

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 541**

Final Reading

(Second)

Introduced by Health and Human Services Committee: Campbell, 25,  
Chairperson; Bloomfield, 17; Cook, 13; Gloor, 35;  
Howard, 9; Krist, 10; Wallman, 30.

Read first time January 18, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Medical Assistance Act; to amend section  
2 68-901, Revised Statutes Supplement, 2011; to provide for  
3 contracts with third parties to promote the integrity of  
4 the medical assistance program and assist cost-  
5 containment efforts; to harmonize provisions; to repeal  
6 the original section; and to declare an emergency.

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

1           Section 1. Section 68-901, Revised Statutes Supplement,  
2   2011, is amended to read:

3           68-901 Sections 68-901 to 68-971 and sections 2 and 3 of  
4 this act shall be known and may be cited as the Medical Assistance  
5 Act.

6           Sec. 2. The Legislature finds that the medical assistance  
7 program would benefit from increased efforts to (1) prevent improper  
8 payments to service providers, including, but not limited to,  
9 enforcement of eligibility criteria for recipients of benefits,  
10 enforcement of enrollment criteria for providers of benefits,  
11 determination of third-party liability for benefits, review of claims  
12 for benefits prior to payment, and identification of the extent and  
13 cause of improper payment, (2) identify and recoup improper payments,  
14 including, but not limited to, identification and investigation of  
15 questionable payments for benefits, administrative recoupment of  
16 payments for benefits, and referral of cases of fraud to the state  
17 medicaid fraud control unit for prosecution, and (3) collect  
18 postpayment reimbursement, including, but not limited to, maximizing  
19 prescribed drug rebates and maximizing recoveries from estates for  
20 paid benefits.

21           Sec. 3. (1) The department shall contract with one or  
22 more recovery audit contractors to promote the integrity of the  
23 medical assistance program and to assist with cost-containment  
24 efforts and recovery audits. The contract or contracts shall include  
25 services for (a) cost-avoidance through identification of third-party

1 liability, (b) cost recovery of third-party liability through  
2 postpayment reimbursement, (c) casualty recovery of payments by  
3 identifying and recovering costs for claims that were the result of  
4 an accident or neglect and payable by a casualty insurer, and (d)  
5 reviews of claims submitted by providers of services or other  
6 individuals furnishing items and services for which payment has been  
7 made to determine whether providers have been underpaid or overpaid  
8 and take actions to recover any overpayments identified.

9 (2) The department shall contract with one or more  
10 persons to support a health insurance premium assistance payment  
11 program.

12 (3) The department may enter into any other contracts  
13 deemed to increase the efforts to promote the integrity of the  
14 medical assistance program.

15 (4) Contracts entered into under the authority of this  
16 section may be on a contingent fee basis. Contracts entered into on a  
17 contingent fee basis shall provide that contingent fee payments are  
18 based upon amounts recovered, not amounts identified, and that  
19 contingent fee payments are not to be paid on amounts subsequently  
20 repaid due to determinations made in appeal proceedings. Contracts  
21 shall be in compliance with federal law and regulations when  
22 pertinent, including a limit on contingent fees of no more than  
23 twelve and one-half percent of amounts recovered, and initial  
24 contracts shall be entered into as soon as practicable under such  
25 federal law and regulations.

1           (5) All amounts recovered and savings generated as a  
2 result of this section shall be returned to the medical assistance  
3 program.

4           (6) The department shall by December 1, 2012, report to  
5 the Legislature the status of the contracts, including the parties,  
6 the programs and issues addressed, the estimated cost recovery, and  
7 the savings accrued as a result of the contracts.

8           (7) For purposes of this section:

9           (a) Person means bodies politic and corporate, societies,  
10 communities, the public generally, individuals, partnerships, limited  
11 liability companies, joint-stock companies, and associations; and

12           (b) Recovery audit contractor means private entities with  
13 which the department contracts to audit claims for medical  
14 assistance, identify underpayments and overpayments, and recoup  
15 overpayments.

16           Sec. 4. Original section 68-901, Revised Statutes  
17 Supplement, 2011, is repealed.

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