

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 732**

Introduced by Kolowski, 31.

Read first time January 09, 2014

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to public assistance; to amend sections 68-1713  
2 and 68-1726, Reissue Revised Statutes of Nebraska, and  
3 sections 43-512 and 68-915, Revised Statutes Cumulative  
4 Supplement, 2012; to exclude certain income and assets as  
5 prescribed from determination of income, resources, or  
6 need; to harmonize provisions; and to repeal the original  
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1           Section 1. In determining eligibility for the medical  
2 assistance program established pursuant to the Medical Assistance  
3 Act, for the program for aid to dependent children pursuant to  
4 section 43-512, for the Supplemental Nutrition Assistance Program  
5 administered by the State of Nebraska pursuant to the federal Food  
6 and Nutrition Act of 2008, 7 U.S.C. 2011 et seq., and for the child  
7 care subsidy program established pursuant to section 68-1202, the  
8 following shall not be included in determining assets or income:

9           (1) Assets in or income from an educational savings  
10 account, a Coverdell educational savings account described in 26  
11 U.S.C. 530, a qualified tuition program established pursuant to 26  
12 U.S.C. 529, or any similar savings account or plan established to  
13 save for qualified higher education expenses as defined in section  
14 85-1802;

15           (2) Income from scholarships or grants related to  
16 postsecondary education, whether merit-based, need-based, or a  
17 combination thereof; and

18           (3) Income from postsecondary educational work-study  
19 programs, whether federally funded, funded by a postsecondary  
20 educational institution, or funded from any other source.

21           Sec. 2. Section 43-512, Revised Statutes Cumulative  
22 Supplement, 2012, is amended to read:

23           43-512 (1) Any dependent child as defined in section  
24 43-504 or any relative or eligible caretaker of such a dependent  
25 child may file with the Department of Health and Human Services a

1 written application for financial assistance for such child on forms  
2 furnished by the department.

3 (2) The department, through its agents and employees,  
4 shall make such investigation pursuant to the application as it deems  
5 necessary or as may be required by the county attorney or authorized  
6 attorney. If the investigation or the application for financial  
7 assistance discloses that such child has a parent or stepparent who  
8 is able to contribute to the support of such child and has failed to  
9 do so, a copy of the finding of such investigation and a copy of the  
10 application shall immediately be filed with the county attorney or  
11 authorized attorney.

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

24 (4) The amount which shall be paid as assistance with  
25 respect to a dependent child shall be based in each case upon the

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

7 (5)(a) For the purpose of preventing dependency, the  
8 department shall adopt and promulgate rules and regulations providing  
9 for services to former and potential recipients of aid to dependent  
10 children and medical assistance benefits. The department shall adopt  
11 and promulgate rules and regulations establishing programs and  
12 cooperating with programs of work incentive, work experience, job  
13 training, and education. The provisions of this section with regard  
14 to determination of need, amount of payment, maximum payment, and  
15 method of payment shall not be applicable to families or children  
16 included in such programs. Income and assets described in section 1  
17 of this act shall not be included in determination of need under this  
18 section.

19 (b) If a recipient of aid to dependent children becomes  
20 ineligible for aid to dependent children as a result of increased  
21 hours of employment or increased income from employment after having  
22 participated in any of the programs established pursuant to  
23 subdivision (a) of this subsection, the recipient may be eligible for  
24 the following benefits, as provided in rules and regulations of the  
25 department in accordance with sections 402, 417, and 1925 of the

1 federal Social Security Act, as amended, Public Law 100-485, in order  
2 to help the family during the transition from public assistance to  
3 independence:

4 (i) An ongoing transitional payment that is intended to  
5 meet the family's ongoing basic needs which may include food,  
6 clothing, shelter, utilities, household goods, personal care items,  
7 and general incidental expenses during the five months following the  
8 time the family becomes ineligible for assistance under the aid to  
9 dependent children program, if the family's earned income is at or  
10 below one hundred eighty-five percent of the federal poverty level at  
11 the time the family becomes ineligible for the aid to dependent  
12 children program. Payments shall be made in five monthly payments,  
13 each equal to one-fifth of the aid to dependent children payment  
14 standard for the family's size at the time the family becomes  
15 ineligible for the aid to dependent children program. If during the  
16 five-month period, (A) the family's earnings exceed one hundred  
17 eighty-five percent of the federal poverty level, (B) the family  
18 members are no longer working, (C) the family ceases to be Nebraska  
19 residents, (D) there is no longer a minor child in the family's  
20 household, or (E) the family again becomes eligible for the aid to  
21 dependent children program, the family shall become ineligible for  
22 any remaining transitional benefits under this subdivision;

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

25 (iii) Except as may be provided in accordance with

1 subsection (2) of section 68-1713 and subdivision (1)(c) of section  
2 68-1724, medical assistance for up to twelve months after the month  
3 the recipient becomes employed and is no longer eligible for aid to  
4 dependent children.

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

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

12 (b) Child support shall be defined as provided in section  
13 43-1705;

14 (c) Medical support shall include all expenses associated  
15 with the birth of a child, cash medical support as defined in section  
16 42-369, health care coverage as defined in section 44-3,144, and  
17 medical and hospital insurance coverage or membership in a health  
18 maintenance organization or preferred provider organization;

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

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

23 (f) Support shall be defined as provided in section  
24 43-3313.

25 Sec. 3. Section 68-915, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2           68-915 The following persons shall be eligible for  
3 medical assistance:

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

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

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

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

11           (5) Children under nineteen years of age with a family  
12 income equal to or less than two hundred percent of the Office of  
13 Management and Budget income poverty guideline, as allowed under  
14 Title XIX and Title XXI of the federal Social Security Act, without  
15 regard to resources, and pregnant women with a family income equal to  
16 or less than one hundred eighty-five percent of the Office of  
17 Management and Budget income poverty guideline, as allowed under  
18 Title XIX and Title XXI of the federal Social Security Act, without  
19 regard to resources. Children described in this subdivision and  
20 subdivision (6) of this section shall remain eligible for six  
21 consecutive months from the date of initial eligibility prior to  
22 redetermination of eligibility. The department may review eligibility  
23 monthly thereafter pursuant to rules and regulations adopted and  
24 promulgated by the department. The department may determine upon such  
25 review that a child is ineligible for medical assistance if such

1 child no longer meets eligibility standards established by the  
2 department;

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

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

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

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

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

19 (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),  
20 disabled persons as defined in section 68-1005 with a family income  
21 of less than two hundred fifty percent of the Office of Management  
22 and Budget income poverty guideline and who, but for earnings in  
23 excess of the limit established under 42 U.S.C. 1396d(q)(2)(B), would  
24 be considered to be receiving federal Supplemental Security Income.  
25 The department shall apply for a waiver to disregard any unearned

1 income that is contingent upon a trial work period in applying the  
2 Supplemental Security Income standard. Such disabled persons shall be  
3 subject to payment of premiums as a percentage of family income  
4 beginning at not less than two hundred percent of the Office of  
5 Management and Budget income poverty guideline. Such premiums shall  
6 be graduated based on family income and shall not be less than two  
7 percent or more than ten percent of family income;

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

10 (a) Have been screened for breast and cervical cancer  
11 under the Centers for Disease Control and Prevention breast and  
12 cervical cancer early detection program established under Title XV of  
13 the federal Public Health Service Act, 42 U.S.C. 300k et seq., in  
14 accordance with the requirements of section 1504 of such act, 42  
15 U.S.C. 300n, and who need treatment for breast or cervical cancer,  
16 including precancerous and cancerous conditions of the breast or  
17 cervix;

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

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

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

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

1           Except as provided in section 68-972, eligibility shall  
2 be determined under this section using an income budgetary  
3 methodology that determines children's eligibility at no greater than  
4 two hundred percent of the Office of Management and Budget income  
5 poverty guideline and adult eligibility using adult income standards  
6 no greater than the applicable categorical eligibility standards  
7 established pursuant to state or federal law. The department shall  
8 determine eligibility under this section pursuant to such income  
9 budgetary methodology and subdivision (1)(q) of section 68-1713,  
10 except that income and assets described in section 1 of this act  
11 shall not be included in determination of income under this section.

12           Sec. 4. Section 68-1713, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           68-1713 (1) The Department of Health and Human Services  
15 shall implement the following policies:

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

18           (b) Permit Job Search;

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

21           (d) Make Sanctions More Stringent to Emphasize  
22 Participant Obligations;

23           (e) Alternative Hearing Process;

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

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

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

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

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

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

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

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

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

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

21                   (p) Establish a Budget the Gap Methodology Whereby  
22 Countable Earned Income is Subtracted from the Standard of the Need  
23 and Payment is Based on the Difference or Maximum Payment Level,  
24 Whichever is Less. That this Gap be Established at a Level that  
25 Encourages Work but at Least at a Level that Ensures that Those

1 Currently Eligible for ADC do not Lose Eligibility Because of the  
2 Adoption of this Methodology;

3 (q) Adopt an Earned Income Disregard of Twenty Percent of  
4 Gross Earnings in the ADC Program, ~~and One Hundred Dollars in the~~  
5 Related Medical Assistance Program, and Income and Assets Described  
6 in section 1 of this act;

7 (r) ~~Disregard Financial Assistance Received~~ Described in  
8 section 1 of this act and Other Financial Assistance Intended for  
9 Books, Tuition, or Other Self-Sufficiency Related Use;

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

13 (t) Make ADC a Time-Limited Program.

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

24 Sec. 5. Section 68-1726, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   68-1726 Based on the comprehensive assets assessment,  
2 each individual and family receiving assistance under the Welfare  
3 Reform Act shall reach for his or her highest level of economic self-  
4 sufficiency or the family's highest level of economic self-  
5 sufficiency. The following eligibility factors shall apply:

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

10                  (2) Available resources, including, but not limited to,  
11 savings accounts and real estate, shall be used in determining  
12 financial resources, except that income and assets described in  
13 section 1 of this act shall not be included in determination of  
14 available resources under this section;

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

21                  (a) Earned income shall be counted in determining the  
22 level of cash assistance after disregarding an amount of earned  
23 income equal to twenty percent of earned income or other incentives  
24 to work;

25                  (b) Financial assistance provided by other programs that

1 support the transition to economic self-sufficiency shall be  
2 considered to the extent the payments are intended to provide for  
3 life's necessities; and

4 (c) Financial assistance or those portions of it intended  
5 for books, tuition, or other self-sufficiency-related expenses shall  
6 not be counted in determining financial resources. Such assistance  
7 shall include, but not be limited to, school grants, scholarships,  
8 vocational rehabilitation payments, Job Training Partnership Act  
9 payments, income or assets described in section 1 of this act, and  
10 education-related loans or other loans that are expected to be  
11 repaid; and

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

15 Sec. 6. Original sections 68-1713 and 68-1726, Reissue  
16 Revised Statutes of Nebraska, and sections 43-512 and 68-915, Revised  
17 Statutes Cumulative Supplement, 2012, are repealed.