

AMENDMENTS TO LB333

Introduced by Health and Human Services.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 68-1005, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 68-1005 In order to qualify for assistance to the disabled, an
6 individual shall, in addition to the requirements set forth in section
7 68-1002, be considered to be disabled if he or she is unable to engage in
8 any substantial gainful activity by reason of any medically determinable
9 physical or mental impairment which can be expected to result in death or
10 which has lasted or can be expected to last for a continuous period of
11 not less than one year ~~one hundred eighty days~~ or, in the case of a child
12 under eighteen years of age, if he or she suffers from any medically
13 determinable physical or mental impairment of comparable severity. In
14 determining eligibility for assistance to the disabled, the Department of
15 Health and Human Services may adopt the determination of the Social
16 Security Administration that an individual is or is not disabled for the
17 purposes of the federal programs of Supplemental Security Income or Old
18 Age Survivors' and Disability Insurance. A county board may furnish to an
19 individual medical services or maintenance support based on disability as
20 described in this section , ~~except that if the Social Security~~
21 ~~Administration has denied benefits to an individual on the basis of the~~
22 ~~duration of the individual's disability, the department shall perform an~~
23 ~~independent medical review of such individual's disability.~~

24 Sec. 2. Section 71-1107, Revised Statutes Cumulative Supplement,
25 2016, is amended to read:

26 71-1107 Developmental disability means a severe, chronic disability,
27 including an intellectual disability, other than mental illness, which:

1 ~~an intellectual disability or a severe chronic cognitive impairment,~~
2 ~~other than mental illness, that is manifested before the age of twenty-~~
3 ~~two years and is likely to continue indefinitely.~~

4 (1) Is attributable to a mental or physical impairment unless the
5 impairment is solely attributable to a severe emotional disturbance or
6 persistent mental illness;

7 (2) Is manifested before the age of twenty-two years;

8 (3) Is likely to continue indefinitely;

9 (4) Results in substantial functional limitations in one of each of
10 the following areas of adaptive functioning:

11 (a) Conceptual skills, including language, literacy, money, time,
12 number concepts, and self-direction;

13 (b) Social skills, including interpersonal skills, social
14 responsibility, self-esteem, gullibility, wariness, social problem
15 solving, and the ability to follow laws and rules and to avoid being
16 victimized; and

17 (c) Practical skills, including activities of daily living, personal
18 care, occupational skills, health care, mobility, and the capacity for
19 independent living; and

20 (5) Reflects the individual's need for a combination and sequence of
21 special, interdisciplinary, or generic services, individualized support,
22 or other forms of assistance that are of lifelong or extended duration
23 and are individually planned and coordinated.

24 An individual from birth through the age of nine years who has a
25 substantial developmental delay or specific congenital or acquired
26 condition may be considered to have a developmental disability without
27 manifesting substantial functional limitations in three or more of the
28 areas of adaptive functioning described in subdivision (4) of this
29 section if the individual, without services and support, has a high
30 probability of manifesting such limitations in such areas later in life.

31 Sec. 3. Section 71-1108.01, Revised Statutes Cumulative Supplement,

1 2016, is amended to read:

2 71-1108.01 Intellectual disability means ~~a state of~~ significantly
3 subaverage general intellectual functioning which is associated with
4 significant impairments in adaptive functioning manifested before the age
5 of twenty-two years. Significant subaverage general intellectual
6 functioning shall refer to a score of seventy or below on a properly
7 administered and valid intelligence quotient test.

8 Sec. 4. Section 83-1201, Revised Statutes Cumulative Supplement,
9 2016, is amended to read:

10 83-1201 Sections 83-1201 to 83-1227 and section 9 of this act shall
11 be known and may be cited as the Developmental Disabilities Services Act.

12 Sec. 5. Section 83-1202, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 83-1202 It is the intent of the Legislature that:

15 (1) All persons with developmental disabilities shall receive
16 services and assistance which present opportunities to increase their
17 independence, productivity, and integration into the community;

18 (2) All persons with developmental disabilities shall have access to
19 a full array of services appropriate for them as individuals;

20 (3) All persons with developmental disabilities shall have a right,
21 ~~to the maximum extent possible,~~ to live, work, and recreate with people
22 who are not disabled;

23 (4) All persons with developmental disabilities shall, ~~to the~~
24 ~~maximum extent possible,~~ be served in their communities and should only
25 be served by specialized programs when their needs cannot be met through
26 general services available to all persons, including those without
27 disabilities;

28 (5) All persons with developmental disabilities shall have the right
29 to receive age-appropriate services consistent with their individual
30 needs, potentials, and abilities;

31 (6) All persons with developmental disabilities shall be afforded

1 the same rights, dignity, and respect as members of society who are not
2 disabled; and

3 (7) Persons who deliver services to persons with developmental
4 disabilities shall be assured a uniform system of compensation and
5 training and a full range of work-site enhancements which attract and
6 retain qualified employees. ÷

7 ~~(8) The first priority of the state in responding to the needs of~~
8 ~~persons with developmental disabilities should be to ensure that all such~~
9 ~~persons have sufficient food, housing, clothing, medical care, protection~~
10 ~~from abuse or neglect, and protection from harm; and~~

11 ~~(9) The second priority of the state in responding to the needs of~~
12 ~~persons with developmental disabilities should be to ensure that all such~~
13 ~~persons receive appropriate assessment of their needs, planning to meet~~
14 ~~their needs, information about services available to meet their needs,~~
15 ~~referral to services matched to their needs, coordination of services~~
16 ~~delivered, support sufficient to allow them to live with their natural~~
17 ~~families or independently, transportation to facilitate access to~~
18 ~~services, and meaningful habilitation, education, training, employment,~~
19 ~~and recreation designed to enhance their skills, increase their~~
20 ~~independence, and improve their quality of life.~~

21 Sec. 6. Section 83-1209, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 83-1209 To carry out the policies and purposes of the Developmental
24 Disabilities Services Act, the director shall:

25 (1) Ensure effective management by (a) determining whether
26 applicants are eligible for specialized services, (b) authorizing service
27 delivery for eligible persons, (c) ensuring that services are available,
28 accessible, and coordinated, (d) ensuring that eligible persons have
29 their needs assessed by a team process, have individual program plans
30 developed by a team process to address assessed needs, which plans
31 incorporate the input of the individual and the family, and have services

1 delivered in accordance with the program plan, (e) having the amount of
2 funding for specialized services determined by an objective assessment
3 process, (f) providing information and referral services to persons with
4 developmental disabilities and their families, (g) promoting the
5 development of pilot projects of high quality, cost-efficient services
6 provided by specialized programs, and (h) administering the Beatrice
7 State Developmental Center;

8 (2) Ensure a coordinated statewide response by (a) developing a
9 comprehensive and integrated statewide plan for specialized services to
10 persons with developmental disabilities in conjunction with state and
11 local officials, designated advocates for such persons, service
12 providers, and the general public, (b) reporting biennially to the
13 Legislature, the Governor, service providers, and the public on persons
14 served and progress made toward meeting requirements of the plan, and (c)
15 creating a statewide registry of persons eligible for specialized
16 services. The report submitted to the Legislature shall be submitted
17 electronically;

18 (3) Ensure specialized services which are efficient and
19 individualized by (a) developing a written policy which ensures the
20 adequate and equitable distribution of fiscal resources based upon a
21 consistent rationale for reimbursement that allows funding to follow
22 service recipients as their service needs change and which also includes
23 a plan for funding shortfalls and (b) administering all state and federal
24 funds as may be allowed by law;

25 (4) Ensure maximum quality of services by (a) developing a due
26 process mechanism for resolution of disputes, (b) coordinating the
27 development and implementation of a quality management and improvement
28 plan as described in section 9 of this act ~~review teams designed to~~
29 ~~enhance the quality of specialized services~~, (c) developing certification
30 and accreditation requirements for service providers, (d) providing
31 technical assistance to local service providers, and (e) providing

1 eligible persons, their families, and the designated protection and
2 advocacy system authorized pursuant to the Developmental Disabilities
3 Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15001 et seq., with
4 copies of all reports resulting from surveys of providers of specialized
5 services conducted as part of the certification and accreditation
6 process; and

7 (5) Establish and staff a developmental disabilities division which
8 shall assist in carrying out the policies and purposes of the
9 Developmental Disabilities Services Act.

10 Sec. 7. Section 83-1212.01, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 83-1212.01 (1) There is hereby created the Advisory Committee on
13 Developmental Disabilities. The advisory committee shall consist of a
14 representative of a statewide advocacy organization for persons with
15 developmental disabilities and their families, a representative of
16 Nebraska's designated protection and advocacy organization, a
17 representative of the Nebraska Planning Council on Developmental
18 Disabilities, a representative of the University Center for Excellence in
19 Developmental Disability Education, Research, and Service as defined in
20 section 68-1114, and not more than fifteen additional members. At , at
21 least fifty-one percent of the members ~~one-third of whom~~ shall be persons
22 with developmental disabilities and family members , at least one-third
23 of whom shall be families of persons with developmental disabilities, and
24 no more than one-third of whom shall be elected officials or interested
25 community persons.

26 (2) The members shall be appointed by the Governor for staggered
27 terms of three years. Any vacancy shall be filled by the Governor for the
28 remainder of the term. One of the members shall be designated as
29 chairperson by the Governor. Members shall be reimbursed for their actual
30 and necessary expenses as provided in sections 81-1174 to 81-1177.

31 (3) The advisory committee shall advise the department regarding all

1 aspects of the funding and delivery of services to persons with
2 developmental disabilities.

3 (4) The advisory committee shall (a) provide sufficient oversight to
4 ensure that persons placed in the custody of the department under the
5 Developmental Disabilities Court-Ordered Custody Act are receiving the
6 least restrictive treatment and services necessary and (b) oversee the
7 design and implementation of the quality management and improvement plan
8 described in section 9 of this act.

9 (5) The department shall inform the advisory committee of proposed
10 systemic changes to services for persons with developmental disabilities
11 at least thirty days prior to implementation of the changes so that the
12 advisory committee may provide for a response to the proposed changes. If
13 the director determines that circumstances require implementation of the
14 changes prior to such notice, the department shall inform the advisory
15 committee as soon as possible. The advisory committee, in partnership
16 with the director, shall establish criteria for the process of providing
17 the information and receiving the response.

18 Sec. 8. Section 83-1216, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 83-1216 (1) The department shall administer the medicaid home and
21 community-based services waivers upon application approval by the federal
22 Centers for Medicare and Medicaid Services. Beginning July 1, 2019 ~~1995,~~
23 persons determined to be eligible for specialized services who ~~on or~~
24 after ~~September 6, 1993,~~ graduate from high school, reach the age of
25 twenty-one years, or are currently receiving services shall receive
26 services in accordance with the Developmental Disabilities Services Act.
27 The amount of funding for any person receiving services shall be
28 determined using an objective assessment process developed by the
29 department and approved by the federal Centers for Medicare and Medicaid
30 Services plan in subsection (3) of this section.

31 (2) The department shall provide directly or by contract service

1 coordination to Nebraska residents found to be eligible for specialized
2 services.

3 ~~(3) It is the intent of the Legislature that by July 1, 2010, all~~
4 ~~persons determined to be eligible for services shall receive services in~~
5 ~~accordance with the act.~~

6 (3) (4) It is the intent of the Legislature that the department take
7 all possible steps to maximize federal funding in order to implement
8 subsections (1) and (2) of this section prior to the date these
9 subsections become entitlements. All Nebraska residents eligible for
10 funding for specialized services through the Division of under the
11 Developmental Disabilities Services Act shall apply for and accept any
12 federal medicaid benefits for which they may be eligible and benefits
13 from other funding sources within the department, the State Department of
14 Education, specifically including the Division of Rehabilitation
15 Services, and other agencies to the maximum extent possible.

16 (4) The priorities for funding under this section are as follows:

17 (a) The first funding priority of the state shall be responding to
18 the needs of persons with developmental disabilities in immediate crisis
19 due to caregiver death, homelessness, or a threat to the life and safety
20 of the person;

21 (b) The second funding priority of the state in responding to the
22 needs of persons with developmental disabilities shall be for persons
23 that have resided in an institutional setting for a period of at least
24 twelve consecutive months and who are requesting community-based
25 services;

26 (c) The third funding priority of the state in responding to the
27 needs of persons with developmental disabilities shall be for serving
28 wards of the department or persons placed under the supervision of the
29 Office of Probation Administration by the Nebraska court system who are
30 transitioning upon age nineteen with no other alternatives as determined
31 by the department to support residential services necessary to pursue

1 economic self-sufficiency;

2 (d) The fourth funding priority of the state in responding to the
3 needs of persons with developmental disabilities shall be for serving
4 persons transitioning from the education system upon attaining twenty-one
5 years of age to maintain skills and receive the day services necessary to
6 pursue economic self-sufficiency; and

7 (e) The fifth funding priority of the state in responding to the
8 needs of persons with developmental disabilities shall be for serving all
9 other persons by date of application.

10 Sec. 9. (1)(a) The department shall, with the assistance and
11 support of the Advisory Committee on Developmental Disabilities, develop
12 and implement a quality management and improvement plan to promote and
13 monitor quality relating to services and quality of life for persons with
14 developmental disabilities.

15 (b) The purpose of the quality management and improvement plan is to
16 provide information necessary for an accurate assessment of the quality
17 and effectiveness of services for persons with developmental disabilities
18 and their families and the delivery of such services, with special
19 attention to the impact that the services have on the quality of life of
20 recipients and their families.

21 (c) The quality management and improvement plan shall reflect
22 national best practice for services for persons with developmental
23 disabilities and their families as determined by the department with the
24 assistance of the advisory committee.

25 (d) The quality management and improvement plan shall assess,
26 through both quantitative and qualitative means, (i) the quality of
27 services provided to persons with developmental disabilities and their
28 families, (ii) the ability of the services provided to meet the needs of
29 the recipients of the services, (iii) the effect of the services to
30 support or improve the quality of life of the recipients of the services,
31 and (iv) the satisfaction of the recipients with the process of

1 determination of eligibility and the process of delivery of the services.
2 In order to develop the quality management and improvement plan, the
3 department shall use procedures to collect data from recipients of
4 services for persons with disabilities and their families by relying on
5 external, independent evaluators who are not employed by the department.
6 The quality management and improvement plan shall give significance to
7 input gathered from recipients of services for persons with developmental
8 disabilities and families of such recipients and include information
9 gathered from the department.

10 (e) The quality management and improvement plan shall include
11 recommendations for improvements to the types of services and the
12 delivery of services for persons with developmental disabilities and
13 their families.

14 (2) The department shall provide a quality management plan
15 electronically to the Legislature no later than September 30, 2017. In
16 the plan the department shall detail its approach to ensuring a
17 sustainable, continuous, quality improvement management system for the
18 delivery of services for persons with developmental disabilities and
19 their families that incorporates responsibilities of the department and
20 recipients.

21 (3) The department shall issue an implementation report regarding
22 the quality management and improvement plan and publish it on the web
23 site of the department and provide it electronically to the Legislature
24 on or before December 30, 2017, and March 30, 2018. Beginning in 2018,
25 the department shall annually provide a report regarding outcomes,
26 improvement priorities, and activities of the department during the
27 previous fiscal year. The report shall be published on the web site of
28 the department and shall be provided electronically to the Legislature on
29 or before September 30.

30 Sec. 10. Sections 6, 11, and 14 of this act become operative on
31 October 1, 2017. Sections 1, 7, and 12 of this act become operative three

1 calendar months after the adjournment of this legislative session. The
2 other sections of this act become operative on their effective date.

3 Sec. 11. Original section 83-1209, Reissue Revised Statutes of
4 Nebraska, is repealed.

5 Sec. 12. Original sections 68-1005 and 83-1212.01, Reissue Revised
6 Statutes of Nebraska, are repealed.

7 Sec. 13. Original sections 83-1202 and 83-1216, Reissue Revised
8 Statutes of Nebraska, and sections 71-1107, 71-1108.01, and 83-1201,
9 Revised Statutes Cumulative Supplement, 2016, are repealed.

10 Sec. 14. The following section is outright repealed: Section
11 83-1213, Reissue Revised Statutes of Nebraska.

12 Sec. 15. The following section is outright repealed: Section
13 71-1113, Reissue Revised Statutes of Nebraska.

14 Sec. 16. Since an emergency exists, this act takes effect when
15 passed and approved according to law.