

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 148

Introduced by Crawford, 45.

Read first time January 09, 2015

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Medical Assistance Act; to amend
2 sections 68-901, 68-911, and 68-915, Revised Statutes Cumulative
3 Supplement, 2014; to provide coverage for certain individuals
4 formerly in foster care as prescribed; to harmonize provisions; to
5 repeal the original sections; and to declare an emergency.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-901, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 68-901 Sections 68-901 to 68-974 and section 4 of this act shall be
4 known and may be cited as the Medical Assistance Act.

5 Sec. 2. Section 68-911, Revised Statutes Cumulative Supplement,
6 2014, is amended to read:

7 68-911 (1) Medical assistance shall include coverage for health care
8 and related services as required under Title XIX of the federal Social
9 Security Act, including, but not limited to:

10 (a) Inpatient and outpatient hospital services;

11 (b) Laboratory and X-ray services;

12 (c) Nursing facility services;

13 (d) Home health services;

14 (e) Nursing services;

15 (f) Clinic services;

16 (g) Physician services;

17 (h) Medical and surgical services of a dentist;

18 (i) Nurse practitioner services;

19 (j) Nurse midwife services;

20 (k) Pregnancy-related services;

21 (l) Medical supplies;

22 (m) Mental health and substance abuse services; and

23 (n) Early and periodic screening and diagnosis and treatment
24 services for children which shall include both physical and behavioral
25 health screening, diagnosis, and treatment services.

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

30 (a) Prescribed drugs;

31 (b) Intermediate care facilities for persons with developmental

1 disabilities;

2 (c) Home and community-based services for aged persons and persons
3 with disabilities;

4 (d) Dental services;

5 (e) Rehabilitation services;

6 (f) Personal care services;

7 (g) Durable medical equipment;

8 (h) Medical transportation services;

9 (i) Vision-related services;

10 (j) Speech therapy services;

11 (k) Physical therapy services;

12 (l) Chiropractic services;

13 (m) Occupational therapy services;

14 (n) Optometric services;

15 (o) Podiatric services;

16 (p) Hospice services;

17 (q) Mental health and substance abuse services;

18 (r) Hearing screening services for newborn and infant children; and

19 (s) Administrative expenses related to administrative activities,
20 including outreach services, provided by school districts and educational
21 service units to students who are eligible or potentially eligible for
22 medical assistance.

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

30 (4) On or before October 1, 2014, the department, after consultation
31 with the State Department of Education, shall submit a state plan

1 amendment to the federal Centers for Medicare and Medicaid Services, as
2 necessary, to provide that the following are direct reimbursable services
3 when provided by school districts as part of an individualized education
4 program or an individualized family service plan: Early and periodic
5 screening, diagnosis, and treatment services for children; medical
6 transportation services; mental health services; nursing services;
7 occupational therapy services; personal care services; physical therapy
8 services; rehabilitation services; speech therapy and other services for
9 individuals with speech, hearing, or language disorders; and vision-
10 related services.

11 (5) On or before July 1, 2015, the department shall submit a state
12 plan amendment or waiver to the federal Centers for Medicare and Medicaid
13 Services to provide coverage under the medical assistance program to
14 individuals eligible as provided in section 4 of this act.

15 Sec. 3. Section 68-915, Revised Statutes Cumulative Supplement,
16 2014, is amended to read:

17 68-915 The following persons shall be eligible for medical
18 assistance:

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

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

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

24 (4) Persons who are presumptively eligible as allowed under sections
25 1920 and 1920B of the federal Social Security Act;

26 (5) Children under nineteen years of age with a family income equal
27 to or less than two hundred percent of the Office of Management and
28 Budget income poverty guideline, as allowed under Title XIX and Title XXI
29 of the federal Social Security Act, without regard to resources, and
30 pregnant women with a family income equal to or less than one hundred
31 eighty-five percent of the Office of Management and Budget income poverty

1 guideline, as allowed under Title XIX and Title XXI of the federal Social
2 Security Act, without regard to resources. Children described in this
3 subdivision and subdivision (6) of this section shall remain eligible for
4 six consecutive months from the date of initial eligibility prior to
5 redetermination of eligibility. The department may review eligibility
6 monthly thereafter pursuant to rules and regulations adopted and
7 promulgated by the department. The department may determine upon such
8 review that a child is ineligible for medical assistance if such child no
9 longer meets eligibility standards established by the department;

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

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

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

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

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

24 (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), disabled persons
25 as defined in section 68-1005 with a family income of less than two
26 hundred fifty percent of the Office of Management and Budget income
27 poverty guideline and who, but for earnings in excess of the limit
28 established under 42 U.S.C. 1396d(q)(2)(B), would be considered to be
29 receiving federal Supplemental Security Income. The department shall
30 apply for a waiver to disregard any unearned income that is contingent
31 upon a trial work period in applying the Supplemental Security Income

1 standard. Such disabled persons shall be subject to payment of premiums
2 as a percentage of family income beginning at not less than two hundred
3 percent of the Office of Management and Budget income poverty guideline.
4 Such premiums shall be graduated based on family income and shall not be
5 less than two percent or more than ten percent of family income;

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

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

14 (b) Are not otherwise covered under creditable coverage as defined
15 in section 2701(c) of the federal Public Health Service Act, 42 U.S.C.
16 300gg(c);

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

18 (d) Are not eligible for medical assistance under any mandatory
19 categorically needy eligibility group; ~~and~~

20 (10) Persons eligible for services described in subsection (3) of
21 section 68-972; and -

22 (11) Persons described in section 4 of this act.

23 Except as provided in section 68-972, eligibility shall be
24 determined under this section using an income budgetary methodology that
25 determines children's eligibility at no greater than two hundred percent
26 of the Office of Management and Budget income poverty guideline and adult
27 eligibility using adult income standards no greater than the applicable
28 categorical eligibility standards established pursuant to state or
29 federal law. The department shall determine eligibility under this
30 section pursuant to such income budgetary methodology and subdivision (1)
31 (q) of section 68-1713.

1 Sec. 4. (1) The department shall provide medical assistance to
2 individuals under twenty-six years of age who are current Nebraska
3 residents and were in foster care and enrolled in medicaid in any state
4 or territory of the United States or the District of Columbia on the date
5 of attaining eighteen years of age or such higher age as the state,
6 territory, or district has elected under 42 U.S.C. 675(8)(B)(iii), as
7 such section existed on January 1, 2015. The department shall implement
8 the federal option to accept self-attestation of foster care status and
9 medicaid enrollment pursuant to 42 C.F.R part 435, subpart J, for
10 individuals who were in foster care and enrolled in medicaid in other
11 states or territories of the United States or the District of Columbia.

12 (2) An individual who is in foster care and enrolled in the medical
13 assistance program in this state on the date of attaining the age of
14 eighteen, nineteen, or twenty-one years shall be enrolled to receive
15 benefits pursuant to 42 U.S.C. 1396a(a)(10)(A)(i)(IX) without any
16 interruption in coverage and without requiring a new application, unless
17 the individual declines such enrollment. The department shall provide any
18 individual who declines enrollment with a written notice explaining the
19 benefits of enrollment, the consequences of declining enrollment, and
20 explaining the individual's rights and the process by which he or she may
21 reapply at any time prior to attaining twenty-six years of age.

22 (3) The department shall develop procedures to identify and enroll
23 individuals who meet the criteria for eligibility under this section,
24 including, but not limited to, young adults who have already exited
25 foster care but may be eligible under this section. The department shall
26 conduct outreach to such individuals to ensure they are aware of the
27 ability to reenroll pursuant to this section.

28 (4) The department shall terminate an individual's eligibility for
29 coverage under the medical assistance program only if (a) it determines
30 that the individual is no longer eligible for coverage under this section
31 or the individual is not otherwise eligible pursuant to section 68-915 or

1 any other category of medical assistance provided by the department but
2 not enumerated in the Medical Assistance Act and (b) all due process
3 requirements in accordance with state and federal law with respect to
4 such termination are met.

5 (5) The department shall electronically provide an annual report to
6 the Health and Human Services Committee of the Legislature. The report
7 shall include the number of individuals currently eligible and enrolled
8 in the medical assistance program under this section, the number of
9 enrolled individuals who exited foster care in other states or
10 territories of the United States or in the District of Columbia and the
11 department's outreach efforts to individuals who are potentially eligible
12 under this section.

13 Sec. 5. Original sections 68-901, 68-911, and 68-915, Revised
14 Statutes Cumulative Supplement, 2014, are repealed.

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