

## LEGISLATIVE BILL 664

Approved by the Governor February 13, 2024

Introduced by Riepe, 12.

A BILL FOR AN ACT relating to public assistance; to amend sections 68-944, 68-945, and 68-946, Reissue Revised Statutes of Nebraska; to provide powers and duties for the state medicaid fraud control unit and the Attorney General under the False Medicaid Claims Act; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 68-944, Reissue Revised Statutes of Nebraska, is amended to read:

68-944 The state medicaid fraud control unit shall employ such attorneys, auditors, investigators, and other personnel as authorized by law to carry out the duties of the unit in an effective and efficient manner. The purpose of the state medicaid fraud control unit is to conduct a statewide program for the investigation and prosecution of medicaid fraud and violations of all applicable state laws relating to the providing of medical assistance and the activities of providers. The state medicaid fraud control unit may review and act on complaints of abuse and neglect of any patients or residents at health care facilities that receive payments under the medical assistance program and of patients who receive medical assistance under the medical assistance program in a noninstitutional or any other setting and may provide for collection or referral for collection of overpayments made under the medical assistance program that are discovered by the unit.

Sec. 2. Section 68-945, Reissue Revised Statutes of Nebraska, is amended to read:

68-945 In carrying out the duties and responsibilities under the False Medicaid Claims Act, the Attorney General may:

(1) Enter upon the premises of any provider participating in the medical assistance program (a) to examine all accounts and records that are relevant in determining the existence of fraud in the medical assistance program, (b) to investigate alleged abuse or neglect of patients and residents, or (c) to investigate alleged misappropriation of patients' or residents' private funds. ~~The accounts or records of a nonmedicaid patient may not be reviewed by, or turned over to, the Attorney General without the patient's written consent or a court order;~~

(2) Subpoena witnesses or materials, including medical records relating to recipients, within or outside the state and, through any duly designated employee, administer oaths and affirmations and collect evidence for possible use in either civil or criminal judicial proceedings;

(3) Request and receive the assistance of any prosecutor or law enforcement agency in the investigation and prosecution of any violation of this section; and

(4) Refer to the department for collection each instance of overpayment to a provider under the medical assistance program which is discovered during the course of an investigation.

Sec. 3. Section 68-946, Reissue Revised Statutes of Nebraska, is amended to read:

68-946 (1) Notwithstanding any other provision of law, the Attorney General, upon reasonable request, shall have full access to all records held by a provider, or by any other person on the provider's ~~his or her~~ behalf, that are relevant to the determination of (a) the existence of civil violations or criminal offenses under the False Medicaid Claims Act or related offenses, (b) the existence of patient or resident abuse, mistreatment, or neglect, or (c) the theft of patient or resident funds.

(2) In examining such records, the Attorney General shall safeguard the privacy rights of recipients, avoiding unnecessary disclosure of personal information concerning named recipients. The Attorney General may transmit such information as he or she deems appropriate to the department and to other agencies concerned with the regulation of health care facilities or health professionals.

(3) No person holding such records may refuse to provide the Attorney General access to such records for the purposes described in the act on the basis that release would violate (a) a recipient's right of privacy, (b) a recipient's privilege against disclosure or use, or (c) any professional or other privilege or right.

Sec. 4. Original sections 68-944, 68-945, and 68-946, Reissue Revised Statutes of Nebraska, are repealed.