicant or recipient's spouse will be considered. For persons under the age of 19, and not designated by a court as emancipated, the income and assets of the applicant or recipient and the taxable income of the custodial parent(s) is considered.

011.02(B) INCOME VERIFICATION. Applicants or recipients are to report and provide verification of all gross earned and unearned income. Verification of earned income consists of the following:

- (i) The Department considers the gross amount of all earned and unearned income to the family in determining initial and ongoing eligibility unless it is specifically excluded below;
- (ii) The date paid or received;
- (iii) The period covered by the payment or benefit; and
- (iv) The gross amount of payment or benefit.

011.02(C) INCOME EXCLUSIONS. The following income sources are not considered in determining gross monthly income:

- (i) Amount designated, per Medicaid eligibility, by a spouse living at home to a spouse in an alternate living situation, as defined by the Medical Assistance Act, Neb. Rev. Stat. §§ 68-901 to 68-992;
- (ii) Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the

Commissioner of Education under the Higher Education Opportunity Act, Public Law 110-315;

(iii) Earnings of a child age 13 or younger;

(iv) Loans, grants, or scholarships obtained and used under conditions that prohibit their use for current living costs;

(v) Payments received through the Workforce Innovation and Opportunities Act for classroom training, tuition and books. Payments to meet living expenses while attending school are considered income;

(vi) Payments to an individual participating in training or school attendance subsidized by Vocational Rehabilitation within the Nebraska Department of Education;

(vii) Reimbursement of expenses or payments for services from the Senior Companion Program, AmeriCorps, Senior Corps, Foster Grandparents, Service Corps of Retired Executives, Experience Works and any other programs under Title II and II of Public Law 93-113;

(viii) Value of United States Department of Agriculture donated foods;

(ix) Value of Supplemental Nutrition Assistance Program and the special food service program for children under the National School Lunch Program Child Nutrition Act of 1966, as amended;

(x) Assigned child or spousal support;

(xi) Subsidized adoption or subsidized guardianship payments from Title IV-E or child welfare funds; and

(xii) Work study for a graduate student or a student working for a second degree.

011.02(D) RESOURCE EXCLUSIONS. The following resources are not considered in determining program eligibility:

(i) Real property which the applicant or recipient owns and occupies as a home;

(ii) Household goods and personal effects of a moderate value used in the home;

(iii) Cash surrender value of life insurance policies with combined face values of \$1,500 or less per individual;

(iv) Unspent portion of any lump sum payment or retroactive payment for Retirement, Survivors, and Disabled Insurance and

Supplemental Security Income;

(v) United States savings bonds;

(vi) Value of unavailable resources;

(vii) One motor vehicle;

(viii) Essential property, land and equipment used for trade or business;

(ix) Non-business property up to Program specified maximum;

(x) Equity value of nonbusiness real or personal property used to produce goods or services essential to daily activities up to program specified maximum;

(xi) Irrevocable burial trust funds or burial insurance up to Program specified maximum;

(xii) Value of purchased burial space up to program specified maximum;

(xiii) Cash surrender value of life insurance policies up to Program specified maximum;

(xiv) Qualified Long-Term Care policy;

(xv) Testamentary trusts and guardianships depending on the availability of the funds as specified in the terms of the trust;

(xvi) Qualified annuities meeting Program requirements;

(xvii) Special Needs or Pooled Trusts not considered available if established for a disabled client age 64 or younger or eligible to receive Supplemental Security Income, Retirement, Survivors, and Disabled insurance, or Aid to Aged, Blind and Disabled;

(xviii) Victims compensation payments received from a state or local government to aid victims of crime;

(xix) Payments received from a state or local government to assist in relocation;

(xx) An unavailable job-related retirement account held by the employer not readily converted into cash without significant penalty;

(xxi) An Individual Development Account;

(xxii) A Nebraska Enable Savings Plan pursuant to the Achieving a Better Life Experience Act of 2014 and Section 529A of the United States Internal Revenue Code; and

(xxiii) Medicare Set-Aside accounts used for payment of medical bills of Medicare beneficiaries.

012. MAXIMUM SUPPORT. The support provided through this Program must not exceed \$125 per recipient per month except for recipients the Department has approved for exceptional circumstances funding, including crisis respite. The Department determines the maximum monthly expenditure for each recipient based on need and available funds.

012.01 FLEXIBILITY IN USE OF FUNDS. A caregiver may request Department flexibility in use of authorized funds to meet recipient need.

012.02 ADDITIONAL SERVICES. A caregiver may contact the Department to request additional services in unusual circumstances, including a crisis need.

013. NOTICES. Applicants and recipients are sent adequate notice in writing of eligibility decisions within 30 calendar days of the Department's receipt of application. Recipients are also sent notices when services are to be reduced, added, or terminated. Applicants will be notified in writing when a review or annual renewal is necessary.

013.01 TIMELY NOTICE. A notice of case action dated and mailed at least ten calendar days before the date the action becomes effective. A timely notice must be issued if services are to be reduced or terminated before the current authorization period ends.

013.02 SITUATIONS REQUIRING ADEQUATE NOTICE. In some instances, timely notice is not needed, but adequate notice is still required. A notice is sent to the recipient no later than the action's effective date.

013.03 NOTICE NOT REQUIRED. The recipient will not receive a notice of action when:

- (A) The Department learns of a recipient's death;
- (B) The applicant or recipient is committed to an institution or admitted to a nursing home on a long-term basis;
- (C) The applicant or recipient's whereabouts are unknown; or
- (D) The authorization period is ending and the recipient has not acted upon a request for renewal information.

014. ELIGIBILITY PERIODS. The Department establishes eligibility periods for recipients with ongoing special needs. Eligibility must be renewed at least every twelve months. A renewal will be completed more frequently if the recipient's circumstances change.

014.01 ELIGIBILITY REVIEWS. Upon receipt of a renewal request from the Department, the recipient has 45 calendar days from the date of the

renewal notification to provide the same documentation that is required for initial eligibility.

014.02 ACCEPTABLE VERIFICATION FOR ANNUAL ELIGIBILITY REVIEW.

Recipient must provide the same documentation required for initial eligibility.

014.03 VERIFICATION REQUESTS. Applicant or recipient has ten calendar days to respond to written requests from the Department for supportive documentation or application will be denied or case closed.

014.04 CHANGES WITHIN ELIGIBILITY PERIODS. Caregivers must immediately report any change in income, resources, living arrangement, or need to the Department. Failure to do so may result in termination of services and an overpayment which must be refunded to the Department.

015. PRIOR AUTHORIZATIONS. The Department does not pay for respite services received prior to Program eligibility determination. The Program only pays for authorized respite services.

016. PAYMENTS. The Department determines whether payments are made directly to the recipient or to the provider.

016.01 PAYMENTS TO THE RECIPIENT. Recipients receiving direct payment must complete a Department approved billing document. Incomplete or inaccurate billing documents will be rejected and not paid.

016.02 PAYMENTS TO THE PROVIDER. Providers receiving direct payment must complete a Department approved billing document. Incomplete or inaccurate billing documents will be rejected and not paid.

016.03 LIMITATIONS ON PAYMENTS. The recipient is responsible for any amount owed to the provider in excess of the authorized amount. The recipient must not bill the Department for more than the amount authorized. The Department will not pay recipient or the provider for any amount in excess of the authorized amount.

016.04 FREQUENCY OF PAYMENTS. Billing documents for respite services must be submitted no more than once a month per respite provider after all the respite services have been provided for the month. Billing documents must be submitted for any given month within 60 days of the date when the service is provided.

016.05 LACK OF BILLING WITHOUT JUSTIFICATION. The recipient may be determined Program ineligible if no claims have been submitted for Program authorized services for three consecutive months without providing justification to show how the recipient's needs were met during that time and why the needs will no longer be met without continued Program assistance.

017. RIGHT TO APPEAL. Any applicant or recipient has the right to appeal a Department action to deny, terminate or reduce respite services under this

program based upon the following:

- (A) Denial of Program application;
- (B) Suspension of Program services;
- (C) Reduction of Program services;
- (D) Termination of Program services;
- (E) Inaction or belief the Department's action was erroneous; or
- (F) The Department determines an overpayment has occurred.

018. APPEAL TIME LIMITS. An appeal is made by requesting a fair hearing in writing within 90 days of the date of the written notice or alleged inaction. The appeal is timely if it is received by the Department within 90 days of the date of the written notice or if it is post-marked within 90 days of the date of the written notice. The appeal request must:

- (1) Include a short, timely, and accurate summary of the Department's action being appealed;
- (2) Describe the reason for the appeal; and
- (3) Be sent to the Nebraska Department of Health and Human Services Hearing Office.

018.03(A) CONTINUED SERVICE DURING APPEAL. If an appeal is requested in writing within 10 calendar days following the date the Notice of Action was mailed, the Department will not carry out the adverse action until a fair hearing decision is made, except when the adverse action is a denial of eligibility.

019. LOCATING RESPITE PROVIDERS. Recipients and caregivers are responsible for identifying, hiring, supervising, and firing their own provider. Providers must be Nebraska Lifespan Respite Network screened. Providers are not employees of the State of Nebraska when providing respite services. Caregivers are encouraged to refer family and friends to become Network screened providers.

019.01 DEPARTMENT DISCRETION. The Department retains the authority to deny payment to a recipient's choice of provider in the following circumstances:

- (A) The provider engages in fraudulent billing;
- (B) The provider has committed fraud in other Department programs;
- (C) The provider has been convicted of abuse or neglect of a vulnerable adult or child;
- (D) The provider has been convicted of a violent crime;

- (E) The provider has been convicted of child pornography;
- (F) The provider has been convicted of domestic abuse or assault;
- (G) The provider has been convicted of shoplifting after age 19 and within the last three years;
- (H) The provider has a conviction for felony fraud in the past 10 years;
- (I) The provider has a conviction for misdemeanor fraud in the past five years;
- (J) The provider has a conviction for possession controlled substances within the last 10 years;
- (K) The provider has a conviction for manufacturing of a controlled substances within the last 10 years;
- (L) The provider has a conviction for prostitution or solicitation of prostitution within the last five years;
- (M) The provider has a conviction for robbery or burglary within the last 10 years;
- (N) The provider has a conviction for rape or sexual assault;
- (O) The provider is a registered or required to be registered on a State or National Sex Offender Registry or Repository;
- (P) The provider has a conviction for any crime against a child or vulnerable adult;
- (Q) The provider has a conviction for kidnapping;
- (R) The provider has a conviction for animal cruelty, abuse, or neglect;
- (S) The provider has a conviction for arson;
- (T) The provider has convictions for driving under the influence within the last five years;
- (U) The provider has two or more pending driving under the influence charges; or
- (V) The provider has convictions for any other crimes jeopardizing the safety of a child or vulnerable adult.

019.02 USING NEBRASKA LIFESPAN RESPITE NETWORK SCREENED

PROVIDERS. Local Nebraska Lifespan Respite Networks funded through the Nebraska Lifespan Respite Services program assist families by matching caregivers with background screened providers and other types of paid and unpaid respite care. The Local Network:

- (A) Is operated by a community-based private nonprofit or for-profit agency or a public agency that provides respite services sensitive to the unique needs, strengths, and cultural values of the recipient, family, or caregiver;
- (B) Serves in one or more of the six regional services areas of the Department;
- (C) Acts as a single local source for respite services information and referral;
- (D) Assists caregivers to identify respite care needs and resources;
- (E) Facilitates access to a flexible array of local respite service options responsive to family and caregiver needs to prevent a crisis;
- (F) Recruits and screens paid and unpaid respite care providers; and
- (G) Identifies training resources and organizes training opportunities for respite care providers.

020. SUPPORTIVE SERVICES. The Department will not pay for support services with respite approved funds. Supportive services include, but are not limited to, administering medications, escort services, housekeeping services, and personal care services.

