

LEGISLATIVE BILL 886

Approved by the Governor April 10, 1984

Introduced by Kahle, 37

AN ACT relating to paupers and public assistance; to amend section 68-126, Revised Statutes Supplement, 1982, and sections 68-104 and 68-137 to 68-140, Revised Statutes Supplement, 1983; to modify provisions relating to the administration of medical assistance; to require counties to establish the standard of need; to require reimbursement as prescribed; to require certain notice; to provide rights; to provide for a right of subrogation; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 68-104, Revised Statutes Supplement, 1983, be amended to read as follows:

68-104. The Department of Social Services shall be the overseer of the poor and shall be vested with the entire and exclusive superintendence of the poor in this state, except that, subject to the limitations of section 68-1022, the county board of each county shall furnish such medical service as may be required for the poor of the county who are not eligible for other medical assistance programs and general assistance for the poor of the county. The county board of each county shall administer such medical assistance provided pursuant to this section. A county board may enter into an agreement with the Department of Social Services which allows the department to aid in the administration of such medical assistance program. In providing medical and hospital care for the poor, the county board shall make use of any existing facilities, including tax-supported hospitals and charitable clinics so far as the same may be available, and shall use the financial eligibility criteria established for the standard of need developed by the Department of Social Services county pursuant to section 68-126.

Sec. 2. That section 68-126, Revised Statutes Supplement, 1982, be amended to read as follows:

68-126. The Director of Social Services shall immediately adopt and promulgate rules and regulations establishing maximum payments for all health services furnished to recipients of public assistance. The Department of Social Services shall Each county shall, not later than December 31, 1984, establish a standard of need for medical services furnished, pursuant to section 68-104, by the counties which are provided to indigent

persons who are not eligible for other medical assistance programs. This standard shall not exceed the Office of Management and Budget income poverty guidelines.

Sec. 3. That section 68-137, Revised Statutes Supplement, 1983, be amended to read as follows:

68-137. No county shall require a person to make repayment or any other form of compensation for general assistance provided to such person pursuant to sections 68-131 to 68-148 if such general assistance was not obtained through misrepresentation or fraud, except that a county may require reimbursement for interim general assistance granted pending a determination of an applicant's eligibility for any supplemental security income program or other program of categorical assistance or pending the issuance of a lost or stolen categorical warrant.

Sec. 4. That section 68-138, Revised Statutes Supplement, 1983, be amended to read as follows:

68-138. Any person whose application for ~~general~~ assistance, made pursuant to section 68-104 or sections 68-131 to 68-148, is denied or whose continuing ~~general~~ assistance payment is terminated or reduced shall, at the time of the denial, termination, or reduction, be given a written notice of the specific reasons for such denial, termination, or reduction. Such notice shall also inform the person of the right to a hearing to review the denial, termination, or reduction and the procedures for requesting such hearing.

Sec. 5. That section 68-139, Revised Statutes Supplement, 1983, be amended to read as follows:

68-139. Any person whose claim for general assistance or medical services (1) has not been acted upon within the time established by section 68-133, (2) has been denied, (3) has not been granted in full, or (4) has been reduced or terminated may request a hearing on such action or inaction before the county board or, if the county board so delegates as allowed by section 68-133, before an employee of the county.

Sec. 6. That section 68-140, Revised Statutes Supplement, 1983, be amended to read as follows:

68-140. A person requesting a hearing pursuant to section 68-139 shall have the following rights:

(1) To examine the county ~~general assistance~~ file pertaining to his or her case prior to and during the hearing;

(2) To be represented in the proceedings by a lawyer, friend, relative, or anyone else he or she may select;

(3) To present evidence; and

(4) To confront and cross-examine witnesses.

Sec. 7. The county shall be reimbursed for any medical assistance or health services by the spouse, father, or mother of any recipient if they or any of them

are of sufficient ability. A proceeding may be instituted in any court of competent jurisdiction in this state against such relative for reimbursement of medical care or health services made to or on behalf of a recipient at any time prior to the expiration of one year after the date of the last assistance payment. Suit shall be instituted in the name of the county.

Sec. 8. An application for county general assistance or for county health services shall give a right of subrogation to the county furnishing such aid. Subrogation shall include every claim or right which the applicant may have against a third party when such right or claim involves money for medical care. The third party shall be liable to make payments directly to the county as soon as he or she is notified in writing of the valid claim for subrogation under this section.

Sec. 9. That original section 68-126, Revised Statutes Supplement, 1982, and sections 68-104 and 68-137 to 68-140, Revised Statutes Supplement, 1983, are repealed.

Sec. 10. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.