

## CHAPTER 6-000 EXTENDED ASSISTANCE FOR FORMER DEPARTMENT WARDS

### 6-001 General Background

6-001.01 Legal Basis: Assistance to former Department wards was established by the Nebraska Legislature in Neb. Rev. Stat., section 43-905.

6-001.02 Purpose: The program provides assistance, including maintenance payments and medical assistance to former wards of the Department who are age 18 through 20 and are regularly attending a school, college, or a course of vocational or technical training designed to prepare the youth for gainful employment.

For former wards age 19 and 20 who are not in school and have a medical need, see Title 467, Medically Handicapped Children's Program, and Title 477, Children's Medical Assistance Program.

6-001.03 Administration: The program is administered by the Nebraska Department of Health and Human Services in accordance with state laws and with rules, regulations, and procedures established by the Director.

6-001.04 Definition of Terms: For use within this program, the following definitions of terms will apply unless the context in which the term is used denotes otherwise.

Adequate Notice: Notice of case action which includes a statement of what action(s) the worker intends to take and the reason(s) for the intended action(s).

Application: The action by which the individual indicates in writing the desire to receive assistance.

Application Date: For new and reopened cases, the date a properly signed Application for Assistance is received.

Educational Institution: A school, college, university or vocational or technical training facility.

Prudent Person Principle: The practice of assessing all circumstances regarding case eligibility and using good judgment in requiring further verification or information before determining initial or continuing eligibility.

Timely Notice: A notice of case action dated and mailed at least ten calendar days before the date the action becomes effective.

6-001.05 Worker Responsibilities: The designated worker must:

1. Collect and review information entered on Form EA-117 or other application form;
2. Give an explanation of the program requirements;
3. Explain the eligibility and payment factors and how changes will affect eligibility and payment;
4. Explain the eligibility and payment factors that require verification;
5. Obtain the former ward's or his/her representative's written consent on Form ASD-46 for needed verification;
6. Explore income that may be currently or potentially available, such as RSDI, SSI, Veteran's Assistance benefits (VA), etc.;
7. Give information about the social and other financial services available through the agency, such as social services; Early and Periodic Screening, Diagnosis, and Treatment (EPSDT); family planning; NMAP; and AABD;
8. Provide information and referral services to help the youth handle education-related problems as outlined in the written agreement;
9. Inform the former ward or his/her representative about his/her rights and responsibilities (see 479 NAC 6-001.06 and 6-001.07);
10. Inform the former ward or his/her representative that s/he must show his/her medical card to all providers and must inform the worker of any health insurance plan, any individual(s), or any group that may be liable for the former ward's medical expenses;
11. Explain the assignment of third party medical payments and refund any payments received directly;
12. Inform the former ward or his/her representative of the requirement to participate in the Nebraska Health Connection, if applicable (see 479 NAC 6-005 ff.);
13. Complete necessary reports and information forms;
14. Act with reasonable promptness on the former ward's application for assistance;
15. Provide adequate notice to the former ward or his/her representative of:
  - a. Approval for a grant and the amount;
  - b. Approval for medical assistance;
  - c. Denial of payment or medical assistance; and
16. Explain the appeal process.

{Effective 7/25/95}

6-001.06 Client Responsibilities: The former ward or his/her representative is required to:

1. Provide complete and accurate information;
2. Report any change in circumstances no later than ten days following the change. This includes information regarding:
  - a. Change or receipt of a resource including cash on hand, stocks, bonds, money in a checking or savings account, or a motor vehicle;
  - b. Changes in residence;
  - c. New employment;
  - d. Termination of employment; and
  - e. Changes in the amount of monthly income, including:
    - (1) All changes in unearned income; and
    - (2) Changes in the source of employment, in the wage rate and in employment status, i.e., part-time to full-time or full-time to part-time. For reporting purposes for assistance for former wards 30 hours per week is considered full-time;
3. Present his/her medical card to providers;
4. Inform the medical provider and worker of any health insurance plan, any individual or any group that may be liable for the former ward's medical expenses;
5. Cooperate in obtaining any third party medical payments;
6. Reimburse to the Department or pay to the provider any third party medical payments received directly for services which are payable by the Nebraska Medical Assistance Program;
7. Enroll in a health plan and maintain enrollment if:
  - a. One is available to the former ward;
  - b. The former ward is able to enroll on his/her own behalf;
  - c. The Department has determined that enrollment in the plan is cost effective;
8. Pay any required medical copayment (see 479 NAC 6-004.02);
9. Meet the requirements of the Nebraska Health Connection, if applicable (see 479 NAC 6-005 ff.); and
10. Sign a written agreement with the protection and safety worker and meet the requirements of the agreement (see 479 NAC 6-002.11).

{Effective 02/23/04}

6-001.07 Client Rights: The client has the right to:

1. Apply. Anyone who wishes to request and/or apply for assistance must be given the opportunity to do so. No one may be denied the right to apply for public assistance;
2. Reasonably prompt action on his/her application for assistance (see 479 NAC 6-001.08B2);
3. Adequate notice of any action affecting his/her application or assistance case (see 479 NAC 6-001.08C1 ff. to determine if timely notice is necessary);
4. Appeal to the NDHHS Director for a hearing on any action or inaction with regard to an application, the amount of the assistance payment, or failure to act with reasonable promptness. The appeal must be filed in writing within 90 days of the action or inaction;

5. Have his/her information treated confidentially;
6. Have his/her civil rights upheld. No person may be subjected to discrimination on the grounds of his/her race, color, national origin, sex, age, disability, religion, or political belief;
7. Have the program requirements and benefits fully explained;
8. Be assisted in the application process by the person of his/her choice;
9. Receive medical assistance without a separate application if another unit member is eligible for categorical assistance; and
10. Referral to other agencies.

#### 6-001.08 Application Processing

6-001.08A Request: A request for assistance may be made in an interview, by letter, or by telephone, and may be made by the applicant, his/her guardian or conservator, an individual acting under a duly executed power of attorney, or another person authorized to act for the applicant.

A request is terminated:

1. When a properly signed Application for Assistance is received;
2. When the applicant or his/her representative notifies the worker of withdrawal; or
3. After 30 days if the worker has heard nothing further from the applicant or his/her representative. However, the worker may continue to hold a request pending if there is reason to believe the applicant intends to complete his/her application.

6-001.08B Application: A request becomes an application when a properly signed Application for Assistance is received. A properly signed application contains:

1. Name;
2. Address; and
3. Proper signature, as defined by the appropriate program.

An application for medical assistance may be signed by an individual for himself/herself or by an individual acting on behalf of the applicant. The worker must use prudent person principle in deciding who may sign the application.

6-001.08B1 Alterations: The application, when completed and signed by the former ward or his/her representative, constitutes his/her own statement in regard to the former ward's eligibility. If the worker adds information received from a former ward or his/her representative to a properly signed application, the worker must date the information and:

1. Request that the former ward or his/her representative initial the change, if present; or
2. Identify the source of the information, if the former ward or his/her representative is not present.

If a substantial amount of information is added during the face-to-face interview, the worker may request that the former ward or his/her representative sign and date the application again.

The worker may alter an initial application up to the date of approval. An application for a redetermination may be altered up to the date the redetermination has been completed.

6-001.08B2 Prompt Action on Applications: The worker must act with reasonable promptness on all applications for assistance. The worker must make a determination of eligibility on an application within 45 days from the date of the request. If circumstances beyond the control of the worker prevent action within 45 days, the worker must record the reason for the delay in the case record. The worker must send a Notice of Action informing the applicant of the reason for the delay. The 30-day time period must not be used as a routine waiting period before approving assistance.

6-001.08B3 MA Application With a Share of Cost (SOC): An application for medical assistance for an individual with an SOC who has a medical need may be approved with no medical payments authorized until the applicant has met his/her obligation.

6-001.08B4 Application With Excess Resources: An application for assistance for an individual who has excess resources may be held pending until the resources are reduced (see 479 NAC 6-002.06H).

6-001.08B5 Place of Application: The local office in the area where the individual resides is responsible for taking the application. Applications may be taken in the local office, in the applicant's home, or another place that is convenient for the applicant.

6-001.08B6 Withdrawals: The applicant may voluntarily withdraw an application. If the applicant verbally withdraws the application, the worker must request a written statement of withdrawal. The worker must make note of the withdrawal in the case record and give written confirmation of withdrawal to the applicant on a Notice of Action (see 479 NAC 6-001.08C).

If the applicant does not provide written confirmation of the withdrawal within 30 days from the application date, the worker must reject the application. The worker must send a Notice of Action to the applicant notifying him/her of the rejection.

6-001.08B7 Authorization for Investigation: For some sources the worker asks the client to sign Form ASD-46 when it appears that information given is incorrect, when the client is unable to furnish the necessary information, or for sample quality control verification. A copy of the authorization for release of information from Form the Application for Assistance may be used if the source will accept it.

6-001.08C Notice of Action: The worker must send adequate notice to notify the client of any action affecting his/her assistance case. A Notice of Action must be sent to the last-reported address. If the form is inadvertently sent to the wrong address, the worker must send a new form, allowing the client ten days from the date the corrected form is sent (if adequate and timely notice is required).

#### 6-001.08C1 Types of Notices

6-001.08C1a Adequate Notice: An adequate notice must include a statement of what action(s) the worker intends to take, the reason(s) for the intended action(s), and the specific manual reference(s) that supports or the change in federal or state law that requires the action(s). The worker must send an adequate notice no later than the date of action.

6-001.08C1b Timely Notice: A timely notice must be dated and mailed at least ten calendar days before the date that action would become effective, which is always the first day of the month.

6-001.08C2 Adequate and Timely Notice: In cases of intended adverse action (action to discontinue, terminate, or reduce assistance or to change the manner or form of payment or service to a more restrictive method, i.e., protective payee, medical lock-in), the worker must give the former ward or his/her representative adequate and timely notice.

6-001.08C3 Situations Requiring Adequate Notice: In the following situations, the worker may dispense with timely notice but must send adequate notice no later than the effective date of action.

1. The agency has factual information confirming the death of a former ward;
2. The agency receives a written and signed statement from the former ward or his/her representative:
  - a. Stating that assistance is no longer required; or
  - b. Giving information which requires termination or reduction of assistance, and indicating, in writing, that the former ward or his/her representative understands the consequence of supplying the information;
3. The former ward has been admitted or committed to an institution, and no longer qualifies for assistance;
4. The former ward has been placed in skilled nursing care, intermediate care, or long-term hospitalization;
5. The former ward's whereabouts are unknown and agency mail directed to the former ward has been returned by the post office indicating no known forwarding address. The agency must make the former ward's check available to the former ward if his/her whereabouts become known during the payment period covered by a returned check; or
6. The former ward has been accepted for assistance in another state and that fact has been established.

6-001.08C4 Waiver of Notice: If a former ward or his/her representative agrees to waive his/her right to a timely notice in situations requiring timely notice, the worker must obtain a statement signed by the former ward or his/her representative to be filed in the case record.

6-001.08C5 In Fraud Cases: At least five days' advance written notice must be given if:

1. The agency has facts indicating that action should be taken to discontinue, terminate, or reduce assistance because of probable fraud by the former ward or his/her representative; and
2. The facts have been verified where possible through collateral sources.

6-001.08C6 Continuation of Benefits: In cases of adverse action where the worker is required to send timely and adequate notice, if the former ward or his/her representative requests an appeal hearing within ten days following the date the Notice of Action is mailed, the worker must not carry out the adverse action until a fair hearing decision is made. This regulation does not apply to those situations outlined in 479 NAC 6-001.08C3 where the worker is required to send adequate notice only.

This regulation does not restrict the worker from continuing normal case activities and implementing changes to the assistance case that are not directly related to the appeal issue.

6-001.09 Redetermination of Eligibility: The worker must conduct a face-to-face interview and redetermination of eligibility annually. Whenever there is reported or suspected ineligibility of a former ward, the worker must take immediate action.

School registration and attendance for the former ward must be recorded in the narrative and kept up to date in accordance with changes as they occur. Form IM-20 is used to verify information from the educational institution.

6-001.09A Complete Redetermination: The worker must do a complete redetermination of eligibility annually. The worker may use either a new or a previously completed Form Application for Assistance. At this time the worker must conduct a face-to-face interview with the former ward or the former ward's guardian, conservator, or individual acting under a duly executed power of attorney.

6-001.10 Prudent Person Principle: When the statements of the former ward or his/her representative are incomplete, unclear, or inconsistent, or when other circumstances in the particular case indicate to a prudent person that further inquiry must be made, the worker must obtain additional verification before eligibility is determined. The former ward or his/her representative has primary responsibility for providing verification of information relating to eligibility.

Verification may be supplied in person, through the mail, or from another source (as an employer). If it would be extremely difficult or impossible for the former ward or his/her representative to furnish verification in a timely manner, the worker must offer assistance.

6-001.11 Local Office Responsible for Case Handling: The local office in the area where a former ward resides is responsible for handling the case.

When a former ward attends an educational program in another state, his/her case must be maintained in the service area to which s/he returns periodically. If the former ward does not return to the state, the case is maintained in the service area where the former ward last resided.

6-001.11A Transfer to New County of Residence: When a former ward moves to another service area, his/her case may be transferred to the local office in the new service area.

Note: It is not necessary to do a complete redetermination when receiving a transfer.

6-001.11A1 Case Handling of Temporary Absences: The case of an individual in an institution or a care facility for a temporary stay remains with the original local office in the area where the client resides and intends to return. Similarly, if a former ward is out of his/her area of residence for a brief visit the case is not forwarded. It remains the responsibility of the local office in the area where the former ward intends to return.

6-002 Eligibility Requirements: If the ward desires to continue his/her education upon discharge, s/he must do so immediately and must enroll in the next available school term. Former Department wards may continue to receive maintenance payments and medical assistance if the following eligibility requirements are met. The former ward must:

1. Have a face-to-face interview (see 479 NAC 6-002.01);
2. Be a U.S. citizen or alien (see 479 NAC 6-002.02 ff.);
3. Have a Social Security number (see 479 NAC 6-002.03 ff.);
4. Be within the age limits (see 479 NAC 6-002.04 ff.);
5. Have been a ward of the Department immediately before entering the program for former wards;
6. Have been in out-of-home care at the time of discharge and continue to be in out of home care while in the program (see 479 NAC 6-002.11);
7. Be single;
8. Be attending or enrolled in a secondary educational program, college or vocational program and maintaining a passing average (see 479 NAC 6-002.05 ff.);
9. Complete a written agreement with the protection and safety worker outlining the responsibilities of the Department and the youth and meet the requirements of the agreement (see 479 NAC 6-002.13);
10. Be within resource limits (see 479 NAC 6-002.06 ff.);
11. Be within income limits (see 479 NAC 6-002.07 ff.);
12. Cooperate in obtaining third party medical payments (see 479 NAC 6-002.08 ff.);
13. Enroll in an available health plan (see 479 NAC 6-002.09); and
14. Meet other eligibility requirements (see 479 NAC 6-002.10).

{Effective 02/23/04}

6-002.01 Face-to-Face Interview: A former ward wishing to apply for assistance, or his/her legal guardian, conservator, or an individual acting under a duly executed power of attorney is required to have a face-to-face interview. At this time the worker completes the Application for Assistance or reviews the information already entered on the application.

If a relative or a person acting for the client applies, using the prudent person principle (see 479 NAC 6-001.04), the worker may require a personal contact with the former ward.

6-002.02 Citizenship and Alien Status: In order to be eligible for public assistance, an individual must be either:

1. A citizen of the United States; or
2. An immigrant lawfully admitted for permanent residence (see 479-000-305 and 479-000-306).

Any individual born in the United States is considered a U.S. citizen. This includes children whose parents are not U.S. citizens, such as illegal immigrant parents or parents with student visas.

Receipt of SSI is sufficient proof of citizenship or lawfully admitted alien status.

{Effective 6/8/98}

6-002.02A Verification of Immigrant Status: When a former ward is an immigrant, the worker must obtain verification of immigrant status using the SAVE system (see 479 NAC 2-009.01E1).

6-002.03 Social Security Number (SSN): A former ward must furnish a Social Security number. The SSN, in conjunction with other information, provides evidence of identity of the individual.

6-002.04 Age: A former ward is eligible for assistance from age 18 through the month of his/her 21st birthday.

6-002.05 School Enrollment: The worker must verify that the former ward is enrolled in a secondary or post-secondary school. The educational program may be part or full-time. The worker must consider enrollment as continued through normal periods of class attendance, vacation, and recess unless the student graduates, drops out, is suspended or expelled, or is not registered for the next normal school term (excluding summer school). If the youth does not attend summer school, a monthly payment will not be made for those months. During the school term, the former ward must attend school except in the situations described in 479 NAC 6-002.05B. In order to receive maintenance payments over the summer months, the former ward must be registered or intending to register for the next available term.

The worker must consult with the former ward regarding the educational program; the worker must agree that the program is appropriate for the former ward.

Participation in the GED program meets eligibility for this program if:

1. The youth has a time frame (not to exceed three months) for anticipated completion of the GED program before enrollment; and
2. The youth provides verification of regular participation in the GED program every month.

At the end of the anticipated time frame or on completion of the program, the youth will need to provide verification of completion of the GED program.

{Effective 6/8/98}

6-002.05A Temporary Absence: Payment may be continued up to 90 days if a former ward must temporarily leave school because of illness, injury, or a situation that is beyond the control of the former ward. To continue assistance beyond 90 days, the worker must obtain approval from Protection and Safety, Central Office.

{Effective 02/23/04}

6-002.05B Exceptions to School Enrollment Requirement: If a youth is discharged between school terms, s/he must be enrolled for the next school term unless the plan was for the youth to "sit out" that semester. The youth may continue to receive benefits and not attend school under the following exceptions:

1. When the youth's attendance is postponed due to a mental or physical incapacity which prevents participation in a school program for a temporary period of time. Documentation must be provided by the youth's health care provider before the discharge.
2. When the youth is attending an educational program and there is an interruption in attendance due to a mental or physical incapacity which prevents participation in a school program for a temporary period of time. Documentation must be provided from the youth's health care provider at the time of the interruption.
3. The youth may "sit out" one school term from the time of discharge from wardship through age 20 or until discharge from this program. The youth may "sit out" the semester immediately following discharge if that was the plan before discharge.

If the youth's physician determines that the youth is unable to work or attend school for a period of time, the youth may receive a monthly payment if s/he provides the doctor's statement of his/her incapacity and the expected time frame for recovery. Six months is the maximum time that can be provided.

Under the first two exceptions, the youth may receive one month's payment to avoid losing his/her apartment if the youth is in the hospital. A doctor's statement of incapacity is required. If the youth is still hospitalized after one month, only the personal needs allowance will be paid for a maximum of six months. The youth may be eligible for medical assistance. After the youth's hospitalization s/he is expected to work until the next school term.

Under the third exception, the youth will not receive a monthly payment and is expected to support himself/herself. The youth will not lose eligibility for this program by not attending one school term over the time s/he is eligible for the former ward program.

{Effective 6/8/98}

6-002.05C School Performance: A former ward must regularly attend classes and maintain a passing average. The worker must verify the ward's grades at the end of each school term. The school's definition of passing is used.

6-002.06 Resources: The total equity value of available non-exempt resources of the former ward is determined and compared with the established maximum for available resources. If the total equity value of available non-exempt resources exceeds the established maximum, the former unit is ineligible for assistance. The following are examples of resources:

1. Cash on hand;
2. Cash in savings or checking accounts;
3. Certificates of deposit;
4. Stocks;
5. Bonds;
6. Investments;
7. Collectable unpaid notes or loans;
8. Promissory notes;
9. Mortgages;
10. Land contracts;
11. Land leases;
12. Revocable burial funds;
13. Trust or guardianship funds;
14. A home;
15. Additional pieces of property;
16. Trailer houses;
17. Burial spaces;
18. Life estates;
19. Farm and business equipment;
20. Livestock;
21. Poultry and crops;
22. Household goods and other personal effects;
23. The contents of a safe deposit box; and
24. Federal and state tax returns.

6-002.06A Verification of Resources: Before determining eligibility of a former ward, the worker must verify and document in the case record all resources. Verification of resources consists of but is not limited to the following information:

1. A description of the type of resource to include account or policy number(s), legal descriptions (for property), etc.;
2. The location of the resource (i.e., name and address of the bank, insurance company, etc.);
3. Current value of the resource, encumbrances against the resource, and the resulting equity value (see 479 NAC 6-002.06E);
4. Description of current ownership (see 479 NAC 6-002.06C); and
5. Source of verification and the date the verification is obtained.

If the former ward has a guardian, the worker may use the guardian's report to the court for verification. The guardian's report applies only to the period covered by the report. The worker shall follow regular verification procedures if there is no guardian's report or the report does not coincide with the date of redetermination.

The worker must also note any additional information that may affect resource eligibility.

6-002.06B Definition of Available Resources: For the determination of eligibility, available resources include cash or other liquid assets or any type of real or personal property or interest in property that the former ward owns and may convert into cash to be used for support and maintenance.

6-002.06B1 Unavailability of Resource: Regardless of the terms of ownership, if it can be documented in the case record that the resource is unavailable to the former ward, the value of that resource is not used in determining eligibility. The worker must consider the feasibility of the former ward's taking legal action to make the resource available. If the worker determines that legal action can be taken, the worker must allow the former ward 60 days to initiate legal action. After 60 days, if legal action has not been initiated, the resource is counted. The resource is not considered available until the legal action is completed.

In evaluating the availability of benefit funds, such as funds raised by a benefit dance or auction, the worker must determine the purpose of the funds and if the former ward has access to them.

The worker must determine a reasonable period of unavailability based on the circumstances of the case. The worker must monitor the status of the resource.

6-002.06B2 Excluded Resources: Disregarded income is also disregarded as a resource unless there is regulation stating otherwise. In addition, the following resources are excluded in making a determination of eligibility:

1. Real property which the former ward occupies as a home;
2. Goods of moderate value used in the home;
3. Clothing;
4. Certain trusts (including guardianships) set up for one or more children. These trusts are in some instances limited to the particular beneficiary(ies) and may render this beneficiary(ies) ineligible even though another child(ren) remains eligible (see 479 NAC 6-002.06F1c);
5. Certain life estates in real property (see 479 NAC 6-002.06F2c);
6. Burial spaces (see 479 NAC 6-002.06F2f);
7. Irrevocable burial trusts up to \$3,000 per individual and the interest if irrevocable (see 468 NAC 2-008.07A3a);
8. Proceeds of an insurance policy that is irrevocably assigned for the purpose of burial of the ward (see 468 NAC 2-008.07A3b);
9. Income received annually, semi-annually, or quarterly which is prorated on a monthly basis and included in the budget. This is excluded over the period of time it is considered income; and
10. One motor vehicle.

The worth of resources, both available and excluded, is determined on the basis of their equity.

For any of these funds to be excluded as a resource, they must be segregated in a separate account so that they can be identified. If the funds are not in a separate account the worker must allow the former ward or his/her representative 30 days from notification of the requirement to set up a new account. After 30 days the resource is included in the resource limit if the former ward or his/her representative fails to segregate the funds. If this makes the former ward ineligible and the funds are subsequently segregated, the worker must determine eligibility for MA for the month of segregation.

Several excludable resources may be combined in a single account.

{Effective 02/23/04}

6-002.06C Determination of Ownership of Resources: A resource which appears on record in the name of a former ward must be considered.

6-002.06C1 Jointly Owned Resources: When a former ward has a jointly owned resource that is considered available, the worker must use the guidelines in the following regulations.

6-002.06C1a Resources Owned With Other Clients: If a former ward owns a resource with another client who is on categorical assistance, the worker must divide the value of the resource by the number of owners, regardless of the terms of ownership. The appropriate value is counted for each unit.

This reference also applies to resources owned with a spouse or child.

6-002.06C1a(1) Resources Owned With Non-Clients: If a former ward owns a resource with an individual who is not receiving categorical assistance, the worker must determine the appropriate value to be assigned to the former ward in accordance with the following regulations.

6-002.06C1a(1)(a) General Rule: As a general rule, the words and/or or or appearing on a title or other legal contract denote joint tenancy. This means that either owner could sign and turn the resource to cash without the other; therefore, the total resource is considered available to either owner.

The term and generally refers to "tenancy in common." This means that each owner holds an undivided interest in the resource without rights of survivorship to the other owner(s). Only the proportionate share based on the number of owners of the resource is available to each owner.

If the worker substantiates that the former ward is not the true owner of a resource, it is permissible to allow the former ward or his/her representative to remove his/her name from the title of ownership in order to reflect true ownership. The former ward or his/her representative is allowed 60 days to make this change without affecting eligibility.

6-002.06C1a(1)(a)[1] Real Property: Regardless of the terms of ownership, only the proportionate share of real estate is counted as a resource.

The worker must verify ownership of real estate through records in the offices of the register of deeds or county clerk. The worker must verify the terms on which property is held in cases of joint ownership. Records of the court have information in regard to estates which have not been settled or which are in probate. The worker must consult the records of the court if the property has come to the holder as a part of an estate; if by joint purchase, the facts will appear in the record of the deed.

6-002.06C1a(1)(a)[2] Bank Accounts: The worker must verify the terms of the account with the bank. If any person on the account is able to withdraw the total amount, the full amount of the account is considered the client's. If all signatures are required to withdraw the money, the proportionate share must be counted toward the former ward.

If the former ward verifies that none of the money belongs to him/her, s/he must be allowed 60 days to remove his/her name from the account. The former ward must provide proof of the change. If the former ward does not remove his/her name in 60 days, the money is counted as a resource.

If a portion is the former ward's, the worker must notify him/her of the requirement to put the money in a separate account.

6-002.06C1b Consideration of Relative Responsibility: When the client (i.e., a spouse or parent) has relative responsibility for a client in another assistance unit and the responsible relative owns the resource(s), the worker must divide the value by the number of units to determine the amount to be counted to each. An AABD/MA or SDP/MA couple is considered one unit.

Exception: If the responsible relative receives SSI, none of the value of the resource(s) is considered to the other unit.

When the client (i.e., a spouse or parent) has relative responsibility for a client in another assistance unit and both clients own the resource(s), regulations in 479 NAC 6-002.06C1a are followed and the resource is divided by the number of owners only. This meets the requirements of relative responsibility.

6-002.06D Inheritance: When a former ward receives an inheritance, verified payment of debts or obligations of the deceased are subtracted from the settlement.

6-002.06E Value and Equity: Equity is the actual value of property (the price at which it could be sold) less the total of encumbrances against it (mortgages, mechanic's liens, other liens and taxes, and estimated selling expenses).

If the encumbrances against the property equal or exceed the price for which the property could be sold, the former ward has no equity and the property is not an available resource.

6-002.06E1 Secured Debts: The total value of unpaid personal taxes and other personal debts secured by mortgages, liens, promissory notes, and judgments (other than those on which the statute of limitations applies) is subtracted from the gross value of the encumbered property, to find the equity. The worker must document in the case record the type of debt and plan under which payment was made. The former ward's statement of debts may usually be accepted unless information to the contrary is available.

6-002.06E2 Determination of Value: The worker may use public tax records to determine the sale value of a resource. If there is a question as to the accuracy of the sale value determined by tax records, verification may be obtained from a real estate agent or other appropriate individual.

6-002.06F Types of Resources: Resources can be divided into two categories: liquid and non-liquid.

6-002.06F1 Liquid Resources: Liquid resources are assets that are in cash or financial instruments which are convertible to cash. They include resources such as:

1. Cash on hand;
2. Cash in savings or checking accounts;
3. Certificates of deposit;
4. Stocks;
5. Bonds;
6. Investments;
7. Collectable unpaid notes or loans;
8. Promissory notes;
9. Mortgages;
10. Land contracts;
11. Land leases;
12. Revocable burial funds;
13. Trust or guardianship funds;
14. Cash value of insurance policies;
15. Other similar properties; and
16. Federal and state tax refunds.

6-002.06F1a Cash, Savings, Investments, Money Due: Cash on hand, cash in checking and savings accounts, salable stocks or bonds, certificates of deposit, promissory notes and other collectable unpaid notes or loans and other investments are available resources.

6-002.06F1b Life Insurance

6-002.06F1b(1) Definitions

Burial Insurance: Insurance whose terms specifically provide that the proceeds can be used only to pay the burial expenses of the insured.

Cash surrender value: Amount which the insurer will pay (usually to the owner) upon cancellation of the policy before death of the insured or before maturity of the policy.

Face value: Basic death benefit of the policy exclusive of dividend additions or additional amounts payable because of accidental death or under other special provisions.

Insured: The person whose life is insured.

Insurer: The company that insures others.

Owner: The person who has the right to change the policy.

Term Insurance: A form of life insurance that has no cash surrender value and generally furnishes insurance protection for only a specified or limited period of time.

6-002.06F1b(2) Cash Surrender Value: The cash surrender value of life insurance is considered an available resource. All available cash value of the policy(s) must be taken into consideration when determining total available resources. A policy that will not accrue any cash surrender value is not considered in determining the value of insurance.

6-002.06F1b(3) Adjustment: The client can usually adjust a large insurance policy to a smaller amount providing limited protection and allowing the client to benefit from accumulated savings.

6-002.06F1b(4) Interest and Dividends: Interest and dividends of all life insurance policies are treated according to 479 NAC 6-002.08A8, item 1.

6-002.06F1c Trust or Guardianship Funds: When a guardianship or trust fund that has been established on behalf of a former ward puts him/her over the resource limit (see 479 NAC 6-002.06G) the worker must verify if the guardianship or trust fund money is available for the care and maintenance of the former ward.

6-002.06F1c(1) Written Notice: The former ward is ineligible for extended assistance until the trustee or guardian gives the local office written notice of refusal to spend guardianship or trust fund monies for the care and maintenance of the former ward. In order to be considered current notice, it must be given within one year of its use in determining eligibility for categorical assistance. After current notice has been given, the former ward, if otherwise eligible, may receive benefits if all judicial remedies are pursued to determine the availability of the funds.

6-002.06F1c(2) Judicial Remedies: A former ward or his/her guardian is allowed up to 60 days from the approval date to file a request for access to the funds in a court of competent jurisdiction. A recipient is allowed 60 days from the date of notification. At the time the case is approved, the worker must inform the former ward and the guardian on a Notice of Action of the 60-day time limit. Benefits must not be withheld pending the filing.

If a petition has not been filed after 60 days, the client is no longer eligible for MA.

All questions and notices involving guardianship or trust funds should be addressed to the Central Office, Attn: General Counsel.

6-002.06F2 Non-Liquid Resources: Non-liquid resources are tangible properties which need to be sold if they are to be used for the maintenance of the former ward. They include all properties not classified as liquid resources, such as:

1. A home;
2. Additional pieces of property;
3. Trailer houses;
4. Burial spaces;
5. Life estates;
6. Farm and business equipment;
7. Livestock;
8. Poultry and crops; and
9. Household goods and other personal effects.

6-002.06F2a Liquidation of Real Property: When a former ward has excess resources because of real property, s/he may receive assistance pending liquidation of the resource, according to the following regulations.

Note: The former ward may be prospectively eligible with excess resources because of real property if s/he or the responsible relative signs Form IM-1.

6-002.06F2a(1) Definition of Real Property: Real property is defined as land, houses, or buildings.

6-002.06F2a(2) Time Limits for Liquidation: The worker must exclude real property which the former ward is making a good faith effort to sell. First the worker shall determine if the individual has the legal authority to liquidate the property. If not, the former ward is allowed 60 days to initiate legal action to obtain authority to liquidate (see 479 NAC 6-002.06B1). If the former ward owns the property with other persons who are not on assistance, see 479 NAC 6-002.06F2a(2)(b).

Once the former ward has the legal authority to liquidate the property, the worker must obtain the former ward's or responsible relative's signature on Form IM-1. The former ward or responsible relative is allowed six calendar months to liquidate the real property. If the former ward or responsible relative refuses to sign Form IM-1, the former ward is immediately ineligible because of excess resources.

One liquidation period is allowed for each piece of real property that is determined to cause excess resources, even if the case is closed and subsequently reopened.

6-002.06F2a(2)(a) Extension of Time Limit: If the former ward or responsible relative is unable to liquidate the property in six calendar months, the service area administrator may authorize an additional three calendar months. In determining whether to allow a three-calendar-month extension, the service area administrator must consider:

1. If the property has been placed on the market;
2. If the former ward or responsible relative is asking a fair price for the property;
3. If the asking price has been reduced;

4. If the former ward or responsible relative understands the requirement for liquidation of the property;
5. If the former ward or responsible relative has not refused a reasonable offer to purchase; and
6. The economic conditions in the area and if real estate is selling.

Before the three-month extension ends, if the former ward or responsible relative has exhausted all possibilities for selling the property but it is not sold, the worker must submit all information regarding the property and its salability on Form ASD-17 to Protection and Safety, Central Office, to determine if the resource is available, in accordance with the guidelines previously listed.

6-002.06F2a(2)(b) Joint Ownership: If the former ward owns the property with other persons who are not on assistance, the worker contacts the other owners to determine if they are willing to liquidate their interest in the property. If all parties are willing to liquidate, the worker proceeds with the liquidation process. If one or more of the parties do not wish to liquidate, the worker applies 479 NAC 2-001.08A and requires the former ward or responsible relative to take legal action to force a sale of the property. The worker may obtain a written statement from the other parties and file it in the case record. After a legal determination is made regarding the availability of the former ward's interest in the property, the worker takes the appropriate action.

6-002.06F2b Trailer Houses and Other Portable Housing Units: Trailer houses and other portable housing units, unless occupied by the former ward as home, constitute available resources.

6-002.06F2c Burial Spaces: The value of burial spaces held for the purpose of providing a place for the burial of the former ward is not counted as an available resource. A burial space includes a crypt, mausoleum, or other repository for the remains of a deceased person. This exemption also applies to markers, vaults, etc., but does not include services, burial fees, etc.

If the former ward has a life insurance policy for the purchase of burial items, the cash value is included in the \$3,000 limit if the policy is irrevocably assigned (see 479 NAC 2-008.07A3). If the policy is not irrevocably assigned, it is considered life insurance and the cash surrender value is considered a resource (see 479 NAC 6-002.06F1b(2)).

6-002.06F2d Loans: A bona fide loan is disregarded as income or a resource. A bona fide loan is defined as one that must be repaid. The agreement for repayment may be verbal or written and the loan may be owed to an individual or to an organization or agency. Using prudent person principle the client's statement is adequate verification that the loan must be repaid.

6-002.06F2e Household Goods and Personal Effects: Household goods and personal effects of a moderate value used in the home are exempt. Household goods are defined as including household furniture and furnishings, tools, and equipment used in the operation, maintenance and occupancy of the home or in the functions and activities of the home and family life, as well as those items which are for comfort and accommodation. Personal effects include clothing, jewelry, items of personal care, etc.

6-002.06G Maximum Available Resource Levels: The former ward may have a maximum of \$2,000 in resources, and remain eligible for a maintenance payment.

6-002.06H Reduction of Resources: The former ward or his/her representative may reduce available resources to the maximum without affecting eligibility if the case record contains documentation that the resources have been reduced and the former ward is within the resource limits. The former ward's or representative's statement of debts may be acceptable. Unsecured debts do not reduce the value of resources unless they are actually paid.

An application for an individual who has excess resources may be held pending until the resources are reduced.

Medical eligibility is effective the first day of the month in which excess resources have been expended if all other eligibility factors are met.

6-002.07 Income: The designated worker must explore all available or potential income. The worker shall take into account any assistance that the parent(s) makes available to the former ward. For deeming for medical assistance, see 479 NAC 6-002.09A.

If a former ward lives with a parent who is receiving ADC/MA, RRP/MA, AABD/MA, or SDP/MA, the budgets must be computed separately.

Neither the needs nor the income of the MA former ward may be considered in the parent's budget.

#### 6-002.07A Types of Income

6-002.07A1 Earned Income: After application of the \$90 work allowance, all earned income is budgeted.

6-002.07A2 Unearned Income: All unearned income is counted. Unearned income includes, but is not limited to:

1. Retirement, Survivors, and Disability Insurance (RSDI) under the Social Security Act;
2. Railroad Retirement;
3. Veteran's or military service benefits;
4. Unemployment compensation or disability insurance benefits;
5. Disability benefits paid by the employer (this does not include sick leave);
6. Worker's compensation;
7. Voluntary contributions;
8. Lease income;
9. Annuities;
10. Pensions, or returns from investments or securities in which the individual is not actively engaged;
11. Civil Service benefits; and
12. SSI.

6-002.07A2a Grants and Scholarships: The designated worker must file a copy in the case record of any award or denial letters for grants, scholarships, benefits, etc.

6-002.07A2b Contributions: Contributions are verified payments which are regularly paid to or for the former ward. Contributions received regularly to aid in the support of the client, either in the form of money payments or the provision of shelter, including taxes and insurance, are considered unearned income.

When another individual is paying the entire expense(s) the worker must consult the chart in 468 NAC 2-009.04B4 to determine the amount to consider as unearned income. If the amount paid is equal to or greater than the amount(s) on the chart, the worker uses the amount(s) on the chart. If the amount(s) paid is less than the amount on the chart, the worker uses the actual amount. When another individual is paying a portion of the expenses, it is not considered a contribution.

The following are not considered contributions:

1. Payments for utilities;
2. Energy assistance;
3. Emergency assistance;
4. General assistance; or
5. Crisis assistance from a community agency, service agency, or an individual.

{Effective 9/20/95}

6-002.07A2c Third Party Medical Payments: Income received from a third party that pays the former ward directly is:

1. Disregarded if it is refunded to the provider or the Department as reimbursement for a specific service; or
2. Counted as unearned income if the former ward fails or refuses to refund these payments.

If the former ward receives a third party medical payment directly and the medical expense for which the third party medical payment is intended is payable by NMAP, the worker must send a demand letter advising the former ward that s/he must reimburse the Department or the provider up to the amount of payment which has been or will be made for the specific service. The former ward is allowed ten days from the date of notification to reimburse the Department or pay the provider.

If the former ward refunds within ten days, the worker must take no further action. If the former ward fails or refuses to refund within ten days, the worker must consider the entire third party payment as unearned income in the first month possible, taking into account adequate and timely notice. Any balance remaining is considered a resource in the following month.

6-002.07A2c(1) Income-Producing Policies: Income received from an insurance policy that supplements the former ward's income while s/he is hospitalized or receiving medical care is treated as unearned income. These policies provide income regardless of the type of service being provided or the condition of the former ward. If it is verified that the income was applied to medical bills, the income is not counted in the former ward's budget.

Income is not counted from health insurance policies which pay the former ward directly for the purpose of reimbursement to the provider and which cover a specific service(s).

6-002.07A3 Accumulated Benefit Payments: Accumulated payments of Retirement, Survivors, and Disability Insurance (RSDI); Railroad Retirement; veteran's pensions; worker's compensation; or other benefit payments which are received in a single sum are considered income in relation to the recipient's need in the month in which they are received or reported. The payment must be shown in the following month's budget, if observance of the cutoff date and ten days' notice allow. If not, the grant change may take place no later than the second month following the month in which the accumulated payment is received or reported. The balance remaining after consideration of the unit's needs for a particular month is considered an available resource in the subsequent month.

6-002.07A4 Potential Income: Potential income is defined as income based on entitlement or need which is usually determined by an administering agency as a result of an application for benefits by the individual. Potential income includes, but is not limited to, RSDI, categorical assistance, Railroad Retirement, veteran's or military service benefits, unemployment compensation, disability insurance benefits, and worker's compensation. Medicare is not considered a potential benefit.

The worker must explore each individual's potential entitlement for benefits. The former ward is required to apply for any benefits for which s/he appears to be entitled within 60 days of the date the worker notifies the former ward of the requirement. The worker must not delay determination of eligibility for assistance and authorization of payment pending determination of entitlement for benefits. After the worker has determined the former ward's eligibility for categorical assistance s/he must notify the former ward in writing of the requirement to apply for a benefit for which the former ward appears eligible and inform the former ward of the number of days left in which to apply.

6-002.07A4a Refusal to Apply: A former ward is expected to make application for and accept benefits promptly after the worker has discussed the former ward's apparent entitlement to the benefits. When an application for assistance is approved, the former ward is notified on a Notice of Action of the number of days left in which to apply. The worker must document in the case record when the former ward was informed of the possibility of benefits. The worker must set up a special review to see if the former ward is eligible for or already receiving benefits. If the individual fails or refuses to make application within 60 days after notification by the worker or refuses to accept benefits for which s/he has been determined eligible, eligibility cannot be determined.

6-002.07A5 Verification of Income: The worker must verify irregular unearned income every three months, and regular unearned income every six months.

This review may be eliminated for cases where the only source of income is RSDI, or another similar stable source, and there is no reason to believe the amount will change.

6-002.07A6 Budgeting Procedures: When income is irregular, the worker must use an average of income for the three most recent consecutive months. When income is regular, the worker must use one month's income. The worker must use the following procedures:

1. List all earned and unearned income periods used. If there is a particularly high or low check, disregard it in the average;
2. Add gross income amounts for each earned and unearned income period. Divide by the number of earned or unearned income periods used for verification to arrive at the average amount per earned and unearned income period; and

3. Convert the figure from step 2 to a monthly figure using conversion tables for weekly or bi-weekly earned and unearned income periods (see 479-000-201). For a figure not shown on the conversion tables, multiply the average weekly figure by 4.3 and the average bi-weekly figure by 2.15. If income is received semi-monthly, add the two figures. If the income is monthly, use the actual monthly figure.

6-002.07A6a Significant Changes: The following circumstances are considered significant changes:

1. Change in job;
2. Promotion;
3. New employment;
4. Termination of employment;
5. Change in the amount of monthly income, including:
  - a. All changes in unearned income; and
  - b. Changes in the source of employment, in the wage rate and in employment status, i.e., part-time to full-time or full-time to part-time. For reporting purposes for assistance for former wards, 30 hours per week is considered full-time.

{Effective 12/17/95}

6-002.07A6b General Rules Governing Significant Changes: The following procedures are used in handling significant changes in unearned income:

1. Initiate action to verify the change;
2. Determine anticipated unearned income;
3. Estimate income on information available, recompute the budget for the following month. When projecting income, use the conversion tables and convert weekly or bi-weekly payments to a monthly amount (see 479-000-201). If the former ward or responsible relative is paid semi-monthly or monthly, use actual verified amount;
4. Send a ten-day notice for reduction, termination, or suspension. The effective date of change depends on when the change is reported;
5. Obtain verification of income within 30 days of reported change, if possible;
6. Compute the budget for the month following receipt of verification. Use the conversion tables to compute income received weekly or bi-weekly (see 479-000-201); and
7. After three months of receipt of unearned income, determine if income is regular or irregular and apply the appropriate rules.

The worker must record in the case record the date of reported change, method of estimating income, and the date verification was made. If verification cannot be made within 30 days of reported change, the reason must be recorded in the narrative.

{Effective 4/11/95}

6-002.07A7 Income as It Applies to Resources: Income received by a former ward during any one month for maintenance costs may not be considered a resource for that month. Any income not spent for maintenance is considered a resource in the subsequent month.

6-002.07A8 Income Listing

<u>TYPES OF INCOME</u>	<u>TREATMENT OF INCOME</u>
1. Declared cash winnings, gifts, interest, dividends (may be prorated on a monthly basis), etc.	1. Disregard \$10 a month for each income type. If more than \$10 a month, count the amount that exceeds \$10 as unearned income.
2. Unpredictable gifts of indeterminate value	2. Disregard.
3. Payments from Title I, for Workforce Investment Act (WIA) classroom training	3. Disregard.
4. Earnings received from the employer or compensation in lieu of wages under a Title I WIA program	4. Disregard for a student regardless of age.
5. Title I, WIA program allowance paid to the former ward or vendor payments made to the provider for supportive services, such as transportation, meals, special tools, and clothing. This includes temporary Welfare-to-Work payments made through Workforce Development.	5. Disregard for all ages.
6. Interest on Series E savings bonds and other bonds which accrue interest	6. Consider as unearned income when redeemed.

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|---|--|
| 7. Interest on Series H savings bonds and other bonds which pay dividends or interest                                   | 7. Consider as unearned income in month dividend received or reported.   |
| -----   |  |
| 8. Any student financial assistance   | 8. Disregard.  |
| -----   |  |
| 9. A bona fide loan from any source   | 9. Disregard.  |
| -----   |  |
| 10. Payments for participating in training or school attendance subsidized by the Division of Vocational Rehabilitation | 10. Disregard. Any expenses that the grant or loan covers must not be considered as an educational need on Form IM-26FC. |
| -----   |  |
| 11. Agent Orange settlement Payments  | 11. Disregard.   |
| -----   |  |
| 12. Payments to AmeriCorps Volunteers   | 12. Disregard.   |
| -----   |  |
| 13. Benefits under Public Law 104-204 for children of Vietnam veterans who were born with spina bifida                  | 13. Disregard.   |

{Effective 02/23/04}

6-002.07A9 Treatment of Income: Unearned income is counted in full toward the budgeted basic living expense. If the income is equal to or exceeds the basic living expense, there is no eligibility for a grant payment but there may be eligibility for medical assistance.

6-002.08 Assignment of Third Party Medical Payments: Application for medical assistance constitutes an automatic assignment to the Nebraska Department of Health and Human Services of the former ward's rights to third party medical payments.

This assignment gives the Department the right to pursue and receive payments from any third party liable to pay for the cost of medical care and services of the former ward and which otherwise would be covered by NMAP.

The assignment of the rights to third party medical payments is effective with the date of eligibility for medical assistance. For MA cases with a share of cost, the assignment becomes effective the first day of the cycle when the case status changes to 450, "obligation met."

6-002.08A Individuals Who May Legally Assign Rights: The former ward or his/her representative may legally assign rights to third party and medical support payments.

6-002.08B Third Party Payments Not Assigned: The following third party payments are not subject to the automatic assignment provision:

1. Medicare benefits; and
2. Payments from income-producing policies which subsidize the client's income while s/he is hospitalized or receiving medical care, regardless of the type of medical service being provided.

6-002.08C Cooperation in Obtaining Third Party Payments: As a condition of eligibility for medical assistance, the former ward or his/her representative must cooperate in obtaining third party payments unless s/he has good cause for noncooperation (see 479 NAC 6-002.08E). Cooperation includes any or all of the following:

1. Providing complete information regarding the extent of third party coverage which s/he has or may have. This includes coverage provided by an individual or by an agency;
2. Providing any additional information or signing claim forms which may be necessary for identification and collection of potential third party payments;
3. Appearing as a witness in a court or another proceeding, if necessary;
4. Notifying the Department of any action s/he is initiating to recover money from a liable third party for medical care or services. This includes the identity of the third party as well as the entire amount of any settlement, court award, or judgment;
5. Reimbursing the Department or paying to the provider any payments received directly from a third party for any services payable by NMAP; and
6. Taking any other reasonable steps to secure medical support payments.

6-002.08D Refusal to Cooperate: The worker is responsible for determining noncooperation by the former ward or his/her representative. This determination is based on the former ward's or his/her representative's failure or refusal to fulfill the requirements listed in 479 NAC 6-002.08C.

6-002.08E Opportunity to Claim Good Cause

6-002.08E1 Notification of Right: The worker must notify the former ward or his/her representative of the right to claim good cause for noncooperation at the intake interview, redetermination, and whenever cooperation becomes an issue.

The worker must give the former ward or his/her representative a verbal explanation of good cause and the opportunity to ask questions.

At the initial interview the former ward or his/her representative must sign a written explanation of good cause, Form IM-60.

6-002.08E2 Worker's Responsibilities If Good Cause Claimed: If the former ward or his/her representative claims good cause, the worker must:

1. Explain that the former ward or his/her representative has the burden of establishing the existence of a good cause circumstance; and
2. Obtain a signed statement from the former ward listing the reason(s) for claiming good cause. The former ward or his/her representative is allowed 20 days to present evidence of the claim.

6-002.08E3 Acceptable Circumstances for Good Cause: Good cause claims must be substantiated by signed statements. When documentary evidence is not available the client must furnish sufficient information as to the location of the information.

To establish good cause, the evidence must show that cooperation would not be in the best interest of the client or another unit member for whom assignment is sought. Good cause includes the following circumstances, provided proper evidence is obtained.

6-002.08E3a Physical or Emotional Harm to the Former Ward: Good cause exists if the former ward's cooperation in assigning benefits is reasonably anticipated to result in physical or emotional harm to the former ward. Emotional harm must only be based upon a demonstration of an emotional impairment that substantially reduces the individual's functioning.

6-002.08E3a(1) Documentary Evidence: Documentary evidence which indicates these circumstances includes:

1. Medical records which document emotional health history and present emotional health status of the former ward;
2. Written statements from a mental health professional indicating the diagnosis or prognosis concerning the emotional health of the former ward;
3. Court, medical, criminal, protective services, social services, psychological, or law enforcement records which indicate that the third party might inflict serious physical or emotional harm on the former ward; or
4. Signed statements from individuals other than the former ward with knowledge of the circumstances which provide the basis for the claim.

6-002.08E3a(2) Evidence Not Submitted by the Former Ward or His/Her Representative: When the claim is based on the former ward's anticipation of physical harm and corroborative evidence is not submitted in support of the claim the worker must:

1. Investigate the good cause claim when s/he believes that the claim is credible without corroborative evidence and corroborative evidence is not available; and
2. Find good cause if the former ward's or his/her representative's statement and the investigation indicate that the former ward has good cause for refusing to cooperate.

6-002.08E3a(3) Worker Considerations: If the determination of good cause is not substantiated by documentary evidence, the worker must consider and document the following evidence:

1. The present physical or mental state of the former ward;
2. The physical or mental health history of the former ward;
3. Intensity and probable duration of the physical or mental upset; and
4. The degree of cooperation required by the former ward or his/her representative.

6-002.08E4 Decision on Good Cause: The worker must determine good cause and notify the former ward or his/her representative of the decision on a Notice of Action.

If the worker determines that good cause does not exist, s/he allows the former ward or his/her representative ten days to respond from the date that the Notice of Action was mailed. If the former ward or his/her representative does not cooperate, withdraw the application, or request the case closed, a sanction is imposed (see 479 NAC 6-002.08F).

6-002.08E5 Delay of Assistance Pending Determination: The agency must not deny, delay, or discontinue assistance pending a determination of good cause if the former ward or his/her representative has complied with the requirements of providing acceptable evidence or other necessary information. In most instances, a good cause determination must be made within 30 days following the receipt of a claim.

6-002.08E6 Review of Good Cause: At the time of each redetermination, the worker must review a good cause claim based on a circumstance that is subject to change.

If circumstances remain the same, no action is required. A new determination is necessary if circumstances have changed. If good cause no longer exists, the requirement to cooperate must be enforced.

6-002.08F Sanction for Refusal to Cooperate: If the former ward or his/her representative fails or refuses to cooperate and there is no good cause claim or determination, the appropriate sanction is applied.

If the reason for noncooperation is the former ward's or his/her representative's failure or refusal to provide information about or obtain third party medical payments (see 479 NAC 6-002.08C), the former ward is ineligible for MA. Ineligibility continues for the former ward until s/he cooperates or cooperation is no longer an issue. The former ward is ineligible for MA but continues to receive a grant as long as all other eligibility requirements are met.

6-002.08G Third Party Payments Received Directly: If the former ward receives a third party medical payment directly and the medical expense for which the third party medical payments is intended is payable by NMAP, the worker must take the following actions:

1. Send a demand letter advising the former ward or his/her representative that s/he must reimburse the Department or the provider. The former ward or his/her representative is allowed ten days from the date of notification to reimburse the medical payment. For an applicant, the worker must not delay determination of eligibility for assistance and authorization for payment pending the applicant's reimbursement. At the time the application is approved, the worker must notify the former ward or his/her representative of the number of days left in which to reimburse the payment;
2. If the former ward or his/her representative refunds within ten days, take no further action; or
3. If the former ward or his/her representative fails or refuses to refund within ten days, consider the entire third party payment as unearned income in the first month possible, taking into account adequate and timely notice. Any balance remaining is considered a resource in the following month.

If the insurance payment exceeds NMAP rates, the excess is considered unearned income unless paid out on other medical services or supplies.

Regardless of the existence of a good cause claim, any third party medical payment that is received directly by the former ward must be reimbursed.

6-002.08H Willfully Withheld Information: When the evidence clearly establishes that a former ward or his/her representative willfully withheld information regarding a third party medical payment which resulted in an overpayment of NMAP expenditures, the worker must refer the case to the Special Investigation Unit, Central Office, or in the Omaha Office to the Omaha Special Investigation Unit. Once a case has been referred to the Special Investigation Unit, the worker must take no action with regard to the prosecution of the suspected fraud except in accordance with instructions or approval by the Special Investigation Unit. However, the worker must complete normal case actions which include applying the appropriate sanction in this section.

6-002.08J Termination of Assignment: When a former ward's grant and medical case is rejected or closed, the assignment provision is terminated. The former ward's rights to any future third party and medical support payments are automatically restored effective with the date of ineligibility. However, the assignment remains in effect for the time period during which the former ward was on medical assistance.

6-002.09 Cooperation in Obtaining Health Insurance: As a condition for eligibility for MA, a former ward is required to enroll in an available health plan if the Department has determined that it is cost effective and the former ward is able to enroll on his/her own behalf. The Department then pays the premiums, deductibles, coinsurance, and other cost sharing obligations.

6-002.10 Ineligibility of Fleeing Felon: An individual is ineligible for former ward assistance during any period in which the individual is:

1. Fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the law of the place from which the individual is fleeing; or
2. Violating a condition of federal or state probation or parole.

{Effective 6/8/98}

6-002.11 Living Arrangement: The former ward must continue to be in an out-of-home situation to remain eligible for the program.

{Effective 02/23/04}

6-002.12 Written Agreement: The former ward must complete a written agreement outlining the responsibilities of the Department and the former ward, and meet the requirements of the agreement. The agreement must include the highest level of activity that the youth is capable of achieving. For example, if a youth is working for a GED, the student needs to be enrolled in classes frequently enough to complete the program in a reasonable period of time or be taking vocational classes too.

The agreement must be reviewed whenever circumstances change, but at least every 12 months.

6-002.13 Termination of Wardship: A ward who is otherwise eligible but has excess income or resources at the time of discharge may be accepted into the program. No benefits are paid until the ward becomes eligible financially. The worker must contact the former ward at least once every six months. The contact may be face to face or by phone. If the ward becomes financially eligible before reaching age 21, s/he may receive assistance.

6-003 Maintenance Payment: A monthly maintenance payment is paid to the former ward unless the designated worker determines that payment should be made directly to an educational institution.

Except in situations described in 479 NAC 6-003.02, the maintenance payment must not exceed the basic payment for a child age 12 or older (see 479-000-206).

6-003.01 Determination of Maintenance Payment: The former ward and worker should complete a budget together to prepare the former ward for budgeting his/her own finances. The budget is completed by subtracting any earned and unearned income from the total living expenses to arrive at the amount of payment up to the maximum maintenance payment.

6-003.02 Payment for Former Ward Completing High School: Payment may be made up to the amount that would be paid in foster care as determined by FCPAY if:

1. The youth had his/her 19th birthday during the last year of high school;
2. The youth will complete high school that school year and plans to continue his/her education;
3. The youth will remain in the foster home while finishing high school;
4. There has been a needs assessment indicating that the higher level of need continues; and
5. The higher payment level is necessary for the youth to complete high school.

The higher payment is allowed only until the youth completes high school.

The protection and safety worker continues oversight and case management to ensure that needed services are being provided.

{Effective 02/23/04}

6-004 Medical Benefits: A former ward who is eligible for a maintenance payment under this program is also eligible for the Nebraska Medical Assistance Program without a separate application. Medical care and treatment will be provided through the NMAP.

Payment for medical benefits may be made from child welfare funds only when a plan for medical or dental treatment was approved before the ward's discharge and the former ward is ineligible for NMAP.

If the former ward becomes ineligible for Extended Assistance for Former Wards and has a medical need, the worker must consider medical eligibility under Children's Medical Assistance Program (see Title 477), and Medically Handicapped Children's Program (see Title 467).

{Effective 8/18/03}

6-004.01 Out-of-State Medical: If an out-of-state provider does not sign an agreement with NMAP and accept the reimbursement rate, the client is liable for any medical bills. Payment may be approved for services provided outside Nebraska in the following situations:

1. When an emergency arises from accident or sudden illness while a former ward is visiting in another state and the former ward's health would be endangered if care is postponed until s/he returned to Nebraska or if s/he traveled to Nebraska;
2. When a former ward customarily obtains service in another state because the service is more accessible; and
3. When the former ward requires a medically necessary service that is not available in Nebraska but is available in another state.

Payment for item 3 must be prior authorized by the Division of Medical Services before the services are provided. The provider must request prior authorization of payment from the appropriate staff of the Division of Medical Services. Prior authorization of item 3 may include economical transportation as a provider payment if needed.

6-004.02 Required Copayments: Former wards are required to pay a copayment for the medical services listed at 479-000-202. Copayment amounts are also listed at 479-000-202.

6-004.02A Covered Persons: With the exceptions listed at 479 NAC 6-004.02B, former wards are subject to the copayment requirement.

The provider must verify the client's copayment status by Accessing the Department's Internet Access for Enrolled Providers ([www.dhhs.ne.gov/med/internetaccess.htm](http://www.dhhs.ne.gov/med/internetaccess.htm)); the Nebraska Medicaid Eligibility System (NMES) at 800-642-6092 (in Lincoln 471-9580); or the Medicaid Inquiry Line at 877-255-3092 (in Lincoln 471-9128).

{Effective 7/11/09}

6-004.02B Exempted Persons: The following individuals are exempted from the copayment requirement:

1. Individuals age 18 or younger;
2. Pregnant women through the immediate postpartum period (the immediate postpartum period begins on the last day of pregnancy and extends through the end of the month in which the 60-day period following termination of pregnancy ends);
3. Any individual who is an inpatient in a hospital, long term care facility (NF or ICF/MR), or other medical institution if the individual is required, as a condition of receiving services in the institution, to spend all but a minimal amount of his/her income required for personal needs for medical care costs;
4. Individuals residing in alternate care, which is defined as domiciliaries, residential care facilities, centers for the developmentally disabled, and adult family homes;
5. Individuals who are receiving waiver services, provided under a 1915(c) waiver, such as the Community-Based Waiver for Adults with Mental Retardation or Related Conditions; the Home and Community-Based Model Waiver for Children with Mental Retardation and Their Families; or the Home and Community-Based Waiver for Aged Persons or Adults or Children with Disabilities;
6. Individuals with a share of cost (over the course of the SOC cycle, both before and after the obligation is met); and
7. Individuals who receive assistance under SDP (program 07).

6-004.02C Covered Services: For covered and excluded services, see 479-000-202.

6-004.02D (Reserved)

6-004.02E Client Rights: If a former ward believes that a provider has charged the former ward incorrectly, the former ward must continue to pay the copayments charged by that provider until the Department determines whether the copayment amounts are correct.

If the former ward is unable to pay the required copayment, s/he may inform the provider of the inability to pay. While the provider shall not refuse to provide services to the former ward in this situation, the former ward is still liable for the copayment and the provider may attempt to collect it from the former ward.

The former ward has the right to appeal under 465 NAC 2-001.02.

6-004.02F Collection of Copayment: For provider procedures, see 471 NAC 3-008.04.

6-005 Nebraska Health Connection (NHC): Managed care is required for all active Medicaid-eligible individuals except those excluded groups listed at 468-000-347. For more information, see Title 482.

{Effective 02/23/04}

6-005.02 Excluded Clients: The following clients are excluded from the NHC:

1. Clients with Medicare coverage;
2. Clients residing in nursing facilities;
3. Clients residing in intermediate care facilities for the mentally retarded;
4. Clients who are residing out-of-state;
5. Certain children with disabilities who are receiving in-home services under 471 NAC 12-014.04 (also known as the Katie Beckett program);
6. Aliens who are eligible for Medicaid for an emergency condition only;
7. Clients receiving services through the following home and community-based waivers for -
  - a. Adults with mental retardation or related conditions (see 480 NAC 2-000);
  - b. Aged persons or adults or children with disabilities (see 480 NAC 5-000);
  - c. Children with mental retardation and their families (see 480 NAC 6-000);
  - d. Infants and toddlers with disabilities (also known as the Early Intervention waiver, see 480 NAC 8-000); and
  - e. Any other group for whom the Department has received approval of a 1915(c) waiver;
8. Clients who have excess income (i.e., spenddown, met or unmet);
9. Clients participating in the Subsidized Adoption Program, including those who receive a maintenance subsidy from another state;
10. Clients receiving grant and/or medical assistance through the State Disability Program;
11. Clients eligible during the period of presumptive eligibility; and
12. Clients with private health insurance determined to be primary coverage or whose insurance coverage is pending verification. Primary coverage includes verified standard comprehensive coverage, verified HMO or prepaid plan with specified providers, or verified CHAMPUS (see 482-000-102 for a list of codes).

Note: Clients with private health insurance will be excluded from the NHC until the coverage is verified; at that time, clients not having primary coverage will be required to participate in the NHC.

Exception: This exclusion does not apply to the Mental Health/Substance Abuse benefits package.

The Department pays for Medicaid coverage for these clients on a fee-for-service basis. Clients who are excluded from the NHC cannot voluntarily enroll in managed care.

{Effective 7/25/95}