

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1110

Introduced by Campbell, 25.

Read first time February 17, 2010

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the medical assistance program; to amend
2 sections 68-901 and 68-915, Reissue Revised Statutes of
3 Nebraska, and section 4-110, Revised Statutes Supplement,
4 2009; to provide for coverage for certain children as
5 prescribed; to repeal the original sections; and to
6 declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 4-110, Revised Statutes Supplement,
2 2009, is amended to read:

3 4-110 Verification of lawful presence in the United
4 States pursuant to section 4-108 is not required for:

5 (1) Any purpose for which lawful presence in the United
6 States is not restricted by law, ordinance, or regulation;

7 (2) Assistance for health care services and products,
8 not related to an organ transplant procedure, that are necessary
9 for the treatment of an emergency medical condition, including
10 emergency labor and delivery, manifesting itself by acute symptoms
11 of sufficient severity, including severe pain, such that the
12 absence of immediate medical attention could reasonably be expected
13 to result in (a) placing the patient's health in serious jeopardy,
14 (b) serious impairment to bodily functions, or (c) serious
15 dysfunction of any bodily organ or part;

16 (3) Short-term, noncash, in-kind emergency disaster
17 relief;

18 (4) Public health assistance for immunizations with
19 respect to diseases and for testing and treatment of symptoms
20 of communicable diseases, whether or not such symptoms are caused
21 by a communicable disease; or

22 (5) Programs, services, or assistance necessary for the
23 protection of life or safety, such as soup kitchens, crisis
24 counseling and intervention, and short-term shelter, which (a)
25 deliver in-kind services at the community level, including those

1 which deliver such services through public or private, nonprofit
2 agencies and (b) do not condition the provision of assistance, the
3 amount of assistance provided, or the cost of assistance provided
4 on the income or resources of the recipient.

5 The Legislature finds that unborn children do not have
6 immigration status and therefor are not within the scope of section
7 4-108. Prenatal care services that are available pursuant to
8 section 68-915 and section 4 of this act to unborn children, whose
9 eligibility is independent of the mother's eligibility status,
10 shall not be deemed to be tied to the immigration status of the
11 mother and therefor are not included in the restrictions imposed by
12 section 4-108.

13 Sec. 2. Section 68-901, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 68-901 Sections 68-901 to 68-967 and section 4 of this
16 act shall be known and may be cited as the Medical Assistance Act.

17 Sec. 3. Section 68-915, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 68-915 The following persons shall be eligible for
20 medical assistance:

21 (1) Dependent children as defined in section 43-504;

22 (2) Aged, blind, and disabled persons as defined in
23 sections 68-1002 to 68-1005;

24 (3) Children under nineteen years of age who are eligible
25 under section 1905(a)(i) of the federal Social Security Act;

1 (4) Persons who are presumptively eligible as allowed
2 under sections 1920 and 1920B of the federal Social Security Act;

3 (5) Children under nineteen years of age with a family
4 income equal to or less than two hundred percent of the Office
5 of Management and Budget income poverty guideline, as allowed
6 under Title XIX and Title XXI of the federal Social Security Act,
7 without regard to resources, and pregnant women with a family
8 income equal to or less than one hundred eighty-five percent of
9 the Office of Management and Budget income poverty guideline,
10 as allowed under Title XIX and Title XXI of the federal Social
11 Security Act, without regard to resources. Children described
12 in this subdivision and subdivision (6) of this section shall
13 remain eligible for six consecutive months from the date of
14 initial eligibility prior to redetermination of eligibility. The
15 department may review eligibility monthly thereafter pursuant to
16 rules and regulations adopted and promulgated by the department.
17 The department may determine upon such review that a child is
18 ineligible for medical assistance if such child no longer meets
19 eligibility standards established by the department;

20 (6) For purposes of Title XIX of the federal Social
21 Security Act as provided in subdivision (5) of this section,
22 children with a family income as follows:

23 (a) Equal to or less than one hundred fifty percent of
24 the Office of Management and Budget income poverty guideline with
25 eligible children one year of age or younger;

1 (b) Equal to or less than one hundred thirty-three
2 percent of the Office of Management and Budget income poverty
3 guideline with eligible children over one year of age and under six
4 years of age; or

5 (c) Equal to or less than one hundred percent of the
6 Office of Management and Budget income poverty guideline with
7 eligible children six years of age or older and less than nineteen
8 years of age;

9 (7) Persons who are medically needy caretaker relatives
10 as allowed under 42 U.S.C. 1396d(a)(ii);

11 (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),
12 disabled persons as defined in section 68-1005 with a family income
13 of less than two hundred fifty percent of the Office of Management
14 and Budget income poverty guideline and who, but for earnings in
15 excess of the limit established under 42 U.S.C. 1396d(q)(2)(B),
16 would be considered to be receiving federal Supplemental Security
17 Income. The department shall apply for a waiver to disregard any
18 unearned income that is contingent upon a trial work period in
19 applying the Supplemental Security Income standard. Such disabled
20 persons shall be subject to payment of premiums as a percentage of
21 family income beginning at not less than two hundred percent of
22 the Office of Management and Budget income poverty guideline. Such
23 premiums shall be graduated based on family income and shall not be
24 less than two percent or more than ten percent of family income;
25 ~~and~~

1 (9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),
2 persons who:

3 (a) Have been screened for breast and cervical cancer
4 under the Centers for Disease Control and Prevention breast and
5 cervical cancer early detection program established under Title XV
6 of the federal Public Health Service Act, 42 U.S.C. 300k et seq.,
7 in accordance with the requirements of section 1504 of such act, 42
8 U.S.C. 300n, and who need treatment for breast or cervical cancer,
9 including precancerous and cancerous conditions of the breast or
10 cervix;

11 (b) Are not otherwise covered under creditable coverage
12 as defined in section 2701(c) of the federal Public Health Service
13 Act, 42 U.S.C. 300gg(c);

14 (c) Have not attained sixty-five years of age; and

15 (d) Are not eligible for medical assistance under any
16 mandatory categorically needy eligibility group; and-

17 (10) Services described in subsection (3) of section 4 of
18 this act.

19 Eligibility Except as provided in section 4 of this act,
20 eligibility shall be determined under this section using an income
21 budgetary methodology that determines children's eligibility at
22 no greater than two hundred percent of the Office of Management
23 and Budget income poverty guideline and adult eligibility using
24 adult income standards no greater than the applicable categorical
25 eligibility standards established pursuant to state or federal

1 law. The department shall determine eligibility under this section
2 pursuant to such income budgetary methodology and subdivision
3 (1)(q) of section 68-1713.

4 Sec. 4. (1) The Legislature finds that:

5 (a) Title XXI of the federal Social Security Act,
6 as amended, and the rules and regulations promulgated pursuant
7 thereto, authorize the State Children's Health Insurance Program
8 to assist state efforts to initiate and expand provisions of child
9 health assistance to uninsured, low-income children;

10 (b) As defined in Title XXI of the federal Social
11 Security Act, as amended, and the rules and regulations promulgated
12 pursuant thereto, child means an individual under the age of
13 nineteen years, including any period of time from conception to
14 birth, up to age nineteen years;

15 (c) Pursuant to Title XXI of the federal Social Security
16 Act, as amended, and the rules and regulations promulgated pursuant
17 thereto, eligibility can only be conferred to a targeted low-income
18 child, including an unborn child, under a separate child health
19 program;

20 (d) Under Title XXI of the federal Social Security Act,
21 as amended, and the rules and regulations promulgated pursuant
22 thereto, child health assistance is available to benefit unborn
23 children independent of the mother's eligibility and immigration
24 status;

25 (e) Under Title XXI of the federal Social Security Act,

1 as amended, and the rules and regulations promulgated pursuant
2 thereto, child health assistance expressly includes prenatal care
3 that connects to the health of the unborn child;

4 (f) Prenatal care has been clearly shown to reduce the
5 likelihood of premature delivery or low birth weight, both of which
6 are associated with a wide range of congenital disability as well
7 as infant mortality, and such care can detect a great number of
8 serious and even life-threatening disabilities, many of which can
9 now be successfully treated in utero;

10 (g) Ensuring prenatal care for more children will
11 significantly help reduce infant mortality and morbidity rates and
12 will spare many infants from the burden of congenital disabilities
13 and reduce the cost of treating those congenital disabilities after
14 birth;

15 (h) It is well established that access to prenatal
16 care can improve health outcomes during infancy as well as over
17 a child's life. Since healthy babies and children require less
18 medical care than babies and children with health problems,
19 provisions of prenatal care will result in lower medical
20 expenditures for the affected children in the long run; and

21 (i) Adopting federal law to provide for medical services
22 related to unborn children before birth will result in healthier
23 infants, better long-term child growth and development, and
24 ultimate cost savings to the state through reduced expenditures for
25 high cost neonatal and potential long-term medical rehabilitation.

1 (2) Such coverage shall be implemented through the
2 creation of a separate program as allowed under Title XXI of
3 the federal Social Security Act, as amended, and 42 C.F.R. 457.10,
4 solely for the unborn children of mothers who are ineligible for
5 coverage under Title XIX of the federal Social Security Act. All
6 other aspects of the medical assistance program relating to the
7 State Child Health Insurance Program remain a medicaid expansion
8 program as defined in 42 C.F.R. 457.10. If, as a condition of
9 receiving federal funds for the program, federal law requires
10 implementation and administration of the program in a manner
11 not provided in the Medical Assistance Act, the department shall
12 implement and administer those provisions subject to review by the
13 Legislature.

14 (3) The benefits provided pursuant to this subdivision
15 shall be prenatal care and pregnancy-related services connected
16 to the health of the unborn child, including: (a) Professional
17 fees for labor and delivery, including live birth, fetal death,
18 miscarriage, and ectopic pregnancy; (b) pharmaceuticals and
19 prescription vitamins; (c) outpatient hospital care; (d) radiology,
20 ultrasound, and other necessary imaging; (e) necessary laboratory
21 testing; (f) hospital costs related to labor and delivery; (g)
22 services related to conditions that could complicate the pregnancy,
23 including those for diagnosis or treatment of illness or medical
24 conditions that threaten the carrying of the unborn child to full
25 term or the safe delivery of the unborn child; and (h) other

1 pregnancy-related services approved by the department. Services
2 not covered under this subsection include dentistry, optometry,
3 and other medical issues separate to the mother and unrelated to
4 pregnancy.

5 (4) The department shall receive the state and federal
6 funds appropriated or provided for benefits provided pursuant to
7 this section. Within thirty days after the effective date of this
8 act, the department shall submit a state plan amendment or waiver
9 for approval by the federal Centers for Medicare and Medicaid
10 Services to provide coverage under the medical assistance plan to
11 persons eligible under this section.

12 (5) Eligibility shall be determined under this section
13 using an income budgetary methodology that determines children's
14 eligibility at no greater than one hundred eighty-five percent of
15 the Office of Management and Budget income poverty guideline.

16 Sec. 5. Original sections 68-901 and 68-915, Reissue
17 Revised Statutes of Nebraska, and section 4-110, Revised Statutes
18 Supplement, 2009, are repealed.

19 Sec. 6. Since an emergency exists, this act takes effect
20 when passed and approved according to law.