

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 359

Final Reading

Introduced by Cook, 13; Nordquist, 7.

Read first time January 18, 2013

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to social services; to amend sections 68-1713 and
2 68-1726, Reissue Revised Statutes of Nebraska, section
3 43-512, Revised Statutes Cumulative Supplement, 2012, and
4 section 68-1206, Revised Statutes Supplement, 2013; to
5 exclude certain income and assets as prescribed from
6 determination of income, resources, or need for certain
7 public assistance; to change provisions relating to
8 eligibility redetermination for a child care subsidy as
9 prescribed; to harmonize provisions; and to repeal the
10 original sections.

11 Be it enacted by the people of the State of Nebraska,

1 Section 1. In determining eligibility for the program for
2 aid to dependent children pursuant to section 43-512, for the
3 Supplemental Nutrition Assistance Program administered by the State
4 of Nebraska pursuant to the federal Food and Nutrition Act of 2008, 7
5 U.S.C. 2011 et seq., and for the child care subsidy program
6 established pursuant to section 68-1202, the following shall not be
7 included in determining assets or income:

8 (1) Assets in or income from an educational savings
9 account, a Coverdell educational savings account described in 26
10 U.S.C. 530, a qualified tuition program established pursuant to 26
11 U.S.C. 529, or any similar savings account or plan established to
12 save for qualified higher education expenses as defined in section
13 85-1802;

14 (2) Income from scholarships or grants related to
15 postsecondary education, whether merit-based, need-based, or a
16 combination thereof; and

17 (3) Income from postsecondary educational work-study
18 programs, whether federally funded, funded by a postsecondary
19 educational institution, or funded from any other source.

20 Sec. 2. Section 43-512, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 43-512 (1) Any dependent child as defined in section
23 43-504 or any relative or eligible caretaker of such a dependent
24 child may file with the Department of Health and Human Services a
25 written application for financial assistance for such child on forms

1 furnished by the department.

2 (2) The department, through its agents and employees,
3 shall make such investigation pursuant to the application as it deems
4 necessary or as may be required by the county attorney or authorized
5 attorney. If the investigation or the application for financial
6 assistance discloses that such child has a parent or stepparent who
7 is able to contribute to the support of such child and has failed to
8 do so, a copy of the finding of such investigation and a copy of the
9 application shall immediately be filed with the county attorney or
10 authorized attorney.

11 (3) The department shall make a finding as to whether the
12 application referred to in subsection (1) of this section should be
13 allowed or denied. If the department finds that the application
14 should be allowed, the department shall further find the amount of
15 monthly assistance which should be paid with reference to such
16 dependent child. Except as may be otherwise provided, payments shall
17 be made by state warrant, and the amount of payments shall not exceed
18 three hundred dollars per month when there is but one dependent child
19 and one eligible caretaker in any home, plus an additional seventy-
20 five dollars per month on behalf of each additional eligible person.
21 No payments shall be made for amounts totaling less than ten dollars
22 per month except in the recovery of overpayments.

23 (4) The amount which shall be paid as assistance with
24 respect to a dependent child shall be based in each case upon the
25 conditions disclosed by the investigation made by the department. An

1 appeal shall lie from the finding made in each case to the chief
2 executive officer of the department or his or her designated
3 representative. Such appeal may be taken by any taxpayer or by any
4 relative of such child. Proceedings for and upon appeal shall be
5 conducted in the same manner as provided for in section 68-1016.

6 (5)(a) For the purpose of preventing dependency, the
7 department shall adopt and promulgate rules and regulations providing
8 for services to former and potential recipients of aid to dependent
9 children and medical assistance benefits. The department shall adopt
10 and promulgate rules and regulations establishing programs and
11 cooperating with programs of work incentive, work experience, job
12 training, and education. The provisions of this section with regard
13 to determination of need, amount of payment, maximum payment, and
14 method of payment shall not be applicable to families or children
15 included in such programs. Income and assets described in section 1
16 of this act shall not be included in determination of need under this
17 section.

18 (b) If a recipient of aid to dependent children becomes
19 ineligible for aid to dependent children as a result of increased
20 hours of employment or increased income from employment after having
21 participated in any of the programs established pursuant to
22 subdivision (a) of this subsection, the recipient may be eligible for
23 the following benefits, as provided in rules and regulations of the
24 department in accordance with sections 402, 417, and 1925 of the
25 federal Social Security Act, as amended, Public Law 100-485, in order

1 to help the family during the transition from public assistance to
2 independence:

3 (i) An ongoing transitional payment that is intended to
4 meet the family's ongoing basic needs which may include food,
5 clothing, shelter, utilities, household goods, personal care items,
6 and general incidental expenses during the five months following the
7 time the family becomes ineligible for assistance under the aid to
8 dependent children program, if the family's earned income is at or
9 below one hundred eighty-five percent of the federal poverty level at
10 the time the family becomes ineligible for the aid to dependent
11 children program. Payments shall be made in five monthly payments,
12 each equal to one-fifth of the aid to dependent children payment
13 standard for the family's size at the time the family becomes
14 ineligible for the aid to dependent children program. If during the
15 five-month period, (A) the family's earnings exceed one hundred
16 eighty-five percent of the federal poverty level, (B) the family
17 members are no longer working, (C) the family ceases to be Nebraska
18 residents, (D) there is no longer a minor child in the family's
19 household, or (E) the family again becomes eligible for the aid to
20 dependent children program, the family shall become ineligible for
21 any remaining transitional benefits under this subdivision;

22 (ii) Child care as provided in subdivision (1)(c) of
23 section 68-1724; and

24 (iii) Except as may be provided in accordance with
25 subsection (2) of section 68-1713 and subdivision (1)(c) of section

1 68-1724, medical assistance for up to twelve months after the month
2 the recipient becomes employed and is no longer eligible for aid to
3 dependent children.

4 (6) For purposes of sections 43-512 to 43-512.18:

5 (a) Authorized attorney shall mean an attorney, employed
6 by the county subject to the approval of the county board, employed
7 by the department, or appointed by the court, who is authorized to
8 investigate and prosecute child, spousal, and medical support cases.
9 An authorized attorney shall represent the state as provided in
10 section 43-512.03;

11 (b) Child support shall be defined as provided in section
12 43-1705;

13 (c) Medical support shall include all expenses associated
14 with the birth of a child, cash medical support as defined in section
15 42-369, health care coverage as defined in section 44-3,144, and
16 medical and hospital insurance coverage or membership in a health
17 maintenance organization or preferred provider organization;

18 (d) Spousal support shall be defined as provided in
19 section 43-1715;

20 (e) State Disbursement Unit shall be defined as provided
21 in section 43-3341; and

22 (f) Support shall be defined as provided in section
23 43-3313.

24 Sec. 3. Section 68-1206, Revised Statutes Supplement,
25 2013, is amended to read:

1 68-1206 (1) The Department of Health and Human Services
2 shall administer the program of social services in this state. The
3 department may contract with other social agencies for the purchase
4 of social services at rates not to exceed those prevailing in the
5 state or the cost at which the department could provide those
6 services. The statutory maximum payments for the separate program of
7 aid to dependent children shall apply only to public assistance
8 grants and shall not apply to payments for social services. As part
9 of the provision of social services authorized by section 68-1202,
10 the department shall participate in the federal child care assistance
11 program under 42 U.S.C. 618, as such section existed on January 1,
12 2013, and provide child care assistance to families with incomes up
13 to one hundred twenty-five percent of the federal poverty level for
14 FY2013-14 and one hundred thirty percent of the federal poverty level
15 for FY2014-15 and each fiscal year thereafter.

16 (2) As part of the provision of social services
17 authorized by this section and section 68-1202, the department shall
18 participate in the federal Child Care Subsidy program. In determining
19 ongoing eligibility for this program, ten percent of a household's
20 gross earned income shall be disregarded after twelve continuous
21 months on the program and at each subsequent redetermination. Initial
22 program eligibility standards shall not be impacted by the provisions
23 of this subsection.

24 ~~(2)~~-(3) In determining the rate or rates to be paid by
25 the department for child care as defined in section 43-2605, the

1 department shall adopt a fixed-rate schedule for the state or a
2 fixed-rate schedule for an area of the state applicable to each child
3 care program category of provider as defined in section 71-1910 which
4 may claim reimbursement for services provided by the federal Child
5 Care Subsidy program, except that the department shall not pay a rate
6 higher than that charged by an individual provider to that provider's
7 private clients. The schedule may provide separate rates for care for
8 infants, for children with special needs, including disabilities or
9 technological dependence, or for other individual categories of
10 children. The schedule may also provide tiered rates based upon a
11 quality scale rating of step three or higher under the Step Up to
12 Quality Child Care Act. The schedule shall be effective on October 1
13 of every year and shall be revised annually by the department.

14 Sec. 4. Section 68-1713, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 68-1713 (1) The Department of Health and Human Services
17 shall implement the following policies:

18 (a) Permit Work Experience in Private for-Profit
19 Enterprises;

20 (b) Permit Job Search;

21 (c) Permit Employment to be Considered a Program
22 Component;

23 (d) Make Sanctions More Stringent to Emphasize
24 Participant Obligations;

25 (e) Alternative Hearing Process;

1 (f) Permit Adults in Two-Parent Households to Participate
2 in Activities Based on Their Self-Sufficiency Needs;

3 (g) Eliminate Exemptions for Individuals with Children
4 Between the Ages of 12 Weeks and Age Six;

5 (h) Providing Poor Working Families with Transitional
6 Child Care to Ease the Transition from Welfare to Self-Sufficiency;

7 (i) Provide Transitional Health Care for 12 Months After
8 Termination of ADC if funding for such transitional medical
9 assistance is available under Title XIX of the federal Social
10 Security Act, as amended, as described in section 68-906;

11 (j) Require Adults to Ensure that Children in the Family
12 Unit Attend School;

13 (k) Encourage Minor Parents to Live with Their Parents;

14 (l) Establish a Resource Limit of \$4,000 for a single
15 individual and \$6,000 for two or more individuals for ADC;

16 (m) Exclude the Value of One Vehicle Per Family When
17 Determining ADC Eligibility;

18 (n) Exclude the Cash Value of Life Insurance Policies in
19 Calculating Resources for ADC;

20 (o) Establish the Supplemental Nutrition Assistance
21 Program as a Continuous Benefit with Eligibility Reevaluated with
22 Yearly Redeterminations;

23 (p) Establish a Budget the Gap Methodology Whereby
24 Countable Earned Income is Subtracted from the Standard of the Need
25 and Payment is Based on the Difference or Maximum Payment Level,

1 Whichever is Less. That this Gap be Established at a Level that
2 Encourages Work but at Least at a Level that Ensures that Those
3 Currently Eligible for ADC do not Lose Eligibility Because of the
4 Adoption of this Methodology;

5 (q) Adopt an Earned Income Disregard of Twenty Percent of
6 Gross Earnings in the ADC Program, ~~and~~ One Hundred Dollars in the
7 Related Medical Assistance Program, and Income and Assets Described
8 in section 1 of this act;

9 (r) Disregard Financial Assistance ~~Received~~ Described in
10 section 1 of this act and Other Financial Assistance Intended for
11 Books, Tuition, or Other Self-Sufficiency Related Use;

12 (s) Culture: Eliminate the 100-Hour Rule, The Quarter of
13 Work Requirement, and The 30-Day Unemployed/Underemployed Period for
14 ADC-UP Eligibility; and

15 (t) Make ADC a Time-Limited Program.

16 (2) The Department of Health and Human Services shall (a)
17 apply for a waiver to allow for a sliding-fee schedule for the
18 population served by the caretaker relative program or (b) pursue
19 other public or private mechanisms, to provide for transitional
20 health care benefits to individuals and families who do not qualify
21 for cash assistance. It is the intent of the Legislature that
22 transitional health care coverage be made available on a sliding-
23 scale basis to individuals and families with incomes up to one
24 hundred eighty-five percent of the federal poverty level if other
25 health care coverage is not available.

1 Sec. 5. Section 68-1726, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 68-1726 Based on the comprehensive assets assessment,
4 each individual and family receiving assistance under the Welfare
5 Reform Act shall reach for his or her highest level of economic self-
6 sufficiency or the family's highest level of economic self-
7 sufficiency. The following eligibility factors shall apply:

8 (1) Financial resources, excluding the primary home and
9 furnishings and the primary automobile, shall not exceed four
10 thousand dollars in value for a single individual and six thousand
11 dollars in value for two or more individuals;

12 (2) Available resources, including, but not limited to,
13 savings accounts and real estate, shall be used in determining
14 financial resources, except that income and assets described in
15 section 1 of this act shall not be included in determination of
16 available resources under this section;

17 (3) Income received by family members, except income
18 earned by children attending school and except as provided in section
19 1 of this act, shall be considered in determining total family
20 income. Income earned by an individual or a family by working shall
21 be treated differently than unearned income in determining the amount
22 of cash assistance as follows:

23 (a) Earned income shall be counted in determining the
24 level of cash assistance after disregarding an amount of earned
25 income equal to twenty percent of earned income or other incentives

1 to work;

2 (b) Financial assistance provided by other programs that
3 support the transition to economic self-sufficiency shall be
4 considered to the extent the payments are intended to provide for
5 life's necessities; and

6 (c) Financial assistance or those portions of it intended
7 for books, tuition, or other self-sufficiency-related expenses shall
8 not be counted in determining financial resources. Such assistance
9 shall include, but not be limited to, school grants, scholarships,
10 vocational rehabilitation payments, Job Training Partnership Act
11 payments, income or assets described in section 1 of this act, and
12 education-related loans or other loans that are expected to be
13 repaid; and

14 (4) Individuals and families shall pursue potential
15 sources of economic support, including, but not limited to,
16 unemployment compensation and child support.

17 Sec. 6. Original sections 68-1713 and 68-1726, Reissue
18 Revised Statutes of Nebraska, section 43-512, Revised Statutes
19 Cumulative Supplement, 2012, and section 68-1206, Revised Statutes
20 Supplement, 2013, are repealed.