

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 905

FINAL READING

Introduced by Riepe, 12; Conrad, 46.

Read first time January 04, 2024

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to public health and welfare; to amend section
2 71-428, Reissue Revised Statutes of Nebraska, section 68-996,
3 Revised Statutes Cumulative Supplement, 2022, and section 68-911,
4 Revised Statutes Supplement, 2023; to require the Department of
5 Health and Human Services to submit a medicaid waiver or state plan
6 amendment for medical respite care as prescribed; to change
7 provisions relating to the Medicaid Managed Care Excess Profit Fund;
8 to redefine a term under the Health Care Facility Licensure Act; and
9 to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-911, Revised Statutes Supplement, 2023, is
2 amended to read:

3 68-911 (1) Medical assistance shall include coverage for health care
4 and related services as required under Title XIX of the federal Social
5 Security Act, including, but not limited to:

- 6 (a) Inpatient and outpatient hospital services;
- 7 (b) Laboratory and X-ray services;
- 8 (c) Nursing facility services;
- 9 (d) Home health services;
- 10 (e) Nursing services;
- 11 (f) Clinic services;
- 12 (g) Physician services;
- 13 (h) Medical and surgical services of a dentist;
- 14 (i) Nurse practitioner services;
- 15 (j) Nurse midwife services;
- 16 (k) Pregnancy-related services;
- 17 (l) Medical supplies;
- 18 (m) Mental health and substance abuse services;
- 19 (n) Early and periodic screening and diagnosis and treatment
20 services for children which shall include both physical and behavioral
21 health screening, diagnosis, and treatment services;
- 22 (o) Rural health clinic services; and
- 23 (p) Federally qualified health center services.

24 (2) In addition to coverage otherwise required under this section,
25 medical assistance may include coverage for health care and related
26 services as permitted but not required under Title XIX of the federal
27 Social Security Act, including, but not limited to:

- 28 (a) Prescribed drugs;
- 29 (b) Intermediate care facilities for persons with developmental
30 disabilities;
- 31 (c) Home and community-based services for aged persons and persons

1 with disabilities;

2 (d) Dental services;

3 (e) Rehabilitation services;

4 (f) Personal care services;

5 (g) Durable medical equipment;

6 (h) Medical transportation services;

7 (i) Vision-related services;

8 (j) Speech therapy services;

9 (k) Physical therapy services;

10 (l) Chiropractic services;

11 (m) Occupational therapy services;

12 (n) Optometric services;

13 (o) Podiatric services;

14 (p) Hospice services;

15 (q) Mental health and substance abuse services;

16 (r) Hearing screening services for newborn and infant children; and

17 (s) Administrative expenses related to administrative activities,
18 including outreach services, provided by school districts and educational
19 service units to students who are eligible or potentially eligible for
20 medical assistance.

21 (3) No later than July 1, 2009, the department shall submit a state
22 plan amendment or waiver to the federal Centers for Medicare and Medicaid
23 Services to provide coverage under the medical assistance program for
24 community-based secure residential and subacute behavioral health
25 services for all eligible recipients, without regard to whether the
26 recipient has been ordered by a mental health board under the Nebraska
27 Mental Health Commitment Act to receive such services.

28 (4) On or before October 1, 2014, the department, after consultation
29 with the State Department of Education, shall submit a state plan
30 amendment to the federal Centers for Medicare and Medicaid Services, as
31 necessary, to provide that the following are direct reimbursable services

1 when provided by school districts as part of an individualized education
2 program or an individualized family service plan: Early and periodic
3 screening, diagnosis, and treatment services for children; medical
4 transportation services; mental health services; nursing services;
5 occupational therapy services; personal care services; physical therapy
6 services; rehabilitation services; speech therapy and other services for
7 individuals with speech, hearing, or language disorders; and vision-
8 related services.

9 (5) No later than January 1, 2023, the department shall provide
10 coverage for continuous glucose monitors under the medical assistance
11 program for all eligible recipients who have a prescription for such
12 device.

13 (6) On or before October 1, 2023, the department shall seek federal
14 approval for federal matching funds from the federal Centers for Medicare
15 and Medicaid Services through a state plan amendment or waiver to extend
16 postpartum coverage for beneficiaries from sixty days to at least six
17 months. Nothing in this subsection shall preclude the department from
18 submitting a state plan amendment for twelve months.

19 (7)(a) No later than October 1, 2025, the department shall submit a
20 medicaid waiver or state plan amendment to the federal Centers for
21 Medicare and Medicaid Services to designate two medical respite
22 facilities to reimburse for services provided to an individual who is:

23 (i) Homeless; and

24 (ii) An adult in the expansion population.

25 (b) For purposes of this subsection:

26 (i) Adult in the expansion population means an adult (A) described
27 in 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) as such section existed on January
28 1, 2024, and (B) not otherwise eligible for medicaid as a mandatory
29 categorically needy individual;

30 (ii) Homeless has the same meaning as provided in 42 U.S.C. 11302 as
31 such section existed on January 1, 2024;

1 (iii) Medical respite care means short-term housing with supportive
2 medical services; and

3 (iv) Medical respite facility means a residential facility that
4 provides medical respite care to homeless individuals.

5 (c) The department shall choose two medical respite facilities, one
6 in a city of the metropolitan class and one in a city of the primary
7 class, best able to serve homeless individuals who are adults in the
8 expansion population.

9 (d) Once such waiver or state plan amendment is approved, the
10 department shall submit a report to the Health and Human Services
11 Committee of the Legislature on or before November 30 each year, which
12 provides the (i) number of homeless individuals served at each facility,
13 (ii) cost of the program, and (iii) amount of reduction in health care
14 costs due to the program's implementation.

15 (e) The department may adopt and promulgate rules and regulations to
16 carry out this subsection.

17 (f) The services described in subdivision (7)(a) of this section
18 shall be funded by the Medicaid Managed Care Excess Profit Fund as
19 described in section 68-996.

20 Sec. 2. Section 68-996, Revised Statutes Cumulative Supplement,
21 2022, is amended to read:

22 68-996 The Medicaid Managed Care Excess Profit Fund is created. The
23 fund shall contain money returned to the State Treasurer pursuant to
24 subdivision (3) of section 68-995. The fund shall first be used to offset
25 any losses under subdivision (2) of section 68-995 and then to provide
26 for services addressing the health needs of adults and children under the
27 Medical Assistance Act, including filling service gaps, providing system
28 improvements, providing medical respite services, and sustaining access
29 to care as determined by the Legislature. The fund shall only be used for
30 the purposes described in this section. Any money in the fund available
31 for investment shall be invested by the state investment officer pursuant

1 to the Nebraska Capital Expansion Act and the Nebraska State Funds
2 Investment Act.

3 Sec. 3. Section 71-428, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 71-428 (1) Respite care service means (a) a person or any legal
6 entity that provides short-term temporary care on an intermittent basis
7 to persons with special needs when the person's primary caregiver is
8 unavailable to provide such care or (b) a residential facility that
9 provides short-term housing with supportive medical services to homeless
10 individuals as described in section 68-911.

11 (2) Respite care service does not include:

12 (a) A person or any legal entity which is licensed under the Health
13 Care Facility Licensure Act and which provides respite care services at
14 the licensed location;

15 (b) A person or legal entity which is licensed to provide child care
16 to thirteen or more children under the Child Care Licensing Act or which
17 is licensed as a residential child-caring agency under the Children's
18 Residential Facilities and Placing Licensure Act;

19 (c) An agency that recruits, screens, or trains a person to provide
20 respite care;

21 (d) An agency that matches a respite care service or other providers
22 of respite care with a person with special needs, or refers a respite
23 care service or other providers of respite care to a person with special
24 needs, unless the agency receives compensation for such matching or
25 referral from the service or provider or from or on behalf of the person
26 with special needs;

27 (e) A person who provides respite care to fewer than eight unrelated
28 persons in any seven-day period in his or her home or in the home of the
29 recipient of the respite care; or

30 (f) A nonprofit agency that provides group respite care for no more
31 than eight hours in any seven-day period.

1 Sec. 4. Original section 71-428, Reissue Revised Statutes of
2 Nebraska, section 68-996, Revised Statutes Cumulative Supplement, 2022,
3 and section 68-911, Revised Statutes Supplement, 2023, are repealed.