

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 224

Introduced by Crawford, 45; Howard, 9.

Read first time January 10, 2017

Committee:

- 1 A BILL FOR AN ACT relating to public assistance; to amend section 43-512,
- 2 Reissue Revised Statutes of Nebraska, and sections 68-1017.02,
- 3 68-1713, and 68-1726, Revised Statutes Cumulative Supplement, 2016;
- 4 to change provisions relating to asset limitations; to harmonize
- 5 provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 43-512, Reissue Revised Statutes of Nebraska, is
2 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 applicant's family's net worth shall not
8 exceed the amount described in 392 N.A.C. 3-006, as such rule exists on
9 January 9, 2017. The income guidelines and work requirements for aid to
10 dependent children shall apply when determining eligibility.

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

19 (3) The department shall make a finding as to whether the
20 application referred to in subsection (1) of this section should be
21 allowed or denied. If the department finds that the application should be
22 allowed, the department shall further find the amount of monthly
23 assistance which should be paid with reference to such dependent child.
24 Except as may be otherwise provided, payments shall be made by unit size
25 and shall be consistent with subdivisions (1)(p), (1)(q), (1)(t), and (1)
26 (u) of section 68-1713. Beginning on August 30, 2015, the maximum payment
27 level for monthly assistance shall be fifty-five percent of the standard
28 of need described in section 43-513.

29 No payments shall be made for amounts totaling less than ten dollars
30 per month except in the recovery of overpayments.

31 (4) The amount which shall be paid as assistance with respect to a

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

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

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

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

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

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

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

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

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

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

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

1 organization or preferred provider organization;

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

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

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

6 Sec. 2. Section 68-1017.02, Revised Statutes Cumulative Supplement,
7 2016, is amended to read:

8 68-1017.02 (1)(a) The Department of Health and Human Services shall
9 apply for and utilize to the maximum extent possible, within limits
10 established by the Legislature, any and all appropriate options available
11 to the state under the federal Supplemental Nutrition Assistance Program
12 and regulations adopted under such program to maximize the number of
13 Nebraska residents being served under such program within such limits.
14 The department shall seek to maximize federal funding for such program
15 and minimize the utilization of General Funds for such program and shall
16 employ the personnel necessary to determine the options available to the
17 state and issue the report to the Legislature required by subdivision (b)
18 of this subsection.

19 (b) The department shall submit electronically an annual report to
20 the Health and Human Services Committee of the Legislature by December 1
21 on efforts by the department to carry out the provisions of this
22 subsection. Such report shall provide the committee with all necessary
23 and appropriate information to enable the committee to conduct a
24 meaningful evaluation of such efforts. Such information shall include,
25 but not be limited to, a clear description of various options available
26 to the state under the federal Supplemental Nutrition Assistance Program,
27 the department's evaluation of and any action taken by the department
28 with respect to such options, the number of persons being served under
29 such program, and any and all costs and expenditures associated with such
30 program.

31 (c) The Health and Human Services Committee of the Legislature,

1 after receipt and evaluation of the report required in subdivision (b) of
2 this subsection, shall issue recommendations to the department on any
3 further action necessary by the department to meet the requirements of
4 this section.

5 (2)(a) The department shall develop a state outreach plan to promote
6 access by eligible persons to benefits of the Supplemental Nutrition
7 Assistance Program. The plan shall meet the criteria established by the
8 Food and Nutrition Service of the United States Department of Agriculture
9 for approval of state outreach plans. The Department of Health and Human
10 Services may apply for and accept gifts, grants, and donations to develop
11 and implement the state outreach plan.

12 (b) For purposes of developing and implementing the state outreach
13 plan, the department shall partner with one or more counties or nonprofit
14 organizations. If the department enters into a contract with a nonprofit
15 organization relating to the state outreach plan, the contract may
16 specify that the nonprofit organization is responsible for seeking
17 sufficient gifts, grants, or donations necessary for the development and
18 implementation of the state outreach plan and may additionally specify
19 that any costs to the department associated with the award and management
20 of the contract or the implementation or administration of the state
21 outreach plan shall be paid out of private or federal funds received for
22 development and implementation of the state outreach plan.

23 (c) The department shall submit the state outreach plan to the Food
24 and Nutrition Service of the United States Department of Agriculture for
25 approval on or before August 1, 2011, and shall request any federal
26 matching funds that may be available upon approval of the state outreach
27 plan. It is the intent of the Legislature that the State of Nebraska and
28 the Department of Health and Human Services use any additional public or
29 private funds to offset costs associated with increased caseload
30 resulting from the implementation of the state outreach plan.

31 (d) The department shall be exempt from implementing or

1 administering a state outreach plan under this subsection, but not from
2 developing such a plan, if it does not receive private or federal funds
3 sufficient to cover the department's costs associated with the
4 implementation and administration of the plan, including any costs
5 associated with increased caseload resulting from the implementation of
6 the plan.

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

13 (ii) Such TANF-funded program or policy shall eliminate all asset
14 limits for eligibility for federal food assistance benefits, except that
15 the ~~applicant's family's net worth total of liquid assets which includes~~
16 ~~cash on hand and funds in personal checking and savings accounts, money~~
17 ~~market accounts, and share accounts~~ shall not exceed the amount described
18 in 392 N.A.C. 3-006, as such rule exists on January 9, 2017 ~~twenty-five~~
19 ~~thousand dollars~~ pursuant to the Supplemental Nutrition Assistance
20 Program, as allowed under federal law and under 7 C.F.R. 273.2(j)(2).

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

24 (b) For purposes of this subsection:

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

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

29 (4)(a) Within the limits specified in this subsection, the State of
30 Nebraska opts out of the provision of the federal Personal Responsibility
31 and Work Opportunity Reconciliation Act of 1996, as such act existed on

1 January 1, 2009, that eliminates eligibility for the Supplemental
2 Nutrition Assistance Program for any person convicted of a felony
3 involving the possession, use, or distribution of a controlled substance.

4 (b) A person shall be ineligible for Supplemental Nutrition
5 Assistance Program benefits under this subsection if he or she (i) has
6 had three or more felony convictions for the possession or use of a
7 controlled substance or (ii) has been convicted of a felony involving the
8 sale or distribution of a controlled substance or the intent to sell or
9 distribute a controlled substance. A person with one or two felony
10 convictions for the possession or use of a controlled substance shall
11 only be eligible to receive Supplemental Nutrition Assistance Program
12 benefits under this subsection if he or she is participating in or has
13 completed a state-licensed or nationally accredited substance abuse
14 treatment program since the date of conviction. The determination of such
15 participation or completion shall be made by the treatment provider
16 administering the program.

17 Sec. 3. Section 68-1713, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 68-1713 (1) The Department of Health and Human Services shall
20 implement the following policies:

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

22 (b) Permit Job Search;

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

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

26 (e) Alternative Hearing Process;

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

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

31 (h) Providing Poor Working Families with Transitional Child Care to

1 Ease the Transition from Welfare to Self-Sufficiency;

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

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

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

9 (l) Establish a Resource Limit of a family's net worth not to exceed
10 the amount described in 392 N.A.C. 3-006, as such rule exists on January
11 9, 2017 \$4,000 for a single individual and \$6,000 for two or more
12 individuals for ADC;

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

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

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

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

26 (q) Adopt an Earned Income Disregard described in section 68-1726 in
27 the ADC Program, One Hundred Dollars in the Related Medical Assistance
28 Program, and Income and Assets Described in section 68-1201;

29 (r) Disregard Financial Assistance Described in section 68-1201 and
30 Other Financial Assistance Intended for Books, Tuition, or Other Self-
31 Sufficiency Related Use;

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

4 (t) Make ADC a Time-Limited Program; and

5 (u) Adopt an Unearned Income Disregard described in section 68-1201
6 in the ADC Program, the Supplemental Nutrition Assistance Program, and
7 the Child Care Subsidy Program established pursuant to section 68-1202.

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

17 Sec. 4. Section 68-1726, Revised Statutes Cumulative Supplement,
18 2016, is amended to read:

19 68-1726 Based on the comprehensive assets assessment, each
20 individual and family receiving assistance under the Welfare Reform Act
21 shall reach for his or her highest level of economic self-sufficiency or
22 the family's highest level of economic self-sufficiency. The following
23 eligibility factors shall apply:

24 (1) Family's net worth shall not exceed the amount described in 392
25 N.A.C. 3-006, as such rule exists on January 9, 2017 ~~Financial resources,~~
26 ~~excluding the primary home and furnishings and the primary automobile,~~
27 ~~shall not exceed four thousand dollars in value for a single individual~~
28 ~~and six thousand dollars in value for two or more individuals;~~

29 ~~(2) Available resources, including, but not limited to, savings~~
30 ~~accounts and real estate, shall be used in determining financial~~
31 ~~resources, except that income and assets described in sections 68-1201~~

1 ~~and 68-1713 shall not be included in determination of available resources~~
2 ~~under this section;~~

3 (2) ~~(3)~~ Income received by family members, except income earned by
4 children attending school and except as provided in section 68-1201,
5 shall be considered in determining total family income. Income earned by
6 an individual or a family by working shall be treated differently than
7 unearned income in determining the amount of cash assistance as follows:

8 (a) Earned income shall be counted in determining the level of cash
9 assistance after disregarding an amount of earned income as follows:

10 (i) Twenty percent of gross earned income shall be disregarded to
11 test for eligibility during the application process for aid to dependent
12 children assistance; and

13 (ii) For aid to dependent children program participants and for
14 applicants after eligibility has been established, fifty percent of the
15 gross earned income shall be disregarded;

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

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

26 (3) ~~(4)~~ Individuals and families shall pursue potential sources of
27 economic support, including, but not limited to, unemployment
28 compensation and child support.

29 Sec. 5. Original section 43-512, Reissue Revised Statutes of
30 Nebraska, and sections 68-1017.02, 68-1713, and 68-1726, Revised Statutes
31 Cumulative Supplement, 2016, are repealed.