

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
601 East 12<sup>th</sup> Street, Suite 235  
Kansas City, Missouri 64106



**Division of Medicaid and Children's Health Operations**

November 30, 2010

Kerry Winterer  
Chief Executive Officer  
Department of Health & Human Services  
301 Centennial Mall South, 3<sup>rd</sup> Floor  
P.O. Box 95026  
Lincoln, NE 68509-5026

Dear Mr. Winterer:

The Centers for Medicare & Medicaid Services (CMS) has completed its review of Nebraska State Plan Amendment (SPA) 10-16 which updates the section of the state plan regarding post-eligibility calculations to the most current preprint, removes outdated language regarding the personal needs allowance for Veterans receiving a reduced pension, and makes technical corrections to indicate that individuals under age 19 eligible under 42 CFR 435.222 and AFDC related children and adults also receive the \$50 personal needs allowance.

Based on the revisions received, CMS approves SPA 10-16 on November 23, 2010 with the requested effective date of July 1, 2010. Enclosed is a copy of the CMS 179 form, as well as, the approved pages for incorporation into the Nebraska State plan. If you have any questions regarding this amendment, please call Barbara Cotterman at (816) 426-5925.

Sincerely,

James G. Scott  
Associate Regional Administrator  
for Medicaid and Children's Health Operations

Enclosure

cc: Vivianne Chaumont  
Sally Hinds  
Pat Taft

<b>TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL</b>  <b>FOR: HEALTH CARE FINANCING ADMINISTRATION</b>	1. TRANSMITTAL NUMBER: 10-16	2. STATE Nebraska
	3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES	4. PROPOSED EFFECTIVE DATE 7-1-10	

5. TYPE OF PLAN MATERIAL (Check One):

- NEW STATE PLAN                     
 AMENDMENT TO BE CONSIDERED AS NEW PLAN                     
 AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION: 42 CFR 435.725, 42 CFR 435.832, Section 1902(q) & Section 1924 of the Social Security Act	7. FEDERAL BUDGET IMPACT: a. FFY 2010                      \$17,431 b. FFY 2011                      \$65,139
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:  Attachment 2.6-A, pp 4, 4a, 4b, 4c, 5, 5a, 26a Supplement 15 to Attachment 2.6-A	9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):  Attachment 2.6-A, pp 4, 5, 26a

10. SUBJECT OF AMENDMENT:

Using correct template and updated to current personal needs amount for institutionalized individuals.

11. GOVERNOR'S REVIEW (Check One):

- GOVERNOR'S OFFICE REPORTED NO COMMENT                       OTHER, AS SPECIFIED:  
 COMMENTS OF GOVERNOR'S OFFICE ENCLOSED                      Governor has waived review  
 NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

12. SIGNATURE OF STATE AGENCY OFFICIAL: <i>[Signature]</i>	16. RETURN TO:  Patricia (Pat) Taft Division of Medicaid & Long-Term Care Nebraska Department of Health & Human Services 301 Centennial Mall South Lincoln, NE 68509
13. TYPED NAME: Vivianne M. Chaumont	
14. TITLE: Director, Division of Medicaid and Long-Term Care	
15. DATE SUBMITTED: September 16, 2010	

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED: <i>September 16, 2010</i>	18. DATE APPROVED: <i>November 23, 2010</i>
PLAN APPROVED - ONE COPY ATTACHED	
19. EFFECTIVE DATE OF APPROVED MATERIAL: <i>July 1, 2010</i>	20. SIGNATURE OF REGIONAL OFFICIAL: <i>[Signature]</i>
21. TYPED NAME: <i>James G. Scott</i>	22. TITLE: <i>Associate Regional Administrator for Medicaid and Children's Health Operations</i>
23. REMARKS:	

State: Nebraska

Citation	Condition or Requirement
	<b>B. <u>Posteligibility Treatment of Institutionalized Individuals' Incomes</u></b>
	1. The following items are not considered in the posteligibility process:
1902(o) of the Act	a. SSI and SSP benefits paid under §1611(e)(1)(E) and (G) of the Act to individuals who receive care in a hospital, nursing home, SNF, or ICF.
Bondi v. Sullivan (SSI)	b. Austrian Reparation Payments (pension (reparation) payments made under §500 - 506 of the Austrian General Social Insurance Act). Applies only if State follows SSI program rules with respect to the payments.
1902(r)( 1) of the Act	c. German Reparations Payments (reparation payments made by the Federal Republic of Germany).
105/206 of P. L. 100-383	d. Japanese and Aleutian Restitution Payments.
1. (a) of P.L. 103-286	e. Netherlands Reparation Payments based on Nazi, but not Japanese, persecution (during World War II
10405 of P.L. 101-239	f. Payments from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In re Agent orange product liability litigation, M.D.L. No.381 (E.D.N.Y.)
6(h)(2) of P.L. 101-426	g. Radiation Exposure Compensation.
12005 of P. L. 103-66	h. VA pensions limited to \$90 per month under 38 U.S.C. 5503.

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Supersedes  
TN No. MS 99-07

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State: Nebraska

Citation	Condition or Requirement
1924 of the Act 435.725 435.733 435.832	2. The following monthly amounts for personal needs are deducted from total monthly income in the application of an institutionalized individual's or couple's income to the cost of institutionalized care:  Personal Needs Allowance (PNA) of not less than \$30 For Individuals and \$60 For Couples For All Institutionalized Persons.  a. Aged, blind, disabled: Individuals \$ 50 Couples \$ 100  For the following persons with greater need: ▪ Individuals with a guardian or conservator ▪ Individuals in an ICF-MR (ICF-ID) who participate in a sheltered workshop  Supplement 15 to <u>Attachment 2.6-A</u> describes the greater need; describes the basis or formula for determining the deductible amount when a specific amount is not listed above; lists the criteria to be met; and, where appropriate, identifies the organizational unit which determines that a criterion is met.  b. AFDC related: Children \$ 50 Adults \$ 50  For the following persons with greater need: ▪ Individuals with a guardian or conservator ▪ Individuals in an ICF-MR (ICF-ID) who participate in a sheltered workshop  Supplement 15 to <u>Attachment 2.6-A</u> describes the greater need; describes the basis or formula for determining the deductible amount when a specific amount is not listed above; lists the criteria to be met; and, where appropriate, identifies the organizational unit which determines that a criterion is met.  c. Individual under age 21 covered in the plan as specified in Item B. 7. of <u>Attachment 2.2-A</u> . \$ 50

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TN No. New page

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State: Nebraska

Citation	Condition or Requirement
1924 of the Act	<p>For the following persons with greater need:</p> <ul style="list-style-type: none"><li>▪ Individuals with a guardian or conservator</li><li>▪ Individuals in an ICF-MR (ICF-ID) who participate in a sheltered workshop</li></ul> <p>Supplement 15 to <u>Attachment 2.6-A</u> describes the greater need; describes the basis or formula for determining the deductible amount when a specific amount is not listed above; lists the criteria to be met; and, where appropriate, identifies the organizational unit which determines that a criterion is met.</p> <p>3. In addition to the amounts under item 2, the following monthly amounts are deducted from the remaining income of an institutionalized individual with a community spouse:</p> <p>a. The monthly income allowance for the community spouse, calculated using the formula in §1924(d)(2), is the amount by which the maintenance needs standard exceeds the community spouse's income. The maintenance needs standard cannot exceed the maximum prescribed in § 1924 (d)(3)(C). The maintenance needs standard consists of a poverty level component plus an excess shelter allowance.</p> <p><input checked="" type="checkbox"/> The poverty level component is calculated using the applicable percentage (set out §1924(d)(3)(B) of the Act) of the official poverty level.</p> <p><input type="checkbox"/> The poverty level component is calculated using a percentage greater than the applicable percentage, equal to ___%, of the official poverty level (still subject to maximum maintenance needs standard).</p> <p><input type="checkbox"/> The maintenance needs standard for all community spouses is set at the maximum permitted by §1924(d)(3)(C).</p> <p>Except that, when applicable, the State will set the community spouse's monthly income allowance at the amount by which exceptional maintenance needs, established at a fair hearing, exceed the community spouse's income, or at the amount of any court-ordered support.</p>

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Supersedes

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State: Nebraska

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Citation	Condition or Requirement
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In determining any excess shelter allowance, utility expenses are calculated using:

the standard utility allowance under §5(e) of the Food Stamp Act of 1977 or

the actual unreimbursable amount of the community spouse's utility expenses less any portion of such amount included in condominium or cooperative charges.

b. The monthly income allowance for other dependent family members living with the community spouse is:

one-third of the amount by which the poverty level component (calculated under §1924(d)(3)(A)(i) of the Act, using the applicable percentage specified in §1924(d)(3)(B)) exceeds the dependent family member's monthly income.

a greater amount calculated as follows:

The following definition is used in lieu of the definition provided by the Secretary to determine the dependency of family members under §1924 (d)(1):

c. Amounts for health care expenses described below that are incurred by and for the institutionalized individual and are not subject to payments by a third party:

(i) Medicaid, Medicare, and other health insurance premiums, deductibles, or coinsurance charges, or copayments.

(ii) Necessary medical or remedial care recognized under State law but not covered under the State plan. (Reasonable limits on amounts are described in Supplement 3 to ATTACHMENT 2.6-A.)

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State: Nebraska

Citation	Condition or Requirement
435.725 435.733 435.832	<p>4. In addition to any amounts deductible under the items above, the following monthly amounts are deducted from the remaining monthly income of an institutionalized individual or an institutionalized couple.</p> <p>a. An amount for the maintenance needs of each member of a family living in the institutionalized individual's home with no community spouse living in the home. The amount must be based on a reasonable assessment of need but must not exceed the higher of the:</p> <ul style="list-style-type: none"><li><input type="radio"/> AFDC level or</li><li><input type="radio"/> Medically needy level:</li></ul> <p>(Check one)</p> <p><input type="checkbox"/> AFDC level in Supplement 1</p> <p><input checked="" type="checkbox"/> Medically needy level in Supplement 1</p> <p><input type="checkbox"/> Other: \$</p> <p>b. Amounts for health care expenses described below that have not been deducted under 3.c. above (i.e., for an institutionalized individual with a community spouse), are incurred by and for the institutionalized individual or institutionalized couple, and are not subject to the payment by a third party:</p> <ul style="list-style-type: none"><li>(i) Medicaid, Medicare, and other health insurance premiums, deductibles, or coinsurance charges, or copayments.</li><li>(ii) Necessary medical or remedial care recognized under State law but not covered under the State plan. (Reasonable limits on amount are described in Supplement 3 to <u>ATTACHMENT 2.6-A.</u>)</li></ul>
435.725 435.733 435.832	<p>5. At the option of the State, as specified below, the following is deducted from any remaining monthly income of an institutionalized individual or an institutionalized couple:</p> <p>A monthly amount for the maintenance of the home of the individual or couple for not longer than 6 months if a physician has certified that the individual, or one member of the institutionalized couple, is likely to return to the home within that period:</p> <p><input type="checkbox"/> No.</p> <p><input checked="" type="checkbox"/> Yes (the applicable amount is shown on page 5a.)</p>

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Supersedes  
TN No. MS 97-3

Approval Date NOV 23 2010 Effective Date JUL 01 2010

State: Nebraska

Citation	Condition or Requirement
___	Amount for maintenance of home is: \$ _____
<u>X</u>	Amount for maintenance of home is the actual maintenance costs not to exceed \$281.
___	Amount for maintenance of home is deductible when countable income is determined under §1924(d)(1) of the Act only if the individual's home and the community spouse's home are different.
<u>X</u>	Amount for maintenance of home is not deductible when countable income is determined under §1924(d)(1) of the Act.

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State: Nebraska

Citation	Condition or Requirement
1924 of the Act	<p>15. The agency complies with the provisions of § 1924 with respect to income and resource eligibility and post eligibility determinations for individuals who are expected to be institutionalized for at least 30 consecutive days and who have a spouse living in the community.</p> <p>When applying the formula used to determine the amount of resources in initial eligibility determinations, the State standard for community spouses is:</p> <p>___ the maximum standard permitted by law;</p> <p><u>X</u> the minimum standard permitted by law; or</p> <p>\$ ___ a standard that is an amount between the minimum and the maximum.</p>

TN No. NE 10-16  
Supersedes  
TN No. MS 99-4

Approval Date NOV 23 2010 Effective Date JUL 01 2010

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Nebraska

VARIATIONS FROM THE BASIC PERSONAL NEEDS ALLOWANCE

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An individual considered incompetent to handle his/her own affairs is allowed an additional \$10 per month for guardianship/conservator fees and additional amount as approved by the court for annual accounting and bonding fees.

For an individual in an ICF-MR (ICF-ID) who participates in a sheltered workshop, an additional amount up to \$65 plus one-half of the remainder of earned income may be retained.

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