



Ninety-Ninth Legislature - Second Session - 2006
Introducer's Statement of Intent
LB 1248

Chairperson: Jim Jensen
Committee: Health and Human Services
Date of Hearing: February 8, 2006

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 1248 is introduced by Senator Jensen as chair of the Health and Human Services Committee pursuant to LB 709 (2005) (the Medicaid Reform Act, sections 68-1087 to 68-1094). The bill is intended to facilitate implementation of the Medicaid Reform Plan prepared pursuant to the act, but does not contain all provisions or recommendations of the plan that do not require legislation for their implementation. The bill as introduced establishes a basic format for recodification of Medicaid statutes, but further amendments will be needed to complete the recodification and further address implementation of the Medicaid Reform Plan.

The bill recodifies statutes relating to the Medicaid program to Chapter 68, Article 9, and names a new act (the Medical Assistance Act).

Section 1 names the new act. Section 2 makes technical changes to section 68-1018, which establishes the medical assistance program (MAP), known as Medicaid.

Section 3 adds new provisions relating to Medicaid public policy: “(1) It is the public policy of the State of Nebraska to provide a program of medical assistance on behalf of eligible low-income Nebraska residents that (a) cooperates with public and private sector entities to promote the public health of Nebraska residents; (b) assists eligible recipients to access appropriate and necessary health care and related services; (c) encourages personal responsibility and accountability for the appropriate utilization of health care and related services; (d) cooperates with public and private employers and private sector insurers in providing access to health care and related services for Nebraska residents, (e) is appropriately managed and fiscally sustainable; and (f) qualifies for federal matching funds under Title XIX and Title XXI of the federal Social Security Act. (2) Nothing in the Medical Assistance Act or the medical assistance program shall be construed to create a separate state entitlement under such act or program.”

Section 4 defines terms.

Section 5 makes technical changes to section 68-1021 and incorporates provisions of section 68-1021.01. Incorporation by reference of federal law is made effective as such law existed on July 1, 2006, the operative date of the bill.

Section 6 adds new provisions relating to duties of the Department of Health and Human Services Finance and Support (department), and incorporates provisions of sections 68-1023, 68-1024, 68-1025, 68-1029 to 68-1036, and 68-1048 to 68-1069. The bill: (1) requires the

department to administer the medical assistance program (MAP or Medicaid) and comply with all applicable provisions of state and federal law relating to the program,

(2) permits the department to (a) enter into contracts and interagency agreements, (b) adopt and promulgate rules and regulations, (c) adopt fee schedules, and (d) perform other activities as necessary and appropriate to carry out its duties under the Medical Assistance Act;

(3) preserves existing contracts, agreements, and rules and regulations relating to the MAP,

(4) requires the department to maintain the confidentiality of information regarding applicants for or recipients of medical assistance,

(5) requires the department to administer the MAP in a manner consistent with the public policy in section 3 and “designed to achieve effective cost containment and moderation in the growth of medical assistance expenditures, including, but not limited to, the development and implementation of waivers and managed care plans for recipients of medical assistance,”

(6) requires the department to prepare a biennial budget and program review and analysis of the MAP and submit a report of such review and analysis to the Governor and the Legislature by December 1 of every even-numbered year, and

(7) requires the department, in consultation with the Health and Human Services Committee of the Legislature, to “develop recommendations for further modification or replacement of the defined benefit structure of the medical assistance program.” The study must “be consistent with the public policy in section 3 . . . , “consider the needs and resources of low-income Nebraska residents who are eligible or may become eligible for medical assistance,” and “consider the experience and outcomes of other states that have developed and implemented such changes.” Recommendations must be reported by the Governor and the Legislature by December 1, 2008.

Section 7 relates to funding for the MAP and medical assistance payments, makes technical changes to section 68-1022, requires that medical assistance funding be based on an assessment of General Fund revenue and the competing needs of other state-funded programs, permits greater flexibility in the payment of medical assistance, codifies Medicaid “disproportionate share” payments, and prohibits the payment of medical assistance directly to eligible recipients.

Section 8 relates to Medicaid covered services, makes technical changes to section 68-1019, and incorporates provisions of 68-1071 and 68-1072 (payments to schools and ESUs for Medicaid administrative activities). The bill requires the MAP to cover federally mandated services (but deletes the current list of mandatory services) and permits coverage for “optional” services. The bill requires that Medicaid-covered services be “generally reflective of and commensurate with group health insurance coverage provided by public and private employers and private sector insurers in this state as determined by the director [of the Department of Health and Human Services Finance and Support] and the Director of Insurance, with due consideration given to the needs and resources of eligible recipients.”

Section 9 relates to limitations on Medicaid-covered services, makes technical changes, and incorporates and deletes various provisions of sections 68-1019 to 68-1019.09. The bill continues to require the department to establish a schedule of premiums, copayments, and deductibles for goods and services provided under the MAP and to provide limits on the amount, duration, and scope of goods and services recipients may receive under the program. In addition, the bill permits the department to “establish requirements for recipients of medical assistance as a necessary condition for the continued receipt of such assistance, including, but not limited to,

active participation in care coordination or appropriate disease management programs and activities.” The bill continues to require reporting prior to adoption and promulgation of rules and regulations to establish limitations on covered services. The report must summarize the content of proposed rules and regulations and contain a detailed analysis of their projected impact on recipients of medical assistance and medical assistance expenditures. The department is required to monitor and report to the Governor and the Legislature on the effect of limitations on eligible recipients and medical assistance expenditures, and activities of the department to enforce such limitations.

Section 10 relates to eligibility for medical assistance and makes technical changes to section 68-1020. The bill permits the department to establish a separate children’s health insurance program as allowed under Title XXI of the federal Social Security Act for children under 19 years of age with family income from 150% to 185% of the federal poverty level.

Section 11 relates to application for medical assistance and eligibility determinations under the MAP, and contains provisions transferred from section 68-1020. The bill requires that applications for medical assistance be filed with the department. Applicants for medical assistance are entitled to notice of denial or discontinuation of eligibility and denial or modification of medical assistance benefits. Decisions of the department may be appealed in accordance with the Administrative Procedure Act.

Sections 12 to 21 transfer and make technical changes to sections 68-1026 to 68-1028 (assignment of rights), 68-1036.02 (estate recovery), 68-1036.03 (garnishment), and 68-1038 to 68-1043 (spousal impoverishment).

Sections 22-29 transfer and make technical changes to sections 68-10,100 to 68-10,107 relating to coordination of benefits (LB 589, 2005).

Sections 30-43 transfer and make technical changes to the Medicaid False Claims Act, sections 68-1073 to 68-1086 (LB 1084, 2004). Sections 44 to 80 make harmonizing changes to other Medicaid-related statutes.

Section 81 provides for an operative date of July 1, 2006. Section 82 repeals the original sections.

Section 83 outright repeals the following sections: 68-1019.02 to 68-1019.09, 68-1021.01, 68-1024, 68-1025, 68-1025.01, 68-1029 to 68-1036, 68-1037, 68-1048 to 68-1069, 68-1071, 68-1072, 68-1087 to 68-1099, and 83-1214.

Section 84 contains an emergency clause.

Principal Introducer:

_____ **Senator Jim Jensen**