



## STATUTORY AND REGULATORY FRAMEWORK

5. The Nebraska Welfare Reform Act was created for the purpose of providing temporary, transitional support for Nebraska families so they can achieve economic self-sufficiency. Neb. Rev. Stat. § 68-1709.
6. This goal is to be accomplished through individualized assessments of the personal and economic resources of each applicant for public assistance and through the use of individualized self-sufficiency contracts. *Id.*
7. Furthermore, the welfare system is supposed to support, stabilize and enhance individual and family life by, among other things, helping Nebraskans avoid poverty and prevent the need for welfare. *Id.*
8. The ADC program, Nebraska's cash assistance program, requires all able bodied adults that receive assistance to participate in the Employment First program. 468 NAC 2-000 (effective October 14, 2002).
9. The Employment First program is designed to focus on the individual skills and abilities of participants and develop a plan of activities that will lead the family to self-sufficiency. 468 NAC 2-020.05 (effective October 15, 2002).
10. The first step in this process involves the caseworker performing a comprehensive assessment of the family's assets to identify the economic and personal resources available. Neb. Rev. Stat. § 68-1718.
11. During the assessment process the caseworker will look at the parent's "education, vocational skills, employment history, health, life skills, personal strengths, and support from the family and the community." *Id.*

12. A key part of the assessment process is to determine the parent's goals and what is needed for them to reach those goals. *Id.* The Welfare reform act mandates that "each individual and family receiving assistance under the Welfare Reform Act shall reach for his or her highest level of economic self-sufficiency. Neb. Rev. Stat. § 68-1726.
13. "Activities that the participant engages in should build on his/her strengths, help to remove barriers to self-sufficiency and prepare him/her for entry into the labor market. Successful completion of the activities within the [contract] should build momentum and forward movement toward the achievement of the participant's vocational goal and eventual self-sufficiency..." 468 NAC 2-020.06 (effective December 27, 1997).
14. The comprehensive assets assessment is used by the caseworker and the family to develop a self-sufficiency contract. Neb. Rev. Stat. § 68-1719.
15. "Under the self-sufficiency contract...the principle wage earner and other nonexempt members of the applicant family shall be required to participate in one or more of the following: Education, job skills training, work experience, job search, or employment." Neb. Rev. Stat. § 68-1721.
16. Job Skills Training is defined as "vocational training in technical job skills and equivalent knowledge. Activities shall consist of formalized, technical job skills training, apprenticeships, on-the-job training, or training in the operation of a micro business enterprise. The types of training, apprenticeships, or training positions may include, but need not be limited to, the ability to provide services such as home repairs, automobile repairs, respite care, foster care, personal care, and child care.

Job skills training shall be prioritized and approved for occupations that facilitate economic self-sufficiency.” *Id.*

17. Job Skills Training is further defined in the regulations as “specific vocational training in technical job skills. The completion of Job Skills Training leads to the attainment of a certificate, a diploma, or an Associates degree.” 468 NAC 2-020.06D. (effective October 14, 2002).
18. “The Self-Sufficiency Contract is to be used as a flexible tool...Adjustments to goals, components, or scheduled activities within components may be necessary as a result of changes in labor market conditions, or a variety of individual circumstances.” 468 NAC 2-020.05 (effective October 15, 2002).
19. The Self-Sufficiency Contract can be amended at any time. *Id.*

#### **FACTUAL ALLEGATIONS**

20. On October 14, 2002, the Nebraska Department of Health and Human Services revised the regulations that allow parents participating in the Employment First program to participate in Job Skills Training.
21. A new requirement was added to the regulations governing the participation in Job Skills Training as part of the Employment First Program. The new rule provides:  
“The participant can participate in Job Skills Training for up to 24 months if s/he can complete the training within his/her time limits.” 468 NAC 2-020.06C.
22. In the fall of 2002, Petitioner Molly Keith enrolled and began taking classes at Southeast Community College in Lincoln, Nebraska in the Pre-respiratory Care Program.

23. In October of 2003, Plaintiff Molly Keith applied for Aid to Dependent Children (ADC) cash assistance.
24. On October 9, 2003, Ms. Keith completed her comprehensive assets assessment.
25. On October 15, 2003, Ms. Keith signed a self-sufficiency contract, but did not have an employment plan or service plan, which contain the activities she and the department must complete as part of the plan for self-sufficiency.
26. Ms. Keith's 24-month time limit began November 1, 2003.
27. If Ms. Keith receives ADC for 24 consecutive months, she will reach her 24-month time limit on October 31, 2005.
28. On November 3, 2003, Ms. Keith met with her case manager, Tracy Slieter to develop her Employment First Employment Plan, which would contain her long term and short term goals and her Employment First Service Plan which would contain the activities and services she would use to reach her long term and short term goals.
29. On November 3, 2003, Ms. Keith requested that she be able to continue participating in the Pre-Respiratory Care Program at Southeast Community College as her work activity in her Employment First Employment Plan and Service Plan.
30. Ms. Keith was told by Ms. Slieter that she could not use her classes at Southeast Community College as her work activity because she would not complete her degree before she reached her time limit to receive ADC.
31. Ms. Slieter did not inquire about whether Ms. Keith had a plan that she could be self-sufficient within the 24 month time limit by pursuing her classes even though she would not graduate by month 24.

32. Ms. Keith signed the employment plan and service plan only after she was told that she could renegotiate her contract to include a different work activity at any time.
33. On November 24, 2003, Ms. Keith met with Ms. Slieter to renegotiate her self-sufficiency contract to include the classes she was taking at Southeast Community College.
34. At the November 24, 2003 meeting Ms. Keith presented Ms. Slieter with a plan outlining how she could be self-sufficient within her ADC time limit by continuing to participate in the Respiratory Care Program at Southeast Community College, even though she will not receive her degree until December of 2005.
35. Ms. Keith's plan illustrated how after participating in the Respiratory Care Program for six months, she would be eligible to be hired as a respiratory therapy aid and would no longer need ADC to help meet her basic needs.
36. Ms. Slieter refused to allow Ms. Keith to renegotiate her employment plan and service plan and refused to give Ms. Keith a written explanation of this decision.
37. On January 13, 2004 Molly Keith filed an appeal with the Nebraska Department of Health and Human Services challenging 1) the department's refusal to let her renegotiate her self-sufficiency contract, 2) the department's refusal to allow her to include her classes at Southeast Community College in her self-sufficiency contract, and 3) that as a result of these two errors, the sanction was improper.
38. On August 23, 2004, Ms. Keith received a decision from hearing officer Audie Wise signed by Director Montanez upholding the caseworker's decision that Ms. Keith's classes at Southeast Community College could not be included in her employment plan and service plan.


39. Although Ms. Montanez's decision came 185 days after the hearing, and there was no written explanation of why it took longer than 60 days, as required under the Administrative Procedure Act, to provide the decision to Ms. Keith, the Respondents are now seeking to recover seven months of ADC provided while the Respondents were making their decision.

#### ASSIGNMENTS OF ERROR

40. The Hearing Officer erred in holding that Ms. Keith did not appeal the department's decision that she could not renegotiate her contract.
41. The Hearing Officer erred in holding that Ms. Keith did not appeal the department's decision that her classes at Southeast Community College could not count as her work activity.
42. The Hearing Officer erred in upholding the sanction in that the decision is contrary to the law, not supported by the evidence, and is arbitrary, capricious and unreasonable.

WHEREFORE the Petitioner respectfully requests that this Court reverse the decision of the administrative hearing officer, require the Respondents to allow Ms. Keith to count her Respiratory Care Program classes as her work activity in the Employment First program, lift the Employment First sanction, and grant such other relief as the Court deems just.

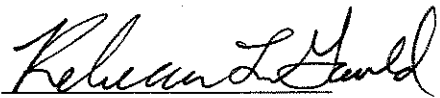
DATED: September 14, 2004

MOLLY KEITH, Petitioner  
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**PRAECIPE**

**TO THE CLERK OF THE DISTRICT COURT OF LANCASTER COUNTY:**

Please prepare a Summons for personal service in the above captioned matter to be served by the Lancaster County Sheriff, along with a copy of the petition upon each of the Defendants, the Nebraska Department of Health and Human Services and Nancy Montanez, Director, who both can be served at the office of the Attorney General, Room 2115 State Capitol, Lincoln, NE 68509, during usual business hours.

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