

LEGISLATIVE BILL 1158

Approved by the Governor April 11, 2012

Introduced by Krist, 10.

FOR AN ACT relating to medical assistance; to amend section 71-801, Reissue Revised Statutes of Nebraska, and section 68-908, Revised Statutes Cumulative Supplement, 2010; to change provisions relating to the medical assistance program; to provide requirements for behavioral health managed care contracts; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 68-908, Revised Statutes Cumulative Supplement, 2010, 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)(a) The department shall prepare an annual summary and analysis of the medical assistance program for legislative and public review, including, but not limited to, a description of eligible recipients, covered services, provider reimbursement, program trends and projections, program budget and expenditures, the status of implementation of the Medicaid Reform Plan, and recommendations for program changes.

(b) The department shall provide a draft report of such summary and analysis to the Medicaid Reform Council no later than September 15 of each year. The council shall conduct a public meeting no later than October 1 of each year to discuss and receive public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the department no later than November 1 of each year. The department shall submit a final report of such summary and analysis to the Governor, the Legislature, and the council no later than December 1 of each year. Such final report shall include a response to each written recommendation provided by the council.

Sec. 2. All contracts and agreements relating to the medical assistance program governing at-risk managed care service delivery for behavioral health services entered into by the department on or after July 1, 2012, shall:

(1) Provide a definition and cap on administrative spending that (a) shall not exceed seven percent unless the implementing department includes detailed requirements for tracking administrative spending to ensure (i) that administrative expenditures do not include additional profit and (ii) that any administrative spending is necessary to improve the health status of the population to be served and (b) shall not under any circumstances exceed ten percent;

(2) Provide a definition of annual contractor profits and losses and restrict such profits and losses under the contract so that (a) profit shall not exceed three percent per year and (b) losses shall not exceed three percent per year, as a percentage of the aggregate of all income and revenue earned by the contractor and related parties, including parent and subsidy companies and risk-bearing partners, under the contract;

(3) Provide for reinvestment of (a) any profits in excess of the contracted amount, (b) performance contingencies imposed by the department,

and (c) any unearned incentive funds, to fund additional behavioral health services for children, families, and adults according to a plan developed with input from stakeholders, including consumers and their family members, the office of consumer affairs within the division, and the regional behavioral health authority and approved by the department. Such plan shall address the behavioral health needs of adults and children, including filling service gaps and providing system improvements;

(4) Provide for a minimum medical loss ratio of eighty-five percent of the aggregate of all income and revenue earned by the contractor and related parties under the contract;

(5) Provide that contractor incentives, in addition to potential profit, be at least one and one-half percent of the aggregate of all income and revenue earned by the contractor and related parties under the contract;

(6) Provide that a minimum of one-quarter percent of the aggregate of all income and revenue earned by the contractor and related parties under the contract be at risk as a penalty if the contractor fails to meet the minimum performance metrics defined in the contract, and such penalties, if charged, shall be accounted for in a manner that shall not reduce or diminish service delivery in any way; and

(7) Be reviewed and awarded competitively and in full compliance with the procurement requirements of the State of Nebraska.

Sec. 3. Section 71-801, Reissue Revised Statutes of Nebraska, is amended to read:

71-801 Sections 71-801 to 71-830 and section 2 of this act shall be known and may be cited as the Nebraska Behavioral Health Services Act.

Sec. 4. Original section 71-801, Reissue Revised Statutes of Nebraska, and section 68-908, Revised Statutes Cumulative Supplement, 2010, are repealed.

Sec. 5. Since an emergency exists, this act takes effect when passed and approved according to law.