

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 599

Final Reading

Introduced by Campbell, 25; Ashford, 20; Nordquist, 7; Howard, 9;
Mello, 5; Council, 11.

Read first time January 19, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the medical assistance program; to amend
2 section 68-915, Reissue Revised Statutes of Nebraska,
3 section 4-110, Revised Statutes Cumulative Supplement,
4 2010, and section 68-901, Revised Statutes Supplement,
5 2011; to change provisions relating to verification of
6 lawful presence; to provide for coverage of certain
7 children pursuant to the medical assistance program; to
8 state findings; to provide duties for the Department of
9 Health and Human Services; to harmonize provisions; to
10 repeal the original sections; and to declare an
11 emergency.

12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 4-110, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 4-110 Verification of lawful presence in the United
4 States pursuant to section 4-108 is not required for:

5 (1) Any purpose for which lawful presence in the United
6 States is not restricted by law, ordinance, or regulation;

7 (2) Assistance for health care services and products, not
8 related to an organ transplant procedure, that are necessary for the
9 treatment of an emergency medical condition, including emergency
10 labor and delivery, manifesting itself by acute symptoms of
11 sufficient severity, including severe pain, such that the absence of
12 immediate medical attention could reasonably be expected to result in
13 (a) placing the patient's health in serious jeopardy, (b) serious
14 impairment to bodily functions, or (c) serious dysfunction of any
15 bodily organ or part;

16 (3) Short-term, noncash, in-kind emergency disaster
17 relief;

18 (4) Public health assistance for immunizations with
19 respect to diseases and for testing and treatment of symptoms of
20 communicable diseases, whether or not such symptoms are caused by a
21 communicable disease; or

22 (5) Programs, services, or assistance necessary for the
23 protection of life or safety, such as soup kitchens, crisis
24 counseling and intervention, and short-term shelter, which (a)
25 deliver in-kind services at the community level, including those

1 which deliver such services through public or private, nonprofit
2 agencies and (b) do not condition the provision of assistance, the
3 amount of assistance provided, or the cost of assistance provided on
4 the income or resources of the recipient.

5 The Legislature finds that unborn children do not have
6 immigration status and therefor are not within the scope of section
7 4-108. Prenatal care services available pursuant to section 68-915
8 and section 4 of this act to unborn children, whose eligibility is
9 independent of the mother's eligibility status, shall not be deemed
10 to be tied to the immigration status of the mother and therefor are
11 not included in the restrictions imposed by section 4-108.

12 Sec. 2. Section 68-901, Revised Statutes Supplement,
13 2011, is amended to read:

14 68-901 Sections 68-901 to 68-971 and section 4 of this
15 act shall be known and may be cited as the Medical Assistance Act.

16 Sec. 3. Section 68-915, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 68-915 The following persons shall be eligible for
19 medical assistance:

20 (1) Dependent children as defined in section 43-504;

21 (2) Aged, blind, and disabled persons as defined in
22 sections 68-1002 to 68-1005;

23 (3) Children under nineteen years of age who are eligible
24 under section 1905(a)(i) of the federal Social Security Act;

25 (4) Persons who are presumptively eligible as allowed

1 under sections 1920 and 1920B of the federal Social Security Act;

2 (5) Children under nineteen years of age with a family
3 income equal to or less than two hundred percent of the Office of
4 Management and Budget income poverty guideline, as allowed under
5 Title XIX and Title XXI of the federal Social Security Act, without
6 regard to resources, and pregnant women with a family income equal to
7 or less than one hundred eighty-five percent of the Office of
8 Management and Budget income poverty guideline, as allowed under
9 Title XIX and Title XXI of the federal Social Security Act, without
10 regard to resources. Children described in this subdivision and
11 subdivision (6) of this section shall remain eligible for six
12 consecutive months from the date of initial eligibility prior to
13 redetermination of eligibility. The department may review eligibility
14 monthly thereafter pursuant to rules and regulations adopted and
15 promulgated by the department. The department may determine upon such
16 review that a child is ineligible for medical assistance if such
17 child no longer meets eligibility standards established by the
18 department;

19 (6) For purposes of Title XIX of the federal Social
20 Security Act as provided in subdivision (5) of this section, children
21 with a family income as follows:

22 (a) Equal to or less than one hundred fifty percent of
23 the Office of Management and Budget income poverty guideline with
24 eligible children one year of age or younger;

25 (b) Equal to or less than one hundred thirty-three

1 percent of the Office of Management and Budget income poverty
2 guideline with eligible children over one year of age and under six
3 years of age; or

4 (c) Equal to or less than one hundred percent of the
5 Office of Management and Budget income poverty guideline with
6 eligible children six years of age or older and less than nineteen
7 years of age;

8 (7) Persons who are medically needy caretaker relatives
9 as allowed under 42 U.S.C. 1396d(a)(ii);

10 (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),
11 disabled persons as defined in section 68-1005 with a family income
12 of less than two hundred fifty percent of the Office of Management
13 and Budget income poverty guideline and who, but for earnings in
14 excess of the limit established under 42 U.S.C. 1396d(q)(2)(B), would
15 be considered to be receiving federal Supplemental Security Income.
16 The department shall apply for a waiver to disregard any unearned
17 income that is contingent upon a trial work period in applying the
18 Supplemental Security Income standard. Such disabled persons shall be
19 subject to payment of premiums as a percentage of family income
20 beginning at not less than two hundred percent of the Office of
21 Management and Budget income poverty guideline. Such premiums shall
22 be graduated based on family income and shall not be less than two
23 percent or more than ten percent of family income; ~~and~~

24 (9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),
25 persons who:

1 (a) Have been screened for breast and cervical cancer
2 under the Centers for Disease Control and Prevention breast and
3 cervical cancer early detection program established under Title XV of
4 the federal Public Health Service Act, 42 U.S.C. 300k et seq., in
5 accordance with the requirements of section 1504 of such act, 42
6 U.S.C. 300n, and who need treatment for breast or cervical cancer,
7 including precancerous and cancerous conditions of the breast or
8 cervix;

9 (b) Are not otherwise covered under creditable coverage
10 as defined in section 2701(c) of the federal Public Health Service
11 Act, 42 U.S.C. 300gg(c);

12 (c) Have not attained sixty-five years of age; and

13 (d) Are not eligible for medical assistance under any
14 mandatory categorically needy eligibility group; and -

15 (10) Persons eligible for services described in
16 subsection (3) of section 4 of this act.

17 Eligibility Except as provided in section 4 of this act,
18 eligibility shall be determined under this section using an income
19 budgetary methodology that determines children's eligibility at no
20 greater than two hundred percent of the Office of Management and
21 Budget income poverty guideline and adult eligibility using adult
22 income standards no greater than the applicable categorical
23 eligibility standards established pursuant to state or federal law.
24 The department shall determine eligibility under this section
25 pursuant to such income budgetary methodology and subdivision (1)(q)

1 of section 68-1713.

2 Sec. 4. (1) The Legislature finds that:

3 (a) Title XXI of the federal Social Security Act, as
4 amended, and the rules and regulations promulgated pursuant thereto,
5 authorize the State Children's Health Insurance Program to assist
6 state efforts to initiate and expand provisions of child health
7 assistance to uninsured, low-income children;

8 (b) As defined in Title XXI of the federal Social
9 Security Act, as amended, and the rules and regulations promulgated
10 pursuant thereto, child means an individual under the age of nineteen
11 years, including any period of time from conception to birth, up to
12 age nineteen years;

13 (c) Pursuant to Title XXI of the federal Social Security
14 Act, as amended, and the rules and regulations promulgated pursuant
15 thereto, eligibility can only be conferred to a targeted low-income
16 child, including an unborn child, under a separate child health
17 program;

18 (d) Under Title XXI of the federal Social Security Act,
19 as amended, and the rules and regulations promulgated pursuant
20 thereto, child health assistance is available to benefit unborn
21 children independent of the mother's eligibility and immigration
22 status;

23 (e) Under Title XXI of the federal Social Security Act,
24 as amended, and the rules and regulations promulgated pursuant
25 thereto, child health assistance expressly includes prenatal care

1 that connects to the health of the unborn child;

2 (f) Prenatal care has been clearly shown to reduce the
3 likelihood of premature delivery or low birth weight, both of which
4 are associated with a wide range of congenital disabilities as well
5 as infant mortality, and such care can detect a great number of
6 serious and even life-threatening disabilities, many of which can now
7 be successfully treated in utero;

8 (g) Ensuring prenatal care for more children will
9 significantly help reduce infant mortality and morbidity rates and
10 will spare many infants from the burden of congenital disabilities
11 and reduce the cost of treating those congenital disabilities after
12 birth;

13 (h) It is well established that access to prenatal care
14 can improve health outcomes during infancy as well as over a child's
15 life. Since healthy babies and children require less medical care
16 than babies and children with health problems, provision of prenatal
17 care will result in lower medical expenditures for the affected
18 children in the long run; and

19 (i) Adopting federal law to provide for medical services
20 related to unborn children before birth will result in healthier
21 infants, better long-term child growth and development, and ultimate
22 cost savings to the state through reduced expenditures for high cost
23 neonatal and potential long-term medical rehabilitation.

24 (2) Such coverage shall be implemented through the
25 creation of a separate program as allowed under Title XXI of the

1 federal Social Security Act, as amended, and 42 C.F.R. 457.10, solely
2 for the unborn children of mothers who are ineligible for coverage
3 under Title XIX of the federal Social Security Act. All other aspects
4 of the medical assistance program relating to the State Children's
5 Health Insurance Program remain a medicaid expansion program as
6 defined in 42 C.F.R. 457.10.

7 (3) The benefits provided pursuant to this subsection,
8 unless the recipient qualifies for coverage under Title XIX of the
9 federal Social Security Act, as amended, shall be prenatal care and
10 pregnancy-related services connected to the health of the unborn
11 child, including: (a) Professional fees for labor and delivery,
12 including live birth, fetal death, miscarriage, and ectopic
13 pregnancy; (b) pharmaceuticals and prescription vitamins; (c)
14 outpatient hospital care; (d) radiology, ultrasound, and other
15 necessary imaging; (e) necessary laboratory testing; (f) hospital
16 costs related to labor and delivery; (g) services related to
17 conditions that could complicate the pregnancy, including those for
18 diagnosis or treatment of illness or medical conditions that threaten
19 the carrying of the unborn child to full term or the safe delivery of
20 the unborn child; and (h) other pregnancy-related services approved
21 by the department. Services not covered under this subsection include
22 medical issues separate to the mother and unrelated to pregnancy.

23 (4) The department shall receive the state and federal
24 funds appropriated or provided for benefits provided pursuant to this
25 section. Within thirty days after the effective date of this act, the

1 department shall submit a state plan amendment or waiver for approval
2 by the federal Centers for Medicare and Medicaid Services to provide
3 coverage under the medical assistance program to persons eligible
4 under this section.

5 (5) Eligibility shall be determined under this section
6 using an income budgetary methodology that determines children's
7 eligibility at no greater than one hundred eighty-five percent of the
8 Office of Management and Budget income poverty guideline.

9 Sec. 5. Original section 68-915, Reissue Revised Statutes
10 of Nebraska, section 4-110, Revised Statutes Cumulative Supplement,
11 2010, and section 68-901, Revised Statutes Supplement, 2011, are
12 repealed.

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