

CHAPTER 3-000 ELEMENTS OF ELIGIBILITY: In order to receive Child Care Subsidy, the family must:

1. Qualify as a family (see 392 NAC 3-001);
2. Meet citizenship or alien status requirements for the child(ren) (see 392 NAC 3-003);
3. Qualify as residents (see 392 NAC 3-004);
4. Meet income limits (see 392 NAC 3-005);
5. Have a child within the age limit (see 392 NAC 3-007);
6. Have at least one of the allowed needs for service (see 392 NAC 3-008);
7. Pay the fee (if required) (see 392 NAC 3-009);
8. Use a regulated provider (see 392 NAC 3-010);
9. Agree to obtain immunizations for the child(ren) (see 392 NAC 3-011); and
10. Cooperate with the Child Support Enforcement Unit, if required (see 392 NAC 3-014).

3-001 Qualification as a Family: To be eligible for Child Care Subsidy, the family must meet the program definition of a family. A family is defined as a unit consisting of one or more adults age 19 or older (or a minor parent(s)) and one or more children related by blood, marriage, legal guardianship, or adoption who reside in the same household.

Foster children may be included when determining the size of the foster family unit if Child Care Subsidy is required for a biological child and the foster child.

1. Parents with a child in out-of-home care and children residing in the home.
2. Parents with foster children.

An unborn child is included in the unit size if proof of pregnancy is obtained.

In a three-generation household, a minor parent and his/her child are considered a separate family.

3-001.01 Unmarried Parents: Unmarried parents with a child in common and at least one child with a different parent may receive Child Care Subsidy for all the children if the household meets all eligibility requirements. If one parent is receiving ADC or transitional medical for his/her child(ren), that parent may receive Child Care Subsidy and the other parent, that parent's child(ren), and the child in common are ineligible.

3-001.02 Parents with Shared Custody: If parents are separated, divorced, or unmarried but have shared custody of a child, both parents may be eligible for Child Care Subsidy. Eligibility is based on the income of the parent with whom the child is residing at the time and any child support or other financial assistance from the other parent.

3-001.03 No Child in the Home: If the family's only child is in out-of-home care, the child may be included in the family size when the plan is for the child's return to the home.

3-001.04 Parent's Temporary Absence: If a parent is temporarily absent (90 days or less) because of employment, training, or illness, a substitute caretaker may receive Child Care Subsidy using the parent's income eligibility. The substitute caretaker must meet the needs criteria, i.e., be employed, in training, or incapacitated. If the parent is absent for more than 90 days, the worker needs to determine eligibility based on the substitute caretaker's situation and income.

3-002 Social Security Number: A Social Security number is not required as a condition of eligibility for Child Care Subsidy but the worker will request one and the client may voluntarily provide it. Child Care Subsidy must not be denied because of an individual's refusal to disclose his or her SSN.

3-003 Citizenship and Alien Status: In order to receive Child Care Subsidy, a child must be a citizen of the United States or a qualified alien. The following are qualified aliens:

1. An alien lawfully admitted for permanent residence under the Immigration and Nationality Act (INA) (see 392-000-301);
2. An alien who has been granted asylum under Section 208 of INA;
3. A refugee who has been admitted to the United States under Section 207 of INA;
4. An alien who is paroled into the United States under Section 212(d)(5) of INA;
5. An alien whose deportation is being withheld under Section 243(h) of INA;
6. An alien who has been granted conditional entry pursuant to Section 203(a)(7) of INA;
7. An alien who is a Cuban or Haitian entrant (as defined in Section 501(e) of the Refugee Education Assistance Act of 1980); or
8. An alien child who has been battered or subjected to extreme cruelty in the U.S. by a parent or by a member of the parent's family who is residing in the same household as the immigrant. The child or children of a battered immigrant are also eligible.

Any individual who is born in the United States is considered a U.S. citizen. This includes children whose parents are not U.S. citizens, such as undocumented alien parents, parents with student visas, or parents with lawful temporary residence status.

Clients who declare to be U.S. citizens and meet all other eligibility requirements must be given a reasonable opportunity to present satisfactory documentation of citizenship or nationality. Benefits must not be denied, delayed, reduced, or terminated pending receipt of the requested citizenship verification. Reasonable opportunity is defined as ten days from the date documentation was requested. The Department may authorize one additional ten-day extension for verification if the necessary information has been requested by the client. If the Department has requested verification, such as an out-of-state birth certificate, benefits will not be denied or terminated while awaiting receipt. Once a client has declared s/he is a U.S. citizen or national and has provided all other information to determine eligibility, benefits must be provided.

If the client is not cooperating in providing information, the client must be closed.
{Effective 6/28/11}

3-003.01 Verification of Alien Status: When a client states that one or more of the children are aliens, the worker must require the client to present verification for each alien. If the client has documentation containing an alien registration number, the worker must verify the alien status using the Systematic Alien Verification for Entitlements (SAVE) system. For further verification procedures, see 392-000-301.

3-004 Residence: To be eligible for Child Care Subsidy, a client must be a Nebraska resident. A resident is defined as an individual living in the state voluntarily with the intent of making Nebraska his/her home. Migrants and itinerant workers are considered residents of Nebraska if they are living in Nebraska and entered the state to seek employment or to fulfill a job commitment.

3-005 Income:

3-005.01 Categories of Eligibility: There are five categories of eligibility, depending on income:

1. Current Family (CF);
2. Low Income Family (LF);
3. Low Income Sliding Fee Schedule (LC);
4. Transitional (TCC); and
5. Without Regard to Income (WI).

3-005.01A Current Family (CF): Those individuals and family members who are current recipients of an Aid to Dependent Children grant and those individuals whose needs were taken into account in determining the needs of ADC recipients are eligible as current family, "CF." This includes families where one or more members are not included in the ADC unit because of receipt of SSI/AABD. Families who are eligible as CF are automatically eligible for Child Care Subsidy with no copay.

Recipients of medical assistance only are not eligible under this category.

If a member of the family receives SSI and the rest of the family does not receive ADC, the family must qualify as Low Income Family (LF) (see 392 NAC 3-005.01B) or Low Income Sliding Fee Schedule (LC) (see 392 NAC 3-005.01C).

3-005.01B Low Income Family (LF): A family unit whose income is within the maximum allowable income guidelines is eligible as LF. These individuals are eligible without payment of a fee.

If a family receives an ADC grant but not all members are included in the ADC grant unit (due to sanctions or ineligibility), the family must be determined eligible as LF or LC. (The ADC grant must be counted as income).

3-005.01B1 Services for Employment First Applicant: An ADC applicant who is participating in Employment First and needs Child Care Subsidy is coded LF and is eligible for supportive services.

3-005.01C Low Income Sliding Fee Schedule (LC): A family whose income exceeds the maximum for LF but is equal to or less than 130 percent of the Federal Poverty Level (FPL) is eligible as LC. To participate in LC, a family must pay the fee as shown in the fee schedule.

3-005.01D Transitional Child Care (TCC): A family whose income upon redetermination exceeds 130 percent of the FPL becomes eligible for TCC. A family whose income exceeds 130 percent of the FPL may receive TCC for up to 24 consecutive months or until the family's income exceeds 185 percent of the FPL, whichever occurs first. If the income of a family receiving TCC falls to or below 130 percent of the FPL, TCC ends and the Department will redetermine the family's eligibility for CF, LF, or LC.

3-005.01D1 Fee Requirement: A family that is receiving TCC may be required to pay a fee.

3-005.01E Without Regard to Income (WI): A family who requires emergency Child Protective Services or requires Child Protective Family Services may be eligible without regard to income.

3-005.01E1 Parents of Department Wards: The parents of a child who is a ward of the Department, are eligible for services without regard to income if the plan is to reunify the family or maintain the child in the home of the parent(s) and the following conditions are met:

1. One of the following applies:
 - a. The parent is not eligible as low income;
 - b. The parent is not willing to be determined eligible as low income; or
 - c. Due to the circumstances of the case, it is not possible for the worker to make an eligibility determination regarding income;
2. There is an agreement for the parent to pay part of the cost of services or the worker has determined that it is in the best interests of the family to authorize services at no cost to the family;
3. The worker verifies that the family meets the needs eligibility requirements; and
4. The service is directly supportive of the family case plan or any written service agreement.

3-005.01E2 Foster Parents: The foster parent(s) of a child who is a ward of the Department or a tribal ward who is unable to receive child care services from the tribe are eligible for services without regard to income if the Department verifies that the foster parent(s) meets the needs eligibility requirements.

3-005.02 Determination of Income Eligibility: When determining eligibility, the worker considers the following sources of income:

1. Supplemental Security Income (SSI);
2. Assistance to the Aged, Blind, or Disabled payment (AABD);
3. Gross wages/salary – total monthly earnings received for work as an employee, including wages, salary, armed forces pay, work study, commissions, tips, piece rate payments, and cash bonuses earned before deductions are made for taxes, bonds, pensions, union dues, and similar purposes;
4. Work study for a graduate student or a student working for a second degree;
5. In-kind income received in lieu of wages;
6. Income received under a Title I Workforce Investment Act (WIA) program for On the Job Training (OJT);
7. Retirement, Survivors, or Disabled Insurance (RSDI) benefits and Railroad Retirement payments before deductions for medical insurance;
8. Dividends (includes dividends from stockholdings or membership in associations);
9. Interest (averaged over the period earned for savings or bonds);
10. Estates;
11. Trust funds;
12. Rentals (net income from rental of a house, store, or other property);
13. Land lease income;
14. Gross payments from boarders or lodgers (if self-employed, see number 28);
15. Net royalties;
16. Retirement pensions (retirement or pension benefits paid to a retired person or his/her survivors by a former employer or by a union, either directly or through an insurance company);
17. Veteran's pensions (money paid by the Veteran's Administration to disabled members of the armed forces or to survivors of deceased veterans, subsistence allowances paid to veterans for education and on-the-job training, and "refunds" paid to ex-servicemen as G.I. insurance premiums);
18. Military allotments;
19. Picket or strike pay;
20. Contributions;
21. Lump sum payments, e.g., child support or RSDI;
22. Annuities or insurance;
23. Unemployment compensation (compensation received from government insurance agencies or private companies during periods of unemployment) and any strike benefits received from union funds;
24. Worker's compensation (compensation received from private or public insurance companies for injuries incurred at work);
25. Court-ordered child, spousal, and cash medical support;
26. Payment by an absent parent to the client for child care, rent, or house payment;
27. Net income from farm self-employment (see 392 NAC 3-005.02B2);
28. Net income from non-farm self-employment (see 392 NAC 3-005.02B).

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3-005.02A Income Considered for Relatives Who Are Not Legally Responsible:

If a non-legally responsible relative is receiving ADC as a relative payee for the child needing child care, the ADC grant is not counted as income in determining financial eligibility. All other income of the relative is considered.

Non-legally responsible relatives who may receive Child Care Subsidy include grandparents, adult brothers and sisters, stepparents, stepbrothers and stepsisters, uncles, aunts, first and second cousins, adult nephews and nieces. These relatives may be half blood, related by adoption, or from a previous generation as denoted by prefixes of grand, great, great-great, or great-great-great.

3-005.02B Averaged Self-Employment Income: The worker determines the gross income, including capital gains, from self-employment for each source of self-employment of the family. The worker then applies a standard deduction of 49% to the gross income for each source of self-employment for which the household reports at least one allowable expense. If the household reports no allowable expense(s) from a source of self-employment income, the worker uses total gross income from that source to calculate CCS eligibility.

3-005.02B1 Allowable self-employment expenses include, but are not limited to, the identifiable costs of labor, stock, raw material, seed and fertilizer, payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods; interest paid to purchase income-producing property; insurance premiums; taxes paid on income-producing property; and reimbursement from the USDA Child and Adult Care Food Program.

3-005.02B2 Expenses Not Allowed: The following expenses are not allowed as self-employment expenses:

1. Net losses from previous tax years;
2. Federal, state, and local income taxes, money set aside for retirement purposes, and other work-related personal expenses, such as transportation to and from work.
3. Depreciation; and
4. Depletion.

3-005.02B3 Special Procedures for Farming Self-Employment Income: If the costs of producing self-employment farm income exceed the gross farm income, the losses are offset against other countable income. To qualify for this offset, the person must receive or anticipate receiving annual gross proceeds of \$1,000 or more from the farming enterprise.

3-005.03 Income Exclusions: When determining eligibility, the worker does not consider the following sources of income:

1. ADC grant;
2. Money received from participation in the Foster Grandparent Program authorized by the ACTION Program;
3. Money awarded by the Indian Claims Commission or the Court of Claims;
4. Alaska Native Claims Settlement Act payments (to the extent that these payments are exempt from taxation under section 21(a) of the Act);
5. Money received from the sale of property such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling the property in which case the net proceeds would be counted as income from self-employment);
6. Work study for an undergraduate student;
7. Withdrawals of bank deposits;
8. Tax refunds;
9. Earned Income Credits and Advanced Earned Income Credits;
10. Gifts;
11. Lump sum inheritances or insurance payments;

12. Capital gains;
13. The value of the coupon allotment under the Food Stamp Act of 1964, as amended;
14. The value of USDA donated foods;
15. The value of supplemental food assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act, as amended;
16. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
17. Earnings of a child age 18 or younger and in school;
Note: Summer earnings of a child age 18 or younger are excluded if the worker verifies that the child plans to return to school in the fall.
18. Loans;
19. Any grant to a student for educational purposes;
20. Adoption or guardianship subsidy payments;
21. Home produce used for household consumption;
22. Income received for work experience paid by a Title I Workforce Investment Act (WIA) program;
23. Title I WIA allowance paid for supportive services such as transportation, meals, special tools and clothing. This includes temporary Welfare-to-Work payments made through Workforce Development;
24. Payments to AmeriCorps volunteers;
25. Reimbursement from the Senior Companion Program;
26. Low Income Energy Assistance funds;
27. Housing assistance provided by Housing and Urban Development or by a local housing program;
28. Assistance received under the Disaster Relief Act of 1974 or under a federal law because of a presidentially declared major disaster;
29. Payments to a client participating in training or school attendance subsidized by the Division of Vocational Rehabilitation;
30. Payments made by Veterans Administration under the Veterans Education and Employment Assistance Act for education expenses of a veteran;
31. Payment made by an absent parent to a child care provider, landlord, or mortgage holder on behalf of the client;
32. Benefits under Public Law 104-204 for children of Vietnam veterans who were born with spina bifida;
33. Monetary allowance paid by the Veterans Administration under Public Law 106-419 to the child of a woman Vietnam veteran because of a birth defect associated with the veteran's service in Vietnam;
34. Reimbursement for employment-related expenses such as mileage, lodging, or meals; and
35. Military combat pay.

3-005.03A Transitional Grants: ADC transitional grants are disregarded in determining child care eligibility.

3-005.03B Deduction of Nursing Home Obligation: If the client has been directed by the Department to pay a portion of his/her income to a nursing home on behalf of an AABD client, the worker deducts the amount of the obligation from the client's gross monthly income to determine eligibility.

3-005.03C Types of Income

3-005.03C1 Irregular Income: Irregular income is income, earned or unearned, which varies in amount from month to month or which is received at irregular intervals. This may be due to irregular employment, but even when an individual works regularly, the income may be irregular because of factors such as seasonal increases or decreases in employment and earnings (e.g., day labor or sales work on commission basis).

Small, irregular earnings which are not computable or predictable are not considered.

3-005.03C2 In-Kind Income: In-kind income is any non-monetary consideration received by a client in place of income for services provided or as payment of an obligation.

3-005.03C3 Lump Sum Income: Lump sum income is money received on a one-time basis. The worker divides the amount of the lump sum by six months and add that figure to the gross monthly income to determine eligibility. If that amount exceeds the income maximum, the client will be considered ineligible for that six month period.

3-005.03C4 Earned Income: Earned income is money received from wages, tips, salary, commissions, self-employment, or items of need received in lieu of wages.

3-005.03C5 Unearned Income: Unearned income includes but is not limited to:

1. Social Security benefits;
2. Railroad retirement benefits;
3. Child support;
4. Unemployment compensation; and
5. Returns from savings or investments.

3-005.03C5a Treatment of Payment by Non-Custodial Parent: When a non-custodial parent makes a payment for child care or shelter (rent or mortgage payment), whether court-ordered or through an informal arrangement, the payment is:

1. Treated as income if paid to the client; or
2. Excluded if paid to the provider.

When the non-custodial parent pays the child care provider, the provider must split the bill.

3-005.03C5a(1) Percentage Obligation: When the court order states that the non-custodial parent must pay a percentage of the child care expenses, the worker determines the non-custodial parent's portion based on the total charges.

If the non-custodial parent fails to pay his/her portion of the child care, see 392 NAC 3-005.03C5a(2).

3-005.03C5a(2) Non-Custodial Parent's Failure to Pay: If the non-custodial parent fails to pay his/her portion of the child care obligation to the provider, the client should bring in the bill for the non-custodial parent's portion. The Department will reimburse the provider. The worker must notify the client in writing that s/he must pursue enforcement of the court order within 90 days. The Department will no longer pay the non-custodial parent's portion of the child care if the client fails or refuses to pursue enforcement of the court order within 90 days, unless the client has good cause for failing to do so. The following circumstances are considered good cause:

1. The client does not have the funds to pay the attorney's fee; or
2. The client has had a serious illness or injury which prevented him/her from contacting his/her attorney.

If the worker determines that the client had good cause for failing to pursue enforcement of the order, if the client attempts enforcement of the order but it is pending in court, or if the client attempts enforcement but the non-custodial parent still does not pay, the Department will continue payment of the non-custodial parent's portion. The worker will review the status of the case at the time of review.

3-005.03C6 Conversion of Income: If a client has weekly or bi-weekly income, the worker uses the income conversion charts to project monthly income. See 392-000-401 for income conversion charts.

3-005.04 Income Verification: The client must provide verification of earned income, with a copy of check stubs, a statement from his/her employer, or some other documentation. A self-employed client must submit a copy of his/her latest income tax return or his/her bookkeeping records.

The worker accepts the client's declaration of unearned income unless there is inconsistent information or the client has a previous history of overpayments or abuse of the program. In these instances, the worker requires verification of income before authorizing services. If the client fails to provide required proof within 30 days of request, the worker rejects the application or closes the case, as appropriate.

3-005.05 Verification of Education or Training: The client must provide verification of enrollment in school or training at the time of application and at the beginning of each school term.

3-005.06 Burden of Proof: The worker may require the client to provide any necessary verification. The worker may require proof of age, family size, or unearned income if the worker has reason to suspect that incorrect information has been provided. If the applicant fails to provide required proof within 30 days of application, the worker rejects the application or closes the case, as appropriate.

3-006 Assets: A family's net worth may not exceed \$1,000,000.

3-007 Age Limit: Child care is available for children age 12 or younger, or children age 18 or younger with special needs, under supervision of a court, or involved in protective services identified through special reporting, participation in care or shelter in respect to child abuse, child neglect, spouse abuse, or court supervision. The child's age must be verified in order to qualify for assistance.

3-008 Qualification of Need for Service

3-008.01 Need for Service: The case manager authorizes child care services for eligible clients only if each parent or usual caretaker:

1. Is employed;
2. Is actively seeking employment. The case manager may authorize child care for Employment First clients as defined in the EF Self-Sufficiency Contract. For non-EF clients, the case manager may authorize child care for two consecutive calendar months per program year July 1 through June 30 to enable the client to seek employment. Following the loss of employment, the client may receive two consecutive calendar months. Each time the client loses employment, s/he is entitled to two months of child care to allow him/her to seek employment;
3. Is participating in an EF activity that is included in the EF Self-Sufficiency Contract;
4. Requires child care to obtain medical services including physicians' services, mental health services, alcoholism treatment, HEALTH CHECK (EPSDT) and its follow-up, or to obtain family planning services;
5. Is enrolled in and regularly attending vocational or educational training to attain a high school or equivalent diploma or an undergraduate degree or certificate (including English as second language classes). Child care is not allowed for any activity if an individual is pursuing a second undergraduate degree or any post-graduate schooling. Neither parent in a two-parent family is eligible for child care if one is pursuing a second undergraduate or post-graduate degree. See 392 NAC 3-008.01B for the limit on education;
6. Is participating in on the job training;
7. Is incapacitated as documented by Form CC-3E;
8. Would benefit from child care services in situations of abuse, neglect, or exploitation where a report will be made to the State Central Register;
9. Has a child in foster care and requires child care to receive Social Services Block Grant or community services directed toward the return of the child to the home; or
10. Needs to escort a child to receive medical care or visit a child in the hospital.

If more than one parent or usual caretaker is included in the family size, a reason listed must apply to each adult.

3-008.01A Limit on Hours of Assistance:

3-008.01A1 Weekly Limit: A client is limited to 60 hours of Child Care Subsidy per week.

3-008.01A2 Daily Limit: The Department will pay for a maximum of 18 hours a day of care. This must comply with the 60-hour a week limit.

3-008.01B Education or Training: If the client is requesting child care in order to attend training or an educational activity beyond secondary school or GED classes, the training or education must:

1. Be consistent with the client's employment goals; and
2. Be in a program that will help the client achieve or maintain economic self-support.

In order to ensure that participation in training or an educational activity is meaningful and productive, the client must be in good standing or making satisfactory progress in his/her educational activity. The educational institution's standard is to be used to determine good standing and satisfactory progress. A client may still be considered as making satisfactory progress if below the institution's standard if there are mitigating circumstances which affect the individual's performance during the specified period of time.

3-008.01C Time Between Classes: A client who is attending school or training is not allowed Child Care Subsidy for study time but may receive it for a reasonable period of time between classes.

3-008.01D Employment: If the client is requesting child care for employment, the employment must have the potential to allow the client to achieve or maintain economic self-sufficiency.

3-008.01D1 Employment as Child Care Provider: The Department will not pay for child care for a child care provider's children. Some providers will send their own children to another provider for care; the Department will not pay for this care.

Exception: This prohibition does not apply for a foster parent, subsidized guardian, or subsidized adoptive parent who is also a child care provider. To avoid jeopardizing a placement, the Department will pay if a foster parent (or subsidized guardian or subsidized adoptive parent) who is otherwise eligible for child care subsidy sends his/her child to another child care provider.

{Effective 4/2/05}

3-008.01E Travel Time: A client is allowed Child Care Subsidy to cover a reasonable amount of time for travel between the child care site and the work or training site.

3-008.01F Sleep Time: A client who works through the night is allowed a maximum of eight non-work hours per day for sleep time.

3-009 Fee Obligation: Clients determined eligible as LC, low income sliding fee scale, or TCC (if within income guidelines) must pay a portion of the costs. The client's monthly fee covers the first dollars of payment, regardless of when service begins or ends. The Department pays the balance up to the agreed upon amount.

3-009.01 Failure to Pay Fee: A client who has not paid the fee obligation under any eligibility for child care may be ineligible for other fee-paying child care until the client has made a satisfactory arrangement with the provider for payment of the earlier fee. The client is required only to make arrangements with the previous provider; s/he is not required to pay the fee in total before receiving other fee-paying child care. If the client fails to comply with the arrangements to pay the back fee, his/her child care may be closed if s/he is still otherwise eligible for fee-paying care.

3-009.02 Changing the Fee: In most cases, the fee should be changed effective the first of the following month.

3-010 Client's Right to Choose Provider: The client has the right to choose a provider, regardless of the availability of other providers. However, the provider must be licensed or approved as license-exempt. The client may choose from:

1. Licensed Child Care Center;
2. Licensed Family Child Care Home I;
3. Licensed Family Child Care Home II;
4. License-Exempt Family Child Care Home; or
5. In-home provider.

The Department does not pay a caretaker to provide child care for his/her own child(ren). The Department also does not pay an individual to provide child care for his/her foster child, adopted child, or child for whom s/he is receiving adoption or guardianship subsidy.

3-010.01 Limitations on Authorization of In-Home Child Care: All in-home providers must be paid at least federal minimum wage.

The worker may authorize in-home child care only if:

1. The child has a special need (see 392 NAC 1-003) or a childhood illness;
2. The client needs child care during evening, overnight, weekend, or holiday hours. Evening is defined as after 6 p.m. This is for any of the reasons for child care listed in 392 NAC 3-007.
3. There are three or more children in care.

Note: The in-home provider may be an individual who lives with the child only if the child has a special need or a childhood illness.

3-010.02 Client Relatives as Providers: A relative provider is defined as any relative of the child except an adult who is legally responsible for the child or a person who is a member of the child's assistance/service unit. For the definition of a relative, see 392 NAC 3-005.02A.

3-010.03 Employee of a Child Care Facility: When a client works at the child care facility where his/her child(ren) attends, the Department will pay for the care of the child(ren) only if it is a child care center.

{Effective 4/2/05}

3-011 Immunization: At the time of application, the client must agree to obtain immunizations according to state immunization guidelines for his/her child(ren) who is receiving child care subsidy. The following are exempt from the immunization requirement:

1. Children whose parents object to immunization on religious grounds; and
2. Children whose health would be harmed by immunization. This requires certification by a physician, certified nurse practitioner, or physician assistant.

3-012 Client Overpayments: The Department will attempt to recoup overpayments caused by the client's error (failure to provide information, using child care for unauthorized purpose, etc.). When the overpayment appears to be the result of fraud, the case will be referred to the Special Investigation Unit, Central Office, or the Omaha Special Investigation Unit for Omaha cases.

3-013 Intentional Program Violation (IPV): Effective January 1, 2004, an individual who is found to have committed IPV is disqualified according to the following regulations.

3-013.01 Disqualification Hearing: A disqualification hearing will be initiated by the Central Office whenever sufficient documentary evidence has been established to substantiate that a household member has committed one or more acts of intentional program violation. An intentional program violation consists of any action by an individual to purposely:

1. Make a false statement to the local office, either verbally or in writing, to obtain benefits to which the household is not entitled;
2. Conceal information to obtain benefits to which the household is not entitled; or
3. Alter one or more documents to obtain benefits to which the household is not entitled.

The worker must inform the household in writing of the disqualification penalties for committing IPV each time the household applies for benefits. The penalties are listed in clear and prominent lettering on the application form or attachment.

3-013.02 Initiating the Disqualification Hearing

3-013.02A Reporting Requirements: The worker must report cases of suspected IPV to the Special Investigations Unit (SIU), Central Office, or in Omaha, to the Omaha Special Investigations Unit.

3-013.02B Central Office Guidelines: The Central Office uses the following guidelines in determining the need for a disqualification hearing:

1. A disqualification hearing must be initiated regardless of the current eligibility status of the individual;
2. The burden of proving IPV is on the Department; and
3. The Central Office will not initiate a disqualification hearing against an accused individual whose case is currently being referred for prosecution or after any action taken against the accused individual by a court, if the factual issues of the case arise out of the same, or related, circumstances.

3-013.02C Disqualification Hearing Procedures: See 465 NAC 2-007.06 ff.

3-013.02D IPV Disqualification: If an individual is found to have committed an IPV, a period of disqualification must be imposed. The period may be determined by the Director after an administrative disqualification hearing, or without a hearing if the individual waives his or her right to a hearing. The period of disqualification is:

1. For a first violation, up to one year;
2. For a second violation, up to two years; and
3. For a third violation, permanent disqualification.

The disqualification applies to the individual found to have committed the IPV and his/her family.

These penalties will also be imposed if the individual is found by a court to have committed IPV.

Note: Before a referral is made for IPV for a family being served through HHS protection and safety services or Employment First, there must be consultation and agreement by the protection and safety or Employment First staff involved with the case.

3-014 Cooperation with the Child Support Enforcement Unit (CSEU)

3-014.01 Purpose of the Program: The Child Support Enforcement Program is also commonly known as the IV-D Program since the federal provisions for the program are contained in Title IV, Part D of the U.S. Social Security Act. The purpose of the program is to identify and locate absent parents, establish paternity, and obtain financial and medical support payments.

3-014.01A Child Support Enforcement Services: Child Care Subsidy cases are classified as non-public assistance (NPA). NPA cases are those in which the recipient of IV-D services does not receive ADC, foster care, or Medicaid. Services available from Child Support Enforcement for NPA cases include the following:

1. Locating parents;
2. Establishing paternity;
3. Establishing court orders for child support;
4. Establishing court orders for medical support;
5. Enforcing IV-D orders;
6. Reviewing and modifying support order(s); and
7. Collecting and distributing support.

3-014.02 Definitions of Child Support, Spousal Support, and Medical Support: For Child Care Subsidy purposes, child support payments are defined as:

1. Payments ordered by a court of competent jurisdiction for the support of a child(ren); or
2. Payments made by a noncustodial parent without a court order.

Spousal support is alimony or maintenance support of a spouse or former spouse who is living with the child for whom the individual also owes support.

Medical support is the obligation of the noncustodial parent to provide health insurance or pay medical costs for anyone in the unit.

Additional definitions for the Child Support Enforcement Program are contained in Title 466.

3-014.03 Duties of the Case Manager: The case manager has the following duties in child support cases, as defined in subsequent regulations:

1. Identifying all noncustodial parents (see 392 NAC 3-014.05A for exceptions);
2. Obtaining the application for child support services;
3. Referring of Child Care Subsidy cases to IV-D workers;
4. Redetermining eligibility due to child/spousal support collections.

3-014.04 Duties of Client: The parent/non-legally responsible relative, or guardian of the child for whom Child Care Subsidy is received is required to cooperate with Child Support Enforcement (unless there is the determination of Family Violence, see 392 NAC 3-014.06B3).

Child Care Subsidy recipients are required to cooperate with Child Support Enforcement in achieving the following objectives:

1. Identification and location of the parent(s)/alleged father of a child who receives Child Care Subsidy;
2. Establishment of paternity;
3. Establishment of a support order;
4. Enforcement of a support order; and
5. Modification of a support order.

3-014.05 Referral to the IV-D Unit: When one or both parents of a child receiving Child Care Subsidy are absent, the case manager makes a referral to the IV-D unit no later than two days after the date of approval of eligibility.

3-014.05A Exception to Referral: A referral is not made to the IV-D unit for:

1. A family where both financially responsible parents are in the home and receiving Child Care Subsidy;
2. A family receiving Child Care Subsidy as Current Family;
3. A family receiving Child Care Subsidy for a foster child or a child receiving subsidized guardianship or subsidized adoption;
4. An unborn child; or
5. A deceased parent when the parent was a member of the child's household at the time of death. A IV-D referral is appropriate when the deceased parent was a noncustodial parent at the time of death.

3-014.06 Cooperation in Obtaining Support: Cooperation includes, but is not limited to, action relevant to achieve the objectives in 392 NAC 3-014.01A:

1. Appearing or responding when requested to provide written or verbal information that is reasonably available to the party;
2. Appearing as a witness at judicial or other hearings or proceedings;
3. Providing information or attesting to lack of information;
4. Signing any necessary legal documents or Child Support Enforcement forms;
5. Submitting oneself and/or the child(ren) to genetic testing and otherwise assisting in the establishment of paternity for a child for whom assistance is claimed;
6. Identifying and providing relevant information about any third parties who may be liable for medical costs; and
7. Providing dependent Social Security numbers when requested.

3-014.06A Refusal to Cooperate: The IV-D worker is responsible for determining noncooperation by the client. The case manager must aid in forwarding documentation to the IV-D worker. See 392-000-300 for examples of noncooperation.

If a client fails to cooperate in naming a noncustodial parent or in providing information to locate a noncustodial parent and subsequently cooperates, eligibility is reinstated effective the first day of the month during which cooperation is restored.

3-014.06B Opportunity to Claim Family Violence Provision: A client may claim Family Violence Provision by checking the box on the application indicating that cooperation with Child Support Enforcement could cause serious risk of harm from the noncustodial parent.

When the Family Violence Provision is claimed, the Child Support Enforcement system automatically sends a Statement of Safety Concerns cover letter and a child support form to the client. When the form is completed by the custodial parent, the Child Support worker will interview the client to determine the specific family violence issues of the case and assess the level of risk. During the interview, the CSE worker will explain the possible actions that will be taken in child and medical support cases. The client determines what action is taken. There may be some enforcement actions that can be taken without jeopardizing the family's safety; if not, the child support case will be closed.

Family Violence Provision may be claimed at any time during the life of the case.

3-014.07 Sanction for Refusal to Cooperate: Upon receiving notification from the IV-D unit that the individual refused to cooperate, the case manager must close the Child Care Subsidy case.

3-014.07A Employment First (EF) Participant: No child support sanction will be imposed on an EF participant so that the client may continue to participate in EF.