

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

This is basic information and
does not constitute legal advice

Payment of Prescription Medicine for Persons who are Outpatients

Who is responsible for paying for prescribed treatment when it is received outside a treatment facility?

The person receiving the treatment and the person's "relatives" are liable for the cost of the care, support, maintenance, and treatment of the person. Neb. Rev. Stat. §83-364 (1999). In this case, a relative is either the spouse of the person or if the person is a minor, the person's parents.

The Department of Health and Human Services will only require that the person or his or her relatives pay an amount they are able to pay. Neb. Rev. Stat. §83-366 (1999). If the relative is a parent, the parent is only liable to pay for either 180 months or when the person attains the age of majority, whichever occurs first. However, if the relative is a spouse, the above exception does not apply. Neb. Rev. Stat. §83-367 (1999).

How is the amount to be paid determined?

The Department of Health and Human Services will determine the amount to be paid based on the following factors:

- taxable income reportable under Nebraska law;
- the person's age;
- the number of the person's dependents and their ages and mental and physical conditions;
- the person's length of care or treatment;
- the person's liabilities; and
- the person's assets, including health insurance coverage. Neb. Rev. Stat. §83-368 (1999).

What if the person is unable to pay the amount determined by the above factors?

If the person is unable to pay the entire cost determined by the factors listed above, the Department of Health and Human Services will examine the ability of the person's relatives to pay such costs. When examining the relative's ability to pay, the following factors will be considered:

- the relative's taxable income reportable under Nebraska law;
- the person's length of care and treatment;
- other factors the relative may request to have considered to avoid undue hardship, such as the relative's age, provision for the relative's retirement, the relative's assets and liabilities, the number of the relative's dependents and their mental and physical condition, as well as the educational requirements of the dependents. Neb. Rev. Stat. §83-369 (1999).

If the relative does not furnish the requested information to the Department of Health and Human Services, the relative will be presumed to be able to pay the entire cost of the person's required treatment. Further, if the person or relative transfers any assets or property to another person for the purpose of affecting the determination of ability to pay the transfer will likely be considered fraudulent. The director of Health and Human Services will then consider the value of the assets or property transferred in determining the person's or relative's ability to pay. Neb. Rev. Stat. §§83-370; 83-379 (1999).

How often is the person or the relative's ability to pay determined?

The person's or relative's ability to pay will be effective until a redetermination is made. Such a redetermination will be done once per year and more often when the Director of Health and Human Services believes it appropriate to do so or when the person or the relative who is liable for payments, makes a request for a redetermination. Neb. Rev. Stat. §83-373 (1999).

What if the person or relative does not agree with the determination of their ability to pay?

If the person or a relative liable for payment is aggrieved by a determination of their ability to pay, the person or relative may request a hearing before the Director of Health and Human Services. The director may then appoint an examiner who will preside over the hearing, administer oaths, examine witnesses, and take testimony. The examiner will then report these to the Director of Health and Human Services.

If a hearing is held, it will take place in the county in which the person requesting the hearing resides if that is where the person makes a request for the hearing to be held. The county board will be required to attend the hearing. Once the hearing has concluded, the Director of Health and Human Services will deliver a decision within 60 days. If the person or relative responsible for payment does not agree with the outcome of the hearing, the person or relative may appeal the decision. Neb. Rev. Stat. §83-374 (1999).

What if the person or relative fails to pay the amount determined?

If the person needing treatment or the relative fails to pay the determined amount, the state of Nebraska may proceed against the person or relative as authorized by law for the recovery of money owed to a creditor. Neb. Rev. Stat. §83-375 (1999).

What happens if the person has a guardian?

In the event the person has a guardian, the guardian will be liable just as the person would be on any other matters arising under the guardianship. Neb. Rev. Stat. §83-377 (1999).

What if the person dies and there are still payments to be made?

Any portions of treatment left unpaid by the person or the relative at the time of the person's or relative's death will become a claim against the estate of the person or relative. However, the Department of Health and Human Services may accept voluntary payments on behalf of the person from anyone who is not liable for the payments. Neb. Rev. Stat. §83-378 (1999).