TITLE 473 - SOCIAL SERVICES FOR THE AGED AND DISABLED

CHAPTER 4 - DEFINED SERVICES

001. CHORE SERVICE. This section contains material which governs:

(A) The authorization and provision of chore services; and

(B) The evaluation and approval of chore service providers.

001.01 CHORE SERVICE NEED. Chore service is not provided based on the demand of the recipient. Any person receiving social services must have a defined need for service in order to meet eligibility requirements. Need implies that the provision of that services will assist the client to advance toward the achievement of program goals.

001.02 AVAILABLE CHORE SERVICES. The available chore services are those which could normally be performed by the applicant or recipient, but the applicant or recipient is presently unable to perform as determined during the service needs assessment process.

001.02(A) CLEANING. Cleaning services include light housecleaning that is required in order to maintain the individual in a safe and sanitary environment. Cleaning includes only vacuuming, sweeping, mopping, dusting, trash removal, cleaning and sanitizing of the kitchen and bathroom, cleaning and clearing the refrigerator of old and spoiled foods, and cleaning the stove and oven as appropriate. It does not include window washing, furniture moving, cleaning closets or drawers, any exterior cleaning or maintenance, or other non-essential tasks.

001.02(A)(i) ESSENTIAL TASKS. For essential tasks, the recipient shall provide necessary supplies.

001.02(A)(ii) EXCPETION. An exception will be considered for an Adult Protective Services recipient whose home requires major one-time cleaning.

001.02(B) ESSENTIAL SHOPPING. Essential shopping includes obtaining food, clothing, housing, or personal care items a maximum of one time per week.

001.02(C) FOOD PREPARATION. Food preparation includes preparing meals necessary for and related clean-up to maintain the recipient's independence. The recipient must provide necessary meal preparation supplies.

001.02(D) LAUNDRY SERVICE. Laundry service includes washing, drying, folding, and storing laundry in the individual's home, or utilizing laundromat services on behalf of the individual. The soap and machine use fees are provided by the recipient.

001.02(E) PERSONAL CARE. Personal care consists of only bathing, dressing, shaving, and shampooing.

001.03 INDIVIDUALS SERVED. Chore services are only for those individuals who are age 19 or older who are either:

(A) Current Supplemental Security Income or State Supplemental recipients; or

(B) Low income aged or disabled persons.

001.04 CONDITIONS OF PROVISION. Services are provided as follows:

001.04(A) LIMITS BASED ON LIVING ARRANGEMENTS. Based upon the service needs assessment process, essential shopping and medical escort components of the chore services can only be authorized for individuals residing in relatives' homes, board and room homes, adult family homes, residential care facilities, domiciliary facilities, or centers for the developmentally disabled.

001.04(B) SPECIAL GRANT CIRCUMSTANCES. The laundry or shopping components of chore services cannot be authorized if those needs are included as a Special Requirement in the Assistance to the Aged, Blind or Disabled State Supplemental grant.

001.04(C) PERSONAL CARE. The personal care component of chore services cannot be authorized if the recipient is eligible for Medicaid and is receiving personal care through Home Health Services or Personal Assistance Services.

001.05 LIMITS FOR ADULT PROTECTIVE SERVICES WITHOUT REGARD TO INCOME RECIPIENTS. Based upon the service needs assessment, chore services are authorized for recipients eligible without regard to income for a maximum of 31 days in situations of abuse or neglect of an individual age 18 or older.

001.06 MAXIMUM RATES. The rate for chore services matches the federal minimum wage. Periodic increases or decreases may be made to the chore services rate in a percentage amount corresponding with legislative appropriations or budget directives from the Nebraska Legislature which result in general Medicaid service provider increases or decreases.

001.07 FREQUENCY. The frequency of service is by the hour.

001.08 MAXIMUM ALLOWABLE UNITS. The maximum allowable units is 65 hours per month or 15 hours per week for chore services.

001.09 LIMIT EXCEPTIONS. Requests to increase the number of maximum units provided will not be granted unless the request is related to an active Adult Protective Services case.

001.10 HEALTH AND SAFETY STANDARDS. Each chore service provider must:

(A) Be free of communicable disease, physically capable of providing service, and willing to provide a physician's verification statement, if required;

(B) Have knowledge of basic first aid skills and of available emergency medical resources, if providing full-time or live-in housekeeping or personal care; and

(C) Exercise reasonable caution and care in the use and storage of the recipient's equipment, appliances, and supplies.

001.10(A) SKILL AND CAPABILITY STANDARDS. The provider has training or home experience in carrying out chore services comparable to those which will be authorized.

001.10(B) EQUIPMENT AND SUPPLIES STANDARDS. The chore service provider provides any equipment necessary to perform authorized tasks or duties, if the recipient does not provide them. This cost may not be authorized for service reimbursement, but is considered in setting the provider's rate. The recipient provides household supplies.

002. ADULT DAY SERVICES. This section contains material governing adult day services as follows:

(A) The authorization and provision of adult day services; and

(B) The evaluation of adult day services.

002.01 DAY SERVICES DEFINITIONS. The following definitions apply to adult day services:

002.01(A) ADULT DAY SERVICES, HOME OR CENTER. A program of structured and monitored social, manual, physical, and intellectual services or activities provided for a minimum of three hours per day. These services are provided in a supervised setting in either a day services home or a center outside a recipient’s own home. Adult day services is directed toward adults who do not require 24 hour institutional care and yet, because of physical or mental impairment or social isolation, require services in a group setting.

002.01(A)(i) ADULT DAY SERVICES CENTER. A facility meeting established standard that provides supervision and activities for four or more adults away from the recipient’s home.

002.01(A)(ii) ADULT DAY SERVICES HOME. A facility meeting established standard that provides supervision and activities for fewer than four adults away from the recipient’s home.

002.01(B) IN-HOME ADULT DAY SERVICES. Supervision or services provided in an individual’s home that enables the recipient’s caretaker who also lives in the home, to participate in employment or training. The services may include part-time chore and homemaker activities.

002.02 INDIVIDUALS SERVED. Adult day services are authorized only for those individuals who are 19 or older who are:

(A) Current Supplemental Security Income or State Supplemental recipients; or

(B) Low income aged or disabled persons.

002.03 NEED. Eligible recipients must need adult day services to increase or maintain social and emotional wellbeing through opportunities for intellectual, physical, manual, and social activities.

002.03(A) GOALS. Adult day services are necessary for the applicant or recipient to:

(i) Avoid unnecessary institutionalization or to delay institutionalization;

(ii) Facilitate community readjustment after institutionalization;

(iii) Improve level of functioning;

(iv) Alleviate deteriorating effects of isolation and self-neglect; or

(v) Aid in the transition from one living arrangement to another, such as a more independent living arrangement.

002.03(B) RELEVANT FACTORS. The Department considers the following when determining the recipient’s need for adult day services:

(i) The individual's residential situation in terms of support available through a group or family setting;

(ii) What the individual has previously done with their time that adult day services are now being considered, or what other service arrangements existed;

(iii) What other supportive community resources are available to the individual which may not make the provision of adult day services an urgent need; and

(iv) The individual's employment or training status. If the individual is employed or in a vocational or training program for part of the day, the need for adult day services would be questionable as the individual would already be on the path toward goal achievement.

002.03(C) IN-HOME DAYCARE NEED. In assessing the need for in-home day care, the applicant or recipient must demonstrate:

(i) The individual cannot remain alone. Documentation may be requested from the individual's medical provider for verification;

(ii) The individual's usual caretaker will be participating in employment or training;

(iii) The service required is of a non-medical supervisory nature; and

(iv) No other resources, including volunteers or community resources, are available to meet the individual’s needs.

002.04 LIMITS FOR ADULT PROTECTIVE SERVICES INDIVIDUALS WITHOUT REGARD TO INCOME. Based upon the service needs assessment process, the Department may authorize adult day service for recipients eligible without regard to income for a maximum of 31 days in situations of abuse or neglect for an individual age 18 or older.

002.05 MAXIMUM RATES AND ALLOWABLE UNITS. The following criteria applies to authorization standards for adult day services:

002.05(A) RATES. The statewide rate is established utilizing the total federal funding appropriation to Nebraska for adult day care services and the total state funding for adult day care services divided by the projected total of the adult day care service days provided on an annual basis. The projected number of days to be provided is derived from the Department’s historical data. Periodic increases or decreases may be made to the adult day care service rate in a percentage amount corresponding with legislative appropriations or budget directives from the Nebraska Legislature which result in general Medicaid service provider increases or decreases.

002.05(B) FREQUENCY. The frequency of services is by the hour or by the day. A day is defined as six or more hours per day.

002.05(C) MAXIMUM ALLOWABLE UNITS. Adult day services shall be authorized up to five days per week for the first six months. After the initial six months, adult day services may be authorized up to three days per week. If the recipient needs more days, an exception request must be submitted to the Department. A statement from the recipient’s mental health provider or guardian, will be required.

002.06 ADULT DAY SERVICE PROVIDER STANDARDS. The following standards are applicable to adult day service providers:

002.06(A) PROVIDER SKILLS. Personnel who provide adult day services are required to be trained, or have home or work experience in performing day service duties. Personnel must:

(i) Practice courtesy, patience, and understanding with recipients;

(ii) Be sensitive to the special needs of elderly and disabled recipients for personal attention and assistance; and

(iii) Be able to recognize distress or signs of illness in recipients.

002.06(B) PROVIDER KNOWLEDGE. Personnel who provide adult day services must have practical knowledge of:

(i) Basic first aid procedures and available emergency medical resources;

(ii) Procedures to follow in case of a recipient's sudden illness or an accident;

(iii) Reasonable safety precautions to exercise when dealing with recipients and their property;

(iv) Each recipient's address, telephone number, and means of transportation; and

(v) Procedures to follow when problems and grievances need to be discussed.

002.06(C) PROVIDER HEALTH. All personnel of adult day service facilities must be:

(i) Physically capable of completing assignments; and

(ii) Free of communicable disease and willing to provide a physician's verifying statement, requested by the Department.

002.07 PROGRAM STANDARDS FOR CENTERS. Providers offering adult day service centers to program recipients must meet the following standards:

002.07(A) ACTIVITY GUIDELINES. Adult day services center staff will ensure:

(1) Activities are available to all recipients;

(2) Each recipient is encouraged to participate, but free to decline;

(3) The program is geared to the recipient’s abilities and interests;

(4) The program provides intellectual and physical stimulation while preserving the dignity of the recipient; and

(5) The program meets the financial responsibility for any activities or field trips available as part of the Adult Day Care Services Program.

002.07(A)(i) ACTIVITY TYPES. Adult day services center staff will offer the following activities:

(1) Intellectual activities for exploring subjects of interest to the recipient population;

(2) Manual activities such as hobbies and home arts and crafts;

(3) Physical activities which stress physical fitness, either individually or as group programs; and

(4) Social activities involving groups. Adult day care services staff must be present with recipients at all times during the provision of any adult day service activity.

002.07(A)(ii) ACTIVITY EQUIPMENT. Adult day services center staff will provide:

(1) Furniture, equipment, supplies, and materials for recipient’s use;

(2) Magazines, books, games, and recreational materials for recipient’s use; and

(3) Quiet areas for reading and resting.

002.07(B) MEALS. If the recipient is in the facility more than four hours per day and the adult day services program provides a meal, the meal must include one third of an adult's daily nutritional requirement. If the program does not provide a meal and requires recipients to bring their own food, a meal cost must be deducted from the program's daily rate of Title XX reimbursement.

002.07(C) FACILITIES. Adult day services center staff and facilities must:

(i) Comply with fire prevention regulations, health and sanitation regulations, and zoning codes and regulations;

(ii) Maintain lavatory and toilet facilities that are available, accessible, and in working order;

(iii) Have adequate space, proper ventilation, and means of adequate temperature control for the number of individuals served;

(iv) Maintain facilities which are safe and free from hazards and barriers; and

(v) Contact the Department if:

(1) The adult day services program is to be provided in a facility licensed by the Department; or

(2) The program intends to provide medical services.

002.07(D) RECORDS MAINTENANCE. Adult day services staff are required to maintain the following records:

(i) Recipient's charts documenting individualized adult day services goals, activities in which the recipient participates, and all individual problem areas and the progress made through service provision. Progress notes should be recorded at least every three months;

(ii) Recipients' physicians, pertinent medical information and phone numbers of emergency contacts;

(iii) Signed consents for release of information about recipients;

(iv) Recipient attendance, services received, and method of payment;

(v) Program costs; and

(vi) Program admissions and program discharges.

003. HOME-DELIVERED AND CONGREGATE MEALS SERVICE. This section contains material which governs:

(A) The authorization and provision of home delivered and congregate meals; and

(B) The evaluation and approval of meal providers.

003.01 MEALS SERVICE NEED. Meals service is not provided based on the demand of the recipient. Any individual receiving meals service must have a defined need for the service in order to meet eligibility requirements. Need for a service implies that the provision of that service will assist the recipient in achieving program goals.

003.02 MEALS SERVICE DEFINITIONS. The following definitions apply:

003.02(A) CONGREGATE MEALS. Meals prepared and served at a dining facility outside of the recipient's residence.

003.02(B) HOME-DELIVERED MEALS. Meals that are prepared outside of the recipient's residence and delivered to their residence. The residence must be an independent living arrangement.

003.02(C) MEAL. A variety of properly prepared foods containing one-third of the minimum daily nutritional requirements for adults.

003.03 RECIPIENTS SERVED. Home-delivered or congregate meals service may be authorized for those individuals age 19 or older who are:

(A) Current Supplemental Security Income State Supplemental recipients; or

(B) Low income aged or disabled persons.

003.04 NEED FOR SERVICE. Eligible recipients must meet at least one of the following criteria:

(A) Be unable to prepare adequate meals within their own residences. This inability may be due to:

(i) Physical or mental impairment or disabilities;

(ii) Chronic illness;

(iii) Inability to obtain food products because of distance to the source;

(iv) Lack of cooking facilities; or

(v) Lack of motivation. Lack of motivation is characterized by emotional or physical deterioration which seriously endangers the recipient's ability to remain in an individual living situation;

(B) Have no other person living in their homes who are able and willing to obtain, prepare, and serve adequate meals in the home; or

(C) Not living in a congregate facility where meal service is the responsibility of the facility and the cost of meals is included in the payment rate.

003.05 LIMITS FOR ADULT PROTECTIVE SERVICES WITHOUT REGARD TO INCOME RECIPIENTS. Recipients eligible without regard to income may be eligible for a maximum of 31 days in situations of abuse or neglect for an individual age 18 or older.

003.06 MAXIMUM RATES AND ALLOWABLE UNITS. The following guidelines of rate and allowable units are applicable to meal services:

003.06(A) RATES. The statewide rate is established utilizing the total federal funding appropriation to the State of Nebraska for meals services and the total state funding for meals services divided by the projected total of the congregate and delivered meals to be produced on an annual basis. The projected number of meals to be produced is derived from data provided by the state Area Agency on Aging organizations. Periodic increases or decreases may be made to the meal service rate in a percentage amount corresponding with legislative appropriations or budget directives from the Nebraska Legislature which result in general Medicaid service provider increases or decreases.

003.06(B) FREQUENCY. The frequency of service is per occurrence.

003.06(C) MAXIMUM ALLOWABLE UNITS. One congregate or home-delivered meal per day can be authorized.

003.07 MEAL SERVICE EXCEPTIONS. The following criteria are considered when agreements are entered into with meals service providers:

(A) Actual service cost in the provision of meal service is not a basis for granting a rate increase;

(B) Special rates will not be granted to providers who prepare meals catering to the various dietary requirements of their recipients. Providers are required to prepare meals for special diets; and

(C) No exceptions will be approved for Area Agencies on Aging as their rates are standardized.

003.08 HEALTH AND SAFETY STANDARDS. Food preparation and serving facilities and areas are required to conform to all established local, state, or federal fire prevention, sanitation, zoning, and facility maintenance standards. Food preparation and serving personnel must meet the following criteria:

(1) Be in good health and free from contagious disease;

(2) Skilled and instructed in sanitary food handling, preparation, and serving practices;

(3) Courteous, understanding, and helpful when seating or serving aged or mentally impaired or disabled recipients;

(4) Knowledgeable of basic first aid; and

(5) Aware of available resources for medical emergencies and for transportation.

003.08(A) HOME-DELIVERED MEAL STANDARDS. Home-delivered meal providers must:

(i) Deliver meals to recipients on an established schedule;

(ii) Be knowledgeable of basic first aid; and

(iii) Transport and deliver meals using utensils and equipment which are sanitary and maintain proper food temperatures. Thermos type containers and disposable or sterilizable serving dishes must be used.

003.08(B) CONGREGATE MEAL STANDARDS. Providers serving meals in a congregate setting must ensure the facility is:

(i) Accessible to adult recipients and free from architectural barriers to aged or handicapped individuals; and

(ii) Maintained at a comfortable temperature, properly ventilated, and have sufficient space.

003.09 MENU AND MEAL REQUIREMENTS. The meals and menu must:

(A) Reflect the general dietary needs of aged or disabled people as well as the specific dietary needs of the recipients served;

(B) Be prepared one week in advance on a weekly menu plan form and kept available for inspection by service unit staff at any time; and

(C) Contain one third of the minimum daily nutrition requirement for adults using a variety of foods from day to day.

004. HOMEMAKER SERVICE FOR ADULTS. This section contains material which governs:

(1) The authorization and provision of homemaker; and

(2) The evaluation and approval of homemaker providers.

004.01 HOMEMAKER DEFINITION FOR ADULTS. Homemaker services is not provided based on the demand of the recipient. The instruction provided by the homemaker must maintain or strengthen the recipient's capacity to function in the most independent living situation possible.

004.02 HOMEMAKER TASKS. Recipients approved for homemaker services receive assistance with the following tasks:

(A) Organization of household activities and time management;

(B) Management, maintenance, arrangement, cleaning, and care of home appliances, equipment, eating utensils, furniture, and supplies;

(C) Obtaining, storing, planning, preparing, and serving nutritious food for self or family;

(D) Management, supervision, training, and proper care of infants, children, or incapacitated family members;

(E) Obtaining and properly caring for clothing, household supplies, and sundry needs of self or family;

(F) Maintenance of sanitation within the home;

(G) Maintenance of personal hygiene and health practices for self and family members, if applicable;

(H) Obtaining any necessary medical care and treatment;

(I) Management and proper use of income and resources; and

(J) Maintaining proper relationships and communication with family members.

004.03 RECIPIENTS SERVED. Eligible recipients include:

(A) Current Supplemental Security Income State Supplemental recipients; or

(B) Low income aged or disabled persons.

004.04 HOMEMAKER NEED. Eligible recipients must:

(A) Have an identified service need; and

(B) Be unable to maintain safe and adequate homemaking practices within their own living facilities. This inability may be caused by:

(i) A change in living situation within the past 12 months;

(ii) Recent death of or other separation from the usual homemaker;

(iii) Adjustment to a recent medical condition; or

(iv) A household crisis.

004.05 LIVING ARRANGEMENT. Applicants and recipients living in a congregate facility are not eligible for homemaker service if the facility:

(A) Is responsible to provide either homemaker service; and

(B) Includes the cost of homemaker service in its rate.

004.06 LIMITS FOR ADULT PROTECTIVE SERVICES WITHOUT REGARD TO INCOME RECIPIENTS. Based upon the service needs assessment, the homemaker services can be authorized for recipients eligible without regard to income for a maximum of 31 days in situations of abuse or neglect for an individual age 18 or older.

004.07 MAXIMUM RATES AND ALLOWABLE UNITS. The following guidelines of rate and allowable units are applicable to homemaker services:

(A) RATES. Homemaker rate of pay matches the federal minimum wage. Periodic increases or decreases may be made to the homemaker service rate in a percentage amount corresponding with legislative appropriations or budget directives from the Nebraska Legislature which result in general Medicaid service provider increases or decreases.

(B) FREQUENCY. The frequency of service is by the hour.

(C) MAXIMUM ALLOWABLE UNITS. The maximum allowable units 65 hours per month for homemaker services.

(D) TIME LIMIT. Maximum of six months. Services beyond six months must receive approval from the Department.

004.08 HOMEMAKER PROVIDER REQUIREMENTS. Homemakers participating as providers must:

(A) Have experience in performing homemaker tasks;

(B) Be free of communicable disease, have the physical capability to provide service, and be willing to provide a physician's verification statement if requested;

(C) Exhibit good grooming and personal hygiene practices;

(D) Demonstrate acceptance of, respect for, and a positive attitude toward other people, especially those who are aged or disabled;

(E) Exhibit emotional maturity in assuming responsibility, maintaining schedules, and adapting to new situations; and

(F) Possess the necessary skills to demonstrate, complete and instruct individuals to adopt proper activities to overcome identified deficiencies.

005. TRANSPORTATION SERVICES. Transportation service is transporting an eligible recipient to and from allowable community resources when the recipient has no other transportation. Service may be provided by an individual, exempt provider, or by common carrier.

005.01 TRANSPORTATION DEFINITIONS. The following definitions apply to Transportation services:

005.01(A) COMMON CARRIER. Common carrier means any person who transports passengers by motor vehicle for hire and is licensed as such with the Public Service Commission.

005.01(B) ESCORT SERVICES. Escort Services means an attendant or caregiver accompanying a minor or person who is physically, mentally, or developmentally disabled and unable to travel or wait without assistance or supervision.

005.01(C) EXEMPT PROVIDER. An exempt provider means the carriers are exempted from Public Service Commission licensure by law including those that:

(i) Transport for hire persons who are aged and their spouses and dependents under a contract with a municipality or county;

(ii) Are owned and operated by a nonprofit organization which has been exempted from the payment of federal income taxes as provided by Section 501(c)(4), Internal Revenue Code, and

transporting solely those persons over age 60, their spouses and dependents, or persons experiencing disabilities;

(iii) Are operated by a municipality or county as authorized by law in the transportation of persons who are aged;

(iv) Are operated by a governmental subdivision or a qualified public purpose organization having motor vehicles with a seating capacity of 20 or less and are engaged in the transportation of passengers in the state;

(v) Are operated by a governmental subdivision or a qualified public purpose organization having motor vehicles with a seating capacity of 20 or less and are engaged in the transportation of passengers in the state;

(vi) Are engaged in the transportation of passengers and are operated by a transit authority created under and acting pursuant to the laws of the State of Nebraska; and

(vii) Provide escort services under contract with the Department or with any agency organized under the Nebraska Community Aging Services Act.

005.01(D) INDIVIDUAL PROVIDER. An individual provider is a person who is not in the business of providing transportation for hire for example, a friend, neighbor or non-legally responsible relative.

005.01(E) MEDICAL ESCORT. A medical escort is an attendant or caregiver accompanying a minor or persons who are physically, mentally, or developmentally disabled and unable to travel or wait without assistance or supervision to receive a Nebraska Medicaid coverable service.

005.01(F) NEBRASKA MEDICAID COVERED SERVICE. This is a medical service that could be covered by the Nebraska Medical Assistance Program as specified in Nebraska Administrative Code Title 471.

005.01(G) TARIFF. Tariff is the geographic and rate parameters of operation assigned to a particular carrier by the Public Service Commission.

005.02 NEED FOR SERVICE. Transportation services are not provided based on the demand of the recipient. Need for a service implies that the provision of that service will assist the recipient in achieving program outcomes. Eligible recipients are required to have the following conditions:

(1) Have no access to a working licensed vehicle or a valid driver’s license;

(2) Be unable to drive due to physical or cognitive limitation;

(3) Be unable to secure transportation from relatives, friends, or other organizations at no cost; or

(4) Require transportation to receive a Nebraska Medicaid covered service. Transportations services cannot be authorized if the recipient is eligible for Medicaid.

005.02(A) RESIDENTS OF NURSING FACILITIES OR IMMEDIATE CARE FACILITIES FOR DEVELOPMENTAL DISABILITIES. Residents of nursing facilities or immediate care facilities for development disabilities are not eligible to receive transportation through the Social Services for the Aged and Disabled Program, except for discharge transportation. All other transportation is the responsibility of the facility. Transportation, including moving the individual's household goods or personal property, may not be authorized for these recipients.

005.02(B) MEDICAL ESCORT SERVICES. The following conditions must be met for a recipient to be eligible for escort services:

(i) Be physically or mentally unable to travel alone or wait alone to obtain a Medicaid coverable service;

(ii) Require assistance with personal care; or

(iii) Require supervision; and

(iv) Must not be currently Medicaid eligible.

005.03 NON-MEDICAL TRANSPORTATION. The services are authorized for the following needs:

(A) APPLYING FOR BENEFITS AND SERVICES:

(i) Public assistance

(ii) Social Security; or

(iii) Veteran's benefits; or

(B) SHOPPING FOR FOOD AND ESSENTIAL ITEMS:

(i) Shop for food;

(ii) Receive commodities or food pantry services;

(iii) Obtain clothing or personal care items;

(iv) Obtain legal services, receive legal counsel from legal aid societies, private attorneys, county attorneys and other professional legal sources; or

(v) Allow the recipient to obtain financial services and to take care of financial matters; or

(C) SECURING HOUSING. A recipient may be approved to locate, secure or retain adequate housing or independent living arrangement. Transportation may be provided for a recipient to return home from a hospital or nursing home; or

(D) RECEIVE SOCIAL SERVICES FOR THE AGED AND DISABLED. Transportation to allow the transporting of a recipient to and from congregate meals and adult day services; or

(E) ARRANGE EDUCATION OR TRAINING. The recipient may make arrangements for participation in a formal educational or employment skill training program directed toward a self-support goal; or

(F) SECURE EMPLOYMENT. The recipient is allowed transportation to locate, apply for or secure paid employment or training leading to paid employment, but they are not allowed transportation to and from employment.

005.04 TRANSPORTATION SERVICE PROVIDER STANDARDS. The Department approves provider agreements with common carriers, exempt providers, escort providers, and individual providers. To be approved, providers must meet all general provider standards in addition to the service specific standards. Annual reviews for provider agreements are required to renew the agreement. The provider must continue to meet all provider standards and service specific standards.

005.04(A) COMMON CARRIER STANDARDS. Public Service Commission certifies common carriers. Taxis and van companies are certified by the Public Service Commission as common carriers.

005.04(B) EXEMPT PROVIDER STANDARDS. Exempt providers must ensure that their employees meet the individual provider standards.

005.04(C) ESCORT PROVIDER STANDARDS. The provider must:

(1) Be an individual aged 19 or older;

(2) Have training or experience in working with persons who are aged or who have a disability;

(3) Have training or experience in providing personal assistance;

(4) Agree to have his or her driving records reviewed, if the escort will drive;

(5) Maintain information on specific needs of each recipient served; and

(6) Report all changes observed to the recipient's services coordinator.

005.04(C)(i) The escort provider who personally drives the recipient must also meet all individual provider standards. The escort provider is required to complete the individual transportation provider self-certification.

005.04(C)(ii) If the recipient requires an escort and the escort will not drive, sufficient transportation units for both the recipient and the escort are authorized with another suitable transportation option.

005.04(D) INDIVIDUAL PROVIDER STANDARDS. Provider agreements with individual providers by Neb. Rev. Stat. § 75-303.03 can be authorized only if the driver and vehicle standards are met at all times when the individual is providing transportation for a client.

005.04(D)(i) DRIVER STANDARDS. The individual provider requirements include:

(1) Have been chosen by the recipient or the usual caregiver to provide transportation;

(2) Be age 19 or older;

(3) Possess a current and valid driver's license;

(4) Have no more than three points assessed against their Nebraska driver's license, or meet a comparable standard in the state where they are licensed to drive;

(5) Currently have no limitations that would interfere with safe driving;

(6) Personally drive their own vehicle to transport the recipient;

(7) Use seat belts and child passenger restraint devices as required by law;

(8) Not smoke while transporting the recipient;

(9) Not transport the recipient while under the influence of alcohol or any drug that impairs the ability to drive safely;

(10) Not provide transportation if they have a communicable disease which poses a threat to the health and well-being of the recipient;

(11) Have and maintain the minimum automobile liability and medical insurance coverage as required by law; and

(12) Report disqualification from any Department program for intentional program violation.

005.04(D)(ii) VEHICLE STANDARDS. The individual provider's vehicle requirements are:

(1) Currently licensed and registered as required by law;

(2) Kept at all times in proper physical and mechanical conditions;

(3) Equipped with operable seat belts, turn signals, lights, and horn;

(4) Equipped with proper child passenger restraint devices as required by law when transporting children; and

(5) Equipped to provide comfortable temperature and ventilation conditions.

005.04(D)(iii) REGISTRY CHECKS. The following registries are checked:

(a) Adult Protective Services Central Registry;

(b) Central Register of Child Protection Cases; and

(c) Nebraska State Patrol Sex Offender Registry.

005.04(D)(iii)(1) If the potential provider does not reside in Nebraska, or has resided in Nebraska for less than one year, the Department must check registries in the state of residence or previous residence.

005.04(D)(iii)(2) The Department will not approve a provider agreement with the potential individual provider if a report of abuse or neglect concerning the individual provider has been determined to be Court Substantiated or Department Substantiated on the Adult Protective Services Central Registry or Court Substantiated, Court Pending, or Inconclusive on the Central Registry of Child Protection Cases.

005.04(D)(iii)(3) The Department will not approve a provider agreement with a potential individual provider if the individual's name appears on the Nebraska State Patrol Sex Offender Registry.

005.04(D)(iv) CRIMINAL BACKGROUND CHECKS. The Department is required to:

(a) Obtain a criminal history statement from the potential individual provider; and

(b) Perform a criminal history check of the potential individual provider.

005.04(D)(iv)(1) GENERAL CRIMINAL HISTORY. The Department must not approve a provider agreement with a potential individual provider if a history of convictions for misdemeanor or felony actions that endanger the health and safety of any client is indicated. This includes crimes against a child or vulnerable adult, crimes involving intentional bodily harm, crimes involving the illegal use of a controlled substance, and crimes involving moral turpitude on the part of the potential provider, or any major traffic violations.

005.04(D)(iv)(2) SPECIFIC CRIMINAL HISTORY. A provider agreement will be denied or terminated when conviction has occurred in the following areas:

(a) Child pornography;

(b) Child or adult abuse;

(c) Driving under the influence: a driving under the influence conviction within the past eight years;

(d) Domestic assault;

(e) Shoplifting after age 19 and within the last three years;

(f) Felony fraud within the last 10 years;

(g) Misdemeanor fraud within the last five years;

(h) Termination of provider status for cause from any Department program within the last 10 years;

(i) Possession of any controlled substance within the last five years;

(j) Possession of a controlled substance with intent to deliver within the last 10 years;

(k) Felony or misdemeanor assault without a weapon in the last 10 years;

(l) Felony or misdemeanor assault with a weapon in the last 15 years;

(m) Prostitution or solicitation of prostitution within the last five years;

(n) Felony or misdemeanor robbery or burglary within the last 10 years;

(o) Rape or sexual assault; or

(p) Homicide.

005.04(D)(iv)(3) Pending charges are reviewed by the Department to determine whether the recipient's safety is in jeopardy. Other convictions are weighted to similar offenses included in the aforementioned list.

005.04(D)(v) INDIVIDUAL PROVIDER APPROVAL PROCESS. A copy of the individual's current driver's license, insurance card, and vehicle registration is required. The provider must complete and sign the provider self-certification and the provider agreement. In addition to having no more than three points assessed against their driver's license, each provider's past eight-year driving history must be considered. If a license has been suspended or revoked, the provider must not be approved for eight years from the date of suspension or revocation.

005.04(D)(v)(1) RENEWAL. The provider self-certification and the provider agreement is renewed annually. The registry checks and criminal history checks will be completed for each renewal. Department staff must obtain a copy of the individual's current driver's license, insurance card, and vehicle registration. No provider agreement with a provider whose name appears on the registries, or whose criminal history check indicates any convictions, will be renewed.

005.04(D)(v)(2) TERMINATION. The provider agreement will be terminated if the individual provider is found to be in violation of any of the regulatory standards. Any provider agreement with a provider whose name appears on the registries or whose criminal history check indicates any convictions will be terminated.

005.05 AUTHORIZATION PROCEDURES. Before authorizing transportation or escort services, the use of family, neighbors, friends, or community agencies that will provide this service without charge, whenever possible, will be explored.

005.05(A) NON-MEDICAL TRANSPORTATION. For areas where exempt providers are available, or the recipient has chosen to use an individual provider, the recipient will not be allowed to use common carriers unless the exempt, or individual provider, cannot provide the service.

005.05(A)(i) AUTHORIZATION OF EXEMPT PROVIDERS. The Department will approve a provider agreement with, and authorize services for a provider who is exempt from Public Service Commission licensure as appropriate to meet a recipient's needs. The availability of a common carrier does not limit the use of an exempt provider.

005.05(A)(ii) MEDICAL ESCORT. The following is the criteria to determine when to authorize an hourly rate for medical escort services:

(a) The escort is not a legally responsible member of the recipient's family;

(b) The recipient is not able to secure an escort at no cost; and

(c) The escort is not receiving payment from another source.

005.05(A)(ii)(1) UTILIZATION OF EXEMPT PROVIDERS AS THE DRIVER. When transportation is provided by an exempt provider, the cost of the escort's transportation is authorized only if there is an extra charge for the escort's transportation, such as with air fares, rural transit system, or city bus systems.

005.05(A)(ii)(2) UTILIZATION OF COMMON CARRIER. When transportation is provided by common carrier provider, the provider may not charge an extra cost for transporting the escort.

005.05(A)(ii)(3) UTILIZATION OF INDIVIDUAL PROVIDERS AS THE DRIVER. When transportation is provided to a recipient and an escort by an individual provider, the provider will not be paid an additional amount for transporting the escort.

005.05(B) INDIVIDUAL PROVIDERS. An individual can be authorized as the provider if the following criteria are met:

(i) The recipient has chosen the individual provider;

(ii) The individual will personally drive the vehicle; and

(iii) The individual meets provider standards.

005.06 TRANSPORTATION SERVICES RATES, FREQUENCY, AND MAXIMUM ALLOWABLE UNITS. The following regulations apply to transportation services:

005.06(A) CONDITIONS FOR PAYMENT. The Department will pay for transportation services only:

(i) When the recipient is actually in the vehicle; and

(ii) Using the most direct and logical route from the recipient's residence to the service location.

005.06(B) UPPER LIMITS. The Department establishes transportation rates according to the following limits:

005.06(B)(i) COMMON CARRIERS. Neb. Rev. Stat. § 75-303.02 limits the distance rates for common carriers at a rate no greater than three times the state employee mileage rate. The maximum reimbursement rate does not apply when the carrier:

(1) Transports the recipient wholly within the corporate limits of the city or village where the transportation of the recipient originated; or

(2) Transports a disabled person as defined by the federal Americans with Disabilities Act of 1990 in a vehicle that is compliant with the regulations for the transportation of the disabled person.

005.06(B)(ii) TAXIS. Taxi rates may be no greater than 95% of published rates.

005.06(B)(iii) EXEMPT PROVIDERS. The Department will establish rates for exempt providers.

005.06(B)(iv) ESCORT PROVIDERS. The mileage rate for escort providers must not exceed the state employee mileage rate unless the escort is a certified carrier. The hourly rate is set by the Department.

005.06(B)(v) INDIVIDUAL PROVIDERS. As provided in Neb. Rev. Stat. § 75-303.03, the Department will reimburse the individual provider for costs incurred in transportation at a rate no greater than that paid for reimbursement of state employees under Neb. Rev. Stat. § 81-1176.

005.06(C) FREQUENCY. The frequency for medical and non-medical transportation is by miles or trip. The frequency for medical escort services is by:

(i) The hour(s) and miles; or

(ii) The hours and trip.

005.06(D) MAXIMUM ALLOWABLE UNITS. Transportation units must be authorized based on the recipient's need not to exceed the following limits:

(i) Non-medical Transportation:

(1) 50 miles per one way trip;

(2) One round trip per week for shopping for food and essential items;

(3) Two round trips per month for necessary business; or

(4) One round trip per day for congregate meals.

(ii) Medical Transportation: Based on needed treatment and care.