

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 942

Introduced by Riepe, 12.

Read first time January 09, 2026

Committee:

- 1 A BILL FOR AN ACT relating to the Medical Assistance Act; to amend
- 2 section 68-901, Revised Statutes Cumulative Supplement, 2024; to
- 3 provide requirements for the reimbursement of emergency and
- 4 inpatient services as prescribed; and to repeal the original
- 5 section.
- 6 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 68-901, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 68-901 Sections 68-901 to 68-9,111 and sections 2 to 4 of this act
4 shall be known and may be cited as the Medical Assistance Act.

5 **Sec. 2.** For purposes of sections 2 and 3 of this act:

6 (1) Emergency medical condition means a medical condition
7 manifesting itself by acute symptoms of sufficient severity, including
8 severe pain, such that a prudent layperson could reasonably expect the
9 absence of immediate medical attention to result in (a) placing the
10 patient's health in serious jeopardy, (b) serious impairment to bodily
11 functions, or (c) serious dysfunction of any bodily organ or part; and

12 (2) Prudent layperson means an individual who possesses an average
13 knowledge of health and medicine.

14 **Sec. 3.** (1) The department or a managed care organization shall
15 determine whether a service provided to a medicaid recipient in an
16 emergency department is an emergency medical condition based solely on
17 the recipient's presenting symptoms, medical condition, or clinical
18 presentation at the time the recipient sought care as perceived by a
19 prudent layperson.

20 (2)(a) The department or a managed care organization shall not
21 determine services to be nonemergent, or reduce or deny reimbursement for
22 such services, based on the final diagnosis, discharge code, or any
23 condition identified after completion of the medical screening
24 examination required under the federal Emergency Medical Treatment and
25 Labor Act. A payment policy, a screening tool, an algorithm, or a
26 diagnosis list used for determining emergent or nonemergent status that
27 is based on the final diagnosis is prohibited.

28 (b) The department or a managed care organization shall not reduce
29 reimbursement for emergent services to any fractional amount based on a
30 classification of such services as nonemergent.

31 (3) Emergency services provided to a medicaid recipient by a

1 hospital or an emergency care provider shall be reimbursed at a rate no
2 less than the medicaid fee-for-service rate in effect at the time the
3 services were provided.

4 (4) Nothing in this section prohibits the department or a managed
5 care organization from negotiating a higher rate with a contracting
6 provider if the negotiated rate is not lower than the minimum rate
7 required under subsection (3) of this section.

8 **Sec. 4.** (1) For purposes of reimbursement, a medicaid recipient is
9 an inpatient of a hospital if such recipient is formally admitted as an
10 inpatient pursuant to an order for admission by a physician or other
11 qualified practitioner. The order shall be furnished by a physician or
12 other qualified practitioner with admitting privileges at such hospital,
13 as permitted by state law, and who is knowledgeable about the recipient's
14 hospital course, medical plan of care, and current condition.

15 (2) An inpatient admission is appropriate for reimbursement under
16 the medical assistance program if the admitting physician or other
17 qualified practitioner expects the recipient to require the length of
18 hospital care to last at least two consecutive midnights, regardless of
19 the facility or hospital location at which the two consecutive midnights
20 occur.

21 (3) The expectation of the physician or other qualified practitioner
22 shall be based on medical factors including, but not limited to, the
23 recipient's, (a) medical history and comorbidities, (b) severity of
24 symptoms, (c) current medical needs, and (d) risk of an adverse event.
25 The factors that support the physician's or other qualified
26 practitioner's clinical expectation shall be documented in the medical
27 record.

28 (4) If an unforeseen circumstance, including death or transfer,
29 results in a shorter inpatient stay than the expectation of at least two
30 consecutive midnights, the medicaid recipient may be considered to be
31 treated on an inpatient basis and reimbursement for an inpatient hospital

1 stay may be made under the medical assistance program consistent with
2 medicare regulations.

3 (5) If the physician or other qualified practitioner expects a
4 recipient to require hospital care for a period of time that does not
5 meet the two consecutive midnights requirement described in subsection
6 (3) of this section, an inpatient admission may be appropriate for
7 reimbursement under the medical assistance program based on the clinical
8 judgment of the physician or other qualified practitioner and the medical
9 record. The physician's or other qualified practitioner's decision shall
10 be based on medical factors including, but not limited to, the
11 recipient's, (a) medical history and comorbidities, (b) severity of
12 symptoms, (c) current medical needs, and (d) risk of an adverse event.

13 **Sec. 5.** Original section 68-901, Revised Statutes Cumulative
14 Supplement, 2024, is repealed.