

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 578

FINAL READING

Introduced by McDonnell, 5; Hilkemann, 4; Kolterman, 24; Williams, 36;
Brewer, 43.

Read first time January 18, 2017

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to health care; to amend section 68-901,
- 2 Revised Statutes Cumulative Supplement, 2016; to adopt the Ground
- 3 Emergency Medical Transport Act; to harmonize provisions; and to
- 4 repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-901, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 68-901 Sections 68-901 to 68-976 and sections 2 to 13 of this act
4 shall be known and may be cited as the Medical Assistance Act.

5 Sec. 2. Sections 2 to 13 of this act shall be known and may be
6 cited as the Ground Emergency Medical Transport Act.

7 Sec. 3. For purposes of the Ground Emergency Medical Transport Act:

8 (1) Advanced life support means special services designed to provide
9 definitive prehospital emergency medical care, including, but not limited
10 to, cardiopulmonary resuscitation, cardiac monitoring, cardiac
11 defibrillation, advanced airway management, intravenous therapy,
12 administration with drugs and other medicinal preparations, and other
13 specified techniques and procedures;

14 (2) Basic life support means emergency first aid and cardiopulmonary
15 resuscitation procedures to maintain life without invasive techniques;

16 (3) Capitation payment means a payment the state makes periodically
17 to a contractor on behalf of each beneficiary enrolled under a contract
18 and based on the actuarially sound capitation rate for the provision of
19 services under the state plan and which the state makes regardless of
20 whether the particular beneficiary receives services during the period
21 covered by the payment;

22 (4) Dry run means ground emergency medical transport services
23 provided by an eligible ground emergency medical transport services
24 provider to an individual who is released on the scene without
25 transportation by ambulance to a medical facility;

26 (5) Ground emergency medical transport means the act of transporting
27 an individual from any point of origin to the nearest medical facility
28 capable of meeting the emergency medical needs of the patient, including
29 dry runs;

30 (6) Ground emergency medical transport services means advanced life
31 support, limited advanced life support, and basic life support services

1 provided to an individual by ground emergency medical transport services
2 providers before or during ground emergency medical transport;

3 (7) Limited advanced life support means special services to provide
4 prehospital emergency medical care limited to techniques and procedures
5 that exceed basic life support but are less than advanced life support
6 services; and

7 (8) Medical transport means transportation to secure medical
8 examinations and treatment for an individual.

9 Sec. 4. It is the intent of the Legislature that no General Funds
10 be used in carrying out the Ground Emergency Medical Transport Act.

11 Revenue from the intergovernmental transfer program created under
12 the Ground Emergency Medical Transport Act shall be deposited into the
13 Health and Human Services Cash Fund.

14 Sec. 5. An eligible provider as described in section 6 of this act
15 shall, in addition to the rate of payment that the provider would
16 otherwise receive for medicaid ground emergency medical transport
17 services, receive supplemental reimbursement pursuant to the Ground
18 Emergency Medical Transport Act.

19 Sec. 6. Participation in the supplemental reimbursement program by
20 an eligible provider is voluntary. A provider is eligible for
21 supplemental reimbursement only if the provider has all of the following
22 characteristics continuously during a fiscal year of the state:

23 (1) Provides ground emergency medical transport services to medicaid
24 beneficiaries;

25 (2) Is enrolled as a medicaid provider for the period being claimed;

26 (3) Is owned or operated by the state or a city, county, rural or
27 suburban fire protection district, hospital district, federally
28 recognized Indian tribe, or another unit of government; and

29 (4) Participates in the intergovernmental transfer program created
30 pursuant to section 8 of this act.

31 Sec. 7. (1) An eligible provider's supplemental reimbursement

1 pursuant to the Ground Emergency Medical Transport Act shall be
2 calculated and paid as follows:

3 (a) The supplemental reimbursement shall equal the amount of federal
4 financial participation received as a result of the claims submitted
5 pursuant to the act; and

6 (b) In no instance may the amount certified pursuant to section 10
7 of this act, when combined with the amount received from all other
8 sources of reimbursement from the medical assistance program, exceed one
9 hundred percent of actual costs, as determined pursuant to the medicaid
10 state plan, for ground emergency medical transport services.

11 (2) The supplemental reimbursement shall be distributed exclusively
12 to eligible providers under a payment method based on ground emergency
13 medical transport services provided to medicaid beneficiaries by eligible
14 providers on a per-transport basis or other federally permissible basis.

15 Sec. 8. (1) The department shall design and implement, in
16 consultation with eligible providers as described in section 6 of this
17 act, an intergovernmental transfer program relating to medicaid managed
18 care ground emergency medical transport services, including services
19 provided by emergency medical technicians at the basic, advanced, and
20 paramedic levels in prestabilization and preparation for transport, in
21 order to increase capitation payments for the purpose of increasing
22 reimbursement to eligible providers.

23 (2)(a) To the extent intergovernmental transfers are voluntarily
24 made by, and accepted from, an eligible provider described in section 6
25 of this act or a governmental entity affiliated with an eligible
26 provider, the department shall make increased capitation payments to
27 applicable medicaid managed care plans.

28 (b) The increased capitation payments made pursuant to this section
29 shall be in actuarially determined amounts at least to the extent
30 permissible under federal law.

31 (c) Except as provided in subsection (6) of this section, all funds

1 associated with intergovernmental transfers made and accepted pursuant to
2 this section shall be used to fund additional payments to medicaid
3 managed care plans.

4 (d) Medicaid managed care plans shall enter into contracts or
5 contract amendments with providers for the disbursement of any amount of
6 increased capitation payments made pursuant to this section.

7 (3) The intergovernmental transfer program developed pursuant to
8 this section shall be implemented on the date federal approval is
9 obtained and only to the extent intergovernmental transfers from the
10 eligible provider or the governmental entity with which it is affiliated
11 are provided for this purpose.

12 (4) To the extent permitted by federal law, the department may
13 implement the intergovernmental transfer program and increased capitation
14 payments pursuant to this section retroactive to the date that the state
15 plan amendment is submitted to the Centers for Medicare and Medicaid
16 Services of the United States Department of Health and Human Services
17 pursuant to section 11 of this act.

18 (5) Participation in intergovernmental transfers under this section
19 is voluntary on the part of the transferring entities for purposes of all
20 applicable federal laws.

21 (6)(a) As a condition of participation under this section, each
22 eligible provider or the governmental entity affiliated with an eligible
23 provider shall agree to reimburse the department for any costs associated
24 with implementing such program.

25 (b) Intergovernmental transfers described in this section are
26 subject to a twenty percent administration fee of the nonfederal share
27 paid to the department and are allowed to count as a cost of providing
28 the services.

29 (7) As a condition of participation under this section, medicaid
30 managed care plans, eligible providers, and governmental entities
31 affiliated with eligible providers shall agree to comply with any

1 requests for information or similar data requirements imposed by the
2 department for purposes of obtaining supporting documentation necessary
3 to claim federal funds or to obtain federal approval.

4 Sec. 9. (1) An eligible provider, as a condition of receiving
5 supplemental reimbursement, shall enter into and maintain an agreement
6 with the department for purposes of implementing the Ground Emergency
7 Medical Transport Act and reimbursing the department for the costs of
8 administering the act.

9 (2) The nonfederal share of the supplemental reimbursement submitted
10 to the federal Centers for Medicare and Medicaid Services for purposes of
11 claiming federal financial participation shall be paid only with funds
12 from the governmental entities described in subdivision (3) of section 6
13 of this act and certified to the department as provided in section 10 of
14 this act.

15 Sec. 10. If a governmental entity elects to seek supplemental
16 reimbursement pursuant to the Ground Emergency Medical Transport Act on
17 behalf of an eligible provider owned or operated by the entity, the
18 governmental entity shall:

19 (1) Certify, in conformity with the requirements of 42 C.F.R.
20 433.51, that the claimed expenditures for ground emergency medical
21 transport services are eligible for federal financial participation;

22 (2) Provide evidence supporting the certification as specified by
23 the department;

24 (3) Submit data as specified by the department to determine the
25 appropriate amounts to claim as expenditures qualifying for federal
26 financial participation; and

27 (4) Keep, maintain, and have readily retrievable any records
28 specified by the department to fully disclose reimbursement amounts to
29 which the eligible provider is entitled and any other records required by
30 the federal Centers for Medicare and Medicaid Services.

31 Sec. 11. (1) On or before January 1, 2018, the department shall

1 submit an application to the Centers for Medicare and Medicaid Services
2 of the United States Department of Health and Human Services amending the
3 medicaid state plan to provide for the supplemental reimbursement rate
4 for ground emergency medical transport services as specified in the
5 Ground Emergency Medical Transport Act.

6 (2) The department may limit the program to those costs that are
7 allowable expenditures under Title XIX of the federal Social Security
8 Act, 42 U.S.C. 1396 et seq., as such act and sections existed on April 1,
9 2017. Without such federal approval, the Ground Emergency Medical
10 Transport Act may not be implemented.

11 (3) The intergovernmental transfer program authorized in section 8
12 of this act shall be implemented only if and to the extent federal
13 financial participation is available and is not otherwise jeopardized and
14 any necessary federal approval has been obtained.

15 (4) To the extent that the chief executive officer of the department
16 determines that the payments made pursuant to section 8 of this act do
17 not comply with federal medicaid requirements, the chief executive
18 officer may return or not accept an intergovernmental transfer and may
19 adjust payments as necessary to comply with federal medicaid
20 requirements.

21 Sec. 12. (1) The department shall submit claims for federal
22 financial participation for the expenditures for the services described
23 in section 11 of this act that are allowable expenditures under federal
24 law.

25 (2) The department shall annually submit any necessary materials to
26 the federal government to provide assurances that claims for federal
27 financial participation will include only those expenditures that are
28 allowable under federal law.

29 (3) If either a final judicial determination is made by any court of
30 appellate jurisdiction or a final determination is made by the
31 administrator of the federal Centers for Medicare and Medicaid Services

1 that the supplemental reimbursement provided for in the act shall be made
2 to any provider not described in this section, the chief executive
3 officer of the department shall execute a declaration stating that the
4 determination has been made and such supplemental reimbursement becomes
5 inoperative on the date of such determination.

6 Sec. 13. To the extent federal approval is obtained, the increased
7 capitation payments under section 8 of this act may commence for dates of
8 service on or after January 1, 2018.

9 Sec. 14. Original section 68-901, Revised Statutes Cumulative
10 Supplement, 2016, is repealed.