

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1092**

Introduced by Stinner, 48.

Read first time January 21, 2020

Committee:

1 A BILL FOR AN ACT relating to appropriations; to amend sections 71-801  
2 and 71-831, Reissue Revised Statutes of Nebraska, and section  
3 68-901, Revised Statutes Supplement, 2019; to change and transfer  
4 provisions regarding contracts for services under the medical  
5 assistance program; to create a fund; to harmonize provisions; to  
6 repeal the original sections; 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, 2019, is  
2 amended to read:

3 68-901 Sections 68-901 to 68-994 and sections 2 and 3 of this act  
4 shall be known and may be cited as the Medical Assistance Act.

5 Sec. 2. Section 71-831, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 ~~71-831~~ All contracts and agreements relating to the medical  
8 assistance program governing at-risk managed care service delivery for  
9 ~~behavioral~~ health services entered into by the department on or after  
10 July 21, 2016, shall:

11 (1) Provide a definition and cap on administrative spending such  
12 that (a) administrative expenditures do not include profit greater than  
13 the contracted amount, (b) any administrative spending is necessary to  
14 improve the health status of the population to be served, and (c)  
15 administrative expenditures do not include contractor incentives.  
16 Administrative spending shall not under any circumstances exceed twelve  
17 percent. Such spending shall be tracked by the contractor and reported to  
18 the department quarterly;

19 (2) Provide a definition of annual contractor profits and losses and  
20 restrict such profits and losses under the contract so that profit shall  
21 not exceed a percentage specified by the department but not more than  
22 three percent per year as a percentage of the aggregate of all income and  
23 revenue earned by the contractor and related parties, including parent  
24 and subsidiary companies and risk-bearing partners, under the contract;

25 (3) Provide for return within sixty days after the end of the state  
26 fiscal year reinvestment of (a) any remittance if the contractor does not  
27 meet the minimum medical loss ratio, (b) ~~performance contingencies~~  
28 ~~imposed by the department, and (c) any unearned incentive funds, and (c)~~  
29 any other funds in excess of the contractor limitations identified in  
30 state or federal statute or contract to the State Treasurer for credit to  
31 the Medicaid Managed Care Excess Profit Fund to fund additional health

1 ~~services for children, families, and adults according to a plan developed~~  
2 ~~with input from stakeholders and approved by the department. Such plan~~  
3 ~~shall address the health needs of adults and children, including filling~~  
4 ~~service gaps and providing system improvements;~~

5 (4) Provide for a minimum medical loss ratio of eighty-five percent  
6 of the aggregate of all income and revenue earned by the contractor and  
7 related parties under the contract;

8 (5) Provide that contractor incentives, in addition to potential  
9 profit, be up to two percent of the aggregate of all income and revenue  
10 earned by the contractor and related parties under the contract; and

11 (6) Be reviewed and awarded competitively and in full compliance  
12 with the procurement requirements of the State of Nebraska.

13 Sec. 3. The Medicaid Managed Care Excess Profit Fund is created.  
14 The fund shall contain remittances pursuant to subdivision (3) of section  
15 2 of this act. The Department of Health and Human Services shall use the  
16 fund to provide health services for children, families, and adults  
17 according to a plan developed by the department with input from  
18 stakeholders and approved by the Legislature during the next regular  
19 Legislative session. Such plan shall address the health needs of adults  
20 and children, including filling service gaps, sustaining access to care,  
21 and providing system improvements. The fund shall only be used for the  
22 purposes described in this section. Any money in the fund available for  
23 investment shall be invested by the state investment officer pursuant to  
24 the Nebraska Capital Expansion Act and the Nebraska State Funds  
25 Investment Act.

26 Sec. 4. Section 71-801, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 71-801 Sections 71-801 to ~~71-830~~ 71-831 shall be known and may be  
29 cited as the Nebraska Behavioral Health Services Act.

30 Sec. 5. Original sections 71-801 and 71-831, Reissue Revised  
31 Statutes of Nebraska, and section 68-901, Revised Statutes Supplement,

1 2019, are repealed.

2       Sec. 6. Since an emergency exists, this act takes effect when  
3 passed and approved according to law.