December 5, 2013

Nebraska Department of Health and Human Services
301 Centennial Mall South
Lincoln, NE 68509

My name is Sarah Helvey, and I am a Staff Attorney and the Director of the Child Welfare Program at Nebraska Appleseed. Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans. I am here today to testify on the proposed regulations in Title 395, Chapter 10.

I would like to begin by saying that we greatly appreciate the Department’s transparency in the process of creating these regulations. As a member of the Young Adult Voluntary Services and Support Advisory Committee and a participant in the Advisory Committee’s policy workgroup, we had the opportunity to review drafts of these regulations and provide feedback to the Department during the drafting process. In our experience, this process was unprecedented, and we believe this type of collaboration is necessary in order for this program to be successful in improving outcomes for young adults making the difficult transition from foster care to adulthood.

While we appreciated the opportunity to provide feedback during the process of developing these regulations, we have remaining concerns in a few areas. Specifically, we have concerns that the regulations as they relate to eligibility for medical assistance for young adults in the Young Adult Voluntary Services and Support or Bridge to Independence program do not comply with the requirements of the Nebraska statutes.

Neb. Rev. Stat. § 43-4505(1) specifically states, “Extended services and support provided under the extended services program include, but are not limited to: (1) Medical care under the medical assistance program.” While the statute mandates medical assistance for all eligible young adults under the extended services program, the proposed regulations at 395 NAC 10-005.01 limit medical assistance to young adults who are eligible to receive Medicaid, presumably under existing Nebraska Medicaid categories. The proposed regulation specifically states: “A young adult who is enrolled in the Bridge to Independence program will receive medical assistance through Nebraska Medicaid, if eligible. The department will assist the young adult in applying for the medical assistance program” (emphasis added).

Existing Medicaid categories in Nebraska will not cover all young people in the Bridge to Independence program. In particular, young adults who were discharged to independent living after age 18 would not be determined eligible for the Affordable Care Act’s new mandatory category for youth formerly in foster care as Nebraska has chosen to implement that provision. In addition, young adults who were not receiving Medicaid when they aged out of care, which as a result of recent state policy changes now includes many state wards placed in their own homes, would also not be eligible for this new category. Nebraska has taken an optional category of Medicaid to cover young adults who were former wards and regularly attend secondary education or vocational
Finally, we would like to raise concerns about certain sections in the regulations. In 395 NAC 10-003.04, the regulations state, “A young adult residing in an approved supervised independent living
setting must be supervised or monitored by a Department employee a minimum of once every 30 days.” This language appears contrary to the young adult-driven intent of the Young Adult Voluntary Services and Support Act, and we worry it will be interpreted as calling for stricter supervision than dictated by state or federal law. To meet federal requirements while also respecting the young adult’s independence and autonomy, we would suggest alternative language of “A young adult residing in an approved supervised independent living setting is to have face-to-face meetings with a supervising Department employee a minimum of once every 30 days.”

Along those same lines, we also noted that there is no mention of safety standards or other requirements for supervised independent living settings. We recall discussing this as part of the policy workgroup and thought the group had decided upon language indicating that housing should meet health and safety standards. We no longer see this language in the proposed regulations. Therefore, we are curious how the department intends to handle any requirements or approval process to determine if a young adult may reside in a particular supervised independent living setting. We believe any such requirements should be included in the regulations to avoid confusion or misunderstandings.

Again, we thank the Department for their transparency in the development of these proposed regulations but believe these changes are necessary in order for the regulations to be in compliance with the authorizing statute and in order for the Bridge to Independence program to be implemented as intended and successful for young adults.

Sincerely,
NEBRASKA APPLESEED

Sarah Helvey, J.D., M.S.
Director, Child Welfare Program

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i 477 NAC 24-006 (proposed July 26, 2013).
iv Nebraska State Plan Under Title XIX of the Social Security Act, Medical Assistance Program.