

**THE IMPACT OF EARNINGS
OF
NEBRASKANS WITH DISABILITIES
ON
THEIR ELIGIBILITY FOR SELECTED
SERVICES AND PROGRAMS**

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EXECUTIVE SUMMARY

Many states, Nebraska included, have been actively developing programs to promote competitive employment for persons with disabilities. Buy-In programs (enabling persons with disabilities with increased earned income to continue to Medicaid eligibility) have become a keystone program in states' efforts. States are implementing Buy-In programs (and related programs and supports) not as welfare programs, but as programs that help states make productive use of all of their human capital resources. Many policymakers support Buy-In programs as a means to increase workers with disabilities' participation as productive citizens of states. That is, such programs are seen as a means to "enhance a state's economic status; not simply as a means to enhance access to health care" (Jensen, Silverstein, Folkemer, and Straw, 2002, p. 5). This perspective may be particularly helpful as policymakers wrestle with the costs and benefits of such programs.

Buy-In programs enable continued Medicaid participation, but there are an array of other programs and supports that may continue to be needed by persons with disabilities who are competitively employed. The Nebraska Department of Health and Human Services has contracted with the University of Nebraska Public Policy Center to study the effect of higher earned income (as allowed through the Medicaid Insurance for Workers with Disabilities program) on eligibility for various supportive services and programs, including:

- Behavioral Health
- Child Care Subsidy
- Developmental Disabilities System
- Energy Assistance
- Food Stamps
- Ryan White Program
- Section 8 Housing
- Social Services Block Grant-TitleXX
- TANF/ADC

Information about services and programs was gathered through numerous interviews with policymakers and administrators in Nebraska and other states, a thorough review of studies and reports from public and private organizations, and analyses of state and federal rules and regulations and statutes.

Four policy alternative models are presented as goals that Nebraska may use as a framework for developing a more integrated approach to providing services and programs for working persons with disabilities:

GOAL A: Increasing the percentage of persons receiving Medicaid and other programs who have earned income

A state pursuing this goal promotes employment among persons with disabilities, but may be less concerned that the employment is more than minimal hours or minimal pay. Because earnings, at any level, are pursued this goal may not make an appreciable change to the standard of living for participants who have only minimal earnings. In addition,

because only minimal earnings are sought, the benefit to the state (in the form of income tax receipts and reduced reliance on other programs and services) may not be achieved.

GOAL B: Targeting the program support for persons who have substantial earned income

A state pursuing this goal promotes employment of substantial hours and/or income. The philosophy may fail to recognize that many persons with disabilities are unable to earn substantial income and may have periods of lesser employment because of their disability. This goal will serve fewer persons as a smaller percentage of persons with disabilities have the ability and desire to achieve substantial earned income. However, the benefits achieved by the state (in the form of tax receipts and reduced reliance on other programs) by targeting this population may be significant as persons move to self-sufficiency.

GOAL C: Increasing the disposable income of persons receiving Medicaid and supportive programs and services

A state pursuing this goal wants to increase the standard of living for all workers with disabilities regardless of the level of employment or earnings. This will likely result in increased enrollment and increased cost to the state.

GOAL D: Recouping some portion of Medicaid and other program expenses through cost sharing

A state pursuing this goal structures its program to maximize cost sharing. Cost sharing may depress enrollment rates, particularly if cost sharing is significant. Cost sharing may have a negative impact on the household discretionary income of participants. However, cost sharing may enable the state to serve more persons with limited funds.

This report outlines the varying degrees of authority and flexibility the State of Nebraska has to make changes *within* the key programs, as well as its flexibility and authority to create greater integration *between* programs.

The report includes an array of policy options for the State to consider (depending on the goal policy alternative goal or goals it is seeking), though they are not exhaustive nor exclusive. The options reflect the following **implicit goals**:

- Maximize program integration
- Reduce the risk of loss of benefits due to increased income
- Make programs known to those who might be eligible
- Simple access for those who apply

These goals are limited by certain **contextual factors**:

- Current economic conditions have precipitated significant cuts to social programs and changes that may be viewed as liberalizing eligibility face difficulties
- Programs that have limited budgets (as compared to entitlement programs) may require a shifting of resources to provide or extend services to workers with disabilities

Many of the policy alternatives the State may consider are specific to individual programs; these options are presented for consideration, with detailed support available in the Appendix. The report also considers general policy alternatives to effect program integration to promote the goal of increased employment among persons with disabilities.

Jensen, A., Silverstein, R., Folkemer, D., & Straw, T. (2002). *Policy Frameworks for Designing Medicaid Buy-In Programs and Related State Work Incentive Initiatives*. Retrieved August 5, 2002, from University of Iowa, Center for Law, Health Policy and Disability Web site:
<http://www.its.uiowa.edu/law/lhpdc/medbuyinwrkincent/new.html>

INTRODUCTION

The Nebraska Department of Health and Human Services has contracted with the University of Nebraska Public Policy Center to study the effect of higher earned income (as allowed through the Medicaid Insurance for Workers with Disabilities program) on eligibility for various other support programs (i.e., Food Stamps, Energy Assistance, TANF, Section 8 Housing , Title XX, Developmental Disabilities System, Ryan White Program, Child Care Subsidy, and Behavioral Health).

This report and a July 31, 2002 memo outline policy choices and possible alternatives that reduce the risks of losing essential support programs for persons with disabilities who want to work by integrating assistance through various programs.

The prior memo, *Status Update on Other States' Activities*, presented background information about Medicaid, Medicaid Buy-In programs, the choice between programs implemented under the 1997 Balanced Budget Act and the Ticket to Work and Work Incentives Improvement Act of 1999, broad areas of flexibility in Buy-In programs, and program integration activities that other states have undertaken as they promote competitive employment for persons with disabilities.

This report provides a “summary of guidelines and processes of the identified key support programs examined and potential reform measures.” It includes in-depth information about each program and areas for reform and demonstrates areas of divergence and convergence when consumers’ income increases.

To assemble the information provided below, the Public Policy Center conducted numerous interviews with policymakers and administrators in Nebraska and from other states, consulted studies and reports from public and private organizations, and reviewed state and federal rules and regulations and statutes.

REPORT COMPONENTS

This report contains a main body of information and an extensive appendix. The components are as follows:

State Goals for Programs and Program Integration (pp. 2-3) presents promotional considerations, needs and characteristics of persons with disabilities, and possible goals that may be considered when considering alternatives to current systems.

Policy Choice Highlights and Possible Alternatives (pp. 4-17) highlights areas where Nebraska has the opportunity to make reforms. Overarching policy choices and alternatives and those issues that transcend any one program are discussed first. Next, the current policy choice highlights and possible alternatives within specific programs are presented.

Tables of Program Comparisons (pp. 18-31) present a compilation of information to compare and contrast program characteristics and illustrate their complexity.

Appendix

Program Profiles (Appendix - pp. 1-68) provide in-depth information about each program's purposes, areas of flexibility, size, funding, and so on.

Characteristics of Adults with Disabilities and the Implications for State Programs (Appendix - pp. 69-72) provides a context to consider changes within and between programs.

Disability Definitions Used in Nebraska Programs (Appendix - pp. 73-79) lists the array of ways that "disability" is defined in key programs.

Program Contacts (Appendix - pp. 80-81) lists those persons with whom we consulted to prepare this document. The Public Policy Center wishes to acknowledge their generosity in sharing their time and expertise.

STATE GOALS FOR PROGRAMS AND PROGRAM INTEGRATION

PROMOTING BUY-IN PROGRAMS

Buy-In programs are being promoted as employment initiatives intended to increase workers with disabilities' participation as productive citizens of states and a means to "enhance a state's economic status; not simply as a means to enhance access to health care" (Jensen, Silverstein, Folkemer, and Straw, 2002, p. 5). That is, increasingly states are recasting Buy-In programs (and related programs and supports) not as welfare programs, but as programs that help states make productive use of all of their human capital resources. This perspective may be particularly helpful as policymakers wrestle with the costs and benefits of such programs.

BASIC NEEDS AND CHARACTERISTICS

Many states are recognizing that Buy-In programs, and the other supportive programs and services that encourage competitive employment, should consider some basic characteristics and needs of persons with disabilities. As Jensen et al. (2002) notes, these include:

- "The need for health and income support services and types of services may change over time.
- The need for a smooth transition from one category of Medicaid eligibility to another as an individual's level of earnings changes.
- The need to minimize the obligation to reapply for Medicaid under a new category when the basis for their eligibility changes.
- Persons with disabilities should be enabled to make informed choices and have minimal uncertainty related to the impact of their decision to work on continued eligibility for income assistance and health services and supports." (p. 41)

See the *Characteristics of Adults with Disabilities and the Implications for Policy Choices* in the Appendices for additional information about the persistence of poverty and unemployment, the use of social programs, and other information that provides an overview of the experience of

persons with disabilities in the United States and Nebraska.

GOALS

Beyond its primary role as a way to enhance productivity through opportunities for economic gains, states may have different underlying philosophical goals for their Buy-In programs and for the array of programs that provide support and services to employed persons with disabilities. States may pursue one or more of these goals, but several are contradictory.

GOAL A: Increasing the percentage of persons receiving Medicaid and other programs who have earned income

A state pursuing this goal promotes employment among persons with disabilities, but may be less concerned that the employment is more than minimal hours or minimal pay. Because earnings, at any level, are pursued this goal may not make an appreciable change to the standard of living for participants who have only minimal earnings. In addition, because only minimal earnings are sought, the benefit to the state (in the form of income tax receipts and reduced reliance on other programs and services) may not be achieved.

GOAL B: Targeting the program support for persons who have substantial earned income

A state pursuing this goal promotes employment of substantial hours and/or income. The philosophy may fail to recognize that many persons with disabilities are unable to earn substantial income and may have periods of lesser employment because of their disability. This goal will serve fewer persons as a smaller percentage of persons with disabilities have the ability and desire to achieve substantial earned income. However, the benefits achieved by the state (in the form of tax receipts and reduced reliance on other programs) by targeting this population may be significant as persons move to self-sufficiency.

GOAL C: Increasing the disposable income of persons receiving Medicaid and supportive programs and services

A state pursuing this goal wants to increase the standard of living for all workers with disabilities regardless of the level of employment or earnings. This will likely result in increased enrollment and increased cost to the state.

GOAL D: Recouping some portion of Medicaid and other program expenses through cost sharing

A state pursuing this goal structures its program to maximize cost sharing. Cost sharing may depress enrollment rates, particularly if cost sharing is significant. Cost sharing may have a negative impact on the household discretionary income of participants. However, cost sharing may enable the state to serve more persons with limited funds.

POLICY CHOICE HIGHLIGHTS AND POSSIBLE ALTERNATIVES

The State of Nebraska has varying degrees of authority and flexibility to make changes *within* the key programs it has identified for this project. The State also has varying degrees of flexibility and authority to create greater integration *between* programs.

This section provides an array of options the State may consider. These options are provided to illustrate the kinds of alternatives available to the state, and should not be considered exhaustive or exclusive.

The options that are presented reflect the following **implicit goals**:

- maximize program integration
- reduce the risk of loss of benefits due to increased income
- make programs known to those who might be eligible
- simple access for those who apply

The pursuit of these goals, however, must recognize **contextual factors** that may impede or prevent success:

- current economic conditions have precipitated significant cuts to social programs and changes that may be viewed as liberalizing eligibility face difficulties
- programs that have limited budgets (as compared to entitlement programs) may require a shifting of resources to provide or extend services to workers with disabilities

SUMMARY OF OVER-ARCHING POLICY CHOICES AND ALTERNATIVES

The following two tables present overarching information about the array of supportive programs and services available to persons with disabilities. The *Policy Choice Highlights* table shows efforts the state has already made in integrating programs. The *Possible Alternatives* table describes general alternatives that the state may consider to effect program integration between programs and promote the goal of increased employment. The Possible Alternatives present an array of possible alternatives that would address the implicit goals stated above. Many of these alternatives were gleaned from the experiences of other states.

POLICY CHOICE HIGHLIGHTS

(efforts the state has already made in integrating programs)

- Joint application for many state health and human services programs - Nebraska has moved to a single application for many state programs. The single application allows persons to complete one form for eligibility determination for many state programs.
- One-page food stamp application - Nebraska has a simplified, one-page application for those persons only interested in applying for Food Stamps.
- A statewide, computerized case management information system (-FOCUS) allows storage of case information for all programs in one file - Nebraska's information system tracks clients throughout state systems.
- Service coordinators and case managers are trained to consider the broad array of support programs regardless of the particular program an individual may be applying for or leaving.

POSSIBLE ALTERNATIVES

(general alternatives that the state may consider to effect integration between programs and promote the goal of increased employment)

Promotion and Outreach

Persons with disabilities who work often need continued access to programs and services *in order to work*. Fear of the loss of these programs and services is a significant barrier. A survey of Nebraskans with disabilities found that almost 72% of respondents feared loss of Medicaid and/or Medicare, and over 65% of respondents feared loss of cash assistance (Wolfe, 2002). Buy-In programs, along with other efforts, are beginning to enable continued access to services. However, many potential participants are unaware of these programs (Jensen & Willett, 2002).

- Undertake outreach efforts to promote Medicaid Insurance for Workers with Disabilities program – many consumers, advocates, agency staff, and others do not know about this program
- Promote the array of services and programs that remain viable supports for persons with disabilities with increased income
- Develop a web site with program information and contact information targeted specifically for workers with disabilities
- Develop an online calculator that allows people to estimate eligibility for support service programs and to estimate their net income under various scenarios and that gives referral information
- Increase availability of benefits counselors for people with disabilities who want to work (for example, Wisconsin uses Vocational Rehabilitation funds to employ approximately thirty benefits counselors for disabled persons who want to work).

POSSIBLE ALTERNATIVES

(general alternatives that the state may consider to effect integration between programs and promote the goal of increased employment)

Services Coordination

Services Coordinators are a key point of contact for persons receiving services. However, many persons with disabilities are frustrated with either having to interact with services coordinators representing the many programs and services they may need (Jensen & Willett, 2002), or having no services coordinator (currently, only persons with disabilities who are on a waiver are assigned a services coordinator) and only having contact with a worker who establishes program eligibility. Additionally, services coordinators may not be aware of programs to support competitive employment for persons with disabilities.

- Assign a single service coordinator trained to deal with all support services to work with each working person with a disability (as noted in the preceding section, Wisconsin uses Vocational Rehabilitation funds to employ approximately thirty benefits counselors for disabled persons who want to work)
- Continue to train Service Coordinators in range of programs
- Have contact with case worker at all transition points to review options for benefits
 - Entering the system
 - Leaving a program
 - No automatic closure of cases without case worker review

Eligibility Standardization

It may be daunting for persons with disabilities to navigate the eligibility requirements for the programs and services they need. Some programs use percentages of Federal Poverty Levels, others use cost of living increases based on dollar amounts set years ago, others use eligibility for Medicaid as an eligibility test. Nebraska may consider standardization of eligibility for those programs for which it has the flexibility to do so. One option would be to use Medicaid eligibility as a standard.

- Allow Medicaid eligibility to be accepted by other programs, where possible

Reinstatement

Persons with disabilities may experience irregular work histories (Wolfe, 2002). Moving off and back onto programs may be onerous at best and financially devastating at worst (as in the case with Nebraska's current Medically Needy spend-down provisions). States are recognizing that programs to support employment must enable persons to move more easily from need for services to no need for services.

- Make it easier to have supports and services reinstated, recognizing that persons with disabilities may frequently move in and out of the workforce.

POSSIBLE ALTERNATIVES

(general alternatives that the state may consider to effect integration between programs and promote the goal of increased employment)

Computerized Tracking

It is important for states and policymakers to track the efficacy of Buy-In programs, both for programmatic and political purposes. Many states do not have single information systems (such as Nebraska has) that enable tracking across state programs. However, Nebraska's program does not currently enable specific tracking of persons participating in the Buy-In program, and may be particularly weak in reporting functions (Meckstroth, Derr, Ponza, Jethwani, and Faerber, 2002).

- Create a way to track/measure information about Medicaid Buy-In participants so that the impact of changes can be easily monitored and reported.

Demonstration Waivers

Federal changes in the availability of Waivers (e.g., the Ticket to Work and Work Incentives Improvement Act of 1999, Health Insurance Flexibility and Accountability waivers and related Section 1115 waivers) may offer the opportunity for Nebraska to develop innovative programs for persons with disabilities.

- Apply for a comprehensive demonstration authority over federal and federal/state programs to create more integration between health and income programs such as SSI, SSDI, Food Stamps, and Housing.

SUMMARY OF PROGRAM-SPECIFIC POLICY CHOICES AND ALTERNATIVES

The following table presents summaries for each key program. The *Policy Choice Highlights* column provides a glimpse of each program’s accommodation for persons with disabilities who may have increased earned income. The *Possible Alternatives* column illustrates the types of policies that may be enacted that would be responsive to the implicit goals of supporting competitive employment for persons with disabilities.

| | Policy Choice Highlights | Possible Policy Alternatives to Increase Number of Competitively Employed Persons with Disabilities Who: | | | |
|-----------------------------------|--|--|--|--|---|
| | | Have Earned Income | Have Substantial Earned Income | Have Increased Disposable Income | Participate in Cost Sharing |
| Behavioral Health | Income is not considered for eligibility | <ul style="list-style-type: none"> Establish a statewide standard to measure vocational/ educational impairment that would recognize that some persons with behavioral health disabilities may be employed in competitive work environments Establish earned income disregard for fee schedule | <ul style="list-style-type: none"> Establish earned income disregard for fee schedule | <ul style="list-style-type: none"> Establish earned income disregard for fee schedule | <ul style="list-style-type: none"> Already has a cost sharing component |
| Child Care Subsidy | There are currently no provisions recognizing adults with disabilities | <ul style="list-style-type: none"> Recognize special needs of parents with disabilities Increase earned income disregard Liberalize resource test | <ul style="list-style-type: none"> Increase earned income disregard Liberalize resource test | <ul style="list-style-type: none"> Increase earned income disregard Liberalize resource test Decrease monthly fee per child in recognition of lower disposable income of a parent with a disability | |
| Developmental Disabilities | Income is not considered for eligibility | <ul style="list-style-type: none"> Increase the counted income test ceiling from 130% of FPL (based on household size) to some higher percentage so that individuals with increased income might still claim a substantial life limitation in the economic self-sufficiency test Establish earned income disregard for fee determination | <ul style="list-style-type: none"> Establish earned income disregard for fee determination | <ul style="list-style-type: none"> Establish earned income disregard for fee determination | <ul style="list-style-type: none"> Already have a cost sharing component |

| | Policy Choice Highlights | Possible Policy Alternatives to Increase Number of Competitively Employed Persons with Disabilities Who: | | | |
|--|--|---|--|----------------------------------|--|
| | | Have Earned Income | Have Substantial Earned Income | Have Increased Disposable Income | Participate in Cost Sharing |
| Disabled Persons and Family Support | <ul style="list-style-type: none"> Disability-related expenses may be deducted from income for eligibility Employed person with a disability who earns a minimum of \$500 per month may receive services or assistance to help them remain in the work force No time limit on eligibility | <ul style="list-style-type: none"> Increase funding for the program Increase resource eligibility limits Increase income eligibility limits Decrease the minimum income of \$500 per month to allow more employed persons with disabilities (those who work few hours at low pay) to be eligible for services or assistance that help them stay in the work force | <ul style="list-style-type: none"> Increase income eligibility limits Increase the minimum income to more than \$500 per month for eligibility for services or assistance to help persons with disabilities stay in the work force | | <ul style="list-style-type: none"> Institute cost sharing |

| | Policy Choice Highlights | Possible Policy Alternatives to Increase Number of Competitively Employed Persons with Disabilities Who: | | | |
|--|---|--|--------------------------------|--|-----------------------------|
| | | Have Earned Income | Have Substantial Earned Income | Have Increased Disposable Income | Participate in Cost Sharing |
| Earned Income Tax Credit (EITC) | <ul style="list-style-type: none"> • Nebraska does not have a state earned income tax credit; Nebraskans may file for the federal EITC | <ul style="list-style-type: none"> • Promote the federal EITC to low and moderate income people with disabilities who are employed or could be employed • Assist with the paperwork to claim the EITC • Inform low and moderate income people with disabilities who are employed and have at least one child living with them of the option to receive a part of the federal EITC in advance through their paychecks • Enact a state EITC, set at a percent of the federal EITC • Enact a state EITC with higher income limits for people with disabilities • Enact a state EITC only for working people with disabilities | | <ul style="list-style-type: none"> • Promote the federal EITC to low and moderate income people with disabilities who are employed or could be employed • Assist with the paperwork to claim the EITC • Inform low and moderate income people with disabilities who are employed and have at least one child living with them of the option to receive a part of the federal EITC in advance through their paychecks • Enact a state EITC, set at a percent of the federal EITC • Enact a state EITC with higher income limits for people with disabilities • Enact a state EITC only for working people with disabilities | |

| | Policy Choice Highlights | Possible Policy Alternatives to Increase Number of Competitively Employed Persons with Disabilities Who: | | | |
|---------------------------|---|---|---|---|-----------------------------|
| | | Have Earned Income | Have Substantial Earned Income | Have Increased Disposable Income | Participate in Cost Sharing |
| Food Stamp Program | <ul style="list-style-type: none"> • Vehicle resource exclusion to \$12K FMV • One page application • Telephone application and recertification • Recertification is from 12 - 24 months (longer than for person without disabilities) • Written notification when EBT card has been inactive for 60 days • No time limit on eligibility for person with disabilities | <ul style="list-style-type: none"> • Extend recertification period to 24 months for all people with disabilities who have earned income <ul style="list-style-type: none"> • This is difficult due to balancing the federal quality control requirements against making the program easier to use • The more variation in income (someone who is not consistently employed, for example) the more often recertification is completed • Make food stamp application available on the Internet (required by April 2003 for all states) | <ul style="list-style-type: none"> • Transitional benefit period of five months for those losing TANF (this option is being considered in Nebraska, and is allowed under the 2002 Farm Bill) | <ul style="list-style-type: none"> • Transitional benefit period of five months for those losing TANF (this option is being considered in Nebraska, and is allowed under the 2002 Farm Bill) | |

| | Policy Choice Highlights | Possible Policy Alternatives to Increase Number of Competitively Employed Persons with Disabilities Who: | | | |
|---|---|--|---|---|-----------------------------|
| | | Have Earned Income | Have Substantial Earned Income | Have Increased Disposable Income | Participate in Cost Sharing |
| Low Income Energy Assistance Program (LIEAP) | <ul style="list-style-type: none"> • Assistance for cooling available to persons with disabilities if medically necessary • Annual reapplication is often done with Medicaid and Food Stamp application | <ul style="list-style-type: none"> • Give priority (i.e. early application) to households with person with disabilities • Extend 20% disregard of earned income to eligibility determination (as well as to benefit computation) | <ul style="list-style-type: none"> • Current income eligibility level of 116% FPL may be raised to as high as 60% of the state's median income • Extend 20% disregard of earned income to eligibility determination (as well as to benefit computation) | <ul style="list-style-type: none"> • Current income eligibility level of 116% FPL may be raised to as high as 60% of the state's median income • Extend 20% disregard of earned income to eligibility determination (as well as to benefit computation) • Allow higher monthly heating benefit • Increase crisis payments | |

| | Policy Choice Highlights | Possible Policy Alternatives to Increase Number of Competitively Employed Persons with Disabilities Who: | | | |
|-----------------|---|--|--|--|---|
| | | Have Earned Income | Have Substantial Earned Income | Have Increased Disposable Income | Participate in Cost Sharing |
| Medicaid | <ul style="list-style-type: none"> • Applies liberalized resource limits and the SSI disregard to determine countable income for AABD Medicaid • SSI State Supplement provides categorical Medicaid eligibility, observes SSA disregard, and has liberalized resource limits • Differentiates between earned and unearned income when determining income for Medicaid Buy-In program | <ul style="list-style-type: none"> • Disregard earnings regardless of Trial Work Period status • Increase/eliminate the low threshold for unearned income for eligibility • Increase/eliminate the low threshold for unearned income for premium calculations • Disregard earnings when calculating premiums • Allow grace period for interrupted employment • Implement additional disregards that reward work (e.g., impairment-related work exempt., retirement accounts) • Increase calculated income limit to 450% of FPL • Liberalize spend down threshold in the Medically Needy program • Broaden asset standards for Buy-In participants • Disregard spousal income | <ul style="list-style-type: none"> • Increase calculated income limit to 450% of FPL • Disregard earnings when calculating premiums • Allow grace period for interrupted employment • Implement additional disregards that reward work (e.g., impairment-related work exemptions, retirement accounts) • Implement a portion of unearned income as part of the Buy-In premium ensuring that only those with substantial employment will be willing to forgo that income loss • Broaden asset standards for Buy-In participants | <ul style="list-style-type: none"> • Disregard all earnings • Implement additional disregards • Increase resource limits • Liberalize spend down threshold in the Medically Needy program • Broaden asset standards for Buy-In participants • Disregard spousal income | <ul style="list-style-type: none"> • Increase cost sharing through co-pays or increased premiums • Set cost-sharing based on income rather than usage • Base cost-sharing on total income with minimal disregards • Lower income at which cost-sharing is triggered • Disregard less of spousal income |

| | Policy Choice Highlights | Possible Policy Alternatives to Increase Number of Competitively Employed Persons with Disabilities Who: | | | |
|---------------------------|--|--|--|---|-----------------------------|
| | | Have Earned Income | Have Substantial Earned Income | Have Increased Disposable Income | Participate in Cost Sharing |
| Ryan White Program | <ul style="list-style-type: none"> • All persons served by the program are treated without regard to disability beyond HIV+ diagnosis • 200% FPL eligibility cap is higher than the Federally-mandated minimum | <ul style="list-style-type: none"> • Institute income disregards | <ul style="list-style-type: none"> • Institute income disregards • Eligibility level can be raised as high as 300% FPL | <ul style="list-style-type: none"> • Institute income disregards | |

| | Policy Choice Highlights | Possible Policy Alternatives to Increase Number of Competitively Employed Persons with Disabilities Who: | | | |
|---|--|---|--------------------------------|----------------------------------|-----------------------------|
| | | Have Earned Income | Have Substantial Earned Income | Have Increased Disposable Income | Participate in Cost Sharing |
| Section 8 Rental Assistance/Housing Choice Voucher Program | <ul style="list-style-type: none"> Two Nebraska local housing authorities have home-ownership programs. People with disabilities who are eligible for Section 8 vouchers will be allowed to receive up to a year's worth of assistance in one payment to be used as the down payment on a home Mainstream vouchers applied for and received by one local housing authority in Nebraska | <ul style="list-style-type: none"> Federal program administered by local housing authorities – the state has little flexibility Encourage local housing authorities that administer Section 8 assistance to apply for vouchers specifically for households that include persons with disabilities | | | |

| | Policy Choice Highlights | Possible Policy Alternatives to Increase Number of Competitively Employed Persons with Disabilities Who: | | | |
|---|---|--|---|----------------------------------|-----------------------------|
| | | Have Earned Income | Have Substantial Earned Income | Have Increased Disposable Income | Participate in Cost Sharing |
| Social Services Block Grant – Title XX | <ul style="list-style-type: none"> • No resource test for eligibility • Definition of disability allows recipient of SSBG services to be able to work | <ul style="list-style-type: none"> • Disregard a portion of earned income in eligibility determination (this would result in loss of program services by people without disabilities, because the program is federally funded at a given level) | <ul style="list-style-type: none"> • Increase the Maximum Allowable Income amount used in eligibility determination (this would result in loss of program services by people without disabilities, because the program is federally funded at a given level) | | |

| | Policy Choice Highlights | Possible Policy Alternatives to Increase Number of Competitively Employed Persons with Disabilities Who: | | | |
|---|---|--|---|---|-----------------------------|
| | | Have Earned Income | Have Substantial Earned Income | Have Increased Disposable Income | Participate in Cost Sharing |
| Temporary Assistance for Needy Families (TANF)/Aid to Dependent Children (ADC) | <ul style="list-style-type: none"> • Transitional medical assistance available for 6-12 months (not specific to persons with disabilities) • State-funded, one-half month transitional grant available (not specific to persons with disabilities) • Families with a parent with disabilities have no time limit on assistance | <ul style="list-style-type: none"> • Ensure that Employment First is accessible to persons with disabilities • Recognize variable employability of some persons with disabilities by keeping cases open if the person leaves due to increased income, thereby easing a return to the program if necessary • Liberalize earned income disregard, standard of need, and maximum payment standard for adults with disabilities | <ul style="list-style-type: none"> • Ensure that Employment First is accessible to persons with disabilities • Recognize variable employability of some persons with disabilities by keeping cases open if the person leaves due to increased income, thereby easing a return to the program if necessary • Liberalize current program restrictions for adults with disabilities: increase earned income disregard, standard of need, and maximum payment standard for TANF/ADC; increase resource disregards. | <ul style="list-style-type: none"> • Ensure that Employment First is accessible to persons with disabilities • Liberalize current program restrictions for adults with disabilities: increase earned income disregard, standard of need, and maximum payment standard for TANF/ADC; increase resource disregards. | |

TABLES OF PROGRAM COMPARISONS

Among the selected programs and services, there are a wide array of eligibility requirements and methods of calculating benefits. Presented in the following series of seven tables are comparisons of program eligibility and benefit structures applied to persons with disabilities. **These are general program summaries that simplify the programs and are not meant to give individual guidance regarding eligibility.** The seven tables include:

Table 1 - *Nebraska Income Eligibility Ranges for Adults with Disabilities and Notes* - describes how countable income impacts eligibility for the key programs. Eligibility is expressed as a percentage of the 2002 Federal Poverty Level. For programs that do not use Federal Poverty Level percentages to determine eligibility, approximations have been made. Two programs, Behavioral Health programs and Developmental Disabilities programs, do not use income to determine eligibility for services (but do use income to determine cost sharing). Above 200% of Federal Poverty Level the only program remaining is Medicaid Insurance for Workers with Disabilities. *The table is incomplete without attached "Notes to Accompany Table 1."*

Table 2 - *2002 Federal Poverty Guidelines* - reflect the Federal Guidelines issued February 2002.

Table 3 - *Nebraska Program Summary for Adults with Disabilities* - provides a summary, for each key program. This table provides comparisons around program characteristics including: income eligibility, earned income disregards, resource tests, benefit cliffs or slopes (sudden or gradual), jurisdiction that sets eligibility, whether eligibility is provided automatically by virtue of eligibility for another program, and whether consumers pay part of fees for services to the state.

Table 4 - *Nebraska Resource Limits & Resource Exclusions for Adults with Disabilities* - lists resource limits used to determine eligibility for programs and whether there are any resources excluded from those limits. Resource limits restrict eligibility for programs to persons with lower asset levels. Excluding some resources in eligibility determination allows people who have accumulated some assets to pass the resource test for eligibility.

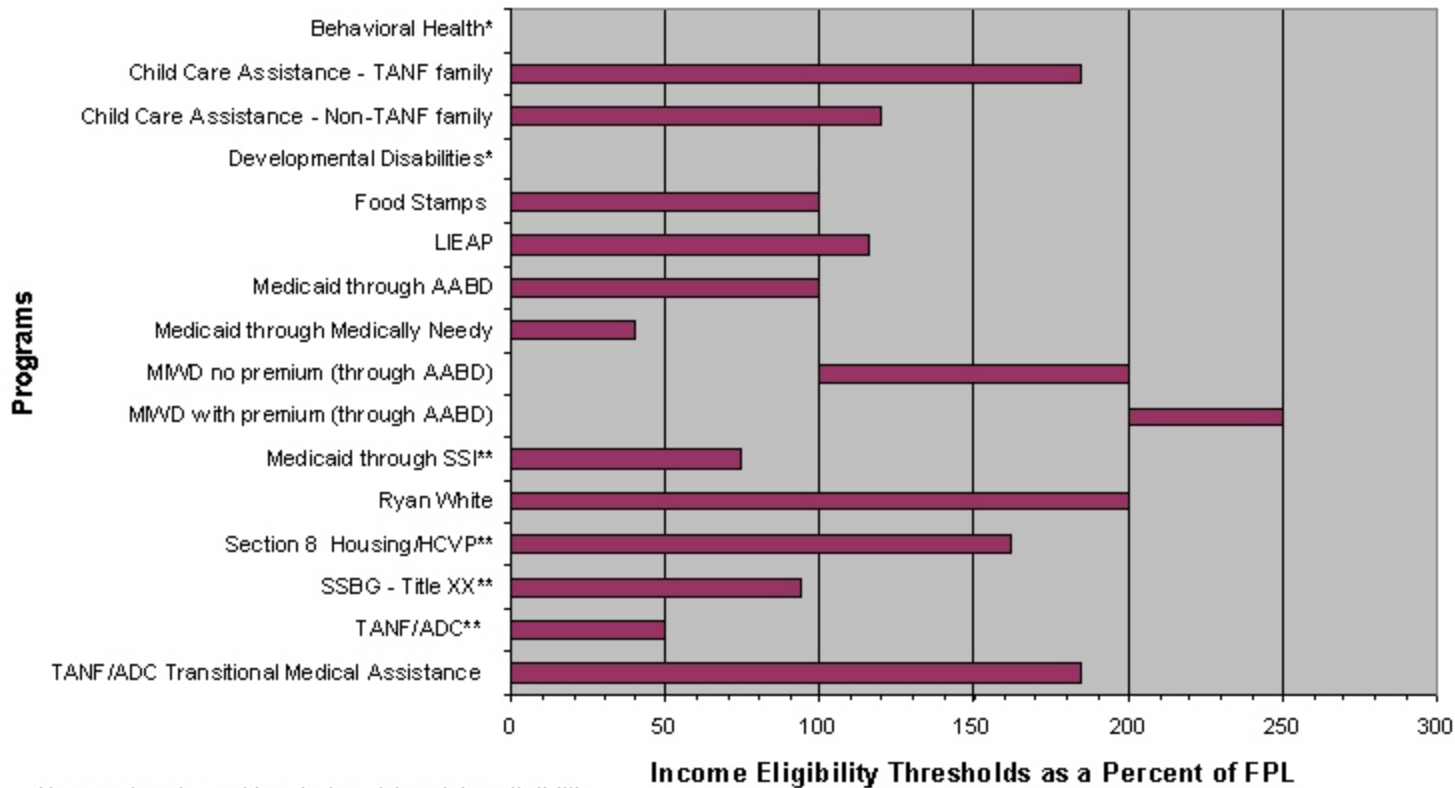
Table 5 - *Nebraska Earned Income Disregards for Adults with Disabilities* - lists income disregards used to determine eligibility for programs and income disregards used to determine benefits. Disregarding a portion of earned income when determining program eligibility encourages work while allowing increased program eligibility. Disregarding a portion of earned income when determining benefits results in higher benefits than if all earned income was counted. Higher program benefits translate into increased disposable income for working persons with disabilities.

Table 6 - *Nebraska Exclusions & Deductions from Income for Eligibility Determination for Adults with Disabilities* - details the exclusions or deductions applied to gross income in the determination of income for eligibility.

Table 7 - *Nebraska Exclusions & Deductions from Income for Benefit Computation for Adults with Disabilities* - details the exclusions or deductions applied to income (gross or eligibility) to arrive at the income used to determine benefits.

Table 1

**Approximated Nebraska Income Eligibility Ranges for Adults with Disabilities
(expressed as a % of FPL - Incomplete without attached "Notes to Accompany Table 1")**



*Income is not considered when determining eligibility.

**Eligibility range as a % of FPL has been estimated for those programs that base income eligibility on another standard.

See attached "Notes to Accompany Table 1" for details.

NOTE: This table is not intended to be used to determine individual eligibility.

Notes to accompany Table 1: “Nebraska Income Eligibility Ranges for Adults with Disabilities”

Behavioral Health

- No income eligibility threshold
- Cost sharing requirements based on income

Child Care Assistance – families on TANF or transitioning off TANF

- Income eligibility based on gross (earned + unearned) monthly income less than 185% of the FPL
 - Earned income disregard for eligibility

Child Care Assistance – families not on TANF

- Income eligibility based on gross (earned + unearned) monthly income less than 120% of the FPL
 - Earned income disregard for eligibility

Developmental Disabilities

- No income eligibility threshold
- Cost sharing requirements based on income

Food Stamps

- Net income is used to determine eligibility and to compute benefits
 - The gross income test for eligibility does not apply to people with disabilities
- Income eligibility is based on net monthly income less than or equal to 100% of the FPL
- Net income = gross (earned + unearned) income less allowable deductions:
 - 20% of earned income
 - Standard deduction
 - Dependent care deduction
 - Child support deduction
 - Unreimbursed medical costs greater than \$35
 - Shelter costs greater than one-half of adjusted gross income (gross income minus all other allowable deductions)
 - Standard utility allowance of \$240

LIEAP

- Income eligibility based on gross (earned + unearned) income less than or equal to 116% of the FPL
 - Health insurance paid is excluded from gross income
 - Child support paid is excluded from gross income

Medicaid – through AABD

- Income eligibility based on countable income (less disregards) less than 100% of the FPL
 - Countable income is calculated by applying SSI disregards

Medicaid through Medically Needy

- Medicaid coverage extended to persons who do not qualify for SSI because countable incomes or resources exceed SSI limits, but whose medical costs bring their net income below the state-established income level (over one to six months)
- Effective spenddown threshold is approximately 40% FPL

MIWD no premium – through AABD

- Income eligibility based on countable income between 100% and 200% of the FPL in Step 2 of Two-step Income Test
 - Step 1
 - Disregard earnings of a person with disabilities
 - Disregard unearned income if in trial work period
 - Compare income after disregards to Federal Benefit Rate (FBR); if income is less than FBR, go to Step Two
 - Step 2
 - Add earnings of applicant and spouse
 - Disregard \$65 of earned income and ½ the remainder of earned income
 - Disregard \$20 of general unearned income
 - Disregard \$10 of unearned income for interest and dividends
 - If sum of earned and unearned income, less disregards, is between 100% and 200% of the FPL, eligible for MIWD with no premium

MIWD with premium – through AABD

- Income eligibility based on countable income between 200% and 250% of the FPL in Step 2 of Two-step Income Test
 - Step 1

- Disregard earnings of a person with disabilities
- Disregard unearned income if in trial work period
- Compare income after disregards to Federal Benefit Rate (FBR); if income is less than FBR, go to Step Two
- Step 2
 - Add earnings of applicant and spouse
 - Disregard \$65 of earned income and ½ the remainder of earned income
 - Disregard \$20 of general unearned income
 - Disregard \$10 of unearned income for interest and dividends
 - If sum of earned and unearned income, less disregards, is between 200% and 250% of the FPL, eligible for MIWD with a premium

Medicaid through SSI

- Income eligibility based on countable income less than the Federal Benefit Rate (FBR) of \$545 per month for a family of one (American Association of Retired Persons, 2001)
 - SSI disregards impairment related work expenses when determining countable income
- Provisions for income greater than the FBR once enrolled
- Multiplying the 2002 FBR of \$545 per month for an individual by 12 and dividing the result by the 2002 FPL for a family of one (\$8,860) (U.S. Dept. of Health and Human Services, 2002) resulted in the income eligibility threshold *estimate* of 74% of the FPL, is shown on the table. *This estimate was made for purposes of comparison with programs that have income eligibility based on the FPL.*

Ryan White

- Income eligibility based on gross (earned + unearned) income less than 200% of the FPL
 - No income disregards

Section 8 Housing Assistance/HCVP

- Income eligibility based on gross (earned + unearned) annual income less than or equal to 50% of local median income
 - No income disregards for eligibility
 - HUD determines local median income for each housing market in the U.S. annually
- Dividing 50% of Nebraska's estimated FFY2003 median income for a family of 2 (\$38,787 x .50 = \$19,394) (Federal Register, 2002) by the 2002 FPL for a family of two (\$11,250) (U.S. Dept. of Health and Human Services, 2002) resulted in

the income eligibility threshold *estimate* of 162% of the FPL, shown on the table. *This estimate was made for purposes of comparison with programs that have income eligibility based on the FPL.*

Social Services Block Grant – Title XX

- Income eligibility based on gross (earned + unearned) monthly income less than or equal to the Maximum Allowable Income Standard (set annually by the state)
 - No earned income disregard for eligibility
- Multiplying the 2002 Maximum Allowable Income per month for a family of two or more (\$936) by 12 and dividing the result by the 2002 FPL for a family of two (\$11,940) (U.S. Dept. of Health and Human Services, 2002) resulted in the income eligibility threshold *estimate* of 94% of the FPL, shown on the table. *This estimate was made for purposes of comparison with programs that have income eligibility based on the FPL.*

TANF/ADC

- Income eligibility based on gross (earned + unearned) monthly income less than the state's established standard of need
 - Earned income disregard for eligibility
- Multiplying the 2002 Standard of Need for a family of two (\$494) (Neb. R. & Regs. 468 NAC 2-009) by 12 and dividing the result by the 2002 FPL for a family of two (\$11,940) (U.S. Dept. of Health and Human Services, 2002) resulted in the income eligibility threshold *estimate* of 50% of the FPL, shown on the table. *This estimate was made for purposes of comparison with programs that have income eligibility based on the FPL.*

TANF/ADC Transitional Medical Assistance (TMA)

- Up to 12 additional months of Medicaid coverage for TANF/ADC families who become ineligible for cash assistance due to an increase in earned income
 - First 6 months without regard to income
 - Second 6 months if income is less than 185% FPL
- Earned income disregard of \$100 for eligibility (from gross earned income, for each employed individual) (Neb. R. & Regs. 468 NAC 4-007.01)
- Child care disregard for eligibility (Neb. R. & Regs. 468 NAC 4-007.01)
- Adults with disabilities who are receiving TANF/ADC typically move off TANF/ADC and into the Medicaid through AABD program as soon as they are classified as persons with disabilities according to SSA rules.

NOTE: Earned income includes net income from self-employment. Unearned income that is included in gross income may vary by program.

REFERENCES:

American Association of Retired Persons. (2001, December). Supplemental Security Income (SSI) 2002 figures. *AARP Legal Bulletin*. Retrieved October 30, 2002 from: <http://www.povertylaw.org/legalresearch/hotline/bulletins/01-12.htm>.

Federal Register. (2002, January). January 30, 2002, Vol. 67, No. 20, pp. 4454-4456. Retrieved October 30, 2002 from: <http://wais.access.gpo.gov/>

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U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. (2002). *The 2002 HHS Poverty Guidelines*. Retrieved September 11, 2002 from <http://aspe.os.dhhs.gov/poverty/02poverty.htm>.

Table 2

2002 Federal Poverty Guidelines

| Percent of FPL (2002)* | 50% | 100% | 116% | 120% | 130% | 150% | 175% | 185% | 200% | 250% | 300% |
|----------------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Income for family of one | \$4,430 | \$8,860 | \$10,278 | \$10,632 | \$11,518 | \$13,290 | \$15,505 | \$16,391 | \$17,720 | \$22,150 | \$26,580 |
| Income for family of two | \$5,970 | \$11,940 | \$13,850 | \$14,328 | \$15,522 | \$17,910 | \$20,895 | \$22,089 | \$23,880 | \$29,850 | \$35,820 |
| Income for family of three | \$7,510 | \$15,020 | \$17,423 | \$18,024 | \$19,526 | \$22,530 | \$26,285 | \$27,787 | \$30,040 | \$37,550 | \$45,060 |
| Income for family of four | \$9,050 | \$18,100 | \$20,996 | \$21,720 | \$23,530 | \$27,150 | \$31,675 | \$33,485 | \$36,200 | \$45,250 | \$54,300 |
| Income for family of five | \$10,590 | \$21,180 | \$24,569 | \$25,416 | \$27,534 | \$31,770 | \$37,065 | \$39,183 | \$42,360 | \$52,950 | \$63,540 |
| Income for family of six | \$12,130 | \$24,260 | \$28,142 | \$29,112 | \$31,538 | \$36,390 | \$42,455 | \$44,881 | \$48,520 | \$60,650 | \$72,780 |
| Income for family of seven | \$13,670 | \$27,340 | \$31,714 | \$32,808 | \$35,542 | \$41,010 | \$47,845 | \$50,579 | \$54,680 | \$68,350 | \$82,020 |
| Income for family of eight | \$15,210 | \$30,420 | \$35,287 | \$36,504 | \$39,546 | \$45,630 | \$53,235 | \$56,277 | \$60,840 | \$76,050 | \$91,260 |

*The 2002 HHS Federal Poverty Guidelines (100%) were retrieved September 11, 2002 from U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation Web site: <http://aspe.os.dhhs.gov/poverty/02poverty.htm>.

The poverty guidelines are often referred to as the Federal Poverty Level (FPL) and are used to determine eligibility for some federal programs.

The 2002 poverty guidelines were issued in February 2002 and reflect price changes through calendar year 2001.

Table 3

Nebraska Program Summary for Adults with Disabilities

| Characteristic | Income Test - Eligibility | Earned Inc. Disregards- Eligibility/Benefits | Resource Test - Eligibility | Benefit Cliff/ Slope(1) | Income Eligibility Set By(2) | Accepts Eligibility From | State Fee Paid By Consumer |
|--------------------------------------|---------------------------|--|-----------------------------|-------------------------|------------------------------|--|----------------------------|
| Behavioral Health(3) | N/A | N/A | No | N/A | N/A | - | X |
| Child Care Assistance: | | | | | | | |
| TANF family | X | Eligibility/Benefits | \$6K | Slope | State | Employment First-TANF/ADC | X |
| Non-TANF family | X | Eligibility/Benefits | \$6K | Slope | State | - | X |
| Developmental Disabilities(3) | N/A | N/A | No | N/A | N/A | - | X |
| Food Stamps(4) | X | Eligibility/Benefits | \$3K | Slope | Federal | Various state programs(5) | No |
| LIEAP | X | Benefits | \$5K | Slope | State | All in hh receive a state payment | No |
| Medicaid through AABD: | | | | | | | |
| AABD | X | Eligibility | \$4K/\$6K | Cliff | State | Medical through SSI - apply separately | No |
| MWD no premium | X | Eligibility | \$4K/\$6K | Slope | State | AABD | No |
| MWD with premium | X | Eligibility | \$4K/\$6K | Cliff | State | AABD | X |
| Medicaid through SSI | X | Eligibility | \$2K/\$3K | Cliff | Federal | - | No |
| Ryan White | X | No | No | Cliff | State | - | No |
| Section 8 Housing/HCVF | X | Benefits | No | Slope | Federal | SSI | No |
| SSBG - Title XX | X | No | No | Cliff | State | AABD | No |
| TANF/ADC | X | Eligibility/Benefits | \$4K/\$6K | Slope | State | - | No |

(1) Cliff - if eligible, receive full benefits; if not eligible, receive no benefits. Slope - as income increases, benefits decrease gradually until eligibility is lost.

(2) State sets income eligibility within broad Federal guidelines.

(3) No income eligibility threshold for the program. Cost sharing requirements based on income.

(4) The gross income test for eligibility does not apply to food stamp applicants with disabilities. Net income is used both to determine eligibility and to compute food stamp benefits for people with disabilities.

(5) Employment First services or TANF/ADC Emergency Assistance - household must have one or more members in either of these programs. SSI, TANF, AABD, or the state disability program - if all members of the household receive benefits from one of these programs.

Table 4

| NEBRASKA RESOURCE LIMITS & RESOURCE EXCLUSIONS FOR ADULTS WITH DISABILITIES | | |
|--|--|--|
| Program | Resource Limits | Resource Exclusions Include: |
| Behavioral Health | No resource limit | Not applicable |
| Child Care Assistance | \$6K per family | \$12K FMV of one vehicle |
| Developmental Disabilities | No resource limit | Not applicable |
| Food Stamps | \$3K per household | Home & lot; \$12K FMV of one vehicle; certain vehicles; vehicle used to transport person with disabilities; resources of SSA, AABD, & TANF recipients |
| LIEAP | \$5K | Home & surrounding lot; one vehicle; personal belongings |
| Medicaid through AABD | \$4K for an individual \$6K for a couple | Home & lot; one vehicle |
| MIWD no premium (through AABD) | \$4K for an individual \$6K for a couple | Home & lot; one vehicle |
| MIWD with premium (through AABD) | \$4K for an individual \$6K for a couple | Home & lot; one vehicle |
| Medicaid through SSI | \$2K for an individual \$3K for a couple | Home & lot; one vehicle |
| Ryan White | No resource limit | Not applicable |
| Section 8 Housing/HCVF | No resource limit | Not applicable |
| SSBG – Title XX | No resource limit | Not applicable |
| TANF/ADC | \$4K for a family of one \$6K for a family of two or more | Home & lot; one vehicle |

Table 5

| NEBRASKA EARNED INCOME DISREGARDS FOR ADULTS WITH DISABILITIES | | |
|---|--|--|
| Program | Portion of Applicant's Earned Income Disregarded in Eligibility Determination | Portion of Recipient's Earned Income Disregarded in Benefit Computation |
| Behavioral Health | Not applicable – eligibility not based on income | Not applicable – benefit not based on income. Cost sharing requirement based on income. |
| Child Care Assistance | 20% | 20% |
| Developmental Disabilities | Not applicable – eligibility not based on income | Not applicable – benefit not based on income. Cost sharing requirement based on income. |
| Food Stamps* | 20% | 20% |
| LIEAP | None | 20% |
| Medicaid through AABD | 1st \$20 of any monthly income, 1st \$65 of monthly earned income + ½ of the remaining earnings, & disregards of 2-step test | 1st \$20 of any monthly income, 1st \$65 of monthly earned income + ½ of the remaining earnings, & disregards of 2-step test |
| MIWD no premium (through AABD) | 1st \$20 of any monthly income, 1st \$65 of monthly earned income + ½ of the remaining earnings, & disregards of 2-step test | 1st \$20 of any monthly income, 1st \$65 of monthly earned income + ½ of the remaining earnings, disregards of |
| MIWD with premium (through AABD) | 1st \$20 of any monthly income, 1st \$65 of monthly earned income + ½ of the remaining earnings, & disregards of 2-step test | 1st \$20 of any monthly income, 1st \$65 of monthly earned income + ½ of the remaining earnings, & disregards of 2-step test |
| Medicaid through SSI | 1st \$20 of any monthly income, 1st \$65 of monthly earned income + ½ of the remaining earnings, & disregards of 2-step test | 1st \$20 of any monthly income, 1st \$65 of monthly earned income + ½ of the remaining earnings, & disregards of 2-step test |
| Ryan White | None | None |
| Section 8 Housing/HCVP | None | 100% for first 12 months after employment; 50% for second 12 months after employment |
| SSBG – Title XX | None | None |
| TANF/ADC | 20% | Budget the Gap Methodology |

*The gross income test does not apply to food stamp applicants with disabilities. Net income is used both to determine eligibility and to compute food stamp benefits for people with disabilities.

Table 6

| NEBRASKA EXCLUSIONS & DEDUCTIONS FROM INCOME FOR ELIGIBILITY DETERMINATION FOR ADULTS WITH DISABILITIES | | | | | | | | |
|--|--|---|----------------------------|-----------------------|---------------------------|--|-----------------------------|-----------------------------------|
| Program | <i>Exclusions Include:</i> | | <i>Deductions Include:</i> | | | | | |
| | Portion of Earned Income Excluded | Education Grants, Schol., Loans Excluded | Standard Deduction | Dependent Care | Child Support Paid | Unreimbursed Medical Exp./ Health Insurance | Excess Shelter Costs | Standard Utility Allowance |
| Behavioral Health* | Not Applicable | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| Child Care Assistance | X | X | No | No | No | No | No | No |
| Developmental Disabilities* | Not Applicable | N/A | N/A | N/A | N/A | N/A | N/A | N/A |
| Food Stamps** | X | X | X | X | X | Unreimb. Exp. > \$35 per year | No limit | X |
| LIEAP | No | No | No | No | X | Health Insurance | No | No |
| Medicaid through AABD | X | X | X | No | Portion | Health Insurance | No | No |
| MIWD no premium (through AABD) | X | X | X | No | Portion | Health Insurance | No | No |
| MIWD with premium (through AABD) | X | X | X | No | Portion | Health Insurance | No | No |
| Medicaid through SSI | X | No | X | No | Portion | No | No | No |
| Ryan White | No | No | No | No | No | No | No | No |
| Section 8 Housing/ HCVP | No | X | No | No | No | No | No | No |
| SSBG – Title XX | No | X | No | No | No | No | No | No |
| TANF/ADC | X | X | No | No | No | No | No | No |

*Not applicable – there is no income test for eligibility for the program.

**For people with disabilities, net income (for which 20% of earned income is deducted) is used to determine both an applicant's eligibility and to determine a recipient's food stamp benefit.

Table 7

| NEBRASKA EXCLUSIONS & DEDUCTIONS FROM INCOME FOR BENEFIT COMPUTATION FOR ADULTS WITH DISABILITIES | | | | | | | | | |
|--|--|----------------------------|----------------------|-------------------|--------------------------|---|----------------------------|----------------------------------|---------------------------|
| Program | Portion of Earned Income Excluded | <i>Deductions Include:</i> | | | | | | | |
| | | Standard | Elderly/ Disabled | Dependent Care | Child Support Paid | Unreimbursed Medical Expenses/Ins. | Excess Shelter Costs | Standard Utility Allowance | Child Care Expenses |
| Behavioral Health* | Not Applicable | No | No | No | No | No | No | No | No |
| Child Care Assistance** | X | No | No | No | No | No | No | No | No |
| Developmental Disabilities* | Not Applicable | No | No | No | No | No | No | No | No |
| Food Stamps*** | X | X | No | X | X | Unreimb. med. exp. >\$35/year | No limit | X | No |
| LIEAP | X | No | No | No | X | Health insurance | No | No | No |
| Medicaid through AABD* | Not Applicable | No | No | No | No | No | No | No | No |
| MIWD no premium (through AABD)* | Not Applicable | No | No | No | No | No | No | No | No |
| MIWD with premium (through AABD)* | Not Applicable | No | No | No | No | No | No | No | No |
| Medicaid through SSI* | Not Applicable | No | No | No | No | No | No | No | No |
| Ryan White | Not Applicable | No | No | No | No | No | No | No | No |
| Section 8 Housing/ HCVP | X | X | X | No | No | Unreimb. med. exp. > 3% annual income; attendant care expenses | No | No | X |
| SSBG – Title XX | Not Applicable | No | No | No | No | No | No | No | No |
| TANF/ADC** | X | No | No | No | No | No | No | No | X |

*Once eligibility has been established, program benefits are not based on income.

**A portion of earned income is excluded in determining eligibility, that same exclusion applies when determining benefits.

***For people with disabilities, net income (for which 20% of earned income is deducted) is used both to determine applicant's eligibility and to determine recipient's food stamp benefit.

NOTE: Gross (earned + unearned) income less exclusions and deductions = income used in benefit determination.

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APPENDIX

PROGRAM: Behavioral Health: Community Mental Health and Substance Abuse Services

This summary primarily focuses on community-based mental health and substance abuse services, from the point of view of the Nebraska Department of Health and Human Services, Office of Mental Health, Substance Abuse and Addiction Services.

BEHAVIORAL HEALTH SERVICES:

Health and Human Services is responsible for community-based mental health, substance abuse, compulsive gambling and developmental disabilities systems; the Beatrice State Developmental Center; and the Regional Centers.

MISSION:

To organize and provide for an effective and efficient system of quality behavioral health services for the people of Nebraska by working in partnership for a unified and comprehensive behavioral health system driven by consumer needs.

ADMINISTERED BY:

Nebraska Department of Health and Human Services (HHS), Office of Mental Health, Substance Abuse and Addiction Services is the state authority for the planning, organizing, staffing, directing, coordinating and reporting of the statewide service systems of mental health, substance abuse and compulsive gambling. The Office of Mental Health, Substance Abuse and Addiction Services addresses the non-Medicaid public behavioral health through contracts with the six Regional Governing Boards to purchase community mental health and substance abuse services. Compulsive gambling services are administered by contract directly with providers.

FUNDING:

The funding includes state general funds, local tax dollars as match for state general funds, Federal Medicaid Rehabilitation Option (MRO), Nebraska Health Care Trust Fund (Tobacco Cash Fund), Federal Community Mental Health Services Block Grant funds, and Federal Substance Abuse Prevention and Treatment Block Grant.

For FY2003, program expenses for Community Substance Abuse Aid, Community Mental Health Aid, and Behavioral Health Aid (including Native American services) are projected to be approximately \$52,000,000. Substance Abuse does not include Prevention Programs & Compulsive Gamblers and Mental Health does not include Federal CMHS Youth Grants, PATH MH Services Homeless Grant, Magellan Behavioral Health contract or MH Consumer Projects. Behavioral Health Aid includes the Nebraska Health Care Trust Fund FY03 (Tobacco Cash Fund). This fund is used for Rate Increase MH, Rate Increase SA, Psychiatric Emergency services, and New/Expanded community MH/SA services. Based on current allocations with the six Regional Governing Boards, the Federal Mental Health Block Grant share is 6.3%, mental health State funds is 79.3%, and Regional Governing Board Match is 14.4% as of August 2002.

NUMBER OF PEOPLE WHO USE PROGRAM IN NEBRASKA:

Eligibility is based on an individual’s need for Mental Health (MH) and/or Substance Abuse (SA) services. Below is a summary of the “unduplicated persons served” for FY2002.

Adult (Age 18+)

| | | |
|---------------------------|--------|---------|
| By Services: | 33,821 | 100.00% |
| Mental Health (MH) only | 15,962 | 47.20% |
| Substance Abuse (SA) only | 13832 | 40.90% |
| Dual only | 34 | 0.10% |
| MH/SA | 1391 | 4.11% |
| MH/Dual | 31 | 0.09% |
| SA/Dual | 9 | 0.03% |
| MH/SA/Dual | 19 | 0.06% |
| Unknown | 2543 | 7.52% |

ABILITY TO PAY REQUIREMENTS:

Individuals served are expected to help pay for the behavioral health services.

Regarding the payment of fees, the Nebraska Comprehensive Community Mental Health Services Act (71-5001 to 71-5014) under section 71-5014 states that:

“Persons receiving mental health, drug abuse, and alcoholism services shall be charged fees in accordance with their ability to pay but not in excess of actual cost. The Director of Health and Human Services shall prepare and adopt a uniform patient fee schedule to be used by the governing board in all mental health facilities, programs, and services funded in whole or in part under the Nebraska Comprehensive Community Mental Health Services Act. The scheduled fees may be reduced or waived by authorization of the program administrator as may be considered necessary to further the objective of the facilities, programs, and services. No services covered under the act or sections 71-5015 to 71-5041 may be denied residents of Nebraska because of inability to pay scheduled fees.”

“Financial Eligibility Policy”

In general, the HHS will reimburse service providers through the Regional Governing Boards for mental health and substance abuse services for consumers who meet clinical eligibility criteria and who meet the specific financial eligibility criteria.

The “Assessment of Consumer Ability to Pay” includes a definition of income. For the purposes of this policy, income is defined as adjusted gross income as determined on Federal personal income tax forms. Current adjusted gross income may be calculated from current wages. Verification of consumer income can be obtained by review of income tax forms, W-2 forms,

paycheck records, SSI/SSDI eligibility, Medicaid eligibility, and/or a signed statement from the client.

The assessment of a consumer's ability to pay is an ongoing process. The consumer's financial eligibility status should be re-assessed at regular intervals, or when known changes occur (i.e., changes in current income, or number of dependents). The re-assessment may increase or decrease the co-pay obligations of the consumer.

Consumers who refuse to provide financial information shall be charged full cost of services.

Consumer Co-Pay Fees:

A. In addition to payments made by the HHS through Regional Governing Boards, providers may assess consumers a co-pay fee based upon sliding fee schedules approved by the "Network Manager" (Regional Program Administrator).

B. Consumers who, according to the HHS Financial Eligibility Schedule, do not have a co-pay option, may be charged "therapeutic" fees. In these cases, no co-pay amounts other than therapeutic charges may be assessed. For some consumers, income and family size limit therapeutic fees charged to less than 5% of cost or less than 10% of cost.

NOTE: Consumers may not be refused services solely on the basis on their inability to pay scheduled "clinical" or "therapeutic" fees.

Residential Levels of Care:

Residential levels of care will receive payment based on the HHS's established rates. In addition, room and board fees and co-pay fees may also be assessed. The total of all revenues received (the rates paid by the HHS, room and board fees, consumer co-pay fees) shall not exceed the actual cost of care.

A. Persons who are employed may have room and board fees and/or co-pay fees assessed in addition to the rate paid by the HHS. This applies to substance abuse services such as Halfway Houses and Therapeutic Communities.

B. Persons who are disabled by severe and persistent mental illness and who receive SSI or SSDI to pay for room and board in residential services shall not be assessed a separate co-pay fee. This applies to Mental Health services such as Psychiatric Residential Rehabilitation.

Persons Who Are Disabled By Severe and Persistent Mental Illness as defined in (Neb. Admin. R.& Regs. 204 NAC 1.001.33) are exempted from the "ability to pay" and "therapeutic fee" provisions of this policy.

“Persons *Disabled By Severe And Persistent Mental Illness*” means:

- (a) the individual is age 18 and over;
- (b) has a primary diagnosis of schizophrenia, major affective disorders, or other major mental illness under the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association. Developmental Disorders, or Psychoactive Substance Use Disorders may be included if they co-occur with the primary mental illnesses listed above;
- ©) are at significant risk of continuing in a pattern of either institutionalization or living in a severely dysfunctional way if needed mental health services are not provided, and this pattern has existed for 12 months or longer or is likely to endure for 12 months or longer; and
- (d) degree of limitation that seriously interferes with the individual's ability to function independently in an appropriate and effective manner, as demonstrated by functional impairments which substantially interferes with or limits TWO of three areas: (1) Vocational/Educational, (2) Social Skills, or (3) Activities of Daily Living.

“Vocational/Educational Impairment” means (Neb. Admin. R. & Regs. 204 NAC 1.001.24):

- (1) an inability to be consistently employed or an ability to be employed only with extensive supports, except that a person who can work but is recurrently unemployed because of acute episodes of mental illness is considered vocationally impaired;
- (2) deterioration or decompensation resulting in an inability to establish or pursue educational goals within a normal time frame or without extensive supports;
- (3) an inability to consistently and independently carry out home management tasks, including household meal preparation, washing clothes, budgeting, and child care tasks and responsibilities.

Note: There is no single statewide test that measures Vocational/Educational impairment.

NUMBER OF PEOPLE WITH DISABILITIES WHO USE PROGRAM IN U.S.:

Mental Health services are primarily a state responsibility. As a result, each state has a different array of programs for people with disabilities and differing ways of defining disability, therefore it is difficult to make any national estimates.

DETAILS FOR ELIGIBILITY AND FLEXIBILITY:

Since most funding is block granted, Medicaid, state, or local funds, the flexibility and eligibility criteria are at state and local discretion.

TIME LIMITS ON ELIGIBILITY:

None for most programs.

AVAILABLE TO:

All persons experiencing behavioral health needs, as services are available.

PROVISIONS FOR DISABLED:

All are persons with behavioral health issues

PROVISIONS FOR INCREASED INCOME:

For non-Medicaid eligible consumers, increased income will increase consumers' financial participation for the services received.

EXCEPTIONS/DISREGARDS:

None

ELIGIBILITY BASED ON ELIGIBILITY FOR OTHER PROGRAMS:

None

ELIGIBILITY QUALIFIES FOR OTHER PROGRAMS:

None

DOLLAR BENEFITS AN INDIVIDUAL RECEIVES IN NE:

Not available

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

Income is not considered for eligibility.

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES WHO:

Have Earned Income

Establish a statewide standard to measure vocational/educational impairment that would recognize that some persons with behavioral health disabilities may be employed in competitive work environments

- Establish earned income disregard for fee schedule

Have Substantial Earned Income

- Establish a statewide standard to measure vocational/educational impairment that would recognize that some persons with behavioral health disabilities may be employed in competitive work environments
- Establish earned income disregard for fee schedule

Have Increased Disposable Income

- Establish a statewide standard to measure vocational/educational impairment that would recognize that some persons with behavioral health disabilities may be employed in competitive work environments
- Establish earned income disregard for fee schedule

Participate in Cost Sharing

- Program already promotes cost sharing

REFERENCES:

Nebraska Comprehensive Community Mental Health Services Act (71-5001 to 71-5014)

Neb. Admin. R. & Regs. 204 NAC 1.001.24

Neb. Admin. R. & Regs. 204 NAC 1.001.33

PROGRAM: Child Care Subsidy

MISSION:

Assist low-income families, families receiving temporary public assistance, and families transitioning from public assistance to find child care that will enable them to work, go to school, or receive training (authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996)

FUNDING:

Intermediary: State; local

Ultimate: Federal (Child Care and Development Fund (CCDF) and use of the TANF block grant for child care assistance), matching state contribution, and local

ADMINISTERED BY:

State government; local government (county); private contractors; Tribes (all must submit comprehensive plans to federal government every two years)

WHO SETS ELIGIBILITY REQUIREMENTS:

States (within federal guidelines)

DETAILS FOR ELIGIBILITY AND FLEXIBILITY:

- Family with children (generally age 12 or younger)
- Based on monthly gross income – 120% FPL for non-TANF families, 185% FPL for TANF families.
- Federal government restricts use of CCDF funds to families with incomes less than or equal to 85% of the state median income
- Resource limit of \$6,000 per family
 - \$12,000 FMV of one vehicle not counted in resources
- Must use a legally operating child care provider. If the provider is not licensed by the state, it/she/he can be approved through the agency.
- Child care needed due to parent employment, parent in school or training, medical or counseling appointments for parent or another child, or parent incapacitated
- Monthly fee per child may be required, based on income

TIME LIMITS ON ELIGIBILITY:

- Max 60 hours/week childcare
- Non-TANF: Can be enrolled “forever”
- TANF: Limited to 24 consecutive months

AVAILABLE TO:

Limited by available funds (estimated that about 12% of the 14.5 million children that qualify under maximum federal income guidelines received CCDF assistance in 1999) (Patel, Greenberg, Savner, and Turetsky)

PROVISIONS FOR DISABLED:

- In NE, care may be available for child up to age 19 if they require extra care due to acute or chronic, physical or mental, condition
- Special needs children are compensated for childcare at a higher rate. Requires doctor verification
- In Nebraska there are no provisions to account for parents with disabilities

PROVISIONS FOR INCREASED INCOME:

None

ELIGIBILITY BASED ON ELIGIBILITY FOR OTHER PROGRAMS:

If eligible for TANF (ADC) and in Employment First program, automatically eligible for child care

ELIGIBILITY QUALIFIES FOR OTHER PROGRAMS:

None

DOLLAR BENEFITS AN INDIVIDUAL RECEIVES IN NE:

- Varies with income and family size
- Average payment is approximately \$260

SIZE OF PROGRAM IN NEBRASKA (TOTAL DOLLARS):

- FY 2000 Total Federal and State CCDF Expenditures in NE = \$11,598,890
- FY 2000 Reported Federal Share in NE = \$7,061,404
- FY 2000 Reported State Share in NE = \$4,537,486 (U.S. Dept. of Health and Human Services)

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

There are currently no provisions recognizing adults with disabilities.

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES WHO:

Have Earned Income

- Recognize special needs of parents with disabilities
- Increase earned income disregard
- Liberalize resource test

Have Substantial Earned Income

- Recognize special needs of parents with disabilities
- Increase earned income disregard
- Liberalize resource test

Have Increased Disposable Income

- Recognize special needs of parents with disabilities
- Increase earned income disregard
- Liberalize resource test
- Decrease monthly fee per child in recognition of lower disposable income of a parent with a disability

Participate in Cost Sharing

Program already promotes cost sharing

REFERENCES:

General Accounting Office. (2001, November). *Means-Tested Programs*. Retrieved October 23, 2002 from: <http://www.gao.gov/new.items/d0258.pdf>.

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U.S. Department of Health and Human Services, The Administration for Children and Families, Child Care Bureau. (n.d.) *Child Care and Development Fund*. Retrieved June 12, 2002 from: <http://www.acf.dhhs.gov/programs/ccb/geninfo/ccdfdesc.htm>.

U.S. Department of Health and Human Services, The Administration for Children and Families, Child Care Bureau. (n.d.) *FY 2000 CCDF State Expenditures*. Retrieved October 23, 2002 from: http://www.acf.dhhs.gov/programs/ccb/research/00acf696/match_a.htm.

Nebraska Department of Health and Human Services. (n.d.). *Child Care Subsidy Information for Parents*. Retrieved October 23, 2002 from: <http://www.hhs.state.ne.us/chc/ccsubsyapa.htm>.

Lincoln Journal Star. (2002, May 22). *HHSS to hear comments on subsidy*. Page 2B.

PROGRAM: Community-Based Developmental Disabilities

MISSION:

Provide funding for community-based services and supports for eligible Nebraskans with developmental disabilities. Primary services include:

- Service Coordination
- Specialized Services (assisted and supported residential services, assisted and supported day services, and respite care)

FUNDING:

State of Nebraska General Funds and State/Federal Medicaid Adult (over the age of 21) Waiver funds (the Children’s Waiver that will not be included in this discussion)

ADMINISTERED BY:

Nebraska Health and Human Services

WHO SETS ELIGIBILITY REQUIREMENTS:

Eligibility for services is determined by meeting the state’s definition of developmental disability. “Developmental disability” means (Neb. Admin. R. & Regs. 205 NAC 1.001.19):

- (1) Mental retardation; or
- (2) A severe, chronic disability other than mental retardation or mental illness which:
 - (a) Is attributable to a mental or physical impairment other than a mental or physical impairment caused solely by mental illness;
 - (b) Is manifested before the age of twenty-two years;
 - (c) Is likely to continue indefinitely; and
 - (d) Results in:
 - (I) In the case of a person under three years of age, at least one developmental delay; or
 - (ii) In the case of a person three years of age or older, a substantial limitation in three or more of the following areas of major life activity, as appropriate for the person's age:
 - (a) Self-care;
 - (b) Receptive and expressive language development and use;
 - (c) Learning;
 - (d) Mobility;
 - (e) Self-direction;
 - (f) Capacity for independent living; and
 - (g) Economic self-sufficiency.

To be eligible, an individual must also be a resident of the State of Nebraska and determined by HHS to require specialized supports and/or services.

Eligibility is not based on income, however, the ability to attain “economic self-sufficiency” is one of the major life activities that may characterize disability. To be determined as having a

disability, an individual must have limitations in at least three of the above seven areas (including economic self-sufficiency).

Persons deemed financially able to participate in paying for their services are charged up to the cost of the individual's services.

DETAILS FOR ELIGIBILITY AND FLEXIBILITY:

All persons deemed eligible for services receive services coordination, if requested. Because there is currently a waiting list, availability of other services are contingent upon funding availability for such services based on a prioritization of need process (Neb. Admin. R. & Regs. 205 NAC 2.011.09):

- (A) Protection from imminent physical harm caused by:
 - (1) Abuse and neglect.
 - (2) The need for emergency medical care.
 - (3) The need for food, housing and/or clothing on an emergency basis.
 - (4) The need for immediate intervention to prevent physical harm.
- (B) Protection from ongoing physical harm, not of an emergency nature, caused by insufficient food, housing, clothing, medical care, and/or lack of protection from abuse and neglect.

TIME LIMITS ON ELIGIBILITY:

There are no time limits. Indeed, most participants receive support over a lifespan.

AVAILABLE TO:

All eligible persons with developmental disabilities, as defined above, as services are available.

PROVISIONS FOR DISABLED:

All are persons with developmental disabilities

PROVISIONS FOR INCREASED INCOME:

Increased income may potentially impact scoring for disability eligibility (see above section *Who Sets Eligibility Requirements* Neb. Admin. R. & Regs. 205 NAC 1.001.19(2)(d)(ii)(g) Economic self-sufficiency). Economic self-sufficiency is calculated by looking at individual and spousal income including: earned income, trusts, inheritance, rental income, alimony, and interest. Not considered is economic self-sufficiency contributed through: food stamps, SSI, SSDI, general relief, ADC, and subsidies from relatives other than spouse. If counted income is greater than 130% of FPL (based on household size) then the individual would be unable to claim a substantial life limitation in that area. If no longer meeting the economic self-sufficiency test, an individual must meet at least three of the remaining six substantial life limitations or be have mental retardation.

Increased income may increase consumers' financial participation for the services received. "Ability to pay" calculations include: Taxable Income, Unearned Income, and Chargeable Assets

Nebraska Taxable Income - as claimed on the Nebraska State Income tax form and allowing for the personal exemption credit (PEC-based upon federal exemptions. The PEC is converted to tax dollars and reduces the taxable income amount.) For the purposes of cost sharing, taxable income cost sharing is calculated by assessing a percentage of the client's Net Taxable Income (less PEC). The assessment is:

| | |
|-----------------------------|------|
| Consumer with dependents | 1.5% |
| Consumer without dependents | 2.0% |
| Spouse of consumer | 1.5% |

Unearned Income - allows a room and board allowance and personal needs allowance (the rate varies depending on living arrangements). For the purposes of cost sharing, Unearned Income (less room/board and personal needs) is assessed in its entirety.

Chargeable assets - allows deductions for outstanding liabilities owed to creditors and \$4,000 for the consumer and each dependent. Home and auto equity are only deducted if included in the chargeable assets. Typical chargeable assets are liquid assets such as checking and savings accounts, certificates of deposit, and stocks and bonds. Retirement accounts, annuities, life insurances policies, and trusts may be considered part of chargeable assets and determinations are made on an individual basis. For the purposes of cost sharing, Chargeable Assets (less liabilities and \$4,000 for consumer and each dependent) may also be assessed in entirety or may be applied to other medical expenditures.

Consumers may request an undue hardship calculation. The consumer must submit their Net Monthly Income and any legal liabilities. The undue hardship calculation may (1) not affect their ability to pay (2) reduce their ability to pay or (3) result in a zero determination.

EXCEPTIONS/DISREGARDS:

For calculating consumer financial participation for services, the following disregards are applied:

Persons receiving Medicaid, including persons who participate in Medicaid Insurance for Workers with Disabilities are considered unable to participate in payment for their services.

ELIGIBILITY BASED ON ELIGIBILITY FOR OTHER PROGRAMS:

None

ELIGIBILITY QUALIFIES FOR OTHER PROGRAMS:

None

DOLLAR BENEFITS AN INDIVIDUAL RECEIVES IN NE:

It is widely variable from a minimum of approximately \$1,900 annually for services coordination only to over \$150,000. The average cost over all people receiving any habilitation service is approximately \$30,000.

SIZE OF PROGRAM IN NEBRASKA (TOTAL DOLLARS):

The Developmental Disabilities program budget totals approximately \$122 million annually. Of that amount, approximately \$1 million of program costs are paid by consumers who are participating in sharing costs for their services. Approximately half of the total budget is paid for by federal funds. The other half is from state general funds.

NUMBER OF PEOPLE WITH DISABILITIES WHO USE PROGRAM IN NE:

In September 2002, 4020 persons (including children) were receiving services from the Developmental Disabilities program. Of those 225 were receiving services coordination only. 2180 were under the Adult waiver, 1113 were receiving services coordination paid for with federal funds under the Targeted Case Management Option (with other services paid for by state general funds), 250 were under the Children's waiver, and 477 received services coordination and other services were paid for with state general funds only.

NUMBER OF PEOPLE WITH DISABILITIES WHO USE PROGRAM IN U.S.:

Each state has a different array of programs for people with disabilities and differing ways of defining disability, therefore it is difficult to make any national estimates. As a proportion of population, approximately 1.5% of the population is a person with a developmental disability.

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

Income is not considered for eligibility.

Services available to individuals are not based on ability to pay.

No one is denied services based on ability to pay or cost-sharing participation.

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES WHO:

Increase the counted income test ceiling from 130% of FPL (based on household size) to some higher percentage so that individuals with increased income might still claim a substantial life limitation in the economic self-sufficiency test.

Have Earned Income

- Increase the counted income test ceiling from 130% of FPL (based on household size) to some higher percentage so that individuals with increased income might still claim a substantial life limitation in the economic self-sufficiency test
- Establish earned income disregard for fee determination

Have Substantial Earned Income

- Increase the counted income test ceiling from 130% of FPL (based on household size) to some higher percentage so that individuals with increased income might still claim a substantial life limitation in the economic self-sufficiency test

- Establish earned income disregard for fee determination

Have Increased Disposable Income

- Increase the counted income test ceiling from 130% of FPL (based on household size) to some higher percentage so that individuals with increased income might still claim a substantial life limitation in the economic self-sufficiency test
- Establish earned income disregard for fee determination

Participate in Cost Sharing

- Program already promotes cost sharing

PROGRAM: Disabled Persons and Family Support (DPFS)

MISSION:

“The program is designed to encourage -

1. Employable disabled people who live independently to remain or become employed;
2. Families living with disabled family members to preserve the family unit; and
3. Disabled adults who reside in independent living situations to maintain their maximum level of independence” (Nebraska R. and Regs. 472 NAC 1-001).

The Program has and continues to assist many persons by allowing them to remain as independent as possible by preventing institutional care.

FUNDING:

Enabled by state law and funded 100% by the state

ADMINISTERED BY:

State

WHO SETS ELIGIBILITY REQUIREMENTS:

State

DETAILS FOR ELIGIBILITY:

- Gross (earned + unearned) monthly income less than or equal to Nebraska’s 1989 median income
 - Family of one - \$1,364
 - Family of two - \$1,784
 - Family of three - \$2,203
 - Family of four - \$2,623
- Item 3 of Nebraska Rules and Regulations 472 NAC 2-003.03 Rev. September 28, 1988 is not specific as to the amount of resources that restrict eligibility, allowing “access to financial resources sufficient to meet their needs”
- Current resource limits instituted to screen applications are:
 - \$10,000 or less for a family of one
 - \$15,000 or less for a family of two or more
- Past resource limits have been as high as:
 - \$50,000 in liquid assets
- No work requirement

TIME LIMITS ON ELIGIBILITY:

None

AVAILABLE TO:

Limited by state funds allocated to program

DEFINITION OF DISABLED:

“Disability for this program is a medically determinable, severe, chronic condition which

1. Is attributable to mental and/or physical impairments;
2. Is likely to continue indefinitely;
3. Demonstrates a need for long-term, individually planned and coordinated care, treatment, vocational rehabilitation, or other services; and
4. Results in substantial functional limitations in two or more of the following areas of major life activity –
 - a. Self-care;
 - b. Receptive and expressive language;
 - c. Learning;
 - d. Mobility;
 - e. Self-direction;
 - f. Capacity for independent living;
 - g. Work skills or work tolerance; and
 - h. Economic sufficiency” (Neb. R. & Regs. 472 NAC 1-003).

PROVISIONS FOR DISABLED:

Service or assistance to a person with disability who is employed (or who could be employed) and earns at least \$500 per month, to enable them to remain employed (Nebraska Health and Human Services System, n.d.). However, only a few participate in this category.

DEDUCTIONS TO INCOME FOR ELIGIBILITY:

- Disability-related expenses that may be deducted include:
 - Attendant care costs
 - Tools (adapted to their disability) required for the employment of a person with disabilities
 - Transportation
 - Out-of-pocket medical costs
 - Health insurance policy costs(Neb. R. & Regs. 472 NAC 2-003.04)

RESOURCE DISREGARDS:

- Home
- Car
- No verification is made of this information

SIZE OF PROGRAM IN NEBRASKA (TOTAL DOLLARS):

- \$910,000 per year (as of October 2002)
- Maximum support from DPFS program per family or person with disabilities is \$300 per month

NUMBER OF PEOPLE WITH DISABILITIES WHO USE PROGRAM IN NE:

- Currently, there are 418 cases in the program (as of October 2002)
 - Most participants are elderly, Social Security recipients
 - Most households participating in the program have one or two members
- Currently, there are 100 people on the waiting list (as of October 2002)

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

- Disability-related expenses may be deducted from income for eligibility
- Employed person with a disability who earns a minimum of \$500 per month may receive services or assistance to help them remain in the work force
- No time limit on eligibility

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES WHO:

Have Earned Income

- Increase funding for the program
- Increase resource eligibility limits
- Increase income eligibility limits
- Decrease the minimum income of \$500 per month to allow more employed persons with disabilities (those who work few hours at low pay) to be eligible for services or assistance that help them stay in the work force

Have Substantial Earned Income

- Increase funding for the program
- Increase resource eligibility limits
- Increase income eligibility limits
- Increase the minimum income to more than \$500 per month for eligibility for services or assistance to help a person with disabilities stay in the work force

Have Increased Disposable Income

- Increase funding for the program
- Increase resource eligibility limits

Participate in Cost Sharing

- Institute cost sharing

REFERENCES:

Nebraska Health and Human Services System. (n.d.). *Disabled Persons and Family Support (DPFS) Program* . Retrieved May 23, 2002 from:
<http://www.hhs.state.ne.us/add/dpfs.htm>.

Nebraska Rules and Regulations 472 NAC 1-001 (1988).

Nebraska Rules and Regulations 472 NAC 2-003 (1988).

PROGRAM: Earned Income Tax Credit (EITC)
(Also known as the Earned Income Credit [EIC])

MISSION:

Tax relief; provide a work incentive to low-income individuals and families

FUNDING:

- Federal for the federal EITC
- State and local governments fund EITC that they enact
 - The cost of the refundable portion of a refundable state EITC may be funded by TANF block grant funds. Any TANF funds used for this purpose are counted as maintenance of effort (MOE) funds. (Johnson, 2001)

ADMINISTERED BY:

Federal, state, or local government

WHO SETS ELIGIBILITY REQUIREMENTS:

Federal, state, or local government

FEDERAL EITC DETAILS FOR ELIGIBILITY:

- Valid Social Security Number, cannot file as “married filing separately”, U.S. citizen or resident alien all year, cannot file foreign earned income, investment income of \$2,450 or less, must have earned income (U.S. Department of the Treasury, IRS, n.d.a)
- Income and family size determine EITC, if any (U.S. Department of the Treasury, IRS, n.d.b):
 - Earned income and modified adjusted gross income both less than \$10,710 for taxpayer with no qualifying children (2001)
 - Earned income and modified adjusted gross income both less than \$28,281 for taxpayer with one qualifying child (2001)
 - Earned income and modified adjusted gross income both less than \$32,121 for taxpayer with more than one qualifying child (2001)
- Employed people who have at least one child living with them may be eligible for advance EITC payments during 2002 (U.S. Department of the Treasury, IRS, n.d.b):
 - Part of the EITC is paid to an eligible employee during the year by their employer, through the employee’s paychecks
 - The employee must file a federal form with their employer to initiate these advance payments
 - The remainder of the EITC is claimed by the employee on their federal income tax return

STATE AND LOCAL DETAILS FOR ELIGIBILITY:

Vary by state and local government

FLEXIBILITY:

- States and local governments may enact an EITC that is based on the federal EITC
- States may enact a refundable or a non-refundable EITC (the federal EITC is refundable – a refund is given to the taxpayer if their credit is larger than their tax bill)

TIME LIMITS ON ELIGIBILITY:

None

AVAILABLE TO:

All who qualify and file a claim for the credit

EITC AND ELIGIBILITY FOR OTHER PROGRAMS:

“The EITC does not generally affect eligibility for Medicaid, Supplemental Security Income (SSI), food stamps, or low-income housing.” (U.S. Department of the Treasury, IRS, n.d.b, p. 1)

FEDERAL PROVISIONS FOR PEOPLE WITH DISABILITIES:

- “A totally and permanently disabled person of any age can be a ‘qualifying child’ for a worker” (Center on Budget and Policy Priorities)
- “A person who receives long-term, employer-paid disability benefits and is under minimum retirement age can qualify for the EIC, even if he or she did not work during the tax year.” “Such disability benefits are considered taxable income, are reported as wages on tax returns, and are considered earned income for purposes of the EIC.” (Center on Budget and Policy Priorities)

SIZE OF FEDERAL EITC IN NEBRASKA:

- Federal EITC for 2000 in NE: 91,000 claims, \$138 million (Tax Policy Center, n.d.)
 - More than three-fourths of the 91,000 claims filed were filed by taxpayers with one or two children. Over 96% of the \$138 million in tax credits received in Nebraska gave tax relief to taxpayers with one or two children. (Computations based on data from Tax Policy Center, n.d.)

OTHER STATES AND THE EITC:

By 2000, sixteen states had enacted state earned income tax credits that were based on the federal EITC. This policy change helps only those who have earned income and therefore encourages work, supporting the welfare to work philosophy, as well as provides additional income to individuals or families who qualify. The earned income tax credits are refundable (a cash income supplement is refunded if the credit is greater than the tax liability) in eleven of the sixteen states, but only lower actual tax liability in the remaining five states (Johnson, 2001; Gais and Weaver, 2002)

NEBRASKA AND THE EITC:

A refundable earned income tax credit set at 5% of the federal EITC was proposed in Nebraska during the 2002 Legislative Session under LB 487. The bill, introduced by Senator David Landis, was indefinitely postponed and would need to be reintroduced at a future session to be considered again. During the 1990's, state EITC bills were introduced in Nebraska several times. The estimated cost of the EITC introduced with LB 487 was approximately \$7 million annually in both FY2002 and FY2003. Although the state EITC would allow qualifying (low to moderate income) Nebraska families to keep more of their earnings, the cost may be prohibitive - especially in tight financial times.

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES:

Have Earned Income

- Promote the federal EITC to low and moderate income people with disabilities who are employed or could be employed
- Assist with the paperwork to claim the EITC
- Inform low and moderate income people with disabilities who are employed and have at least one child living with them of the option to receive a part of the federal EITC in advance through their paychecks
- Enact a state EITC, set at a percent of the federal EITC
- Enact a state EITC with higher income limits for people with disabilities
- Enact a state EITC only for working people with disabilities

Have Increased Disposable Income

- Promote the federal EITC to low and moderate income people with disabilities who are employed or could be employed
- Assist with the paperwork to claim the EITC
- Inform low and moderate income people with disabilities who are employed and have at least one child living with them of the option to receive a part of the federal EITC in advance through their paychecks
- Enact a state EITC, set at a percent of the federal EITC
- Enact a state EITC with higher income limits for people with disabilities
- Enact a state EITC only for working people with disabilities

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PROGRAM: Food Stamp Program

MISSION:

To help low-income people obtain the food they need to be healthy.

FUNDING:

Federal government funds benefits; states share administrative costs with federal government

ADMINISTERED BY:

- State and local Health and Human Services offices
- Federal government (USDA) oversees the state operation

WHO SETS ELIGIBILITY REQUIREMENTS:

- Federal government
- States have some flexibility, for example:
 - Length of time before recertification for program
 - Length of transitional benefits period
 - FMV of vehicle to be excluded from resources

DETAILS FOR ELIGIBILITY AND FLEXIBILITY:

- Authorized state eligibility workers make eligibility determinations
- Eligibility determined based on household size, gross income, net income, and resources
 - Gross income up to and including 130% FPL
 - Gross income = total non-excluded income before deductions
 - Net income up to and including 100% FPL
 - Net income = gross income - allowable deductions
 - Resources (e.g. cash, bank accounts) up to \$2,000 per household and up to \$3,000 per household with at least one elderly member (over age 60) or member with disabilities
- Work requirements for able-bodied adults, ages 16 to 60
- Many states use a joint application for food stamps, child care assistance, energy assistance, TANF, and Medicaid (even though eligibility for one does not guarantee eligibility for another) – NE uses this type of joint application for all state programs (including those listed above)
 - In Nebraska, a person with disabilities may be able to apply for food stamps over the telephone
 - By April 2003, states are required to have food stamp program applications available on the Internet

TIME LIMITS ON ELIGIBILITY:

- Three months out of thirty-six months for unemployed adults able to work and not in work program
- No time limit for families with children

- No time limit for elderly
- No time limit for disabled

RECERTIFICATION:

- Currently recipients are recertified every three months
 - Six-month reporting for households with earnings is an option under the 2002 Farm Bill (USDA, 2002, May 14)
- Elderly with no income may go up to 24 months before recertification, with a 12-month review
- People with disabilities may go from 12 to 24 months before recertification
 - The time period varies with income stability
 - Recertification can be completed over the telephone

AVAILABLE TO:

All eligible households (people who live, buy food, and prepare meals together)

DEFINITION OF DISABLED FOR FOOD STAMP PROGRAM:

A person is “considered to be disabled” under food stamp rules if any of the following apply (USDA, n.d.c):

- “Receives Federal disability or blindness payments under the Social Security Act, including Supplemental Security Income (SSI) or Social Security disability or blindness payments; or
- Receives State disability or blindness payments based on SSI rules; or
- Receives a disability retirement from a governmental agency because of a disability considered permanent under the Social Security Act; or
- Receives an annuity under the Railroad Retirement Act and is eligible for Medicare or is considered to be disabled based on the SSI rules; or
- Is a veteran who is totally disabled, permanently housebound, or in need of regular aid and attendance; or
- Is a surviving spouse or child of a veteran who is receiving VA benefits and is considered to be permanently disabled”

PROVISIONS FOR DISABLED:

- Only the net income test applies to household with a member who has disabilities -- they are not subject to the gross income test (USDA, The Nutrition Safety Net: Help For the Elderly and Disabled)
- Amount of allowable resources is higher for household with a member with disabilities
- Medical costs over \$35 per month that are not paid by insurance or someone else may be deducted for a household member with disabilities when computing net income
- All shelter costs over half the household’s income after other deductions may be deducted for household with a member with disabilities when computing net income
- The value of a vehicle used to transport a household member who has physical disabilities is not counted as a resource

- May designate authorized representative to apply for and use food stamps benefits
- 24 month certification periods
 - In Nebraska, this varies with income stability
- Joint processing of SSI and food stamp applications
- Waiver of face-to-face interview
- Disabled residents of small group homes may be eligible for food stamps benefits (USDA, n.d.c)

PROVISIONS FOR INCREASED INCOME:

- States may extend from three months to five months the transitional food stamp benefits available to a household that has lost TANF cash assistance (i.e. when income increases due to employment); this transitional period can go beyond the 12 month limit on food stamp benefits (USDA, 2002, May 14)
 - This option is under review in Nebraska at this time
- A deduction of 20% of earned income is subtracted from gross income in computing net income (USDA, n.d.b)

INCOME EXCLUSIONS/DEDUCTIONS:

- Operating expenses are excluded from self-employment income when computing gross income
- Education grants, scholarships, and loans are not included in gross income
- 20% of earned income is deducted from gross income in determining net income

RESOURCE EXCLUSIONS:

- Home and lot
- In Nebraska, up to \$12,000 of the fair market value of the most expensive vehicle
 - This is more in line with treatment of vehicle under child care assistance – states have option to change vehicle exclusion to more closely line up with that of another program
 - Up to \$4,650 of the fair market value of additional vehicles
- Resources of those who receive SSI, AABD, or TANF benefits
- Some vehicles are not counted as resources (e.g. used to transport a household member with disabilities; used more than half of the time to produce income; used to travel long distances for work, other than commuting; used as a home) (USDA, n.d.b)

ELIGIBILITY AND BENEFIT COMPUTATION:

- Compare gross monthly income to gross monthly income limit for size of household
- If gross monthly income is less than the limit, compute net monthly income
- Net monthly income = gross monthly income
 - Less 20% earned income deduction
 - Less standard deduction (beginning FY 2003 the standard deduction is 8.31% FPL for household size, but not less than the standard deduction of \$134 in effect prior to FY2003 and not more than the standard deduction for a household of 6)
 - Less dependent care deduction (up to the limits of \$200 per child under 2 years old and \$175 for each other dependent) associated with work or a work activity

- Less child support deduction
- Less unreimbursed medical costs over \$35 for elderly household member or household member with disabilities
- Less excess shelter deduction
 - If shelter costs (e.g. rent, mortgage, taxes on home, fuel costs, water costs, and the basic cost of one telephone) are greater than half of adjusted income (gross income minus all other deductions), subtract the difference (up to the limit of \$354 - *for a household with a member who is elderly or has disabilities, the limit does not apply*) from adjusted income
- Less standard utility allowance (SUA) = \$240 in NE, FY2002
- Compare net monthly income to net monthly income limit for size of household
- If net monthly income is less than the limit, compute the food stamp benefit (allotment) for the household
 - Multiply household net monthly income by .3
 - Allotment for month = maximum monthly allotment for household size minus 30% of net monthly income (a food stamp household is expected to spend 30% of net income on food) (USDA, n.d.b).

NEBRASKA ELECTRONIC BENEFITS TRANSFER (EBT):

- Debit cards replaced food stamp coupons in October 2002
 - PIN number used to access account
- In Nebraska, written notification is sent to food stamp recipient whose card has been inactive for 60 days
- Food stamp benefits are automatically deposited to card during first five days of each month (State of NE HHSS, 2001).

CATEGORICAL ELIGIBILITY (BASED ON ELIGIBILITY FOR OTHER PROGRAMS):

- Household with **all** members receiving SSI, TANF, AABD, or the state disability program do not have to meet the income tests for food stamp program and are not subject to the asset test
 - Households in which all members are SSI applicants or recipients must be assisted in food stamp application at SSA office and may submit food stamp application at SSA office (SSA, 2002)
- Household with one or more members receiving ADC Emergency Assistance or Employment First services is categorically eligible for the food stamp program

ELIGIBILITY QUALIFIES FOR OTHER PROGRAMS:

- School lunch program
- School breakfast program

FOOD STAMP PROGRAM IN NEBRASKA:

- August 2002 Nebraska data
 - Food stamp benefits = \$6,609,655
 - Households = 40,169
 - Persons = 93,149
- FY2001 food stamp program benefits in Nebraska were \$62,711,292 (USDA, *Food Stamp Program Annual Benefits*)
 - FY2001 – Nebraska average monthly food stamp **benefit per person** was \$64.80 (USDA, *Food Stamp Program Annual Average Benefits*)
- FY2001 average monthly participation in the food stamp program in Nebraska was 80,652 **individuals** (USDA, *Food Stamp Program Annual Persons Participating*)
 - The number of **persons** participating in the food stamp program in Nebraska increased by 10.9% when comparing June 2001 (80,775) and June 2002 (89,619) (USDA, *Food Stamp Program Current Participation (Persons)*)
 - The number of **persons** participating in the food stamp program in Nebraska increased by 1.9% when comparing May 2002 (87,991) and June 2002 (89,619) (USDA, *Food Stamp Program Current Participation (Persons)*)
- FY2001 average monthly participation in the food stamp program in Nebraska was 34,729 **households** (USDA, *Food Stamp Program Annual Household Participation*)
 - Nebraska average monthly **household food stamp benefit** in FY2001 was \$152 (USDA, July 2002)
 - Nebraska average monthly food stamp **household** gross income in FY2001 was \$687 (USDA, July 2002)
 - Nebraska average monthly food stamp **household** net income in FY2001 was \$401 (USDA, July 2002)
 - Nebraska average monthly food stamp **household** total deduction in FY2001 was \$316 (USDA, July 2002)
 - Nebraska average monthly food stamp **household** countable assets in FY2001 was \$210 (USDA, July 2002)
 - Nebraska average food stamp **household** size in FY2001 was 2.4 persons (USDA, July 2002)
- The number of **households** participating in the food stamp program in Nebraska increased by 10.4% when comparing June 2001 (34,804) and June 2002 (38,440) (USDA, *Food Stamp Program Current Household Participation*)
- The number of **households** participating in the food stamp program in Nebraska increased by 3.9% when comparing May 2002 (36,984) and June 2002 (38,440) (USDA, *Food Stamp Program Current Household Participation*)

PEOPLE WITH DISABILITIES WHO USE FOOD STAMP PROGRAM IN NE:

This information has been requested, but has not been received

FOOD STAMP PROGRAM IN U.S.:

- FY2001 (USDA, *Food Stamp Program Annual Summary* and USDA, *Food Stamp Program Monthly Data*)
 - Average monthly food stamp benefit per person was \$74.83
 - Average monthly food stamp benefit per household was \$173.98
 - 17.3 million people participated (average monthly participation)
 - 7.45 million households participated (average monthly participation)
 - Total benefits were \$15.55 billion
 - All other federal costs were \$2.25 billion
 - Total cost to the federal government was \$17.8 billion

PEOPLE WITH DISABILITIES & U.S. FOOD STAMP PROGRAM BENEFITS:

- Households with a disabled **member** received 17.1% of the \$15.5 billion in total food stamp benefits paid in FY2001 (USDA, July 2002)
- 12.8% (2.2 million) of the 17.3 million food stamp program **participants** in FY2001 were disabled (USDA, July 2002)
 - 1.7 million (9.9%) of the 17.3 million food stamp program **participants** in FY2001 were nonelderly (ages 18 to 59 years old) adults with a disability (USDA, July 2002)
- 27.6% (2.056 million) of the 7.45 million **households** receiving food stamps included a person with disabilities in FY2001 (USDA, July 2002)
 - Disabled **participants** living alone (57.8% of the 2.056 million households with a disabled individual) received \$48 per month on average in food stamps (U.S. average; FY2001) (FY201 Advance Report)
 - **Households** including at least one disabled individual and other individuals received \$174 per month on average (U.S. average; FY2001) (USDA, July 2002)

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

- Increased vehicle resource exclusion to \$12,000 of FMV
- One-page application for food stamp program
- Application and recertification may be completed over the telephone
- Recertification period is from 12 to 24 months (longer than for person without disabilities)
- Written notification sent to food stamp program participant whose EBT card has been inactive for 60 days
- No time limit on eligibility for person with disabilities

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF PERSONS WITH DISABILITIES WHO:

Have Earned Income

- Extend recertification period to 24 months for all people with disabilities who have earned income
 - This is difficult due to balancing the federal quality control requirements against making the program easier to use
 - The more variation in income (someone who is not consistently employed, for example) the more often recertification is completed
- Make food stamp application available on the Internet (required by April 2003 for all states)

Have Substantial Earned Income

- Extend recertification period to 24 months for all people with disabilities who have earned income
 - This is difficult due to balancing the federal quality control requirements against making the program easier to use
 - The more variation in income (someone who is not consistently employed, for example) the more often recertification is completed
- Make food stamp application available on the Internet (required by April 2003 for all states)
- Transitional food stamp benefit period of five months for those losing TANF (this option is being considered in Nebraska, and is allowed under the 2002 Farm Bill (USDA, 2002, May 14))

Have Increased Disposable Income

- Extend recertification period to 24 months for all people with disabilities who have earned income
 - This is difficult due to balancing the federal quality control requirements against making the program easier to use
 - The more variation in income (someone who is not consistently employed, for example) the more often recertification is completed
- Make food stamp application available on the Internet (required by April 2003 for all states)
- Transitional food stamp benefit period of five months for those losing TANF (this option is being considered in Nebraska, and is allowed under the 2002 Farm Bill (USDA, 2002, May 14))

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PROGRAM: Nebraska Low Income Energy Assistance Program (LIEAP)

MISSION:

“The purpose of the Nebraska Low Income Energy Assistance Program is to provide assistance to low-income households to offset the rising costs of home energy. The highest level of assistance must be furnished to those households which have the lowest incomes taking into account family size” (Neb. R. & Regs. 476 NAC 1-002).

FUNDING:

Federal (Block grant to states) under Low Income Home Energy Assistance Program (LIHEAP)

ADMINISTERED BY:

NE Department of Health and Human Services

WHO SETS ELIGIBILITY REQUIREMENTS:

- Federal statute requires recipients to be low-income
 - A state must set its eligibility level between 110% FPL and the greater of 150% FPL or 60% of the state’s median income
 - For most states, the upper bound for the eligibility level is 60% of the state’s median income
 - FPLs and median incomes vary with household size
- States define income and whether to consider gross or net income for eligibility

(U.S. Department of Health and Human Services, n.d.c., *Eligibility Guidelines*)

DETAILS FOR ELIGIBILITY:

- Income and resources determine eligibility
 - Currently Nebraska sets an eligibility standard of gross annual income less than 116% FPL (the highest Nebraska has ever set eligibility is 130% FPL)
 - Gross income = earned income + unearned income + net self-employment or farm income – health insurance paid – child support paid
 - Currently Nebraska sets an eligibility standard of resources less than \$5,000
- Grant amount is determined by countable income (gross income less a 20% earned income disregard), family size, type of residence, and type of fuel

FLEXIBILITY:

- States *may* give categorical eligibility to households with at least one member receiving federal assistance under these programs:
 - TANF
 - SSI
 - Food stamps
 - Certain needs-tested veteran benefits
- States may elect only to give assistance to those low-income households that meet additional eligibility criteria, such as:
 - Household must meet an assets test

- Household members currently live in non-subsidized housing
- An elderly person, person with disabilities, or a young child is a member of the household
- Household has been notified that utilities will be disconnected

(U.S. Department of Health and Human Services, n.d.c., *Eligibility Guidelines*)

TIME LIMITS ON ELIGIBILITY:

Reapply each year – often done with Medicaid and food stamp application

AVAILABLE TO:

- Limited by amount of block grant from federal government
- In Nebraska, usually all eligible households that apply are assisted
- There may be households in Nebraska that would be eligible but do not apply

DEFINITION OF DISABLED:

“Disabled - At the time of application, having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment” (Neb. R. & Regs. 476 NAC 1-009).

PROVISIONS FOR PEOPLE WITH DISABILITIES IN NE:

- People with disabilities (and those over 70 years of age) may receive some assistance for cooling if determined to be medically necessary
- Determination of medical necessity and of disability made by State Review Team that consists of several doctors and nurses

PROVISIONS FOR INCREASED INCOME:

No transition program for those whose gross incomes increase above 116% FPL

EXCEPTIONS/DISREGARDS:

- Resources not counted:
 - Home and surrounding property
 - One car
 - Personal belongings (furniture, clothing)

ELIGIBILITY BASED ON ELIGIBILITY FOR OTHER PROGRAMS:

Applicant is categorically eligible and maximum benefit is received (in most cases) if the entire household receives a public assistance payment from the state

ELIGIBILITY QUALIFIES FOR OTHER PROGRAMS: None

DOLLAR BENEFITS AN INDIVIDUAL RECEIVES IN NE:

- Nebraska’s maximum grant currently available (\$566) is for households using propane
- Nebraska’s typical grant is to household using natural gas
 - Maximum grant for natural gas is \$328

- \$500 additional assistance may be available if threatened with utility shutoff
 - No limit on crisis assistance, but usually it is held to \$500 to \$750 per year per household
- Crisis payments are made to the energy provider
- Regular payments may be made to the assisted household or to the energy provider

SIZE OF PROGRAM IN NEBRASKA (TOTAL DOLLARS):

- FY2002 grant to Nebraska was \$15 million
 - Nebraska received an additional \$1.4 million in emergency funds, released from the federal contingency fund in August 2002 (USDA, n.d.b.)
- Block grant amount to each state is computed with a formula set up when the program originated in the 1970's

NUMBER OF PEOPLE WITH DISABILITIES WHO USE PROGRAM IN NE:

- Nebraska aims to assist as many low-income households as possible and does not target any specific type of low-income household
- FY2001 – In Nebraska, 15,187 assisted households (23% of the 66,831 total assisted households) had at least one member with a disability (Estimated data, LIHEAP Household Report, Federal Fiscal Year 2001)

SIZE OF PROGRAM IN U.S.:

- FY2002 LIHEAP grants from federal government totaled \$1.8 billion and assisted over 4 million households (U.S. Department of Health and Human Services, n.d.b., *HHS Releases \$100 Million...*)

OTHER STATES PROGRAMS – PROVISIONS FOR PEOPLE WITH DISABILITIES:

- Some states (approximately 44%) target specific types of households (e.g. elderly, disabled, children) by allowing them an earlier application period than other households (NCAT, n.d.b.)
 - Illinois (State of Illinois, 2001)
 - Household with elderly members or members with a disability and households that have had their utilities disconnected may submit applications for heating assistance during September and October, while all other households are allowed to submit applications starting on November 1.
 - Louisiana (NCAT, n.d.a.)
 - Additional \$10 added to monthly heating benefit for each household member who is age 6 or younger, age 60 or older, or disabled
 - Maine (U.S. Department of Health and Human Services, *FY2000 State-level Estimates...*)
 - Higher income level for eligibility (150% in FY2000) set for households with a vulnerable member (over 60 years old, disabled, or less than 6 years old) than for households with no vulnerable members (125% in FY2000)

- Utah (NCAT, n.d.a.)
 - Crisis maximum may be increased (above the \$500 maximum)
 - Households with a member who is elderly, a young child, or disabled receive additional amount
- Virginia (NCAT, n.d.b.; Legislative Transition Task Force)
 - Priority (early application) given to households including a vulnerable person
 - Elderly (over 60 years of age)
 - Disabled
 - Child under the age of six
 - Priority given to household with highest energy costs and lowest incomes
 - Approximately one-third of the households assisted included an elderly member or member with a disability, and almost one-fourth had one or more children under six years of age

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

- Assistance for cooling available to persons with disabilities if it is determined to be medically necessary
- Annual reapplication is often done with Medicaid and Food Stamp Program application

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES WHO:

Have Earned Income

- Give priority (i.e. early application) to households that have a person with disabilities
- Extend 20% disregard of earned income to eligibility determination (as well as to benefit computation) for households that have a person with disabilities

Have Substantial Earned Income

- Give priority (i.e. early application) to households that have a person with disabilities
- Current income eligibility level of 116% FPL may be raised to as high as 60% of the state's median income
- Extend 20% disregard of earned income to eligibility determination (as well as to benefit computation) for households that have a person with disabilities

Have Increased Disposable Income

- Give priority (i.e. early application) to households that have a person with disabilities
- Current income eligibility level of 116% FPL may be raised to as high as 60% of the state's median income
- Extend 20% disregard of earned income to eligibility determination (as well as to benefit computation) for households that have a person with disabilities
- Allow higher monthly heating benefit for households that include a person with a disability
- Increase crisis payments to households that include a person with a disability

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PROGRAM: Medicaid (as it applies to adults with disabilities)

MISSION:

Medicaid provides health insurance for persons with disabilities eligible to receive federally assisted income maintenance payments.

FUNDING:

State of Nebraska General Funds and Federal Medicaid Financial Participation

ADMINISTERED BY:

Nebraska Health and Human Services

WHO SETS ELIGIBILITY REQUIREMENTS:

The state has broad authority to design program within Federal parameters.

DETAILS FOR ELIGIBILITY AND FLEXIBILITY AND OTHER PROGRAM FEATURES FOLLOW:

STATE FLEXIBILITY IN DETERMINING ELIGIBILITY FOR MEDICAID THROUGH AID TO THE AGED, BLIND, AND DISABLED AND THE SSI STATE SUPPLEMENT PROGRAMS

Application

State may choose to automatically provide Medicaid coverage to all SSI recipients, to accept SSI eligibility but require a separate application process, or conduct their own eligibility determination.

Nebraska is one of 40 states that use **SSI criteria** for determining eligibility for Medicaid. In Nebraska SSI recipients are eligible for Medicaid, but must make application to the state. According to state administrators this separate application process provides retroactive coverage and access to programs (retroactivity not available from SSI), enables identification of other services and programs for which an individual is eligible, and gives the opportunity to determine the State Supplement. On the other hand, automatic enrollment has the possible benefit of reaching more persons and is less time-consuming for consumers.

Income and Assets

Countable Income

Nebraska is one of 19 states that uses the “**poverty level option**” to determine countable income eligibility for its Aid to the Aged, Blind, and Disabled (AABD) program. AABD provides full Medicaid benefits for persons up to 100% of the federal poverty level. Nebraska applies liberalized resource limits and the SSI disregards to determine countable income:

Resource Limits. Nebraska currently uses a **1902(r)(2)** that enables the state to increase the SSI limits for resources. Nebraska has doubled resource limits from \$2,000 for an individual

and \$3,000 for a couple to \$4,000 for an individual and \$6,000 for a couple. With the exception of the liberalized asset threshold, Nebraska observes the SSI resource disregards¹.

Disregards. Some states have disregarded certain classes of assets in determining eligibility, thus, allowing greater participation in the program and enabling persons with disabilities higher “real” income. Some of the tools that have been used to disregard income include:

- Short Term Emergency Savings
- Independence or Intermediate Goals Accounts - for items and services that increase their independence, such as savings for retirement and purchase of a home or vehicle.
- Retirement Accounts - such as simplified employee pension plans, self-employment pension plans, Keogh plans, IRAs, Roth IRAs, saving incentive matched plans for employees and similar plans for retirement
- Assistive Technology Accounts - for the purchase, lease or acquisition of assistive technology
- Medical Savings Accounts
- Miscellaneous “Approved” Accounts - to save for goods or services that will increase the individual’s employment and independence opportunities (e.g., van modification, assistive technologies)

Nebraska applies the **SSI disregards**² to calculate countable income, as well as a medical insurance disregard .

Home and Community-Based Waivers

Home and community based waiver programs can be structured to liberalize eligibility standards for persons with disabilities under section 1915(c) authority. “In effect, it allows states to apply the same income and resource standards and methodologies to individuals in need of home-and community-based services as they would apply to individuals in hospitals, nursing facilities, or ICFs/MR.” (Schneider, Strohmeyer, and Ellberger, 2000, p. 24) Through the 1915(c) waiver, however, individual’s incomes may not exceed 300% of the SSI benefit standard. According to Jensen, Silverstein, Folkemer, and Straw (2002) “A state’s Medicaid Home and Community-Based Services waiver programs can have unearned income limits that by federal law cannot exceed 300% of the federal SSI benefit standard.” (p.27)

Nebraska applies the same earned and unearned income limits to persons participating in home and community-based waiver programs as those participating in the basic Medicaid program.

SSI State Supplement

States’ decisions about their SSI state supplement program have a direct bearing on who may be eligible for Medicaid.

¹ Certain resources, such as an individual’s home and one automobile are disregarded.

² Excluded from income calculations are the first \$20 of any earned or unearned monthly income, the first \$65 of monthly earned income plus one-half of the remaining earnings.

Because Nebraska administers its own state supplement program (as compared to having SSA administer the program), the state may choose to:

- provide categorical eligibility Medicaid eligibility for those individuals eligible for the state supplement. This, for example, may include individuals who have too much unearned income to be eligible for federal SSI benefits
- use different income disregards and asset criteria.

In Nebraska, the state supplement does provide categorical eligibility, observes SSA disregards, and has liberalized resource limits.

“Highest Countable Income” Concept

Because states have broad flexibility in structuring eligibility for their Medicaid programs, it is useful for consider, across states, how high an income an individual may have and still remain eligible for Medicaid. Jensen et al. (2002) compared nine states’ income eligibility standards and how they were achieved. Nebraska’s highest standard was achieved through the AABD program (\$716 in 2001). Maine and Minnesota also achieved their highest income eligibility through their poverty level options (\$791 and \$716, respectively). Other states achieved their highest income eligibility through a higher (than Nebraska) use of the SSI State Supplement program: Connecticut, \$748; Wisconsin, \$615; and Oregon, \$533. Vermont’s highest income eligibility was achieved through a higher (than Nebraska) income standard in the state’s Medically Needy protected income level: \$733. Alaska, uses a standard of need option to achieve a \$984 income standard. The lowest income standard is in Iowa where: the level is based on SSI standards, there is no supplementation program, and the poverty level option is not used.

Table adapted from Jensen et al. (2002), Table 4. State SSI and Medicaid Income Standards

| State SSI and Medicaid Income Standards Presented in Order of Highest Level Year 2001 | | | | |
|--|---|--|--|---|
| State | Supplementation | SSI Combined Federal & State Supplement | Medicaid Other Categorical Income Standard | Medically Needy Protected Income Level |
| Alaska | State-administered | \$893 | \$984 (Standard of Need) | |
| Maine | State-administered and provides for a \$55 unearned income disregard in addition to the \$20 federal income disregard in determining eligibility for the \$10 state SSI supplement. | \$541 | \$791 (Poverty Level Option with a \$75 disregard) | \$315 |
| Connecticut | State-administered and using Section 209(b) eligibility option | \$748 | | \$477 |
| Vermont | | \$590 | | \$733 |
| Minnesota | State-administered and using Section 209(b) eligibility option | \$612 | \$716 (Poverty Level Option) | 80% poverty Effective 7/1/02 |
| Nebraska | State-administered | \$539 | \$716 (Poverty Level Option) | \$392 |
| Wisconsin | State-administered and only available to those receiving federal SSI payments. | \$615 | | \$592 |
| Oregon | State-administered | \$533 | | \$413 |
| Iowa | No state supplementation | \$531 | | \$483 |

MEDICAID INSURANCE FOR WORKERS WITH DISABILITIES THROUGH AID TO THE AGED, BLIND, AND DISABLED PROGRAM

Assets

States may design their Buy-In programs so that participants may **retain or accumulate assets** beyond what persons in other Medicaid categories do.

Nebraska and Alaska were the only two of nine “early implementer” states that did not have broadened asset standards in their Buy-In programs (Folkemer, Jensen, Silverstein, and Straw, 2002).

Income Standards

Earned/Unearned Income

States have the option of differentiating between earned and unearned income to determine eligibility for Buy-In programs. Because Buy-In programs are designed to promote employment, some states count **earned** dollars less stringently than unearned dollars. Likewise states limit access to their Buy-In programs by applying higher **unearned** income limits to those participating in the Buy-In programs.

Nebraska *does* differentiate between earned and unearned income when determining eligibility for its Buy-In program. The earned and unearned income standards for persons in the Medicaid Insurance for Workers with Disabilities program are the same as those used for eligibility determination for the Aged, Blind, and Disabled program. Nebraska uses a two-step eligibility standard. The first step gives special income treatment to persons participating in a trial work period. The second step differentially treats earned and unearned income. An applicant must pass both steps in order to qualify for the Buy-In program:

Step One

All of the disabled person’s **earnings** are disregarded. **Unearned income** (including SSDI, VA disability, Worker’s Compensation, Civil Service disability and private disability) is disregarded *if the disabled person is in a trial work period*, otherwise all unearned income is counted. Any other income (individual or spousal) is totaled, including the spouse’s income (disregarding \$65 plus one half of the remainder). If the total is more than the Federal Benefit Rate (\$545 for single person; \$817 for a married couple - effective January 1, 2002), the person fails eligibility. If it is less, the applicant passes and moves on to the next test.

Step Two

The applicant’s and spousal **earnings** are totaled, subtracting \$65 and one-half remainder. All gross **unearned income** is calculated, disregarding \$20 of general unearned income and \$10 for interest and dividend disregard. These amounts are then totaled. If the sum is equal to or greater than 250% of the FPL, the applicant is not eligible. If it is less than 200% of the FPL, the applicant is eligible and is not required to pay a premium.

Nebraska's two step test enforces the narrowest interpretation of federal regulations that the client be eligible for Medicaid *but for earnings*. In contrast to states that penalize unearned income (primarily as a means to restrict access to the Buy-In program), Iowa, Connecticut, and Minnesota do not use separate unearned income eligibility limits for determining eligibility. As a result these three states have some of the highest enrollments in their Medicaid Buy-In programs (Jensen et al., 2002). Nebraska's relatively low threshold for unearned income, particularly, prevents many persons that receive SSDI from participating in the Buy-In program.

Individual/Household

States may also choose to only consider the income of the person with disabilities, regardless of the presence of other income earners in the household.

Nebraska considers **spousal** income when determining eligibility and premiums.

Minimum Work Standards

Federal law has **no minimum number of hours or wages** earned to qualify for participation in Buy-In programs. States may not impose standards more stringent (e.g., setting a minimum number of hours worked or dollars earned) than those provided for in the federal legislation. States are concerned that persons may choose to participate in the Buy-In programs working extremely minimal hours, simply to avoid spending down to qualify through states' Medically Needy programs. Minnesota for example, requests proof of employment (e.g., wage stubs, etc.) every 30 days.

Nebraska has attempted to protect its Buy-In program from those working extremely minimal hours by applying the SSI unearned income limit (plus the state supplement) for persons participating in the Buy-In program, but waiving that limit if an individual is in an SSDI Trial Work Period or Extended Period of Eligibility. Nebraska verifies employment every three months.

States with employment-related standards often provide "**grace periods**" that recognize that gaps in employment may occur. Some states provide temporary, continuous Buy-In-related Medicaid coverage for some period of time during periods of unemployment. Other states allow Buy-In participants who are temporarily unemployed to return to other Medicaid categories without losing accumulated assets.

Nebraska has no grace period to remain in the Buy-In program if employment is interrupted.

Cost Sharing

States may choose to charge some sort of cost sharing mechanism (e.g., premiums, co-payments) for those participating the Buy-In program to recoup some costs and to limit participation. Some states base cost sharing on income used to determine eligibility, others calculate income differently for purposes of cost sharing. **It should be noted that persons with disabilities receiving Medicaid by virtue of their SSI status do not pay any type of co-payments or premiums as their income increases and they move through 1619 (a) and (b).**

States that use a different base for calculating cost sharing often do so in an attempt to equalize net disposable income or treat earned dollars less stringently.

Equalizing Net Disposable Income

Because some individuals may face higher expenses than others when returning to work, some states attempt to balance the effect of those higher expenses by disregarding work and disability-related expenditures. This is a similar concept as used by SSI in disregarding impairment-related work expenses in determining countable income.

This disregard is included in calculating the level of cost-sharing in the Buy-In program.

Differentiating Earned from Unearned Income

As with *basic eligibility* for Buy-In programs (see “Earned/Unearned Income” section), states have the discretion of counting earned and unearned income differentially to determine level of **cost sharing**. States subject earned income to lower cost sharing amounts than unearned in order to reinforce that the Buy-In program is for working persons with disabilities. Other states make no differentiation. For example, Iowa, Connecticut, and Minnesota do not differentiate between earned and unearned income when determining cost-sharing.

Nebraska bases its cost sharing on the same income calculations used to determine eligibility. As stated previously, Nebraska uses a two-step process that does treat earned and unearned income differentially, with special emphasis on earnings sufficient to be considered part of a Trial Work period.

Premiums and Co-payments

States may assess cost sharing in a number of ways:

- all unearned income above the SSI standard
- as a percentage of total income above some percentage of the poverty level
- within income brackets based on poverty level percentages
- combination of the above, for example
 - Oregon has both a premium and a cost share. Unearned income above the state’s SSI standard is paid as a premium. Earned income (after work-related expense deductions) ranges from one to ten percent.
 - Wisconsin has separate premiums on unearned income above SSI standard, starts when the individual’s total income is over 150% of FPL.
 - Arkansas and New Mexico - have co-payment for acute health care services (with long-term care service carve out, and caps on co-payments)

In Nebraska, individuals with calculated income up to 200% of the FPL are eligible without cost sharing (premium paying). Those with incomes between 200% and 210% pay a premium of 2% of their family net income, those with income between 210% and 220% contribute 4% of their family net income, graduated up to a maximum contribution of 10% of those with income between 240% and 250% of the FPL.

Private Insurance

Increasingly, states are viewing Medicaid coverage, not as sole coverage for working persons with disabilities, but instead as a “**wrap around**” to an individual’s employer-sponsored health insurance program. States projected that employer coverage would result in large savings, particularly for acute and primary care needs. Minnesota has projected that annual state savings would total “at least \$3,500 per person depending on the individual's need for personal assistance services.” (Folkemer, et al. p. 23)

Medical Improvement

Treatment (therapy, medication, etc.) may enable some employed persons disabilities who, without the treatment would be unable to work. However, the positive impact of the treatment may render the individual no longer eligible as having a disability under the SSA (SSI/SSDI) definition of disability. In order to counter this catch-22, the Ticket Act enables states to continue to cover individuals who have a **medically improved disability**. To be eligible, individuals must be working at least 40 hours per month and earning at least minimum wage, or meet some other substantial and reasonable criteria for employment.

Nebraska has not implemented any provisions for persons, because of treatment, no longer fit the SSI definition of disability. And, it must be stated, that Nebraska has structured its Buy-In under the BBA, not the Ticket Act.

OTHER MEDICAID COVERAGE PATHWAYS THROUGH AID TO THE AGED, BLIND, AND DISABLED PROGRAM

Medically Needy

States have the option of extending Medicaid coverage to persons who do not qualify for SSI because their countable incomes or resources exceed SSI limits, but whose medical costs bring their net income below the state-established income level (over one to six months).

Up until this past year, states' Medically Needy programs were limited to individuals with incomes up to 133 1/3% of the maximum payment for a family of the same size, with no income or resources, under the state's Aid to families with Dependent Children (AFDC) plan as of July 16, 1996³. In 1996, a provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 added another limitation that any percentages increases after July 16, 1996 could only increase as much as increases to the Consumer Price Index. Because most states' AFDC benefit levels are low, most Medically Needy programs required individuals with disabilities to "spend down" to extremely low levels of income.

Recently Congress **repealed this linking of Medically Needy Income Limits** to states' AFDC programs, allowing states to use 1902(r)(2) authority to “disregard additional amounts of income

³ The only major exception made was states' ability to set the Medically Needy Income Level "for single individuals at an amount reasonably related to 133 and 1/3 percent of the highest AFDC payment for a two-person family, as long as a similar relationship existed in the state plan as of June 1, 1989. (Bruen, Wiener, Kim, and Ossai, 1999, p. 19)

under its medically needy program, effectively reducing or even eliminating the [consumer's] large spenddown liability..." (Medicaid Program, 2001, p. 2320)

Nebraska has a Medically Needy program. The spend down threshold, however, has not been liberalized in response to Congress' delinking of Medically Needy from AFDC. Nebraska's effective spenddown threshold is approximately 40% FPL.

Transitioning from Buy-In Programs Back into "Regular" Medicaid

Medicaid Buy-In programs are designed to encourage program participants to become financially independent - namely, to earn and save money. Most Buy-In states have created savings exclusions and asset disregards specifically for Buy-In participants, allowing them to have higher earnings and savings than regular Medicaid allows. These special rules usually only apply to the Buy-In eligibility category. This means that if participants change from the Buy-In to regular Medicaid, they have to "spend down" their savings and assets to meet those levels. One challenge facing states with Buy-In programs is how to **protect participants' savings and assets** if participants stop working and are no longer eligible for the Buy-In program and have to change Medicaid eligibility categories.

Several states have implemented changes to their Buy-In programs in order to protect participants' savings in the event that they must change eligibility group. These changes tend to fall into two categories: 1) grace periods for disposing of assets and 2) lifetime exclusions of certain assets.

Minnesota, New Hampshire, Oregon, New Mexico and Wisconsin have implemented grace periods for disposing of assets. For example, Minnesota has a \$20,000 eligibility asset limit (with generous disregards) for its Buy-In program, but a \$3000 limit for regular Medicaid. A participant who stops working has one year to begin working again or to spend-down excess savings in order to become eligible for regular Medicaid. The one-year grace period is built into Minnesota's Buy-In program. New Hampshire provides a similar one-year grace period also with a \$20,000 asset limit. In Oregon, participants who stop working can remain in the Buy-In eligibility category until their assets are spent down. This is an open-ended time period during which participants spend down while still covered by the Buy-In eligibility category. New Mexico considers an individual employed for an entire calendar quarter if s/he is employed at any time during the calendar quarter. Wisconsin provides participants 9-12 months to address barriers to work while still retaining Buy-In eligibility.

Connecticut, New Hampshire and Missouri have implemented lifetime exclusions of certain assets. This means that if participants stop working and change eligibility category, they are allowed to maintain specified assets. Those assets are disregarded during subsequent eligibility determinations. For example, Connecticut protects three types of assets - retirement, medical savings accounts and employment accounts. New Hampshire implemented a resource exclusion that allows buy-in enrollees to retain their savings saved from earnings while working in the Buy-In program. Protected EI Resources (earned income) are liquid resources, including interest earned by the resources, accumulated solely from earnings by a MEAD-eligible individual while on MEAD, and kept in a separate account from other liquid resources. In order for these

accounts to be excluded for future eligibility, they must be kept separate and not co-mingled with any other funds. Deposits made after MEAD eligibility ceases, or during the on-year period of unemployment, will result in the account being counted as a resource. Finally, Missouri excludes retirement accounts and Independent Living Accounts that are funded by earnings made while participating in the Buy-In until the participant reaches age 65. Independent Living Accounts provide savings for transportation, housing, home modification, personal assistance services, and assistive devices.

Comprehensive Research and Demonstration Waivers

A number of states are petitioning the federal government for comprehensive demonstration authority over federal and federal/state programs to create more integration between health and income programs such as SSI, SSDI, Food Stamps, and Housing. A number of states have applied for demonstration authority, however, none have yet been approved.

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

- Nebraska has implemented a Buy-In Program
- Nebraska has a relatively high “starting point” for the Buy-In program (at 100% FPL)
- Nebraska has a Medically Needy Program
- Nebraska has liberalized SSI resource limits
- Nebraska has an Aged, Blind, and Disabled program
- Nebraska has a State Supplement to SSI
- Individuals eligible for the State Supplement receive Medicaid
- Buy-In premiums start at 200%
- Structure of the Buy-In program (two step eligibility test, work requirement, etc.) creates limits enrollment to a very small percentage of persons who may participate and very few of those who do participate actually pay premiums

Nebraska’s current Buy-In program is targeted to persons that have countable income between 100 to 250% FPL, and who have low unearned incomes or are within the time-limited SSDI Trial Work Period or Extended Period of Eligibility.

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES WHO:

Have Earned Income

- Disregard earnings, or some portion of earnings, regardless of Trial Work Period status
- Increase/eliminate the low threshold for unearned income for eligibility
- Increase/eliminate the low threshold for unearned income for premium calculations
- Disregard earnings when calculating premiums
- Allow grace period for interrupted employment
- Implement additional disregards that reward work (e.g., impairment-related work exemptions, retirement accounts)
- Increase calculated income limit to 450% of FPL
- Liberalize spend down threshold in the Medically Needy program
- Broaden asset standards for Buy-In participants

- Disregard spousal income

Have Substantial Earned Income

- Increase calculated income limit to 450% of FPL
- Disregard earnings when calculating premiums
- Allow grace period for interrupted employment
- Implement additional disregards that reward work (e.g., impairment-related work exemptions, retirement accounts)
- Implement a portion of unearned income as part of the Buy-In premium ensuring that only those with substantial employment will be willing to forgo that income loss
- Broaden asset standards for Buy-In participants

Have Increased Disposable Income

- Disregard all earnings
- Implement additional disregards
- Increase resource limits
- Liberalize spend down threshold in the Medically Needy program
- Broaden asset standards for Buy-In participants
- Disregard spousal income

Participate in Cost Sharing

- Increase cost sharing through co-pays or increased premiums
- Set cost-sharing based on income rather than usage
- Base cost-sharing on total income with minimal disregards
- Lower income at which cost-sharing is triggered
- Disregard less of spousal income

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PROGRAM: Ryan White Program (Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 (Public Law 101-381))

MISSION: “Develop, organize, coordinate, and operate more effective and cost-efficient systems for the delivery of essential health care and support services to medically underserved individuals and families affected by HIV.” Funds give assistance with “rent, utilities, transportation, health insurance, food, and nutritional supplements to individuals infected with HIV disease.” (NE HHS)

FUNDING:

Intermediary: States

Ultimate: Federal; in NE, the state provides additional funds to AIDS Drug Assistance Program (ADAP). ADAP is authorized by the CARE Act of 1990.

ADMINISTERED BY:

- Title I: Approx 55 eligible metro areas with high AIDS populations
- Title II: All 50 states. Grant program with funding determined by number of AIDS cases. Very flexible.
- Title III: Operated by private health care institutions. In Nebraska, UNMC covers the Eastern 2/3 of Nebraska (and part of Western Iowa); Western Community Health Resources covers Western 1/3. Title III organizations can determine their own borders.

WHO SETS ELIGIBILITY REQUIREMENTS:

- Broad: Federal – Low-income resident of the service area
- More detailed requirements are specific to particular programs

DETAILS FOR ELIGIBILITY AND FLEXIBILITY:

- Low-income, uninsured, or underinsured (CARE Act)
- Limited or no coverage under Medicaid, Medicare, or private insurance (ADAP)
- Gross income at or below 200% FPL
- Medically-verified HIV+

TIME LIMITS ON ELIGIBILITY:

None

AVAILABLE TO:

Low income HIV+ individuals, as services are available

PROVISIONS FOR DISABLED:

None

PROVISIONS FOR INCREASED INCOME:

None

EXCEPTIONS/DISREGARDS:

None

ELIGIBILITY BASED ON ELIGIBILITY FOR OTHER PROGRAMS:

None

ELIGIBILITY QUALIFIES FOR OTHER PROGRAMS:

None

DOLLAR BENEFITS AN INDIVIDUAL RECEIVES IN NE:

- Varies by individual need and by program
- ADAP averages roughly \$665/month

SIZE OF PROGRAM IN NEBRASKA (TOTAL DOLLARS):

- FY2002 grant to NE under Title II Ryan White Care Act = \$1,610,116
- FY2002 total grants by federal government under Title II = \$923,088,000

NUMBER OF PEOPLE WHO USE PROGRAM IN NE:

- 278 ADAP participants in 2000 (hab.hrsa.gov/data2/adap/appendix3.htm)

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

- All persons served by the program are treated without regard to disability beyond an HIV-positive diagnosis
- 200% FPL eligibility cap is higher than the Federally-mandated minimum

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES WHO:

Have Earned Income

- Institute income disregards

Have Substantial Earned Income

- Institute income disregards
- Eligibility level can be raised as high as 300% FPL

Have Increased Disposable Income

- Institute income disregards

Participate in Cost Sharing

- Transitional aid for those who leave program due to increased income

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PROGRAM: Section 8 Rental Assistance

Renamed in 1998 – Housing Choice Voucher Program (HCVP)

MISSION:

Provide decent, safe, and affordable rental housing to very low-income and extremely low-income families (with vouchers for use in the private market)

FUNDING:

- Federal - HUD

ADMINISTERED BY:

- Local public housing authorities
 - Community that perceives a need for a housing authority petitions the state and HUD for a local public housing authority
 - Twenty-seven of the 107 local public housing authorities that HUD deals with in Nebraska administer Section 8 Rental Assistance
 - Section 8 Rental Assistance is an optional program that local public housing authorities are not required to administer

WHO SETS ELIGIBILITY REQUIREMENTS:

Federal government - HUD

DETAILS FOR ELIGIBILITY:

- Household gross annual income 50% or less than local median (very low-income)
 - Gross income includes earned and unearned (social security, disability, pensions, annuities, unemployment compensation, TANF) income
 - Under Section 8, there are no earned income exclusions for eligibility
 - HUD determines local median income for each housing market in the U.S. (updated annually – January 2002 is most recent)
- Household composition
- U.S. citizen or eligible for immigration
- Good standing in federal housing program
- There is no resource test for eligibility

FLEXIBILITY:

Within HUD rules, local public housing authorities set policies (such as when Section 8 applications will be accepted) for the area they serve (these policies are detailed in the Section 8 Administrative Plan each authority must file with HUD) (O'Hara and Cooper, 2002)

TIME LIMITS ON ELIGIBILITY:

Annual recertification

AVAILABLE TO:

- Availability limited by number of vouchers received by local housing authority and finding approved rental housing (waiting lists are common, especially in metro areas)

- In recent years, the annual Notice of Funding Availability from HUD has only allowed local public housing authorities that were already receiving Section 8 vouchers to apply for additional Section 8 vouchers. Local public housing authorities not already administering a Section 8 program could not apply for Section 8 vouchers.
- Housing authorities are directed to target households with gross annual income less than 30% of the local median income (extremely low-income)
 - Make at least 75% of Section 8 vouchers available to these households
 - Families not to pay more than 40% of adjusted gross income for housing

DEFINITION OF DISABLED FOR PROGRAM:

Person with a disability – this is a looser definition than for some programs, as Section 8 staff members do not screen applicants to determine disability. If the SSA considers a person to be disabled, they are considered disabled under Section 8. For Section 8, a doctor can complete a form to certify a person as disabled under SSA rules.

(24 CFR 5.403)

“Person with disabilities:

(1) Means a person who:

(I) Has a disability, as defined in 42 U.S.C. 423;

(ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(A) Is expected to be of long-continued and indefinite duration;

(B) Substantially impedes his or her ability to live independently, and

(C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(iii) Has a developmental disability as defined in 42 U.S.C. 6001.

(2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;

(3) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and

(4) Means ‘individual with handicaps’, as defined in Sec. 8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.”

According to the Social Security Act, Title II [42 U.S.C. 423-223(d)(1)]:

(d)(1) “The term ‘disability’ means--

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of ‘blindness’ as defined in section 216(i)(1)), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.”

According to 42 U.S.C. Section 6001(8):

8) “Developmental disability

The term ‘developmental disability’ means a severe, chronic disability of an individual 5 years of age or older that –

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the individual attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity -

(i) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic self-sufficiency; and

(E) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated, except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.”

PROVISIONS FOR PEOPLE WITH DISABILITIES:

- Under Public Law 106-569, people with disabilities eligible for Section 8 vouchers will be allowed to receive up to a year’s worth of assistance in one payment to be used as the down payment on a home (Bush Announcement, 2001)
 - This is an option only if the local public housing authority has a Section 8 home ownership program
 - Only two local housing authorities in Nebraska have a Section 8 home ownership program
 - Northeast Nebraska Joint Housing Authority
 - Scottsbluff County Housing Authority
- A family receiving Section 8 housing assistance and having an increase in earned income due to the employment of a family member with a disability may disallow the full amount of the increase in income for the first twelve months of employment and may disallow 50% of the increase in income for the second twelve months of employment (Federal Register, Vol.67, No.30, February 13, 2002; Federal Register, Vol. 66, No. 13, January 19, 2001)
 - This does not apply to those applying for Section 8 assistance (including determination of income eligibility), only to those already receiving Section 8 assistance
 - The earned income disallowance applies for a maximum lifetime period of 48 months (from the date the initial exclusion began)

- HUD has made mainstream vouchers (only for people with disabilities) available to housing authorities
 - Local housing authorities must apply for the mainstream vouchers to receive them
 - Only one housing authority (Douglas County Housing Authority) in Nebraska has applied for and received the mainstream vouchers
- A deduction from gross annual income of \$400 per disabled family when computing adjusted annual income (24 CFR 5.611)
- The sum of unreimbursed medical expenses if the head of the family is elderly or disabled and of unreimbursed reasonable attendant care and auxiliary apparatus expenses for each person with disabilities that enable **any** family member to work may be deducted from gross income. This deduction may be taken on the amount of the sum that is over three percent of annual income and may not exceed the earned income of family members age 18 or older. (24 CFR 5.611)

SUBSIDY COMPUTATION:

- Voucher recipient is responsible to pay 30% of **adjusted monthly income** in rent and utilities (rent increases as income increases).
 - Adjusted annual income = gross annual income less the following deductions (24 CFR 5.611)
 - \$480 for each dependent (24 CFR 5.611)
 - \$400 per family if the family includes an elderly member or member with disabilities who is the head, spouse, or sole person in the household (24 CFR 5.611)
 - Child care expenses may be deducted from gross income when determining adjusted income (24 CFR 5.611)
 - The sum of unreimbursed medical expenses if the head of the family is elderly or disabled and of unreimbursed reasonable attendant care and auxiliary apparatus expenses for each person with disabilities that enable **any** family member to work must be deducted from gross income when determining adjusted income. This deduction may be taken on the amount of the sum that is over three percent of annual income and may not exceed the earned income of family members age 18 or older. (24 CFR 5.611)
- Subsidy = Fair Market Rent – 30% of adjusted monthly income (HUD, *Tenant Based Vouchers*)
 - Local public housing authority determines a payment standard-- if rent of unit is higher than standard, renter pays the difference (HUD, *Tenant Based Vouchers*)
 - Payment standard is set by local housing authority at 90% – 110% of Fair Market Rent
 - HUD publishes Fair Market Rent each year for housing markets in U.S.

PROVISIONS FOR INCREASED INCOME:

- May stay in housing unit if income has risen to the point where no subsidy is allowed
- Some local housing authorities (Lincoln Housing Authority is one of 26 in the country) are part of a Move-to-Work Pilot Project

- The increase in income due to employment of **any** Section 8 voucher recipient is not counted until the following annual review

ELIGIBILITY BASED ON ELIGIBILITY FOR OTHER PROGRAMS:

- SSI recipients are income eligible (SSI benefits are less than 50% of the local median income in each state – nationally, SSI benefits are 18.5% of the national median income) (O’Hara and Cooper, March 2002)

ELIGIBILITY QUALIFIES FOR OTHER PROGRAMS:

No

DOLLAR BENEFITS AN INDIVIDUAL RECEIVES IN NE:

Depends on income and rent

SIZE OF PROGRAM IN NEBRASKA:

- \$47,402,533 in 2002
- As of 8/31/02, 5,833 Nebraska families were receiving Section 8 assistance
 - This number fluctuates monthly

NUMBER OF PEOPLE WITH DISABILITIES WHO USE PROGRAM IN NE:

About 20% of the Section 8 households in NE include a person who is disabled (data over the past twelve months, September 12, 2002)

SIZE OF PROGRAM IN U.S.:

- Section 8 program federal appropriation was approximately \$15 billion in FY2002 (O’Hara and Cooper, 2002)
- 13% of the 1.4 million families receiving Section 8 Rental Assistance were people with disabilities (March 2000 Report)

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

- Two Nebraska local housing authorities (Northeast Nebraska and Scottsbluff County) have home ownership programs
 - People with disabilities who are eligible for Section 8 vouchers will be allowed to receive up to a year’s worth of assistance in one payment to be used as the down payment on a home
- Mainstream vouchers were applied for and received by one local housing authority (Douglas County Housing Authority)

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES WHO:

Have Earned Income

- Federal program administered by local housing authorities – the state has little flexibility
- Encourage local public housing authorities that administer Section 8 assistance to apply for vouchers specifically for households that include persons with disabilities

Have Substantial Earned Income

- Federal program administered by local housing authorities – the state has little flexibility
- Encourage local public housing authorities that administer Section 8 assistance to apply for vouchers specifically for households that include persons with disabilities

Have Increased Disposable Income

- Federal program administered by local housing authorities – the state has little flexibility
- Encourage local public housing authorities that administer Section 8 assistance to apply for vouchers specifically for households that include persons with disabilities

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PROGRAM: Title XX – Social Services Block Grant (SSBG)

MISSION:

Mandatory program providing flexible funding for states to “meet unique needs of their most vulnerable populations, primarily low- and moderate-income children and people who are elderly or disabled” (Primus and Daugirdas, 2000)

In NE the SSBG provides services to low-income people that enable them to be as self-sufficient as possible; services for elderly and adults with disabilities include chore services, adult day care, training, home-delivered and congregate meals, respite care, transportation, and adult family homes. Some of these services (training, and transportation) are also available for children and families under the SSBG. (NE HHS, n.d.b.)

FUNDING:

- Federal
 - Block grant to each state is based on state population
 - No matching requirement
 - A state may transfer a limited percent of its TANF allocation to its SSBG for use **only on services for families with children.**
 - Nebraska transferred \$3.3 million in TANF funds to SSBG services in FY2002
 - Nebraska has not exercised this option in the past and does not expect to do so in the future

ADMINISTERED BY:

State

WHO SETS ELIGIBILITY REQUIREMENTS:

State sets eligibility requirements (within limits of the federal law)

DETAILS FOR ELIGIBILITY IN NEBRASKA:

- Need criteria must be met for each specific service that a person applies to receive
- Household gross monthly (earned + unearned) income must be less than the Maximum Allowable Income for an individual or family
 - FY2002 Maximum Allowable Income
 - Individual monthly gross income = \$835
 - Family monthly gross income (2 or more) = \$936
 - Cost of Living Adjustment (COLA) increase of 2.6% from 2001
 - The COLA increase in Maximum Allowable Income was optional at one time and was not always applied
 - The COLA was included in the regulations in 1994 and has been applied annually since then, using the COLA amount released each fall by the Social Security Administration (Neb. R. & Regs. 473 NAC 2-002.03).

- If need is shown and the Maximum Allowable Income test is met, the individual is eligible for services under the SSBG

FLEXIBILITY (within limits of federal law):

- State decides what services to provide
 - In FY2000, 39 states provided three categories of special services for individuals with disabilities under the SSBG (U.S. Department of Health and Human Services, n.d.a.)
 - Adult foster care
 - Transportation
 - Residential Treatment
 - In FY2000, the SSBG funded (wholly or partially) child day care services for 2,835,000 children in 43 states --- the largest number of recipients of a service wholly or partially funded by SSBG (U.S. Department of Health and Human Services, n.d.d.)
- State decides allocation of funds among various services
- State may provide services or contract with qualified providers (U.S. Department of Health and Human Services, n.d.b.)
- Nebraska's SSBG program is set up differently than most other states' SSBG programs
 - Title XX is often folded into programs for children and the aged in other states – this is not done in Nebraska

TIME LIMITS ON ELIGIBILITY:

- SSBG clients are to be contacted by a worker every six months to determine if there have been any changes in their situation (i.e. income, medical status, residence) that might affect their eligibility for SSBG services
- Client eligibility is redetermined annually

AVAILABLE TO:

Limited by amount of block grant from federal government

DEFINITION/DETERMINATION OF DISABLED:

“Low Income Disabled (LD): An individual eligible as LD must have a family income which is within income guidelines (see 473 NAC 2-002.02) and a physical or mental impairment which substantially prevents him/her from engaging in useful occupations within his/her competence, such as holding a job or homemaking. This impairment must be verifiable by medical findings of –

- Physical impairment: Loss or defects of the extremities, malfunctioning of the organs of the body or physiological disturbances with structural damage; and/or
- Mental impairment: Conditions characterized by a marked and consistent failure to adjust to the emotional, social, or individual demands of living which require that the individual have assistance in essential activities of daily living” (Neb. R. & Regs. 473 NAC 2-002.01B3).

If an individual is income eligible, a worker may determine if that person needs assistance to work or to take care of their home. A worker also may request that a physician determine disability status.

PROVISIONS FOR DISABLED:

None

PROVISIONS FOR INCREASED INCOME:

No

EXCEPTIONS/DISREGARDS:

No exclusions from earned income

ELIGIBILITY BASED ON ELIGIBILITY FOR OTHER PROGRAMS:

- AABD recipients of a state grant are categorically income eligible
- If a person is Medicaid eligible, they are referred to Personal Assistance Services (PAS)
- SSBG services are only for a true need that can not be provided for in some other way (i.e. by family members or another program)

ELIGIBILITY QUALIFIES FOR OTHER PROGRAMS:

No

DOLLAR BENEFITS AN INDIVIDUAL RECEIVES IN NE:

- Individual receives services and does not pay for them, but receives no cash
 - State's average cost of services for people without disabilities = \$130 per month (FY2002)
 - State's average cost of services for people with disabilities = \$182 per month (FY2002)

SIZE OF PROGRAM IN NEBRASKA:

- FY2002 – NE = \$10.3 million; U.S. = \$1.7 billion (FY2002 State Allocations, The Administration for Children and Families, U.S. Department of Health and Human Services, n.d.c.)
- Approximately 2,500 – 3,000 people with disabilities are served in Nebraska annually
 - This number has not changed much over time

NUMBER OF PEOPLE WITH DISABILITIES WHO USE PROGRAM IN U.S.:

- In 2000, more than 1.4 million individuals with disabilities received services supported by the SSBG (U.S. Department of Health and Human Services, n.d.a.)
 - Approximately \$332 million in SSBG funds was spent on these services (12% of total SSBG spending in 2000) (U.S. Department of Health and Human Services, n.d.a.)

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

- No resource test for eligibility
- Definition of disability allows recipient of SSBG services to be able to work

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES:

Have Earned Income

- Disregard a portion of earned income in eligibility determination (this would result in loss of program services by people without disabilities, because the program is federally funded at a given level)

Have Substantial Earned Income

- Disregard a portion of earned income in eligibility determination
 - Increase the Maximum Allowable Income amount used in eligibility determination
- (Using either of the alternatives above to increase the access of working people with disabilities to services under this program would result in loss of program services by people without disabilities, because the program is federally funded at a given level)

Have Increased Disposable Income

- Disregard a portion of earned income in eligibility determination (this would result in loss of program services by people without disabilities, because the program is federally funded at a given level)

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PROGRAM: Temporary Assistance for Needy Families (TANF)/Aid to Dependent Children (ADC)

MISSION:

Provide cash assistance and work opportunities to needy families

FUNDING:

Intermediary: States, territories, and tribes

Ultimate: Federal Block Grant to states, territories, and tribes

Cost shared by state under maintenance of effort requirement (MOE)

States receive matching federal payments based on their per capita income (Coalition on Human Needs, 2002).

ADMINISTERED BY: State of Nebraska; tribes have option to run programs

WHO SETS ELIGIBILITY REQUIREMENTS:

State; tribe (within federal guidelines)

DETAILS FOR ELIGIBILITY AND FLEXIBILITY:

- Able adults must participate in *Employment First* program for training, education, work experience, and employment related activities and supportive services
- Participants must work as soon as job is ready and no later than two years after beginning assistance
- Comply with child support enforcement efforts
- Resource limits: \$4000 liquid assets for one person or \$6000 for two or more persons
 - One vehicle (Neb. Rev. Stat. § 68-1713 (2002)) and home and lot are not counted as resources
- After leaving program, can receive transitional medical assistance based on income, up to 185% FPL.

TIME LIMITS ON ELIGIBILITY:

- 24 months (following completion of the *Employment First* contract) of cash assistance in 48-month period, *if* parent(s) are capable of attaining self-sufficiency.
- Eligibility is re-determined every 6 months.

AVAILABLE TO:

Determined by state – in Nebraska, cash assistance is provided to low-income families with minor children. This includes dependent and unborn children.

PROVISIONS FOR DISABLED:

- Family with disabled parent has no time limit to cash assistance
- If receiving other assistance, parent exempt

PROVISIONS FOR INCREASED INCOME:

- Earned income disregard of 20% of gross earnings
- Change in circumstances must be reported to caseworker within 10 days
- If received funds 3 of last 6 months, family goes onto transitional medical assistance without regard to income for the first 6 months off the program
- If received funds 3 of last 6 months, family receives a transitional grant of ½ of the previous month's payment. This is a state-funded, one-time payment.

EXCEPTIONS/DISREGARDS:

Participation in *Employment First* is not required for:

- A child age 15 or younger (including an emancipated minor).
- A full-time student age 16, 17, or 18 and regularly attending an elementary, secondary, or vocational or technical school.
- A person who:
 - has an illness or injury serious enough to temporarily prevent entry into employment or training.
 - is incapacitated with a medically determinable physical or mental impairment which, by itself or in conjunction with age, prevents the individual from engaging in employment or training and which is expected to exist for a continuous period of at least 3 months.
- A person age 60 or older.
- A person who is needed in the home on a continuous basis because of the illness or incapacity of another household member and no other appropriate member of the household is available to provide the needed care.
- A parent or needy caretaker relative or needy guardian or conservator of a child under the age of 12 weeks.
- A pregnant woman beginning with the third trimester.
- An individual who lives in a location that is so remote from an Employment First program or activity that effective participation is not possible.
- An individual who is participating in Americorps and who would have been eligible for an ADC grant at the time he/she entered Americorps.
- An individual who is a victim of domestic violence and where participation in the Employment First Program would make it more difficult for him/her to escape violence or put him/her at risk of further domestic violence.
- A single custodial parent who is unable to participate because s/he cannot obtain child care for his/her child age 5 or younger for one or more of the following reasons:
 - unavailability of appropriate child care within a reasonable distance from the client's home or work site;
 - unavailability or unsuitability of informal child care by a relative or under other arrangements; or
 - unavailability of appropriate and affordable formal child care arrangements.

ELIGIBILITY BASED ON ELIGIBILITY FOR OTHER PROGRAMS:

None

ELIGIBILITY QUALIFIES FOR OTHER PROGRAMS:

- Medicaid coverage for all children and adults included in the grant unit
- May be eligible for subsidized child care to allow adults to participate in *Employment First* program
- Two-parent families are given short-term targeted services and work activities to make them economically independent. This is a state-funded service; most of these services and activities do not count toward TANF work participation requirements (Nebraska Health and Human Services System, n.d.b.).

DOLLAR BENEFITS AN INDIVIDUAL RECEIVES IN NE:

Payment is based on the number of eligible family members and a Budget the Gap methodology (as of November 1, 2002):

1. Standard of Need (\$401 per person per month, plus \$93 per each eligible individual) (Neb. R.& Regs. 468 NAC 2-009.01A);
2. Subtract countable earned income (20% of earned income has been deducted from gross income to arrive at countable earned income);
3. Compare the result of step 2 to the appropriate maximum payment standard (\$222 per month for the first person, plus \$71 for each additional person) (Neb. R.& Regs. 468 NAC 3-008.075B);
4. Show the lower of the payment standard or the difference from step 2;
5. The result of step 4 is the amount of the grant.
(Neb. Rev. Stat. § 68-1713 (2002))

SIZE OF PROGRAM IN NEBRASKA:

- 11,800 families/cases. 1/3 are child-only.

NUMBER OF PEOPLE WITH DISABILITIES WHO USE PROGRAM IN NE:

- Data unavailable

NUMBER OF PEOPLE WITH DISABILITIES WHO USE PROGRAM IN U.S.:

- Review of studies on TANF relationships to disability and poverty revealed that 50% to 60% of persons who remain on TANF are termed "hard to serve" but in reality are persons with disabilities. Data reveals that TANF leavers with disabilities, for the most part, must compete with non-disabled TANF leavers and immigrants with poor language skills for low wage jobs of insufficient numbers. Thus, it is extremely difficult for persons with disabilities who exit TANF because of time limits to find employment (Consortium for Citizens with Disabilities, 2000).

POLICY CHOICE HIGHLIGHTS THAT AID PERSONS WITH DISABILITIES:

- Transitional medical assistance available for six months without regard to income, and an additional six months if income does not exceed 185% FPL (not specific to individuals with disabilities)

- State-funded, one-half month transitional grant available (not specific to individuals with disabilities)
- Families with one or more disabled parents have no time limit on assistance

POSSIBLE POLICY ALTERNATIVES TO INCREASE NUMBER OF COMPETITIVELY EMPLOYED PERSONS WITH DISABILITIES WHO:

Have Earned Income

- Ensure that Employment First is accessible to persons with disabilities
- Recognize variable employability of some persons with disabilities by keeping cases open if that person leaves due to increased income, thereby easing a return to the program if necessary
- Consider increasing earned income disregard, standard of need, and maximum payment standard for TANF/ADC for working adults with disabilities

Have Substantial Earned Income

- Ensure that Employment First is accessible to persons with disabilities
- Recognize variable employability of some persons with disabilities by keeping cases open if that person leaves due to increased income, thereby easing a return to the program if necessary
- Liberalize current program restrictions for adults with disabilities:
 - Consider increasing earned income disregard, standard of need, and maximum payment standard for TANF/ADC
 - Increase resource disregards

Have Increased Disposable Income

- Ensure that Employment First is accessible to persons with disabilities
- Liberalize current program restrictions for adults with disabilities:
 - Consider increasing earned income disregard, standard of need, and maximum payment standard for TANF/ADC
 - Increase resource disregards

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CHARACTERISTICS OF ADULTS WITH DISABILITIES AND THE IMPLICATIONS FOR POLICY CHOICES

CHARACTERISTICS OF PERSONS WITH DISABILITIES

Working age persons with disabilities are far from a homogeneous group. Significant differences within the population emerge based on severity of disability, age, participation in the workforce, and desire to participate in the workforce.

Disability Prevalence

According to 1990 Census data, 9% of the population, between the ages of 16 to 64, have some work limitation, with approximately 5% experiencing a severe work limitation (LaPlante, 1992).¹ In Nebraska, the reported rate for persons with disabilities, and those with severe work disabilities, is lower than the national average: Nebraska ranked 44th among states in the rate for persons with disabilities (71.4 per thousand), 23rd for persons with non-severe disabilities (42.3 per thousand), and 47th for persons with severe work disabilities (29.2 per thousand) (LaPlante, 1993).

Employment

Employment with any work disability

According to 1995 Current Population Survey tabulations, only 27.8% of working age persons with any type of work disability have jobs. The rate falls dramatically to only 7.5% for persons with severe work disabilities (LaPlante, 1996).

According to unpublished U.S. Census Bureau data, “approximately half (47.8%) of people with work limitations have moderate disabilities that do not prevent them from working, but limit their job choice or the length of their workday or workweek” (LaPlante, 1996, pp 1-2).

Nebraskans with disabilities are slightly more likely to be employed than persons with disabilities in other states: there is a 25% employment gap between a Nebraskan with disabilities and those without, and a 30% gap for the United States as a whole (U.S. Census Bureau, 2000).

Desire for employment

The 2000 N.O.D./Harris Survey of Americans with Disabilities found that 67% of unemployed people with disabilities would prefer to be working. The desire to work increases with the severity of disability: 70% of those with a somewhat severe disability want to work and 73% of those with very severe disabilities would like to work. This desire for employment is particularly striking in comparison with unemployed persons without disabilities 60% of whom prefer to be *unemployed* (N.O.D./Harris Survey of Americans with Disabilities, 2000).

¹Defined by the Census Bureau if one or more of the following conditions are met:

1. Identified by the question "Does anyone in this household have a health problem or disability which prevents them from working or which limits the kind or amount of work they can do?"
2. Identified by the question "Is there anyone in this household who ever retired or left a job for health reasons?"
3. Identified as currently not in the labor force because of a disability.
4. Identified as a person who did not work at all in the previous year because of illness or disability.
5. Under 65 years old and covered by Medicare in previous year.
6. Under 65 years old and received Supplemental Security Income (SSI) in previous year.
7. Received VA disability income in previous year.

*Note: If one or more of the conditions 3-6 are met, the person is considered to have a severe work disability.

Educational attainment

Although people with disabilities, as a group, have lower educational attainment than the non-disability population, educational attainment does not lead to similar levels of employment. Fifty-five percent of persons with disabilities with college educations are unemployed, as compared to 14 % unemployment for those without disabilities (N.O.D./Harris Survey of Americans with Disabilities, 2000).

Poverty

People with disabilities are three times more likely to live in poverty than persons without disabilities (30% of persons with disabilities live below the poverty level versus 10.2% for persons without disabilities) (LaPlante, 1996). Those with severe disabilities face an even higher rate of poverty. The high incidence of poverty is in large part attributable to the high unemployment rate for persons with disabilities. However, even 10.3% of those who work full time fall below the poverty line (as compared to 2.9% without disabilities).

Many adults with severe disabilities rely on Social Security (i.e., Social Security Disability Insurance and/or Supplemental Security Income) as a primary source of income. Social Security Disability Insurance (SSDI) provides monthly cash benefits to workers² who have contributed to the Social Security trust fund prior to becoming disabled. Supplemental Security Income (SSI) provides monthly cash benefits to eligible low-income persons with limited resources. Approximately one-third of working age persons with disabilities receive SSI in addition to SSDI, because the SSDI payments they receive are not high enough to exceed the modest the means-testing of SSI. States also have the option (Nebraska exercises this option) to supplement the federal benefit provided through SSI. Upon receiving Social Security benefits, very few people with disabilities (less than one-half of one percent) leave Social Security for jobs (LaPlante, 1996).

Medical and Health Care Expenditures

Persons with disabilities face much higher expenditure rates for medical care than the non-disabled population. According to the National Medical Expenditures Survey, persons with disabilities spent more than four times as much for medically related care (medical care, services, and equipment) than persons without disabilities in 1987 (\$4,692 versus \$1,860) (Max, 1995). Out-of-pocket expenditures for medical expenses for persons with disabilities averaged more than twice as much as those for people without disabilities in 1987 (\$853 versus \$320) (Trupin, 1995).³ Working age persons with disabilities are five times more likely to have public coverage for their health care (26.9% versus 5.3%) than working age without disabilities, but are also somewhat more likely to have no health insurance (12% of adults needing assistance with Activities of Daily Living, and 13.5% of adults needing assistance with Instrumental Activities of Daily Living are uninsured) (LaPlante, 1994).

Social Programs and Services

Working age persons with disabilities comprise a significant proportion of the beneficiaries of several major public assistance programs. Forty-five and one-half percent of the recipients (aged

² Section 202(d) also establishes the adult disabled child program.

³ Max (1995) and Trupin (1995) are the best resources available on these topics, despite the relative age of the data. Given dramatically higher medical costs since 1987 it is likely the discrepancy between costs for persons with and without disabilities is even greater today.

21 to 64) of Temporary Assistance to Needy Families (**TANF**) are persons with disabilities. Persons with disabilities comprise over half (52%) of the recipients (aged 21 to 64) of **food stamps**. Persons with disabilities comprise nearly 62% of the recipients (aged 21 to 64) of **Medicaid**. High participation and high rates of benefits combine to make persons with disabilities major consumers of total social program budgets. McNeil (2000) found that 63.4% of the benefits paid through TANF , Food Stamps, Medicaid, and SSI went to persons with severe disabilities. After subtracting SSI and the value of Medicaid received by SSI recipients, persons with disabilities still receive nearly 40% of the \$51.2 billion in benefits to persons between the ages of 21 to 64.

Persons with disabilities on welfare, although encouraged to work when possible, are usually exempt from both work and work-related activity requirements. Therefore, because work is a choice, the benefits they may lose due to an increase in earned income take on more weight in their decision to move from welfare to work than for a welfare recipient who is required to make that transition.

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DISABILITY DEFINITIONS USED IN NEBRASKA PROGRAMS

Behavioral Health

Depending on the kind of service the definition applies to, various definitions of persons with a disability are used in the Behavioral Health Program.

Child Care Assistance

The Child Care Assistance Program does not distinguish between adults with disabilities who apply for or use child care assistance and adults without disabilities who use the program. The two groups are subject to the same eligibility and benefit rules.

Developmental Disabilities

(205 NAC 1-001.19):

- (1) Mental retardation; or
- (2) A severe, chronic disability other than mental retardation or mental illness which:
 - (a) Is attributable to a mental or physical impairment other than a mental or physical impairment caused solely by mental illness;
 - (b) Is manifested before the age of twenty-two years;
 - © Is likely to continue indefinitely; and
 - (d) Results in:
 - (I) In the case of a person under three years of age, at least one developmental delay; or
 - (ii) In the case of a person three years of age or older, a substantial limitation in three or more of the following areas of major life activity, as appropriate for the person's age:
 - (a) Self-care;
 - (b) Receptive and expressive language development and use;
 - © Learning;
 - (d) Mobility;
 - (e) Self-direction;
 - (f) Capacity for independent living; and
 - (g) Economic self-sufficiency.

Disabled Persons and Family Support

According to Nebraska Rules and Regulations 472 NAC 2-003.04, “disability for this program is a medically determinable, severe, chronic condition which –

- 1. Is attributable to mental and/or physical impairments;
- 2. Is likely to continue indefinitely;
- 3. Demonstrates a need for long-term, individually planned and coordinated care, treatment, vocational rehabilitation, or other services; and
- 4. Results in substantial functional limitations in two or more of the following areas of major life activity –
 - a. Self-care;
 - b. Receptive and expressive language;
 - c. Learning;
 - d. Mobility;

- e. Self-direction;
- f. Capacity for independent living;
- g. Work skills or work tolerance; and
- h. Economic sufficiency.”

Food Stamps

According to USDA’s *Food Stamp Special Rules for the Elderly or Disabled* (USDA, n.d., p.1), a person is disabled under food stamp rules if any of the following apply:

- “Receives Federal disability or blindness payments under the Social Security Act, including Supplemental Security Income (SSI) or Social Security disability or blindness payments; or
- Receives State disability or blindness payments based on SSI rules; or
- Receives a disability retirement from a governmental agency because of a disability considered permanent under the Social Security Act; or
- Receives an annuity under the Railroad Retirement Act and is eligible for Medicare or is considered to be disabled based on the SSI rules; or
- Is a veteran who is totally disabled, permanently housebound, or in need of regular aid and attendance; or
- Is a surviving spouse or child of a veteran who is receiving VA benefits and is considered to be permanently disabled.”

LIEAP

Nebraska Rules and Regulations 476 NAC 1-009 Rev. October 29, 1986:

“At the time of application, having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment.”

Medicaid through AABD

Title XVI, SEC. 1614. [42 U.S.C. 1382c] (a)(3)

- “(3)(A) Except as provided in subparagraph ©), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.
- (3)(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.”

Under this program, there is a separate definition and there are separate provisions for persons who are blind.

MIWD no premium - through AABD

Title XVI, SEC. 1614. [42 U.S.C. 1382c] (a)(3)

- “(3)(A) Except as provided in subparagraph ©), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.
- (3)(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), ‘work which exists in the national economy’ means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.”

Nebraska is one of the states implementing Balanced Budget Act of 1997 (BBA) eligibility for Medicaid coverage for working persons with disabilities. All states implementing BBA eligibility are subject to rules regarding income (earned and unearned), resources, definition of disability, and methodologies used to determine eligibility (Centers for Medicare & Medicaid Services, 2002). Section 1902 (State Plans for Medical Assistance) of the Social Security Act addresses the treatment of earned income with respect to BBA eligibility for Medicaid coverage for individuals with disabilities (Cheek, 2001):

Sec. 1902. [42 U.S.C. 1396a] (a) (10) (A) (ii) (XIII)

“(XIII) who are in families whose income is less than 250 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, and who but for earnings in excess of the limit established under section 1905(q)(2)(B), would be considered to be receiving supplemental security income (subject, notwithstanding section 1916, to payment of premiums or other cost-sharing charges (set on a sliding scale based on income) that the State may determine);”¹

Under this program, there is a separate definition and there are separate provisions for persons who are blind.

MIWD with premium – through AABD

Title XVI, SEC. 1614. [42 U.S.C. 1382c] (a)(3)

¹P.L. 106-170, §201(a)(1)(A), struck out “or”.

- “(3)(A) Except as provided in subparagraph ©), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.
- (3)(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.”

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Sec. 1902. [42 U.S.C. 1396a] (a) (10) (A) (ii) (XIII)

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Under this program, there is a separate definition and there are separate provisions for persons who are blind.

Medicaid through SSI

Title XVI, SEC. 1614. [42 U.S.C. 1382c] (a)(3)

- “(3)(A) Except as provided in subparagraph ©), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

²P.L. 106-170, §201(a)(1)(A), struck out “or”.

- (3)(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), ‘work which exists in the national economy’ means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.”

Under this program, there is a separate definition and there are separate provisions for persons who are blind.

Ryan White

Medical verification of HIV-positive status

Section 8 Housing/HCVP

Person with a disability – this is a looser definition than for some programs, as Section 8 staff members do not screen applicants to determine disability. If the SSA considers a person to be disabled, they are considered disabled under Section 8. For Section 8, a doctor can complete a form to certify a person as disabled under SSA rules.

Code of Federal Regulations [24 CFR 5.403] Revised April 1, 2002

“Person with disabilities:

(1) Means a person who:

(I) Has a disability, as defined in 42 U.S.C. 423;

(ii) Is determined, pursuant to HUD regulations, to have a physical, mental, or emotional impairment that:

(A) Is expected to be of long-continued and indefinite duration;

(B) Substantially impedes his or her ability to live independently, and

(C) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions; or

(iii) Has a developmental disability as defined in 42 U.S.C. 6001.

(2) Does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome;

(3) For purposes of qualifying for low-income housing, does not include a person whose disability is based solely on any drug or alcohol dependence; and

(4) Means ‘individual with handicaps’, as defined in Sec. 8.3 of this title, for purposes of reasonable accommodation and program accessibility for persons with disabilities.”

According to Social Security Act, Title II [42 U.S.C. 423], Section 223(d)(1):

(d)(1) “The term ‘disability’ means--

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or
(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of 'blindness' as defined in section 216(i)(1)), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time."

According to 42 U.S.C. Section 6001(8):

8) "Developmental disability:

The term 'developmental disability' means a severe, chronic disability of an individual 5 years of age or older that –

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the individual attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity -

(I) self-care;

(ii) receptive and expressive language;

(iii) learning;

(iv) mobility;

(v) self-direction;

(vi) capacity for independent living; and

(vii) economic self-sufficiency; and

(E) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated, except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided."

Social Services Block Grant – Title XX

Nebraska Rules and Regulations 473 NAC 2-002.01B3:

"Low Income Disabled (LD): an individual eligible as LD must have a family income which is within income guidelines (see 473 NAC 2-002.02) and a physical or mental impairment which substantially prevents him/her from engaging in useful occupations within his/her competence, such as holding a job or homemaking. This impairment must be verifiable by medical findings of –

- 1 Physical Impairment: Loss or defects of the extremities, malfunctioning of the organs of the body or physiological disturbances with structural damage; and/or
- 2 Mental impairment: Conditions characterized by a marked and consistent failure to adjust to the emotional, social, or individual demands of living which require that the individual have assistance in essential activities of daily living."

TANF/ADC

The SSA definition applies:

Title XVI, SEC. 1614. [42 U.S.C. 1382c] (a)(3)

“(3)(A) Except as provided in subparagraph ©), an individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

(3)(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), ‘work which exists in the national economy’ means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.”

According to Nebraska Rules and Regulations 468 NAC 2-020.01 3.b. Rev. July 10, 2000, the following provides exemption from Employment First:

– “A person who –

b. Is incapacitated with a medically determinable physical or mental impairment which, by itself or in conjunction with age, prevents the individual from engaging in employment or training and which is expected to exist for a continuous period of at least three months. The State Review Team makes the determination of incapacity....”

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