

LEGISLATIVE BILL 62

Approved by the Governor April 17, 2024

Introduced by Cavanaugh, M., 6; Hunt, 8; Conrad, 46.

A BILL FOR AN ACT relating to public health and welfare; to amend section 68-908, Reissue Revised Statutes of Nebraska, section 68-996, Revised Statutes Cumulative Supplement, 2022, and section 68-911, Revised Statutes Supplement, 2023; to change provisions relating to the annual summary and analysis of the medical assistance program; to provide for coverage of translation and interpretation services under the medical assistance program; to change provisions relating to the Medicaid Managed Care Excess Profit Fund; to require a report relating to the Temporary Assistance for Needy Families program; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 68-908, Reissue Revised Statutes of Nebraska, is amended to read:

68-908 (1) The department shall administer the medical assistance program.

(2) The department may (a) enter into contracts and interagency agreements, (b) adopt and promulgate rules and regulations, (c) adopt fee schedules, (d) apply for and implement waivers and managed care plans for services for eligible recipients, including services under the Nebraska Behavioral Health Services Act, and (e) perform such other activities as necessary and appropriate to carry out its duties under the Medical Assistance Act. A covered item or service as described in section 68-911 that is furnished through a school-based health center, furnished by a provider, and furnished under a managed care plan pursuant to a waiver does not require prior consultation or referral by a patient's primary care physician to be covered. Any federally qualified health center providing services as a sponsoring facility of a school-based health center shall be reimbursed for such services provided at a school-based health center at the federally qualified health center reimbursement rate.

(3) The department shall maintain the confidentiality of information regarding applicants for or recipients of medical assistance and such information shall only be used for purposes related to administration of the medical assistance program and the provision of such assistance or as otherwise permitted by federal law.

(4) The department shall prepare an annual summary and analysis of the medical assistance program for legislative and public review. The department shall submit a report of such summary and analysis to the Governor and the Legislature electronically no later than December 1 of each year. The annual summary shall include, but not be limited to:

(a) The number and percentage of applications approved and denied;

(b) The number of eligibility determinations, including the number and percentage of those individuals remaining enrolled, terminations, and other determinations;

(c) The number of case closures in the medical assistance program and the Children's Health Insurance Program and the specific reason for the closure broken down by (i) eligibility category, including program type, (ii) local public health district or other geographic area, and (iii) race or ethnicity, if available;

(d) The number of medical assistance program and Children's Health Insurance Program enrollees broken down by (i) eligibility category, including program type, (ii) local public health district or other geographic area, and (iii) race or ethnicity, if available;

(e) The number and percentage of redeterminations or renewals processed ex parte, broken down by (i) eligibility category, including program type and (ii) race or ethnicity, if available;

(f) The average number of days required to process applications for the medical assistance program and Children's Health Insurance Program, separating the data by applicants with modified adjusted gross income and nonmodified adjusted gross income eligibility;

(g) The rate of re-enrollment within ninety days of termination and within twelve months of termination, broken down by (i) eligibility category, including program type, (ii) local public health district or other geographic area, and (iii) race or ethnicity, if available;

(h) The average client call duration;

(i) The client call abandonment rate;

(j) The number of requests for a fair hearing separated by (i) eligibility category and program type, (ii) outcome, and (iii) amount of time until final disposition; and

(k) A link to the medical assistance program fair hearing decisions that have been redacted to protect private and health information, which shall be posted on the department's website.

Sec. 2. Section 68-911, Revised Statutes Supplement, 2023, is amended to read:

68-911 (1) Medical assistance shall include coverage for health care and

related services as required under Title XIX of the federal Social Security Act, including, but not limited to:

- (a) Inpatient and outpatient hospital services;
- (b) Laboratory and X-ray services;
- (c) Nursing facility services;
- (d) Home health services;
- (e) Nursing services;
- (f) Clinic services;
- (g) Physician services;
- (h) Medical and surgical services of a dentist;
- (i) Nurse practitioner services;
- (j) Nurse midwife services;
- (k) Pregnancy-related services;
- (l) Medical supplies;
- (m) Mental health and substance abuse services;
- (n) Early and periodic screening and diagnosis and treatment services for children which shall include both physical and behavioral health screening, diagnosis, and treatment services;
- (o) Rural health clinic services; and
- (p) Federally qualified health center services.

(2) In addition to coverage otherwise required under this section, medical assistance may include coverage for health care and related services as permitted but not required under Title XIX of the federal Social Security Act, including, but not limited to:

- (a) Prescribed drugs;
- (b) Intermediate care facilities for persons with developmental disabilities;
- (c) Home and community-based services for aged persons and persons with disabilities;
- (d) Dental services;
- (e) Rehabilitation services;
- (f) Personal care services;
- (g) Durable medical equipment;
- (h) Medical transportation services;
- (i) Vision-related services;
- (j) Speech therapy services;
- (k) Physical therapy services;
- (l) Chiropractic services;
- (m) Occupational therapy services;
- (n) Optometric services;
- (o) Podiatric services;
- (p) Hospice services;
- (q) Mental health and substance abuse services;
- (r) Hearing screening services for newborn and infant children; and
- (s) Administrative expenses related to administrative activities, including outreach services, provided by school districts and educational service units to students who are eligible or potentially eligible for medical assistance.

(3) No later than July 1, 2009, the department shall submit a state plan amendment or waiver to the federal Centers for Medicare and Medicaid Services to provide coverage under the medical assistance program for community-based secure residential and subacute behavioral health services for all eligible recipients, without regard to whether the recipient has been ordered by a mental health board under the Nebraska Mental Health Commitment Act to receive such services.

(4) On or before October 1, 2014, the department, after consultation with the State Department of Education, shall submit a state plan amendment to the federal Centers for Medicare and Medicaid Services, as necessary, to provide that the following are direct reimbursable services when provided by school districts as part of an individualized education program or an individualized family service plan: Early and periodic screening, diagnosis, and treatment services for children; medical transportation services; mental health services; nursing services; occupational therapy services; personal care services; physical therapy services; rehabilitation services; speech therapy and other services for individuals with speech, hearing, or language disorders; and vision-related services.

(5) No later than January 1, 2023, the department shall provide coverage for continuous glucose monitors under the medical assistance program for all eligible recipients who have a prescription for such device.

(6) On or before October 1, 2023, the department shall seek federal approval for federal matching funds from the federal Centers for Medicare and Medicaid Services through a state plan amendment or waiver to extend postpartum coverage for beneficiaries from sixty days to at least six months. Nothing in this subsection shall preclude the department from submitting a state plan amendment for twelve months.

(7)(a) No later than January 1, 2024, the department shall provide coverage, and reimbursement to providers, for all necessary translation and interpretation services for eligible recipients utilizing a medical assistance program service. The department shall take all actions necessary to maximize federal funding to carry out this subsection.

(b) The services described in subdivision (7)(a) of this section shall be funded by the Medicaid Managed Care Excess Profit Fund as described in section 68-996.

Sec. 3. Section 68-996, Revised Statutes Cumulative Supplement, 2022, is amended to read:

68-996 The Medicaid Managed Care Excess Profit Fund is created. The fund shall contain money returned to the State Treasurer pursuant to subdivision (3) of section 68-995. The fund shall first be used to offset any losses under subdivision (2) of section 68-995 and then to provide for services addressing the health needs of adults and children under the Medical Assistance Act, including filling service gaps, providing system improvements, translation and interpretation services, and sustaining access to care as determined by the Legislature. The fund shall only be used for the purposes described in this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 4. The Department of Health and Human Services shall electronically submit a report to the Health and Human Services Committee of the Legislature by November 1 of each year on the current and anticipated expenditures for the Temporary Assistance for Needy Families program funds allocated pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193. Such report shall provide the committee with all necessary and appropriate information to enable the committee to conduct a meaningful evaluation of such expenditures. Such information shall include, but not be limited to:

(1) A clear description of programs and services currently funded by the Temporary Assistance for Needy Families program;

(2) A clear explanation of each purpose met by such program or service;

(3) For programs and services provided by entities other than the state, a clear description of the recipient of Temporary Assistance to Needy Families funds;

(4) For programs other than the aid to dependent children program, a clear statement explaining how an expenditure for that program or service is more likely to help families achieve economic mobility and self-sufficiency than an increase in expenditures for the aid to dependent children program;

(5) The number of persons served under each program or service; and

(6) All costs and expenditures associated with each program or service.

Sec. 5. Original section 68-908, Reissue Revised Statutes of Nebraska, section 68-996, Revised Statutes Cumulative Supplement, 2022, and section 68-911, Revised Statutes Supplement, 2023, are repealed.