

January 31, 2014

Senator Kathy Campbell, Chairperson
Health and Human Services Committee
P.O. Box 94604
Lincoln, NE 68509-4604

RE: LB732

Dear Senator Campbell and members of the Health and Human Services Committee:

I am writing to oppose LB 732, which would require the exclusion of certain assets or income when determining eligibility for Medicaid and public assistance programs.

Specifically, the bill calls for the exclusion of assets or income from an educational savings account, a Coverdell educational savings account, a qualified tuition program established pursuant to 26 U.S.C. 529, or any similar savings account or plan established save for qualified higher education expenses as defined in section 85-1802. The bill also calls for the exclusion of income from scholarships or grants related to postsecondary education, whether merit-based, need-based, or a combination thereof; and income from postsecondary educational work-study programs, whether federally funded, funded by a postsecondary educational institution, or funded from any other source.

The state Medicaid agency does not have the authority under federal regulation to exclude all of the income and resources as specified in this bill.

Medicaid groups for which income is calculated using modified adjusted gross income (MAGI) based methodologies have no asset test and will not be impacted by the asset exclusions noted in the bill. However, all Medicaid agencies are bound by the federal Internal Revenue Code (IRC) to utilize MAGI based methodologies when considering income for MAGI groups. According to the IRC, Medicaid agencies can exclude only tax exempt income. There is no option under federal law for the Medicaid agency to exclude the proposed incomes from eligibility determinations based on MAGI methodology, as these are all taxable forms of income.

The Coverdell education savings account is currently excluded for disabled children under age 18 and special needs individuals and is currently addressed in current Medicaid regulation. The Medicaid agency does not have the option to extend this exclusion to other eligibility groups.

In terms of work study for our Non-MAGI population, this income is currently excluded for undergraduate students. The state would have to obtain a 1902(r)(2) disregard to exclude work study income for graduate students. However, selecting this option would require the exclusion of all income for this group and would lead to an expansion of the Medicaid program.

Nebraska Medicaid's federal financial participation (FFP) would be in jeopardy if the agency is required to implement the resource and income exclusions outlined in this bill. While we do not have these same concerns for the Economic Assistance programs, the Medicaid concerns are significant. For all the reasons stated, the Department opposes LB 732. If you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Kerry T. Winterer". The signature is fluid and cursive, with the first name "Kerry" being the most prominent.

Kerry T. Winterer, Chief Executive Officer
Department of Health and Human Services

Cc: Senator Rick Kolowksi