

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 968

Introduced by Wayne, 13.

Read first time January 10, 2018

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to persons with disabilities; to amend section
2 68-915, Revised Statutes Cumulative Supplement, 2016; to adopt the
3 Disability Employment and Engagement Program Act; to change
4 provisions relating to eligibility for the medical assistance
5 program; to harmonize provisions; and to repeal the original
6 section.

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

1 Section 1. Sections 1 to 5 of this act shall be known and may be
2 cited as the Disability Employment and Engagement Program Act.

3 Sec. 2. For purposes of the Disability Employment and Engagement
4 Program Act:

5 (1) Department means the Department of Health and Human Services;

6 (2) Employed individual with a medically improved condition means a
7 person who (a) is at least sixteen but less than sixty-five years of age,
8 (b) ceases to be eligible for medical assistance under the medical
9 assistance program established pursuant to section 68-903 because the
10 individual, by reason of medical improvement, is determined at the time
11 of a regularly scheduled continuing disability review to no longer be
12 eligible for benefits, (c) continues to have a medically determinable
13 impairment, and (d)(i) is earning at least the applicable minimum wage
14 and working at least forty hours per month or (ii) is engaged in work for
15 wages or other measures; and

16 (3) Person with a disability who is employed means a person who is
17 at least sixteen years of age but less than sixty-five years of age and
18 who (a) is disabled under Title II or Title XVI of the federal Social
19 Security Act, as such act existed on January 1, 2018, or (b) has been
20 determined to be disabled by the department.

21 Sec. 3. (1) Medical assistance pursuant to the medical assistance
22 program established in section 68-903 shall continue to be paid on behalf
23 of a person with a disability who is employed, including an employed
24 individual with a medically improved condition, whose family income is
25 less than four hundred fifty percent of the Office of Management and
26 Budget income poverty guideline for the size of family involved.
27 Allowable assets for participation in the program shall be (a) twenty
28 thousand dollars for a family of one, (b) thirty thousand dollars for a
29 family of two, and (c) forty thousand dollars for a family of three or
30 more.

31 (2) Such recipients of medical assistance whose family income is one

1 hundred and fifty percent or more of the income poverty guideline may be
2 required to pay a premium in an amount established by the department in
3 rules and regulations using a sliding-fee or tiered-fee approach, but the
4 premium shall not exceed seven percent of the recipient family's unearned
5 income plus three percent of the recipient family's earned income.

6 Sec. 4. In order to increase the utilization and effectiveness of
7 the benefits under section 3 of this act, the department shall:

8 (1) Provide education and training to all department staff;

9 (2) Conduct outreach and education about the availability of such
10 benefits, focused on the eligible populations;

11 (3) Submit an annual report to the Governor and electronically to
12 the Legislature which shall contain the following information: (a) The
13 number of individuals receiving benefits under such section; (b)
14 demographic information about the recipients, including age, gender,
15 disability type, ethnicity, education level, county of residence, Title
16 II eligibility, earned income, and amount of premium payment; (c)
17 internal and external educational activities about the availability and
18 purpose of such benefits; (d) outreach activities to increase the
19 utilization of benefits available under such section; and (e) the costs
20 and benefits of the benefits provided pursuant to such section; and

21 (4) Establish a Disability Employment and Engagement Program
22 Advisory Committee to advise the department regarding implementation of
23 the Disability Employment and Engagement Program Act. The advisory
24 committee shall consist of the (a) chief executive officer of the
25 department or his or her designee, (b) the director of the Division of
26 Rehabilitation Services of the State Department of Education, (c) one
27 member of the Health and Human Services Committee of the Legislature,
28 appointed by the chairperson of such committee, (d) one representative of
29 the Governor's Policy Research Office, selected by the Governor, (e) one
30 representative of the Legislative Fiscal Analyst, selected by the
31 Legislative Fiscal Analyst, (f) one representative from the entity

1 providing benefits planning, assistance, and outreach pursuant to a grant
2 under 42 U.S.C. 1320b-20, as such section existed on January 1, 2018, (g)
3 one representative from the federal Protection and Advocacy for
4 Individuals with Developmental Disabilities program created by the
5 federal Developmental Disabilities Assistance and Bill of Rights Act, 42
6 U.S.C. 15001 et seq., as such act existed on January 1, 2018, (h) one
7 representative from the Division of Developmental Disabilities of the
8 Department of Health and Human Services who is responsible for disability
9 determinations, and (i) at least an equal number of persons with
10 disabilities who are employed and employed individuals with medically
11 improved conditions.

12 Sec. 5. The department shall adopt and promulgate rules and
13 regulations to carry out the Disability Employment and Engagement Program
14 Act.

15 Sec. 6. Section 68-915, Revised Statutes Cumulative Supplement,
16 2016, 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.

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

31 Sec. 7. Original section 68-915, Revised Statutes Cumulative

1 Supplement, 2016, is repealed.