

LEGISLATIVE BILL 905

Approved by the Governor March 27, 2024

Introduced by Riepe, 12; Conrad, 46; Vargas, 7.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-428, Reissue Revised Statutes of Nebraska, section 68-996, Revised Statutes Cumulative Supplement, 2022, and section 68-911, Revised Statutes Supplement, 2023; to require the Department of Health and Human Services to submit a medicaid waiver or state plan amendment for medical respite care as prescribed; to change provisions relating to the Medicaid Managed Care Excess Profit Fund; to redefine a term under the Health Care Facility Licensure Act; and to repeal the original sections.

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

Section 1. Section 68-911, Revised Statutes Supplement, 2023, is amended to read:

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

- (a) Inpatient and outpatient hospital services;
- (b) Laboratory and X-ray services;
- (c) Nursing facility services;
- (d) Home health services;
- (e) Nursing services;
- (f) Clinic services;
- (g) Physician services;
- (h) Medical and surgical services of a dentist;
- (i) Nurse practitioner services;
- (j) Nurse midwife services;
- (k) Pregnancy-related services;
- (l) Medical supplies;
- (m) Mental health and substance abuse services;

(n) Early and periodic screening and diagnosis and treatment services for children which shall include both physical and behavioral health screening, diagnosis, and treatment services;

- (o) Rural health clinic services; and
- (p) Federally qualified health center services.

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

- (a) Prescribed drugs;
- (b) Intermediate care facilities for persons with developmental disabilities;
- (c) Home and community-based services for aged persons and persons with disabilities;
- (d) Dental services;
- (e) Rehabilitation services;
- (f) Personal care services;
- (g) Durable medical equipment;
- (h) Medical transportation services;
- (i) Vision-related services;
- (j) Speech therapy services;
- (k) Physical therapy services;
- (l) Chiropractic services;
- (m) Occupational therapy services;
- (n) Optometric services;
- (o) Podiatric services;
- (p) Hospice services;
- (q) Mental health and substance abuse services;
- (r) Hearing screening services for newborn and infant children; and
- (s) Administrative expenses related to administrative activities,

including outreach services, provided by school districts and educational service units to students who are eligible or potentially eligible for medical assistance.

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

(4) On or before October 1, 2014, the department, after consultation with the State Department of Education, shall submit a state plan amendment to the federal Centers for Medicare and Medicaid Services, as necessary, to provide that the following are direct reimbursable services when provided by school districts as part of an individualized education program or an individualized

family service plan: Early and periodic screening, diagnosis, and treatment services for children; medical transportation services; mental health services; nursing services; occupational therapy services; personal care services; physical therapy services; rehabilitation services; speech therapy and other services for individuals with speech, hearing, or language disorders; and vision-related services.

(5) No later than January 1, 2023, the department shall provide coverage for continuous glucose monitors under the medical assistance program for all eligible recipients who have a prescription for such device.

(6) On or before October 1, 2023, the department shall seek federal approval for federal matching funds from the federal Centers for Medicare and Medicaid Services through a state plan amendment or waiver to extend postpartum coverage for beneficiaries from sixty days to at least six months. Nothing in this subsection shall preclude the department from submitting a state plan amendment for twelve months.

(7)(a) No later than October 1, 2025, the department shall submit a medicaid waiver or state plan amendment to the federal Centers for Medicare and Medicaid Services to designate two medical respite facilities to reimburse for services provided to an individual who is:

(i) Homeless; and

(ii) An adult in the expansion population.

(b) For purposes of this subsection:

(i) Adult in the expansion population means an adult (A) described in 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) as such section existed on January 1, 2024, and (B) not otherwise eligible for medicaid as a mandatory categorically needy individual;

(ii) Homeless has the same meaning as provided in 42 U.S.C. 11302 as such section existed on January 1, 2024;

(iii) Medical respite care means short-term housing with supportive medical services; and

(iv) Medical respite facility means a residential facility that provides medical respite care to homeless individuals.

(c) The department shall choose two medical respite facilities, one in a city of the metropolitan class and one in a city of the primary class, best able to serve homeless individuals who are adults in the expansion population.

(d) Once such waiver or state plan amendment is approved, the department shall submit a report to the Health and Human Services Committee of the Legislature on or before November 30 each year, which provides the (i) number of homeless individuals served at each facility, (ii) cost of the program, and (iii) amount of reduction in health care costs due to the program's implementation.

(e) The department may adopt and promulgate rules and regulations to carry out this subsection.

(f) The services described in subdivision (7)(a) of this section shall be funded by the Medicaid Managed Care Excess Profit Fund as described in section 68-996.

Sec. 2. Section 68-996, Revised Statutes Cumulative Supplement, 2022, is amended to read:

68-996 The Medicaid Managed Care Excess Profit Fund is created. The fund shall contain money returned to the State Treasurer pursuant to subdivision (3) of section 68-995. The fund shall first be used to offset any losses under subdivision (2) of section 68-995 and then to provide for services addressing the health needs of adults and children under the Medical Assistance Act, including filling service gaps, providing system improvements, providing medical respite services, and sustaining access to care as determined by the Legislature. The fund shall only be used for the purposes described in this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 3. Section 71-428, Reissue Revised Statutes of Nebraska, is amended to read:

71-428 (1) Respite care service means (a) a person or any legal entity that provides short-term temporary care on an intermittent basis to persons with special needs when the person's primary caregiver is unavailable to provide such care or (b) a residential facility that provides short-term housing with supportive medical services to homeless individuals as described in section 68-911.

(2) Respite care service does not include:

(a) A person or any legal entity which is licensed under the Health Care Facility Licensure Act and which provides respite care services at the licensed location;

(b) A person or legal entity which is licensed to provide child care to thirteen or more children under the Child Care Licensing Act or which is licensed as a residential child-caring agency under the Children's Residential Facilities and Placing Licensure Act;

(c) An agency that recruits, screens, or trains a person to provide respite care;

(d) An agency that matches a respite care service or other providers of respite care with a person with special needs, or refers a respite care service or other providers of respite care to a person with special needs, unless the agency receives compensation for such matching or referral from the service or provider or from or on behalf of the person with special needs;

(e) A person who provides respite care to fewer than eight unrelated

persons in any seven-day period in his or her home or in the home of the recipient of the respite care; or

(f) A nonprofit agency that provides group respite care for no more than eight hours in any seven-day period.

Sec. 4. Original section 71-428, Reissue Revised Statutes of Nebraska, section 68-996, Revised Statutes Cumulative Supplement, 2022, and section 68-911, Revised Statutes Supplement, 2023, are repealed.