

Nebraska

State Responsibility for Care of the Poor

On January 1, 1997, Nebraska consolidated its human services agencies into the Nebraska Health and Human Services System, which brings together five former agencies: the Departments of Aging, Health, Public Institutions, Social Services, and the Office of Juvenile Services. This unified system comprises three new departments: the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, and the Department of Health and Human Services Regulation and Licensure.¹

According to state law, the Nebraska Department of Health and Human Services is responsible for the care of the poor statewide,² while the Department of Health and Human Services Finance and Support is the sole state agency for administration of welfare programs, and administers the State Assistance Fund for assistance to the aged, blind, or disabled, aid to dependent children, medical assistance (Medicaid), medically handicapped children's services, child welfare services, and any federally funded welfare programs in Nebraska.³

Genetically Handicapped Persons Act.

In 1980, the Nebraska state legislature enacted a law that creates "a program for the medical care of persons of all ages with genetically handicapping conditions, including cystic fibrosis, hemophilia, and sickle cell disease."⁴ The law directs the Department of Health and Human Services to create and administer the program, and to ensure that the program includes:

- (1) Initial intake and diagnostic evaluation;
- (2) The cost of blood transfusion and use of blood derivatives, or both;
- (3) Rehabilitation services, including reconstructive surgery;
- (4) Expert diagnosis;
- (5) Medical treatment;
- (6) Surgical treatment;
- (7) Hospital care;
- (8) Physical therapy;

¹ For more information on the new structure, consult the Nebraska Health and Human Services website at <http://www.hhs.state.ne.us>. For online access to the Nebraska statutes, point your web browser to <http://unicam1.lcs.state.ne.us/> and look for the "Nebraska Statutes - A searchable infobase" listing.

² NEB. REV. STAT. § 68-104.

³ NEB. REV. STAT. § 68-309.

⁴ NEB. REV. STAT. § 68-1402.

- (9) Occupational therapy;
- (10) Materials and prescription drugs;
- (11) Appliances and their upkeep, maintenance, and care;
- (12) Maintenance, transportation, or care incidental to any other form of services, and
- (13) Appropriate and sufficient staff to carry out the provisions of the Act.⁵

The Department of Health and Human Services is directed to establish uniform standards of financial eligibility for this program and payment schedules for the services rendered under this act.⁶

Disabled Persons and Family Support Act.

In 1981, the Nebraska state legislature enacted the Disabled Persons and Family Support Act, which seeks to encourage placement of the disabled in the home rather than in state or private institutional facilities.⁷ The Department of Health and Human Services is responsible for administering this program, which serves persons with a medically determinable severe, chronic disability. The disability must be either mental or physical or a combination of mental and physical and likely to continue indefinitely. Moreover, the disability must result in functional impairments in at least two of the following eight areas of major life activity: (i) Self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, (vii) work skills or work tolerance, and (viii) economic sufficiency.⁸

The program may supply special equipment or modifications to the home to improve or facilitate the care, access, treatment, therapy of the disabled person; medical, surgical, diagnostic, therapeutic, or other health services; counseling or training programs, attendant care, and transportation services.⁹ The maximum support allowable under this program is three hundred dollars per month.¹⁰

To be eligible, the family must (1) reside in Nebraska, (2) have a disabled family member living at home, or who could live at home, and (3) have insufficient income to provide for the total cost of care.¹¹

⁵ NEB. REV. STAT. § 68-1403

⁶ NEB. REV. STAT. § 68-1405

⁷ NEB. REV. STAT. § 68-1501 et. seq.

⁸ NEB. REV. STAT. § 68-1503

⁹ NEB. REV. STAT. § 68-1504

¹⁰ NEB. REV. STAT. § 68-1512

¹¹ NEB. REV. STAT. § 68-1505

Mentally and physically handicapped children.

The Director of Social Services is responsible for the medical supervision of mentally and physically handicapped children and must provide “necessary medical or surgical care in a suitable hospital, sanitarium, preventorium, or other institution or in the child’s own home or a home for any medically handicapped child needing such care and pay for such care from public funds, if necessary”¹² To be eligible, the child must be a resident of Nebraska.¹³

University of Nebraska Hospital

Nebraska state law calls on the University of Nebraska Board of Regents to establish rules for the admission and treatment of indigent patients at the University of Nebraska Hospital who may be sent to the hospital by county authorities of any Nebraska county.¹⁴

State Hospitals for the Mentally III

Nonresident indigent patients (patients with no legal settlement in Nebraska) in state hospitals for the mentally ill are cared for at the expense of the state.¹⁵ The statute is not as clear with regard to resident indigent patients. One statute holds the patient and the patient’s family liable for the cost of treatment at a state institution,¹⁶ while another statute directs the Department of Public Institutions to hold patients and their families liable to the extent they are able to pay.¹⁷ Yet another statute directs the Department of Public Institutions to consider certain factors in assessing a patient’s ability to pay: (1) taxable income, (2) the patient’s age, (3) the patient’s dependents, their ages and mental and physical conditions, (4) the patient’s length of care or treatment, (5) the patient’s liabilities, and (6) the patient’s assets including health insurance coverage.¹⁸ Indigent outpatients, at least, have the option to apply for state-supplied prescription medicine upon release from mental health board-ordered treatment.¹⁹

¹² NEB. REV. STAT. § 43-507

¹³ NEB. REV. STAT. § 43-510

¹⁴ NEB. REV. STAT. § 85-172

¹⁵ NEB. REV. STAT. § 83-348

¹⁶ NEB. REV. STAT. § 83-364

¹⁷ NEB. REV. STAT. § 83-366

¹⁸ NEB. REV. STAT. § 83-368

¹⁹ NEB. REV. STAT. § 83-380.01

County Responsibility

Nebraska state law calls on the county board of each county to provide medical services to that particular county's poor who are not eligible for other medical assistance programs and general assistance.²⁰ A Nebraska Supreme Court ruling limits the extent of the county's responsibility to provide such care by the county's ability to pay for it.²¹

Another statute that places responsibilities on county government involves the temporary support and relief of nonresident poor persons.²² County governments are responsible for care of any nonresident who becomes ill, lacks the ability to pay for room and board, or is "found in distress."²³ If a nonresident poor person dies, then the county "shall provide all necessary means for a decent burial of such person."²⁴ State law also authorizes counties to provide transportation for the nonresident to return to the state in which he or she has legal settlement, provided that the county board verifies such legal settlement and is given assurances that the person shall be received and cared for in that person's home state.²⁵

General Assistance²⁶

Each county is responsible for the care of poor persons with legal settlements within that county's borders.²⁷ If a poor person applies for assistance in another county, then that county's board must provide any necessary care before petitioning the person's home county to remove and care for that person.²⁸

Counties must provide general assistance to any poor person who is without spousal or parental support, or is not eligible for other general assistance programs through no fault of his or her own.²⁹ Each county must adopt written standards of eligibility and assistance that ensure or provide: (1) general assistance to all qualified applicants within seven days of application for short-term aid, and within 30 days of application for continuous aid, (2) a schedule of goods and services necessary to maintain minimal levels

²⁰ NEB. REV. STAT. § 68-104

²¹ State ex rel. Boxberger v. Burns, 270 N.W. 656 (1937)

²² NEB. REV. STAT. § 68-114

²³ NEB. REV. STAT. § 68-114

²⁴ NEB. REV. STAT. § 68-114

²⁵ NEB. REV. STAT. § 68-114

²⁶ NEB. REV. STAT. §§ 68-131 to 68-156

²⁷ NEB. REV. STAT. §§ 68-131, 68-143

²⁸ NEB. REV. STAT. § 68-144

²⁹ NEB. REV. STAT. §§ 68-131, 68-132

of health and decency, (3) a schedule showing the amount of money necessary to obtain the goods and services, (4) a schedule showing the amount of money to be paid to families and individuals in need of the goods and services.³⁰ The standards must be reviewed on a biennial basis to account for changes in living standards and the costs of living.³¹ Public hearings must be held prior to adoption of new standards or amendments to existing standards.³²

Denials or terminations of assistance require proper notice that includes information regarding the person's right to a hearing. A hearing before the county board or hearing examiner is allowed when a claim (1) has not been acted upon in a timely manner, (2) has been denied, (3) has been granted only partially, (4) has been reduced or terminated, (5) has been suspended for failure to participate in a special state employment program.³³ The person requesting the hearing has the right (1) to examine the county file pertaining to the case, (2) to be represented in the hearing by anyone the person selects, (3) to present evidence, and (4) to confront and cross-examine witnesses.³⁴ The county board or hearing examiner must tape record the hearing, make a decision within thirty days based on the evidence introduced and the law, give the claimant a written copy of the decision, and preserve the tape recording and evidence for at least sixty days.³⁵ A claimant may seek judicial review of the hearing decision in the district court of the county, but must file a petition with the court within thirty days of receiving the written decision.³⁶

County Hospitals

Counties are authorized by state law to sell bonds for the construction of an "indigent hospital."³⁷ While the statute does not mandate the provision of free care to patients otherwise unable to afford such treatment, it does authorize the governing board of the hospital to partially or completely "write off" the costs and fees for care whenever the board decides such action is advisable.³⁸

³⁰ NEB. REV. STAT. §68-133

³¹ NEB. REV. STAT. § 68-134

³² NEB. REV. STAT. § 68-135

³³ NEB. REV. STAT. § 68-139

³⁴ NEB. REV. STAT. § 68-140

³⁵ NEB. REV. STAT. § 68-141

³⁶ NEB. REV. STAT. § 68-142

³⁷ NEB. REV. STAT. § 23-3501

³⁸ NEB. REV. STAT. § 23-3524