

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 147

Introduced by Crawford, 45; Campbell, 25; Cook, 13; Howard, 9; Kolowski,
31.

Read first time January 09, 2015

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to public assistance; to amend sections
- 2 43-512, 68-915, 68-1017.02, 68-1713, and 68-1726, Revised Statutes
- 3 Cumulative Supplement, 2014; to change provisions relating to asset
- 4 limitations; to harmonize provisions; and to repeal the original
- 5 sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-512, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 43-512 (1) Any dependent child as defined in section 43-504 or any
4 relative or eligible caretaker of such a dependent child may file with
5 the Department of Health and Human Services a written application for
6 financial assistance for such child on forms furnished by the department.
7 In determining eligibility, the total of liquid assets of the applicant,
8 which include cash on hand and funds in personal checking and savings
9 accounts, money market accounts, and share accounts, shall not be
10 considered. The income guidelines and work requirements for aid to
11 dependent children shall apply when determining eligibility.

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

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

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

9 (5)(a) For the purpose of preventing dependency, the department
10 shall adopt and promulgate rules and regulations providing for services
11 to former and potential recipients of aid to dependent children and
12 medical assistance benefits. The department shall adopt and promulgate
13 rules and regulations establishing programs and cooperating with programs
14 of work incentive, work experience, job training, and education. The
15 provisions of this section with regard to determination of need, amount
16 of payment, maximum payment, and method of payment shall not be
17 applicable to families or children included in such programs. Income and
18 assets described in section 68-1201 shall not be included in
19 determination of need under this section.

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

29 (i) An ongoing transitional payment that is intended to meet the
30 family's ongoing basic needs which may include food, clothing, shelter,
31 utilities, household goods, personal care items, and general incidental

1 expenses during the five months following the time the family becomes
2 ineligible for assistance under the aid to dependent children program, if
3 the family's earned income is at or below one hundred eighty-five percent
4 of the federal poverty level at the time the family becomes ineligible
5 for the aid to dependent children program. Payments shall be made in five
6 monthly payments, each equal to one-fifth of the aid to dependent
7 children payment standard for the family's size at the time the family
8 becomes ineligible for the aid to dependent children program. If during
9 the five-month period, (A) the family's earnings exceed one hundred
10 eighty-five percent of the federal poverty level, (B) the family members
11 are no longer working, (C) the family ceases to be Nebraska residents,
12 (D) there is no longer a minor child in the family's household, or (E)
13 the family again becomes eligible for the aid to dependent children
14 program, the family shall become ineligible for any remaining
15 transitional benefits under this subdivision;

16 (ii) Child care as provided in subdivision (1)(c) of section
17 68-1724; and

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

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

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

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

29 (c) Medical support shall include all expenses associated with the
30 birth of a child, cash medical support as defined in section 42-369,
31 health care coverage as defined in section 44-3,144, and medical and

1 hospital insurance coverage or membership in a health maintenance
2 organization or preferred provider organization;

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

4 (e) State Disbursement Unit shall be defined as provided in section
5 43-3341; and

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

7 Sec. 2. Section 68-915, Revised Statutes Cumulative Supplement,
8 2014, is amended to read:

9 68-915 The following persons shall be eligible for medical
10 assistance:

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

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

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

16 (4) Persons who are presumptively eligible as allowed under sections
17 1920 and 1920B of the federal Social Security Act;

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

1 longer meets eligibility standards established by the department;

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

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

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

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

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

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

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

30 (a) Have been screened for breast and cervical cancer under the
31 Centers for Disease Control and Prevention breast and cervical cancer

1 early detection program established under Title XV of the federal Public
2 Health Service Act, 42 U.S.C. 300k et seq., in accordance with the
3 requirements of section 1504 of such act, 42 U.S.C. 300n, and who need
4 treatment for breast or cervical cancer, including precancerous and
5 cancerous conditions of the breast or cervix;

6 (b) Are not otherwise covered under creditable coverage as defined
7 in section 2701(c) of the federal Public Health Service Act, 42 U.S.C.
8 300gg(c);

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

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

12 (10) Persons eligible for services described in subsection (3) of
13 section 68-972.

14 Except as provided in section 68-972, eligibility shall be
15 determined under this section using an income budgetary methodology that
16 determines children's eligibility at no greater than two hundred percent
17 of the Office of Management and Budget income poverty guideline and adult
18 eligibility using adult income standards no greater than the applicable
19 categorical eligibility standards established pursuant to state or
20 federal law. The department shall determine eligibility under this
21 section pursuant to such income budgetary methodology and subdivision (1)
22 (p q) of section 68-1713.

23 Sec. 3. Section 68-1017.02, Revised Statutes Cumulative Supplement,
24 2014, is amended to read:

25 68-1017.02 (1)(a) The Department of Health and Human Services shall
26 apply for and utilize to the maximum extent possible, within limits
27 established by the Legislature, any and all appropriate options available
28 to the state under the federal Supplemental Nutrition Assistance Program
29 and regulations adopted under such program to maximize the number of
30 Nebraska residents being served under such program within such limits.
31 The department shall seek to maximize federal funding for such program

1 and minimize the utilization of General Funds for such program and shall
2 employ the personnel necessary to determine the options available to the
3 state and issue the report to the Legislature required by subdivision (b)
4 of this subsection.

5 (b) The department shall submit electronically an annual report to
6 the Health and Human Services Committee of the Legislature by December 1
7 on efforts by the department to carry out the provisions of this
8 subsection. Such report shall provide the committee with all necessary
9 and appropriate information to enable the committee to conduct a
10 meaningful evaluation of such efforts. Such information shall include,
11 but not be limited to, a clear description of various options available
12 to the state under the federal Supplemental Nutrition Assistance Program,
13 the department's evaluation of and any action taken by the department
14 with respect to such options, the number of persons being served under
15 such program, and any and all costs and expenditures associated with such
16 program.

17 (c) The Health and Human Services Committee of the Legislature,
18 after receipt and evaluation of the report required in subdivision (b) of
19 this subsection, shall issue recommendations to the department on any
20 further action necessary by the department to meet the requirements of
21 this section.

22 (2)(a) The department shall develop a state outreach plan to promote
23 access by eligible persons to benefits of the Supplemental Nutrition
24 Assistance Program. The plan shall meet the criteria established by the
25 Food and Nutrition Service of the United States Department of Agriculture
26 for approval of state outreach plans. The Department of Health and Human
27 Services may apply for and accept gifts, grants, and donations to develop
28 and implement the state outreach plan.

29 (b) For purposes of developing and implementing the state outreach
30 plan, the department shall partner with one or more counties or nonprofit
31 organizations. If the department enters into a contract with a nonprofit

1 organization relating to the state outreach plan, the contract may
2 specify that the nonprofit organization is responsible for seeking
3 sufficient gifts, grants, or donations necessary for the development and
4 implementation of the state outreach plan and may additionally specify
5 that any costs to the department associated with the award and management
6 of the contract or the implementation or administration of the state
7 outreach plan shall be paid out of private or federal funds received for
8 development and implementation of the state outreach plan.

9 (c) The department shall submit the state outreach plan to the Food
10 and Nutrition Service of the United States Department of Agriculture for
11 approval on or before August 1, 2011, and shall request any federal
12 matching funds that may be available upon approval of the state outreach
13 plan. It is the intent of the Legislature that the State of Nebraska and
14 the Department of Health and Human Services use any additional public or
15 private funds to offset costs associated with increased caseload
16 resulting from the implementation of the state outreach plan.

17 (d) The department shall be exempt from implementing or
18 administering a state outreach plan under this subsection, but not from
19 developing such a plan, if it does not receive private or federal funds
20 sufficient to cover the department's costs associated with the
21 implementation and administration of the plan, including any costs
22 associated with increased caseload resulting from the implementation of
23 the plan.

24 (3)(a)(i) On or before October 1, 2011, the department shall create
25 a TANF-funded program or policy that, in compliance with federal law,
26 establishes categorical eligibility for federal food assistance benefits
27 pursuant to the Supplemental Nutrition Assistance Program to maximize the
28 number of Nebraska residents being served under such program in a manner
29 that does not increase the current gross income eligibility limit.

30 (ii) Such TANF-funded program or policy shall eliminate all asset
31 limits for eligibility for federal food assistance benefits, ~~except that~~

1 ~~the total of liquid assets which includes cash on hand and funds in~~
2 ~~personal checking and savings accounts, money market accounts, and share~~
3 ~~accounts shall not exceed twenty-five thousand dollars pursuant to the~~
4 Supplemental Nutrition Assistance Program, as allowed under federal law
5 and under 7 C.F.R. 273.2(j)(2).

6 (iii) This subsection becomes effective only if the department
7 receives funds pursuant to federal participation that may be used to
8 implement this subsection.

9 (b) For purposes of this subsection:

10 (i) Federal law means the federal Food and Nutrition Act of 2008, 7
11 U.S.C. 2011 et seq., and regulations adopted under the act; and

12 (ii) TANF means the federal Temporary Assistance for Needy Families
13 program established in 42 U.S.C. 601 et seq.

14 (4)(a) Within the limits specified in this subsection, the State of
15 Nebraska opts out of the provision of the federal Personal Responsibility
16 and Work Opportunity Reconciliation Act of 1996, as such act existed on
17 January 1, 2009, that eliminates eligibility for the Supplemental
18 Nutrition Assistance Program for any person convicted of a felony
19 involving the possession, use, or distribution of a controlled substance.

20 (b) A person shall be ineligible for Supplemental Nutrition
21 Assistance Program benefits under this subsection if he or she (i) has
22 had three or more felony convictions for the possession or use of a
23 controlled substance or (ii) has been convicted of a felony involving the
24 sale or distribution of a controlled substance or the intent to sell or
25 distribute a controlled substance. A person with one or two felony
26 convictions for the possession or use of a controlled substance shall
27 only be eligible to receive Supplemental Nutrition Assistance Program
28 benefits under this subsection if he or she is participating in or has
29 completed a state-licensed or nationally accredited substance abuse
30 treatment program since the date of conviction. The determination of such
31 participation or completion shall be made by the treatment provider

1 administering the program.

2 Sec. 4. Section 68-1713, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 68-1713 (1) The Department of Health and Human Services shall
5 implement the following policies:

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

7 (b) Permit Job Search;

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

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

11 (e) Alternative Hearing Process;

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

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

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

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

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

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

25 ~~(l) Establish a Resource Limit of \$4,000 for a single individual and~~
26 ~~\$6,000 for two or more individuals for ADC;~~

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

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

31 (n ~~o~~) Establish the Supplemental Nutrition Assistance Program as a

1 Continuous Benefit with Eligibility Reevaluated with Yearly
2 Redeterminations;

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

9 (p q) Adopt an Earned Income Disregard of Twenty Percent of Gross
10 Earnings in the ADC Program, One Hundred Dollars in the Related Medical
11 Assistance Program, and Income and Assets Described in section 68-1201;

12 (q r) Disregard Financial Assistance Described in section 68-1201
13 and Other Financial Assistance Intended for Books, Tuition, or Other
14 Self-Sufficiency Related Use;

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

18 (s t) Make ADC a Time-Limited Program.

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

28 Sec. 5. Section 68-1726, Revised Statutes Cumulative Supplement,
29 2014, is amended to read:

30 68-1726 Based on the comprehensive assets assessment, each
31 individual and family receiving assistance under the Welfare Reform Act

1 shall reach for his or her highest level of economic self-sufficiency or
2 the family's highest level of economic self-sufficiency. The following
3 eligibility factors shall apply:

4 ~~(1) Financial resources, excluding the primary home and furnishings~~
5 ~~and the primary automobile, shall not exceed four thousand dollars in~~
6 ~~value for a single individual and six thousand dollars in value for two~~
7 ~~or more individuals;~~

8 ~~(2) Available resources, including, but not limited to, savings~~
9 ~~accounts and real estate, shall be used in determining financial~~
10 ~~resources, except that income and assets described in section 68-1201~~
11 ~~shall not be included in determination of available resources under this~~
12 ~~section;~~

13 ~~(1 3) Income received by family members, except income earned by~~
14 ~~children attending school and except as provided in section 68-1201,~~
15 ~~shall be considered in determining total family income. Income earned by~~
16 ~~an individual or a family by working shall be treated differently than~~
17 ~~unearned income in determining the amount of cash assistance as follows:~~

18 ~~(a) Earned income shall be counted in determining the level of cash~~
19 ~~assistance after disregarding an amount of earned income equal to twenty~~
20 ~~percent of earned income or other incentives to work;~~

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

24 ~~(c) Financial assistance or those portions of it intended for books,~~
25 ~~tuition, or other self-sufficiency-related expenses shall not be counted~~
26 ~~in determining financial resources. Such assistance shall include, but~~
27 ~~not be limited to, school grants, scholarships, vocational rehabilitation~~
28 ~~payments, Job Training Partnership Act payments, income or assets~~
29 ~~described in section 68-1201, and education-related loans or other loans~~
30 ~~that are expected to be repaid; and~~

31 ~~(2) The amount of liquid assets, including cash on hand and funds in~~

1 personal checking and savings accounts, money market accounts, and share
2 accounts shall not be considered in determining eligibility; and

3 (3 4) Individuals and families shall pursue potential sources of
4 economic support, including, but not limited to, unemployment
5 compensation and child support.

6 Sec. 6. Original sections 43-512, 68-915, 68-1017.02, 68-1713, and
7 68-1726, Revised Statutes Cumulative Supplement, 2014, are repealed.