

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 938**

Introduced by Nelson, 6; Gloor, 35; Howard, 9; Nordquist, 7;  
Schumacher, 22.

Read first time January 10, 2012

Committee:

A BILL

1 FOR AN ACT relating to adult day services; to amend section 68-1206,  
2 Reissue Revised Statutes of Nebraska, sections 68-908 and  
3 81-2270, Revised Statutes Cumulative Supplement, 2010,  
4 and section 68-1204, Revised Statutes Supplement, 2011;  
5 to require a uniform rate for reimbursement; to harmonize  
6 provisions; and to repeal the original sections.

7 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 eligible recipients, and (e)  
9 perform such other activities as necessary and appropriate to carry  
10 out its duties under the Medical Assistance Act. A covered item or  
11 service as described in section 68-911 that is furnished through a  
12 school-based health center, furnished by a provider, and furnished  
13 under a managed care plan pursuant to a waiver does not require prior  
14 consultation or referral by a patient's primary care physician to be  
15 covered. Any federally qualified health center providing services as  
16 a sponsoring facility of a school-based health center shall be  
17 reimbursed for such services provided at a school-based health center  
18 at the federally qualified health center reimbursement rate. Rates  
19 for adult day services shall be subject to section 81-2270.

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. Section 68-1204, Revised Statutes Supplement,  
20 2011, is amended to read:

21                   68-1204 (1) For the purpose of providing or purchasing  
22 social services described in section 68-1202, the state hereby  
23 accepts and assents to all applicable provisions of the federal  
24 Social Security Act, as amended. The Department of Health and Human  
25 Services may adopt and promulgate rules and regulations, enter into

1 agreements, and adopt fee schedules with regard to social services  
2 described in section 68-1202. Rates for adult day services shall be  
3 subject to section 81-2270.

4 (2) The department shall adopt and promulgate rules and  
5 regulations to administer funds under Title XX of the federal Social  
6 Security Act, as amended, designated for specialized developmental  
7 disability services.

8 Sec. 3. Section 68-1206, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 68-1206 (1) The Department of Health and Human Services  
11 shall administer the program of social services in this state. The  
12 department may contract with other social agencies for the purchase  
13 of social services at rates not to exceed those prevailing in the  
14 state or the cost at which the department could provide those  
15 services except as otherwise provided in section 81-2270. The  
16 statutory maximum payments for the separate program of aid to  
17 dependent children shall apply only to public assistance grants and  
18 shall not apply to payments for social services.

19 (2) In determining the rate or rates to be paid by the  
20 department for child care as defined in section 43-2605, the  
21 department shall adopt a fixed-rate schedule for the state or a  
22 fixed-rate schedule for an area of the state applicable to each child  
23 care program category of provider as defined in section 71-1910 which  
24 may claim reimbursement for services provided by the federal Child  
25 Care Subsidy program, except that the department shall not pay a rate

1 higher than that charged by an individual provider to that provider's  
2 private clients. The schedule may provide separate rates for care for  
3 infants, for children with special needs, including disabilities or  
4 technological dependence, or for other individual categories of  
5 children. The schedule shall be effective on October 1 of every year  
6 and shall be revised annually by the department.

7           Sec. 4. Section 81-2270, Revised Statutes Cumulative  
8 Supplement, 2010, is amended to read:

9           81-2270 (1) Services identified by care plans for those  
10 not eligible for services provided through the home and community-  
11 based waiver for the aged and disabled may be purchased with funds  
12 appropriated through section 81-2235 based on a sliding-fee scale.

13           (2) The Division of Medicaid and Long-Term Care of the  
14 Department of Health and Human Services shall establish and pay a  
15 uniform rate for adult day services regardless of the source of funds  
16 used to reimburse providers of adult day services. Such rate shall be  
17 the rate established for payment of such services under the medicaid  
18 waiver.

19           Sec. 5. Original section 68-1206, Reissue Revised  
20 Statutes of Nebraska, sections 68-908 and 81-2270, Revised Statutes  
21 Cumulative Supplement, 2010, and section 68-1204, Revised Statutes  
22 Supplement, 2011, are repealed.