

TITLE 472
THE DISABLED PERSONS AND FAMILY SUPPORT PROGRAM

Chapter 1-000 INTRODUCTION

1-001 Legal Basis: The Nebraska Department of Social Services administers the Disabled Persons and Family Support Program (DPF Support) based upon Sections 68-1501 through 1521, Reissue Revised Statutes of Nebraska, 1943. The program is designed to encourage -

1. Employable disabled people who live independently to remain or become employed;
2. Families living with disabled family members to preserve the family unit; and
3. Disabled adults who reside in an independent living situation to maintain their maximum level of independence.

1-002 Administration: The DPF Support Program is administered by Special Services for Children and Adults, Medical Services Division, Nebraska Department of Social Services.

1-003 Definitions

Disability: Disability for this program is a medically determinable, severe, chronic condition which -

1. Is attributable to mental and/or physical impairments;
2. Is likely to continue indefinitely;
3. Demonstrates a need for long-term, individually planned and coordinated care, treatment, vocational rehabilitation, or other services; and
4. Results in substantial functional limitations in two or more of the following areas of major life activity -
 - a. Self-care;
 - b. Receptive and expressive language;
 - c. Learning;
 - d. Mobility;
 - e. Self-direction;
 - f. Capacity for independent living;
 - g. Work skills or work tolerance; and
 - h. Economic sufficiency.

Eligible Persons: The Department determines eligibility for those families and individuals who meet all guidelines and -

1. Whose needs assessment indicates appropriateness for the program; and
2. Demonstrate that the support requested is the most cost-effective form of care.

Employment: Employment is defined as earning wages at least equal to the amount considered substantial gainful activity by the Social Security Administration.

Family Size: For income eligibility purposes, the family includes one or more adults (age 19 or older) and children, if any, related by blood, marriage, or adoption who reside in the same household. An unborn child may be included if pregnancy is verified by a physician's statement. Related adults other than spouses and unrelated adults who reside together are separate families.

Independent Living Situation: Means residing alone, with another person who does not provide care, or with a caregiver who is not related by blood, marriage, or adoption in a house or apartment. Unlicensed board and room homes, foster homes, adult family homes, facilities licensed by the Department of Health (e.g., domiciliary facilities, centers for the developmentally disabled, intermediate care facilities), and other medical facilities are not considered independent for this program.

Support Programs: Other support programs include all forms of local, state, or federal assistance, grants-in-aid, educational programs, insurance benefits, and support provided by public or private funds for disabled persons or their families.

1-004 Fraud: Any person who knowingly provides false information or knowingly withholds pertinent information to obtain or attempt to obtain support under this program may be prosecuted for fraud in a court of law and, if found guilty, punished accordingly.

CHAPTER 2-000 APPLICATION AND ELIGIBILITY

2-001 Clients Served

2-001.01 Employed Disabled Clients: To be eligible for the DPF Support Program, employed disabled people shall -

1. Reside with intent to remain in Nebraska;
2. Be currently employed or be able to become employed with the support of this program;
3. Require support to remain in an independent living situation;
4. Have insufficient income to cover disability-related support expenses necessary to remain independent; and
5. Meet the criteria for need (see 472 NAC 2-003).

2-001.02 Disabled Clients with Caregiver Relatives: Families served by the Disabled Persons and Family Support Program shall -

1. Reside with intent to remain in Nebraska;
2. Provide care for a family member who is disabled (see 472 NAC 1-003, Disability) and -
 - a. Is living with the family; or
 - b. Can return home with support;
3. Have insufficient income to provide support for the disabled family member; and
4. Meet the criteria for need (see 472 NAC 2-003).

2-001.03 Disabled Clients In Independent Living Situations: Non-employed disabled persons who reside in independent living situations, may be eligible for DPF Support if they -

1. Reside with intent to remain in Nebraska;
2. Require support to remain in an independent living situation;
3. Have insufficient income to cover disability-related support expenses necessary to remain independent; and
4. Meet the criteria for need (see 472 NAC 2-003).

2-001.03A Number Served: For eligible non-employed disabled clients without caregiver relatives, the Department shall annually establish -

1. A maximum number of clients to be served; and
2. Dates during which applications (including renewal applications) will be accepted for consideration for the following program year. Note: If all available slots are not assigned following the designated application period, the Department may extend the period during which applications are accepted.

2-001.03B Criteria for Participation: The Department shall base its selection of eligible participants to fill available slots upon the following criteria -

1. Degree of disability;
2. Total disability-related costs (e.g., assessing whether the expenses are low enough that the client's income could suffice or that the expenses are so high that the program's \$300 maximum would be insufficient to allow for continued independence);
3. All other points of eligibility described in this chapter (e.g., income, availability of other support services); and
4. Potential for institutionalization without support.

2-001.03C Waiting List: Once the number of available slots has been filled, other eligible applicants who applied during the prescribed application period will be placed on a waiting list based upon the date the application was received. When a person filling a slot is determined ineligible for continued support, the Department shall review the next application on the waiting list; request additional information as necessary; and compare the needs to the criteria used for other current participants. If the first person on the waiting list meets the criteria, the Department shall offer support to that applicant for the balance of the program year. If that person does not meet criteria, the Department shall consider the next applicant, and so on, until the slot is filled.

Example: The Department may establish 40 slots available for the program year October 1 through September 30. Applications might then be accepted August 1 through September 15. The 40 applicants with the highest needs, based upon established criteria, would be eligible beginning the next October 1. If a person filling a slot moves out of Nebraska, the needs of the first person on the waiting list would then be considered.

2-001.03D Late Applications: Applications received after the open application period will be returned to the applicants with a notice of the next open application period. The Department shall provide only information and referral service to these applicants in an effort to ensure that their needs are met by other available programs.

2-002 Application Process

2-002.01 Request: Any individual may request an application for himself/ herself or as representative for another person. All applications will be provided through Central Office and may be requested directly from Central Office or through a local office of the Department of Social Services.

2-002.02 Local Office Activities: Local offices shall accept all requests for DPF Support applications and forward to the Department's Central Office staff.

Local office staff shall assist potential clients to complete the application, as requested.

2-002.03 Central Office Responsibilities: Central Office staff shall -

1. Mail an application to each person requesting one;
2. Answer questions to facilitate application;
3. Evaluate each completed application to determine eligibility;
4. Notify each applicant in writing when a decision is reached; and
5. Maintain a waiting list of eligible applicants, as appropriate.
6. Provide the opportunity for a fair hearing (see 472 NAC 4-004); and
7. Provide information and referral to any applicant whose request for assistance under this program is denied.

2-002.04 Application Form DPF-3: Form DPF-3, "Service and Device Application (multi-agency form)," contains the information used by Department staff to determine program eligibility. The application requires general information, medical information, income information and verification, verification of need, and evaluations from other support programs. The applicant shall ensure that the completed application includes all necessary information.

2-002.05 Citizenship/Legal Presence: To be eligible for the Disabled Persons and Family Support (DPFS) Program, an applicant shall be a citizen of the United States of America or a qualified alien under the federal Immigration and Nationality Act and be lawfully present in the United States, as required by Neb. Rev. Stat. § 4-108 to 4-112.

1. Attestation: The applicant shall attest that s/he is a citizen of the United States of America or that s/he is a qualified alien under the federal Immigration and Nationality Act, 8 USC 1101 et seq., as such act existed on January 1, 2009; and is lawfully present in the United States. The applicant shall provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.
2. Verification: For any applicant who has attested that s/he is a qualified alien under 472 NAC 2-002.05, eligibility for benefits shall be verified through the Systematic Alien Verification For Entitlements Program. Until verification of eligibility is made, the attestation may be presumed to be proof of lawful presence unless the verification is required before providing the public benefit under another provision of state or federal law.

2-003 Needs Assessment

2-003.01 Medical Need: Each applicant shall submit Form DPF-2, "Disabled Persons and Family Support Disability Report," or other medical report containing similar information with Form DPF-1 to verify that s/he meets the program definition of disability. The medical information supplied must support the applicant's request for assistance.

2-003.02 Alternate Support Programs: The assistance provided by the DPF Support Program is supplemental to any other support program for which the applicant is eligible. The applicant shall -

1. Submit current program plans if currently receiving support from a service program, as requested;
2. Describe any support received in the past from any service program;
3. Report any instance when an application for service was denied;
4. Apply to all appropriate resources not previously explored; and
5. Accept any appropriate support offered through another program.

2-003.03 Other Available Resources: The Department may determine ineligible applicants who have -

1. Family members or caretakers who can meet identified needs;
2. Other relatives, friends, or volunteers who will provide identified needs at no cost; or
3. Access to financial resources sufficient to meet their needs.

2-003.04 Disability-Related Expenses: When determining the applicant's need for this program, Department staff shall consider disability-related expenses above and beyond those incurred in a non-disabled household. This includes, but is not limited to -

1. Additional health insurance costs;
2. Transportation (e.g., automobile modification or payment for ambulance travel if required by the disability);
3. Medical costs;
4. Tools required for employment which are specially adapted to the applicant's disability; and
5. Attendant care costs.

2-004 Financial Eligibility: The Department shall not provide support under this program to individuals or families whose total gross monthly income exceeds Nebraska's 1989 median family income, adjusted for size as follows:

<u>Family Size</u>	<u>Gross Monthly Income</u>
1	\$1,364
2	1,784
3	2,203
4	2,623
5	3,043
6	3,463
7	3,541
8	3,620
9 or more	3,699

2-004.01 Sources of Income: Department staff shall consider the following sources of income in determining gross monthly income:

1. Aid to Dependent Children (ADC);
2. Supplemental Security Income (SSI);
3. State Supplemental Payment;
4. Gross wages/salary - total money earnings received for work as an employee, including wages, salary, armed forces pay, earnings through a work incentive program, work study, VISTA, commissions, tips, piece rate payments, and cash bonuses earned before deductions are made for taxes, bonds, pensions, union dues, and similar purposes;

5. In-kind income received in lieu of wages;
6. Job Training Partnership Act funds considered as employment;
7. Social Security or Railroad Retirement - pensions, survivor's benefits, and permanent disability insurance payments made by the Social Security Administration or Railroad Retirement Board (consider amount before deductions for medical insurance);
8. Dividends - includes dividends from stockholdings or membership in associations;
9. Interest - on savings or bonds, averaged over the period earned;
10. Earned income credit (EIC) and advanced earned income credit (AEIC);
11. Estates;
12. Trust funds;
13. Rentals- net income from rental of a house, store or other property;
14. Land lease income;
15. Boarders - net payments from boarders or lodgers (if self-employed, see item 29);
16. Royalties - net royalties;
17. 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;
18. 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;
19. Military allotments;
20. Picket or strike pay;
21. Green Thumb income;
22. Contributions;
23. Lump sum payments, e.g., child support or Social Security;
24. Annuities - annuities or insurance;
25. Unemployment compensation - compensation received from government insurance agencies or private companies during periods of unemployment;
26. Workers' compensation - compensation received from private or public insurance companies for injuries incurred at work;
27. Court-order alimony and child support (i.e., cash or direct or indirect payments made on behalf of the family);
28. Net income from farm self-employment - gross income minus operating expenses from the operation of a farm received by a client as an owner, renter, or sharecropper. Gross income includes the value of all products sold, government crop loans, money received from the rental of farm equipment to others, and incidental receipts from the sale of wood, sand, gravel, and similar items. Operating expenses include cost of feed, fertilizer, seed, and other farming supplies, cash wages paid to farmhands, depreciation charges, cash rent, interest on farm mortgages, farm building repairs, farm taxes (not state and federal income taxes), and similar expenses. The value of fuel, food, or other farm products used for family living is not included as part of net income; and

29. Net income from nonfarm self-employment - gross income minus expenses from one's own business, professional enterprise, or partnership. Gross income includes the value of all goods sold and services rendered. Expenses include costs of goods purchased, rent, heat, light, power, depreciation charges, wages and salaries paid, business taxes (not personal income taxes), and similar costs. The value of salable merchandise consumed by the proprietors of retail stores is not included as part of net income.

The applicant shall submit all required income verification.

2-004.02 Income Exclusions: Department staff shall not consider the following income sources in determining gross monthly income:

1. Money received from participation in the Foster Grandparent Program authorized by the ACTION Program;
2. Money awarded by the Indian Claims Commission or the Court of Claims;
3. Alaska Native Claims Settlement Act payments (to the extent that these payments are exempt from taxation under section 21(a) of the Act);
4. Money received from sale of property such as stocks, bonds, a house, or a car (unless the person was engaged in the business of selling such property in which case the net proceeds would be counted as income from self-employment);
5. Withdrawals of bank deposits;
6. Money borrowed;
7. Tax refunds;
8. Gifts;
9. Lump sum inheritances or insurance payments;
10. Capital gains;
11. The value of the coupon allotment under the Food Stamp Act of 1964, as amended;
12. The value of USDA donated foods;
13. 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;
14. Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
15. Earnings of a child age 13 or younger;
16. Loans and grants (such as scholarships) obtained and used under conditions that prohibit their use for current living costs;
17. Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education under the Higher Education Act;
18. Home produce used for household consumption;

19. Payments received through the Job Training Partnership Act (JTPA) for -
 - a. Title IIB, Summer Youth Employment; and
 - b. Classroom training, e.g., tuition and books (Payments to meet living expenses while attending school are considered income.); and
20. Reimbursement from the Senior Companion Program.

2-005 Support Services: The Department may authorize support for disability-related expenses. Examples include, but are not limited to -

1. Architectural modification of a home to remove barriers;
2. Attendant care;
3. Disability-related counseling or training;
4. Expenses incurred during evaluation or treatment;
5. Home health care;
6. Housekeeping services for disabled adults;
7. Payments for health services;
8. Purchase or lease of special equipment;
9. Respite care; and
10. Transportation.

2-006 Maximum Support: The support provided through this program must not exceed \$300 per family or disabled person per month, averaged over the number of months in the eligibility period. The Department shall determine the maximum monthly expenditure for each case based on need and available funds. This maximum does not prohibit the use of other resources to meet total support costs.

2-007 Method of Provision: Support may be provided directly to -

1. The family or disabled person; or
2. Qualified programs and services.

(See 472 NAC 4-002.)

2-008 Forms and Instructions: The following forms are used in the DPF Support Program:

1. Form DPF-3, "Service and Device Application (multi-agency form)" (472-000-1); and
2. Form DPF-2, "Disabled Persons and Family Support Disability Report" (472-000-2).

Chapter 3-000 DPF SUPPORT PROVIDERS

3-001 Locating Providers: Clients shall locate their own providers. The Department may refer eligible clients to community resources with expertise in the appropriate area.

3-002 Contracts: Clients may be required to contract with the approved provider(s) they will be using. Form DPF-3, "Disabled Persons and Family Support Provider Contract," may be used. The client shall submit a copy of the signed contract to the Department before Department funds may be paid to that provider.

3-003 Provider Approval: To be approved by the Department as a provider under this program, each provider shall meet any applicable local, state, and federal laws and regulations.

Chapter 4-000 AUTHORIZING SUPPORT

4-001 Notices: Based on eligibility factors, the needs assessment, and available funds, the Department shall select clients for the DPF Support Program. Central Office staff shall notify each applicant in writing when s/he has been determined -

1. Eligible to participate in the program. The notice identifies the type(s) of support for which the individual/family is eligible;
2. Eligible for participation, but placed on a waiting list due to insufficient funds; or
3. Ineligible for participation.

4-002 Payments: The Department and the disabled person or family shall agree whether support payments should be provided directly to the client or family or as vendor payments to qualified providers.

4-002.01 Payment to the Client: If payments are to be made directly to the family or disabled person, s/he shall sign and submit an itemized bill or receipt, signed also by the provider, showing the amount(s) owed or paid to the approved provider(s).

The amount billed by the client must be consistent with the corresponding contract submitted to the Department, if one was required. Regardless of the total disability-related expenses, the Department's payment must not exceed the maximum dollar amount allowed the client.

Note: DPF Support payments made directly to the client might be considered as income by other assistance programs.

4-002.02 Payment to the Provider: If payments are made directly to qualified programs and services, the provider shall submit an itemized statement which -

1. Describes the support provided;
2. Includes the dates of service; and
3. Is signed by the client.

The amount billed by the provider must be consistent with the contract submitted to the Department. Regardless of the total disability-related expenses, the Department's payment shall not exceed the maximum dollar amount allowed the client.

4-002.03 Frequency of Payments: The client and the provider shall determine an appropriate billing schedule which must be stated in the contract.

Department staff shall review the bill/receipt and issue a check in a timely manner.

4-003 Eligibility Periods: The Department shall establish eligibility periods for participants with ongoing needs. (See also 472 NAC 2-003 for non-employed clients who do not reside with caregiver relatives.)

4-003.01 Reporting Changes: Each disabled person or head of a family receiving support under this program shall immediately report any change in income, need, or provider to the Department.

4-003.02 Notice of Adverse Action: The Department shall provide written notice to the client at least ten calendar days in advance of the effective date if support is to be reduced or terminated before the current authorization period ends.

4-004 Right to Appeal: Any disabled person or family who is denied support or whose support is to be reduced or terminated under this program may appeal by requesting a fair hearing in writing within 90 days of the date of the written notice or alleged inaction. This request must -

1. Include a short summary of the Department's action being appealed; and
2. Describe the reason for the appeal; and
3. Be sent to the Director of the Nebraska Department of Social Services.

The Department shall handle the appeal and fair hearing according to the policies in 465 NAC 2-006.