

**BEFORE THE NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
STATE OF NEBRASKA**

In the Matter of 468 NAC 4-001.01F1) **Petition for Rule Change**
by Erin Ching, Petitioner)

COMES NOW the Petitioner, Erin Ching, pursuant to Nebraska Revised Statute § 84-907.08 and 465 NAC 4-000, and requests that the Nebraska Department of Health and Human Services amend their rules and regulations as set forth in this Petition.

In support of this request the Petitioner states as follows:

1. Petitioner seeks to amend existing rule 468 NAC 4-001.01F1.
2. Petitioner seeks to amend 468 NAC 4-001.01F1 as follows:

~~Hundred-Hour Rule: Neither medically needy parent can be working more than 100 hours in a calendar month. The case manager will consider if the parent(s) worked more than 100 hours in any of the three previous calendar months, or if the parent(s) is scheduled to work more than 100 hours for the month of application. Unemployment/underemployment: A needy child is considered deprived of parental support or care if the filing unit meets the applicable Medically Needy Income Level (MNIL).~~

~~Work study is considered employment when determining the 100 hours.~~

Summary.

3. Under the “100 hour rule” certain two-parent households lose their Medicaid if one parent works more than 100 hours per month, *even though* they are poor enough to qualify for Medicaid. This rule punishes welfare recipients for working and encourages intact families to break up in order to keep their healthcare. In fact, the 100 hour rule is simply a relic of old, pre-welfare reform regulations. Petitioner proposes that the Department delete the 100 hour rule and link Medicaid eligibility directly to a family’s income level.

I. Punishing Nebraskans for seeking employment.

4. The 100 hour rule disqualifies two-parent families from receiving Medicaid, *even though they are poor enough to qualify for Medicaid*. A parent entering the workforce in a low-wage job is thus made worse off by working because her family will lose its healthcare. Especially for a family with special medical needs, this creates a strong incentive for a parent to work fewer hours or remain unemployed. The proposed rule change would link Medicaid eligibility directly to a family’s income. This ensures that the medical needs of the poorest Nebraskan families are met while parents transition back to the workforce.

II. Unfair to two-parent families.

5. In addition to discouraging employment, the 100 hour rule treats two-parent families more harshly than identically situated single parents. A working single parent retains her healthcare coverage so long as her income is low enough to qualify for Medicaid. *Only two-parent families are prohibited from working more than 100 hours per month.* Thus, low-income parents have an incentive to separate in order to protect their family's healthcare. This undermines Nebraska's commitment to strengthening vulnerable families as they regain self-sufficiency.

III. A regulatory relic.

6. The 100 hour rule is an artifact of a defunct federal regulation that had long tied the hands of Nebraska administrators. Before welfare reform in the 1990s, the 100 hour rule applied to all individuals who received Medicaid. But in 1998, responding to widespread criticism that the requirement was unfair, federal regulators said that states were no longer required to enforce the rule. The Nebraska legislature responded by deleting the 100 hour rule for most groups of Medicaid recipients.
7. The Nebraska legislature left unclear, however, whether the rule should apply to one particular Medicaid sub-group. These individuals are poor enough to receive Medicaid after accounting for money spent on medical bills. After this deduction, such individuals *are just as poor as anyone on Medicaid* and there is no reason to hold them to additional, arbitrary rules. It is time for the Department to correct this regulatory incongruence and do away with a regulation once called "the last vestige of the old welfare system."

The Department should eliminate the 100 hour rule.

8. For these reasons, Petitioner requests that the Department delete the 100 hour rule and eliminate a significant barrier to self-sufficiency and family unity.

Dated this 30th day of July, 2008.

By: _____

Erin A. Ching #23757
Nebraska Appleseed Center
for Law in the Public Interest
941 O Street, Suite 920
Lincoln, NE 68508
(402) 438-8853