

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 578**

Introduced by McDonnell, 5.

Read first time January 18, 2017

Committee:

- 1 A BILL FOR AN ACT relating to medicaid; to define terms; to provide for
- 2 supplemental reimbursement and intergovernmental transfers relating
- 3 to providers of ground emergency medical transportation as
- 4 prescribed.
- 5 Be it enacted by the people of the State of Nebraska,

1        Section 1. For purposes of sections 1 to 3 of this act:

2        (1) Department means the Department of Health and Human Services;  
3        and

4        (2) Division means the Division of Medicaid and Long-Term Care of  
5        the department.

6        Sec. 2. (1) An eligible provider as described in subsection (2) of  
7        this section shall, in addition to the rate of payment that the provider  
8        would otherwise receive for medicaid ground emergency medical  
9        transportation services, receive supplemental medicaid reimbursement  
10       pursuant to this section.

11       (2) A provider is eligible for supplemental reimbursement only if  
12       the provider has all of the following characteristics continuously during  
13       a fiscal year:

14       (a) Provides ground emergency medical transportation services to  
15       medicaid beneficiaries;

16       (b) Is enrolled as a medicaid provider for the period being claimed;  
17       and

18       (c) Is owned or operated by the state or a city, county, rural or  
19       suburban fire protection district, hospital district, federally  
20       recognized Indian tribe, or other unit of government.

21       (3) An eligible provider's supplemental reimbursement pursuant to  
22       this section shall be calculated and paid as follows:

23       (a) The supplemental reimbursement shall equal the amount of federal  
24       financial participation received as a result of the claims submitted  
25       pursuant to this section;

26       (b) In no instance may the amount certified pursuant to subdivision  
27       (5)(a) of this section, when combined with the amount received from all  
28       other sources of reimbursement from the medical assistance program  
29       established pursuant to section 68-903, exceed one hundred percent of  
30       actual costs, as determined pursuant to the medicaid state plan as  
31       defined in section 68-907, for ground emergency medical transportation

1 services; and

2 (c) The supplemental reimbursement shall be distributed exclusively  
3 to eligible providers under a payment method based on ground emergency  
4 medical transportation services provided to medicaid beneficiaries by  
5 eligible providers on a per-transport basis or other federally  
6 permissible basis. The division shall obtain approval from the federal  
7 Centers for Medicare and Medicaid Services for the payment method to be  
8 used and shall not make any payment pursuant to this section prior to  
9 obtaining such approval.

10 (4)(a) It is the intent of the Legislature to provide the  
11 supplemental reimbursement described in this section without any  
12 expenditure from the General Fund. An eligible provider, as a condition  
13 of receiving such supplemental reimbursement, shall enter into and  
14 maintain an agreement with the division for purposes of implementing this  
15 section and reimbursing the department for the costs of administering  
16 this section.

17 (b) The nonfederal share of the supplemental reimbursement submitted  
18 to the federal Centers for Medicare and Medicaid Services for purposes of  
19 claiming federal financial participation shall be paid only with funds  
20 from the governmental entities described in subdivision (2)(c) of this  
21 section and certified to the division as provided in subsection (5) of  
22 this section.

23 (5) Participation in the supplemental reimbursement program by an  
24 eligible provider is voluntary. If a governmental entity elects to seek  
25 supplemental reimbursement pursuant to this section on behalf of an  
26 eligible provider owned or operated by the entity, the governmental  
27 entity shall:

28 (a) Certify, in conformity with the requirements of 42 C.F.R.  
29 433.51, that the claimed expenditures for ground emergency medical  
30 transportation services are eligible for federal financial participation;

31 (b) Provide evidence supporting the certification as specified by

1 the division;

2 (c) Submit data as specified by the division to determine the  
3 appropriate amounts to claim as expenditures qualifying for federal  
4 financial participation; and

5 (d) Keep, maintain, and have readily retrievable any records  
6 specified by the division to fully disclose reimbursement amounts to  
7 which the eligible provider is entitled and any other records required by  
8 the federal Centers for Medicare and Medicaid Services.

9 (6)(a) The division shall promptly seek any necessary federal  
10 approval for implementation of this section. The division may limit the  
11 program to those costs that are allowable expenditures under Title XIX of  
12 the federal Social Security Act, 42 U.S.C. 1396 et seq., as such act and  
13 sections existed on January 1, 2017. Without such federal approval, this  
14 section may not be implemented.

15 (b) The department shall submit claims for federal financial  
16 participation for the expenditures for the services described in  
17 subsection (5) of this section that are allowable expenditures under  
18 federal law.

19 (c) The division shall annually submit any necessary materials to  
20 the federal government to provide assurances that claims for federal  
21 financial participation will include only those expenditures that are  
22 allowable under federal law.

23 (7) If either a final judicial determination is made by any court of  
24 appellate jurisdiction or a final determination is made by the  
25 administrator of the federal Centers for Medicare and Medicaid Services  
26 that the supplemental reimbursement provided for in this section shall be  
27 made to any provider not described in this section, the Director of  
28 Medicaid and Long-Term Care of the division shall execute a declaration  
29 stating that the determination has been made and such supplemental  
30 reimbursement becomes inoperative on the date of such determination.

31 Sec. 3. (1) The department shall design and implement, in

1 consultation with eligible providers as described in subsection (2) of  
2 this section, an intergovernmental transfer program relating to medicaid  
3 managed care ground emergency medical transport services, including those  
4 services provided by emergency medical technicians at the basic,  
5 advanced, and paramedic levels in prestabilization and preparation for  
6 transport, in order to increase capitation payments for the purpose of  
7 increasing reimbursement to eligible providers.

8 (2) A provider is eligible for increased reimbursement pursuant to  
9 this section only if the provider meets both of the following conditions  
10 in an applicable fiscal year:

11 (a) Provides ground emergency medical transport services to medicaid  
12 managed care enrollees pursuant to a contract or other arrangement with a  
13 medicaid managed care plan; and

14 (b) Is owned or operated by the state, a city, county, rural or  
15 suburban fire protection district, hospital district, federally  
16 recognized Indian tribe, or other unit of government.

17 (3)(a) To the extent intergovernmental transfers are voluntarily  
18 made by, and accepted from, an eligible provider described in subsection  
19 (2) of this section or a governmental entity affiliated with an eligible  
20 provider, the department shall make increased capitation payments to  
21 applicable medicaid managed care plans for covered ground emergency  
22 medical transportation services.

23 (b) The increased capitation payments made pursuant to this section  
24 shall be in amounts at least actuarially equivalent to the supplemental  
25 fee-for-service payments available for eligible providers to the extent  
26 permissible under federal law.

27 (c) Except as provided in subsection (6) of this section, all funds  
28 associated with intergovernmental transfers made and accepted pursuant to  
29 this section shall be used to fund additional payments to eligible  
30 providers.

31 (d) Medicaid managed care plans shall pay one hundred percent of any

1 amount of increased capitation payments made pursuant to this section to  
2 eligible providers for providing and making available ground emergency  
3 medical transportation and paramedical services pursuant to a contract or  
4 other arrangement with a medicaid managed care plan.

5 (4) The intergovernmental transfer program developed pursuant to  
6 this section shall be implemented on the date federal approval is  
7 obtained and only to the extent intergovernmental transfers from the  
8 eligible provider or the governmental entity with which it is affiliated  
9 are provided for this purpose. To the extent permitted by federal law,  
10 the department may implement the intergovernmental transfer program and  
11 increased capitation payments pursuant to this section on a retroactive  
12 basis as needed.

13 (5) Participation in intergovernmental transfers under this section  
14 is voluntary on the part of the transferring entities for purposes of all  
15 applicable federal laws.

16 (6) The intergovernmental transfer program shall be implemented  
17 without any additional expenditure from the General Fund. As a condition  
18 of participation under this section, each eligible provider or the  
19 governmental entity affiliated with an eligible provider shall agree to  
20 reimburse the department for any costs associated with implementing such  
21 program. Intergovernmental transfers described in this section are  
22 subject to a twenty percent administration fee of the nonfederal share  
23 paid to the department and are allowed to count as a cost of providing  
24 the services.

25 (7) As a condition of participation under this section, medicaid  
26 managed care plans, eligible providers, and governmental entities  
27 affiliated with eligible providers shall agree to comply with any  
28 requests for information or similar data requirements imposed by the  
29 department for purposes of obtaining supporting documentation necessary  
30 to claim federal funds or to obtain federal approval.

31 (8) This section shall be implemented only if and to the extent

1 federal financial participation is available and is not otherwise  
2 jeopardized and any necessary federal approval has been obtained.

3 (9) To the extent that the chief executive officer of the department  
4 determines that the payments made pursuant to this section do not comply  
5 with federal medicaid requirements, the chief executive officer may  
6 return or not accept an intergovernmental transfer and may adjust  
7 payments pursuant to this section as necessary to comply with federal  
8 medicaid requirements.

9 (10) To the extent federal approval is obtained, the increased  
10 capitation payments under this section may commence for dates of service  
11 on or after January 1, 2018.