LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 732

Introduced by Kolowski, 31.

Read first time January 09, 2014

Committee: Health and Human Services

A BILL

FOR AN ACT relating to public assistance; to amend sections 68-1713
and 68-1726, Reissue Revised Statutes of Nebraska, and
sections 43-512 and 68-915, Revised Statutes Cumulative
Supplement, 2012; to exclude certain income and assets as
prescribed from determination of income, resources, or
need; to harmonize provisions; and to repeal the original
sections.

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

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

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

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

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

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

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

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

(4) The amount which shall be paid as assistance with respect to a dependent child shall be based in each case upon the
conditions disclosed by the investigation made by the department. An appeal shall lie from the finding made in each case to the chief executive officer of the department or his or her designated representative. Such appeal may be taken by any taxpayer or by any relative of such child. Proceedings for and upon appeal shall be conducted in the same manner as provided for in section 68-1016.

(5)(a) For the purpose of preventing dependency, the department shall adopt and promulgate rules and regulations providing for services to former and potential recipients of aid to dependent children and medical assistance benefits. The department shall adopt and promulgate rules and regulations establishing programs and cooperating with programs of work incentive, work experience, job training, and education. The provisions of this section with regard to determination of need, amount of payment, maximum payment, and method of payment shall not be applicable to families or children included in such programs. Income and assets described in section 116 of this act shall not be included in determination of need under this section.

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

to help the family during the transition from public assistance to

independence:

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

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

(iii) Except as may be provided in accordance with
subsection (2) of section 68-1713 and subdivision (1)(c) of section 68-1724, medical assistance for up to twelve months after the month the recipient becomes employed and is no longer eligible for aid to dependent children.

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

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

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

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

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

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

(f) Support shall be defined as provided in section 43-3313.
Supplement, 2012, is amended to read:

68-915 The following persons shall be eligible for medical assistance:

(1) Dependent children as defined in section 43-504;

(2) Aged, blind, and disabled persons as defined in sections 68-1002 to 68-1005;

(3) Children under nineteen years of age who are eligible under section 1905(a)(i) of the federal Social Security Act;

(4) Persons who are presumptively eligible as allowed under sections 1920 and 1920B of the federal Social Security Act;

(5) Children under nineteen years of age with a family income equal to or less than two hundred percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources, and pregnant women with a family income equal to or less than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources. Children described in this subdivision and subdivision (6) of this section shall remain eligible for six consecutive months from the date of initial eligibility prior to redetermination of eligibility. The department may review eligibility monthly thereafter pursuant to rules and regulations adopted and promulgated by the department. The department may determine upon such review that a child is ineligible for medical assistance if such
child no longer meets eligibility standards established by the
department;

(6) For purposes of Title XIX of the federal Social
Security Act as provided in subdivision (5) of this section, children
with a family income as follows:

(a) Equal to or less than one hundred fifty percent of
the Office of Management and Budget income poverty guideline with
eligible children one year of age or younger;

(b) Equal to or less than one hundred thirty-three
percent of the Office of Management and Budget income poverty
guideline with eligible children over one year of age and under six
years of age; or

(c) Equal to or less than one hundred percent of the
Office of Management and Budget income poverty guideline with
eligible children six years of age or older and less than nineteen
years of age;

(7) Persons who are medically needy caretaker relatives
as allowed under 42 U.S.C. 1396d(a)(ii);

(8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),
disabled persons as defined in section 68-1005 with a family income
of less than two hundred fifty percent of the Office of Management
and Budget income poverty guideline and who, but for earnings in
excess of the limit established under 42 U.S.C. 1396d(q)(2)(B), would
be considered to be receiving federal Supplemental Security Income.
The department shall apply for a waiver to disregard any unearned
income that is contingent upon a trial work period in applying the
Supplemental Security Income standard. Such disabled persons shall be
subject to payment of premiums as a percentage of family income
beginning at not less than two hundred percent of the Office of
Management and Budget income poverty guideline. Such premiums shall
be graduated based on family income and shall not be less than two
percent or more than ten percent of family income;

(9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),

 persons who:
  (a) Have been screened for breast and cervical cancer
under the Centers for Disease Control and Prevention breast and
cervical cancer early detection program established under Title XV of
the federal Public Health Service Act, 42 U.S.C. 300k et seq., in
accordance with the requirements of section 1504 of such act, 42
U.S.C. 300n, and who need treatment for breast or cervical cancer,
including precancerous and cancerous conditions of the breast or
cervix;

  (b) Are not otherwise covered under creditable coverage
as defined in section 2701(c) of the federal Public Health Service
Act, 42 U.S.C. 300gg(c);

  (c) Have not attained sixty-five years of age; and

  (d) Are not eligible for medical assistance under any
mandatory categorically needy eligibility group; and

(10) Persons eligible for services described in
subsection (3) of section 68-972.
Except as provided in section 68-972, eligibility shall be determined under this section using an income budgetary methodology that determines children's eligibility at no greater than two hundred percent of the Office of Management and Budget income poverty guideline and adult eligibility using adult income standards no greater than the applicable categorical eligibility standards established pursuant to state or federal law. The department shall determine eligibility under this section pursuant to such income budgetary methodology and subdivision (1)(q) of section 68-1713, except that income and assets described in section 1 of this act shall not be included in determination of income under this section.

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

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

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

(b) Permit Job Search;

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

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

(e) Alternative Hearing Process;

(f) Permit Adults in Two-Parent Households to Participate in Activities Based on Their Self-Sufficiency Needs;
(g) Eliminate Exemptions for Individuals with Children Between the Ages of 12 Weeks and Age Six;

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

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

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

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

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

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

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

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

(p) Establish a Budget the Gap Methodology Whereby Countable Earned Income is Subtracted from the Standard of the Need and Payment is Based on the Difference or Maximum Payment Level, Whichever is Less. That this Gap be Established at a Level that Encourages Work but at Least at a Level that Ensures that Those
Currently Eligible for ADC do not Lose Eligibility Because of the Adoption of this Methodology;

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

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

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

(t) Make ADC a Time-Limited Program.

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

Sec. 5. Section 68-1726, Reissue Revised Statutes of Nebraska, is amended to read:
Based on the comprehensive assets assessment, each individual and family receiving assistance under the Welfare Reform Act shall reach for his or her highest level of economic self-sufficiency or the family's highest level of economic self-sufficiency. The following eligibility factors shall apply:

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

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

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

   a. Earned income shall be counted in determining the level of cash assistance after disregarding an amount of earned income equal to twenty percent of earned income or other incentives to work;

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

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

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

Sec. 6. Original sections 68-1713 and 68-1726, Reissue Revised Statutes of Nebraska, and sections 43-512 and 68-915, Revised Statutes Cumulative Supplement, 2012, are repealed.