

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1158

Final Reading

Introduced by Krist, 10.

Read first time January 19, 2012

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to medical assistance; to amend section 71-801,
2 Reissue Revised Statutes of Nebraska, and section 68-908,
3 Revised Statutes Cumulative Supplement, 2010; to change
4 provisions relating to the medical assistance program; to
5 provide requirements for behavioral health managed care
6 contracts; to harmonize provisions; to repeal the
7 original sections; and to declare an emergency.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-908, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 68-908 (1) The department shall administer the medical
4 assistance program.

5 (2) The department may (a) enter into contracts and
6 interagency agreements, (b) adopt and promulgate rules and
7 regulations, (c) adopt fee schedules, (d) apply for and implement
8 waivers and managed care plans for services for eligible recipients,
9 including services under the Nebraska Behavioral Health Services Act,
10 and (e) perform such other activities as necessary and appropriate to
11 carry out its duties under the Medical Assistance Act. A covered item
12 or service as described in section 68-911 that is furnished through a
13 school-based health center, furnished by a provider, and furnished
14 under a managed care plan pursuant to a waiver does not require prior
15 consultation or referral by a patient's primary care physician to be
16 covered. Any federally qualified health center providing services as
17 a sponsoring facility of a school-based health center shall be
18 reimbursed for such services provided at a school-based health center
19 at the federally qualified health center reimbursement rate.

20 (3) The department shall maintain the confidentiality of
21 information regarding applicants for or recipients of medical
22 assistance and such information shall only be used for purposes
23 related to administration of the medical assistance program and the
24 provision of such assistance or as otherwise permitted by federal
25 law.

1 (4)(a) The department shall prepare an annual summary and
2 analysis of the medical assistance program for legislative and public
3 review, including, but not limited to, a description of eligible
4 recipients, covered services, provider reimbursement, program trends
5 and projections, program budget and expenditures, the status of
6 implementation of the Medicaid Reform Plan, and recommendations for
7 program changes.

8 (b) The department shall provide a draft report of such
9 summary and analysis to the Medicaid Reform Council no later than
10 September 15 of each year. The council shall conduct a public meeting
11 no later than October 1 of each year to discuss and receive public
12 comment regarding such report. The council shall provide any comments
13 and recommendations regarding such report in writing to the
14 department no later than November 1 of each year. The department
15 shall submit a final report of such summary and analysis to the
16 Governor, the Legislature, and the council no later than December 1
17 of each year. Such final report shall include a response to each
18 written recommendation provided by the council.

19 Sec. 2. All contracts and agreements relating to the
20 medical assistance program governing at-risk managed care service
21 delivery for behavioral health services entered into by the
22 department on or after July 1, 2012, shall:

23 (1) Provide a definition and cap on administrative
24 spending that (a) shall not exceed seven percent unless the
25 implementing department includes detailed requirements for tracking

1 administrative spending to ensure (i) that administrative
2 expenditures do not include additional profit and (ii) that any
3 administrative spending is necessary to improve the health status of
4 the population to be served and (b) shall not under any circumstances
5 exceed ten percent;

6 (2) Provide a definition of annual contractor profits and
7 losses and restrict such profits and losses under the contract so
8 that (a) profit shall not exceed three percent per year and (b)
9 losses shall not exceed three percent per year, as a percentage of
10 the aggregate of all income and revenue earned by the contractor and
11 related parties, including parent and subsidy companies and risk-
12 bearing partners, under the contract;

13 (3) Provide for reinvestment of (a) any profits in excess
14 of the contracted amount, (b) performance contingencies imposed by
15 the department, and (c) any unearned incentive funds, to fund
16 additional behavioral health services for children, families, and
17 adults according to a plan developed with input from stakeholders,
18 including consumers and their family members, the office of consumer
19 affairs within the division, and the regional behavioral health
20 authority and approved by the department. Such plan shall address the
21 behavioral health needs of adults and children, including filling
22 service gaps and providing system improvements;

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

1 (5) Provide that contractor incentives, in addition to
2 potential profit, be at least one and one-half percent of the
3 aggregate of all income and revenue earned by the contractor and
4 related parties under the contract;

5 (6) Provide that a minimum of one-quarter percent of the
6 aggregate of all income and revenue earned by the contractor and
7 related parties under the contract be at risk as a penalty if the
8 contractor fails to meet the minimum performance metrics defined in
9 the contract, and such penalties, if charged, shall be accounted for
10 in a manner that shall not reduce or diminish service delivery in any
11 way; and

12 (7) Be reviewed and awarded competitively and in full
13 compliance with the procurement requirements of the State of
14 Nebraska.

15 Sec. 3. Section 71-801, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-801 Sections 71-801 to 71-830 and section 2 of this
18 act shall be known and may be cited as the Nebraska Behavioral Health
19 Services Act.

20 Sec. 4. Original section 71-801, Reissue Revised Statutes
21 of Nebraska, and section 68-908, Revised Statutes Cumulative
22 Supplement, 2010, are repealed.

23 Sec. 5. Since an emergency exists, this act takes effect
24 when passed and approved according to law.