

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 866**

Introduced by Crawford, 45.

Read first time January 05, 2018

Committee:

- 1 A BILL FOR AN ACT relating to the Medical Assistance Act; to amend
- 2 section 68-912, Revised Statutes Cumulative Supplement, 2016, and
- 3 section 68-909, Revised Statutes Supplement, 2017; to change
- 4 provisions relating to rules, regulations, waivers, and hearings; to
- 5 provide powers and duties; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-909, Revised Statutes Supplement, 2017, is  
2 amended to read:

3 68-909 (1) All contracts, agreements, rules, and regulations  
4 relating to the medical assistance program as entered into or adopted and  
5 promulgated by the department prior to July 1, 2006, and all provisions  
6 of the medicaid state plan and waivers adopted by the department prior to  
7 July 1, 2006, shall remain in effect until revised, amended, repealed, or  
8 nullified pursuant to law.

9 (2) Prior to the adoption and promulgation of proposed rules and  
10 regulations under section 68-912 or relating to the implementation of  
11 medicaid state plan amendments or waivers, the department shall provide a  
12 report to the Governor and the Legislature no later than December 1  
13 before the next regular session of the Legislature summarizing the  
14 purpose and content of such proposed rules and regulations and the  
15 projected impact of such proposed rules and regulations on recipients of  
16 medical assistance and medical assistance expenditures. The report  
17 submitted to the Legislature shall be submitted electronically. Any  
18 changes in medicaid copayments in fiscal year 2011-12 are exempt from the  
19 reporting requirement of this subsection and the requirements of section  
20 68-912. Within ten days after receipt of the report, the Health and Human  
21 Services Committee of the Legislature shall conduct a public hearing at  
22 which the department shall be represented by the Director of Medicaid and  
23 Long-Term Care of the Division of Medicaid and Long-Term Care or the  
24 chief executive officer of the department.

25 (3) The department shall monitor the implementation of rules and  
26 regulations, medicaid state plan amendments, and waivers adopted under  
27 the Medical Assistance Act and the effect of such rules and regulations,  
28 amendments, or waivers on eligible recipients of medical assistance and  
29 medical assistance expenditures.

30 (4) The department shall provide a public notice and comment period  
31 prior to the submission of an application for or extension or elimination

1 of a waiver. The department shall publish notice pursuant to the  
2 requirements established under the federal Social Security Act, as  
3 amended, including a detailed description of the goals, objectives, and  
4 impact of the proposed waiver. The department shall provide notice on the  
5 main page of the department web site or on a waiver-specific portion of  
6 the web site linked in a readily identifiable way to the department's  
7 main page.

8       Sec. 2. Section 68-912, Revised Statutes Cumulative Supplement,  
9 2016, is amended to read:

10       68-912 (1) The department may establish (a) premiums, copayments,  
11 and deductibles for goods and services provided under the medical  
12 assistance program, (b) limits on the amount, duration, and scope of  
13 goods and services that recipients may receive under the medical  
14 assistance program subject to subsection (5) of this section, and (c)  
15 requirements for recipients of medical assistance as a necessary  
16 condition for the continued receipt of such assistance, including, but  
17 not limited to, active participation in care coordination and appropriate  
18 disease management programs and activities.

19       (2) In establishing and limiting coverage for services under the  
20 medical assistance program, the department shall consider (a) the effect  
21 of such coverage and limitations on recipients of medical assistance and  
22 medical assistance expenditures, (b) the public policy in section 68-905,  
23 (c) the experience and outcomes of other states, (d) the nature and scope  
24 of benchmark or benchmark-equivalent health insurance coverage as  
25 recognized under federal law, and (e) other relevant factors as  
26 determined by the department.

27       (3) Coverage for mandatory and optional services and limitations on  
28 covered services as established by the department prior to July 1, 2006,  
29 shall remain in effect until revised, amended, repealed, or nullified  
30 pursuant to law. Any proposed reduction or expansion of services or  
31 limitation of covered services by the department under this section shall

1 be subject to the reporting and review requirements of section 68-909.

2 (4) Except as otherwise provided in this subsection, a proposed  
3 application for or extension or elimination of a waiver or proposed rules  
4 and regulations under this section relating to the establishment of  
5 premiums, copayments, or deductibles for eligible recipients, ~~or~~ limits  
6 on the amount, duration, or scope of covered services for eligible  
7 recipients, or requirements for recipients of medical assistance as a  
8 necessary condition for the continued receipt of such assistance shall  
9 not become effective until the conclusion of the earliest regular session  
10 of the Legislature in which there has been a reasonable opportunity for  
11 legislative consideration of such waivers or rules and regulations. This  
12 subsection does not apply to (a) rules and regulations that are (i) ~~(a)~~  
13 required by federal or state law, (ii) ~~(b)~~ related to a waiver in which  
14 recipient participation is voluntary, or (iii) ~~(c)~~ proposed due to a loss  
15 of federal matching funds relating to a particular covered service or  
16 eligibility category or (b) waivers applied for or eliminated pursuant to  
17 previous legislative action. Legislative consideration includes, but is  
18 not limited to, the introduction of a legislative bill, a legislative  
19 resolution, or an amendment to pending legislation relating to such  
20 waivers or rules and regulations.

21 (5) Any limitation on the amount, duration, or scope of goods and  
22 services that recipients may receive under the medical assistance program  
23 shall give full and deliberate consideration to the role of home health  
24 services from private duty nurses in meeting the needs of a disabled  
25 family member or disabled person.

26 Sec. 3. Original section 68-912, Revised Statutes Cumulative  
27 Supplement, 2016, and section 68-909, Revised Statutes Supplement, 2017,  
28 are repealed.