

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 413

Introduced by Wishart, 27.

Read first time January 14, 2021

Committee:

1 A BILL FOR AN ACT relating to the Medical Assistance Act; to amend
2 section 68-911, Reissue Revised Statutes of Nebraska, and section
3 68-901, Revised Statutes Cumulative Supplement, 2020; to define
4 terms; to require coverage of medications for substance use disorder
5 treatment and addiction medicine services as prescribed; to
6 harmonize provisions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-901, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 68-901 Sections 68-901 to 68-9,100 and section 3 of this act shall
4 be known and may be cited as the Medical Assistance Act.

5 Sec. 2. Section 68-911, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 68-911 (1) Medical assistance shall include coverage for health care
8 and related services as required under Title XIX of the federal Social
9 Security Act, including, but not limited to:

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

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

- 31 (a) Prescribed drugs;

1 (b) Intermediate care facilities for persons with developmental
2 disabilities;

3 (c) Home and community-based services for aged persons and persons
4 with disabilities;

5 (d) Dental services;

6 (e) Rehabilitation services;

7 (f) Personal care services;

8 (g) Durable medical equipment;

9 (h) Medical transportation services;

10 (i) Vision-related services;

11 (j) Speech therapy services;

12 (k) Physical therapy services;

13 (l) Chiropractic services;

14 (m) Occupational therapy services;

15 (n) Optometric services;

16 (o) Podiatric services;

17 (p) Hospice services;

18 (q) Mental health and substance abuse services;

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

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

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

31 (4) On or before October 1, 2014, the department, after consultation

1 with the State Department of Education, shall submit a state plan
2 amendment to the federal Centers for Medicare and Medicaid Services, as
3 necessary, to provide that the following are direct reimbursable services
4 when provided by school districts as part of an individualized education
5 program or an individualized family service plan: Early and periodic
6 screening, diagnosis, and treatment services for children; medical
7 transportation services; mental health services; nursing services;
8 occupational therapy services; personal care services; physical therapy
9 services; rehabilitation services; speech therapy and other services for
10 individuals with speech, hearing, or language disorders; and vision-
11 related services.

12 Sec. 3. (1) For purposes of this section:

13 (a) Financial requirements means deductibles, copayments,
14 coinsurance, or out-of-pocket maximums;

15 (b) Managed care organization means an entity which has a contract
16 with the department to provide health insurance coverage under the
17 medical assistance program;

18 (c) Pharmacy benefit manager means a person or entity that
19 negotiates prescription drug price and rebate arrangements with
20 manufacturers or labelers;

21 (d) Prior authorization means the process by which the managed care
22 organization or the pharmacy benefit manager determines the medical
23 necessity of otherwise covered health care services prior to the
24 rendering of such health care services. Prior authorization includes any
25 managed care organization or utilization review entity's requirement that
26 a beneficiary or provider notify the managed care organization or
27 utilization review entity prior to providing a health care service; and

28 (e) Step therapy means a protocol or program that establishes the
29 specific sequence in which prescription drugs for a medical condition
30 that are medically appropriate for a particular patient are authorized by
31 a health insurer or prescription drug management company.

1 (2) The medical assistance program shall cover medications for
2 substance use disorder treatment in compliance with this section and
3 shall include those medications for substance use disorder treatment in
4 its preferred drug lists. At a minimum, the preferred drug lists shall
5 include all current and new formulations and medications that are
6 approved by the federal Food and Drug Administration for the treatment of
7 substance use disorder.

8 (3) A managed care organization shall have a process to ensure that
9 a beneficiary obtains a covered benefit for medication for substance use
10 disorder treatment or shall make other arrangements when:

11 (a) The managed care organization has an otherwise sufficient
12 network but does not have (i) an buprenorphine-waivered provider or a
13 substance use disorder treatment program available to provide the covered
14 benefit to the beneficiary or (ii) a contracted provider available to
15 provide the covered substance use disorder treatment to the beneficiary
16 without unreasonable travel or delay; or

17 (b) The managed care organization has an insufficient number or type
18 of buprenorphine-waivered providers available to provide the covered
19 substance use disorder treatment to the beneficiary without unreasonable
20 travel or delay.

21 (4) The substance use disorder treatments required under the medical
22 assistance program shall include, but not be limited to, pharmacologic
23 and behavioral therapies. At a minimum, a formulary used by a managed
24 care organization or managed by a pharmacy benefit manager shall include
25 all current and new formulations and medications approved by the federal
26 Food and Drug Administration for the treatment of opioid-use disorder,
27 including, but not limited to, (a) buprenorphine, (b) methadone, (c)
28 naloxone, (d) naltrexone, and (e) buprenorphine-naloxone combination.

29 (5) All medications for substance use disorder required for
30 compliance under this section shall be placed on the lowest cost-sharing
31 tier of the formulary managed by the managed care organization or the

1 pharmacy benefit manager.

2 (6) Substance use disorder treatment provided for under this section
3 shall not be subject to any of the following:

4 (a) Any annual or lifetime dollar limitations;

5 (b) Limitations to a predesignated facility, specific number of
6 visits, days of coverage, days in a waiting period, scope or duration of
7 treatment, or other similar limits;

8 (c) Financial requirements and quantitative treatment limitations
9 that do not comply with the federal Paul Wellstone and Pete Domenici
10 Mental Health Parity and Addiction Equity Act of 2008;

11 (d) Step-therapy or other similar drug-utilization strategies or
12 policies, when the strategy or policy delays or conflicts or interferes
13 with a prescribed or recommended course of treatment by a licensed
14 physician or other health care provider; and

15 (e) Prior authorization for medications for substance use disorder
16 treatment as specified in this section, as well as any behavioral,
17 cognitive, or mental health services prescribed in conjunction with or
18 supplementary to the substance use disorder treatment.

19 (7) The department may adopt and promulgate rules and regulations as
20 needed to implement and enforce this section.

21 Sec. 4. Original section 68-911, Reissue Revised Statutes of
22 Nebraska, and section 68-901, Revised Statutes Cumulative Supplement,
23 2020, are repealed.