

LEGISLATIVE BILL 257

Approved by the Governor March 1, 2001

Introduced by Wehrbein, 2

AN ACT relating to medicaid; to amend sections 68-1036.02 and 81-1121, Reissue Revised Statutes of Nebraska; to change provisions relating to liability of a recipient for benefits received and medicaid refunds and rebates; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 68-1036.02, Reissue Revised Statutes of Nebraska, is amended to read:

68-1036.02. (1) ~~The estate of a decedent who has received The recipient of~~ medical assistance benefits under the medical assistance program established under section 68-1018 shall be indebted to the Department of Health and Human Services Finance and Support for the total amount paid for medical assistance on behalf of the ~~decedent~~ recipient if:

(a) The ~~decedent~~ recipient was fifty-five years of age or older at the time the medical assistance was provided; or

(b) The ~~decedent~~ recipient resided in a medical institution and, at the time of institutionalization or application for medical assistance, whichever is later, the department determines that the ~~decedent~~ recipient could not have reasonably been expected to be discharged and resume living at home. For purposes of this section, medical institution ~~shall mean~~ means a skilled nursing facility, intermediate care facility, intermediate care facility for the mentally retarded, nursing facility, or inpatient hospital.

(2) The debt accruing under subsection (1) of this section arises during the life of the recipient but shall be held in abeyance until the death of the recipient. No debt to the department shall exist if the ~~decedent~~ recipient dies and he or she is survived (a) by a spouse or (b) by a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by the Supplemental Security Income criteria.

(3) The debt shall include the total amount of medical assistance provided when the recipient was fifty-five years of age or older or during a period of institutionalization as described in subsection (1) of this section and shall not include interest.

(4) In any probate proceedings in which the department has filed a claim under this section, no additional evidence of foundation shall be required for the admission of the department's payment record supporting its claim if the payment record bears the seal of the department, is certified as a true copy, and bears the signature of an authorized representative of the department.

(5) The department may waive or compromise its claim, in whole or in part, if the department determines that enforcement of the claim would not be in the best interests of the state or would result in undue hardship.

(6) The department may adopt and promulgate rules and regulations to carry out this section.

Sec. 2. Section 81-1121, Reissue Revised Statutes of Nebraska, is amended to read:

81-1121. (1)(a) The Director of Administrative Services shall have power to develop and implement a system of warrant preparation and issuance in accordance with acceptable accounting and internal control safeguards and by use of such mechanical means as may be most economical.

(b) Warrant or state warrant shall include an order drawn by the director upon the State Treasurer, directing the latter to pay a specified amount to a specified payee by the use of a dual signature negotiable instrument as provided for in subsections (2) and (3) of this section, electronic funds transfer system, telephonic funds transfer system, electric funds transfer system, funds transfers as provided for in article 4A, Uniform Commercial Code, mechanical funds transfer system, or other funds transfer system established by the director and the State Treasurer. The warrant, when it is an order drawn by the director upon the State Treasurer directing the latter to pay a specified amount to a specified payee by the use of a dual signature negotiable instrument as provided for in subsections (2) and (3) of this section, shall affect the state's cash balance in the bank when redeemed by the State Treasurer, not when cashed by a financial institution.

(2) The director shall sign each warrant or shall cause each warrant to be signed in his or her behalf either personally, by delegation of

authority, or by facsimile signature as will assure the most economical, timely, and practical means for making payments from the state treasury and which means provides the most acceptable safeguarding of public funds. The signature of the director shall signify that the payment intended by a warrant bearing such signature is proper under the appropriate laws of the state.

(3) The State Treasurer shall countersign all warrants issued by the director.

(4) The State Treasurer shall make such arrangements for facsimile signature of warrants as will assure the most economical, timely, and practical means for making payments from the state treasury.

(5) The director and the State Treasurer may establish and operate an electronic funds transfer system, telephonic funds transfer system, electric funds transfer system, funds transfers as provided for in article 4A, Uniform Commercial Code, mechanical funds transfer system, or other funds transfer system established by the director and the State Treasurer for the payment of funds from and the deposit of receipts into the state treasury. Any state agency that wishes to establish and operate such a system shall jointly establish the procedures necessary to implement such a system with the cooperation of the director and the State Treasurer. The system shall be designed to be compatible with state accounting procedures. Such a system as established by the director shall employ internal control safeguards and after meeting such safeguards shall be deemed to satisfy any signature requirements. The use of an electronic funds transfer system, telephonic funds transfer system, electric funds transfer system, funds transfers as provided for in article 4A, Uniform Commercial Code, mechanical funds transfer system, or other funds transfer system established by the director and the State Treasurer or any state agency shall not create any rights that would not have been created had an order, drawn by the director upon the State Treasurer directing the latter to pay a specified amount to a specified payee by the use of a dual signature negotiable instrument as provided for in subsections (2) and (3) of this section, been used as the payment medium.

(6) Whenever it is ascertained that by mistake or otherwise any county treasurer or other person has paid into the state treasury any sum not due the state, the director shall refund to such county treasurer or other person the amount so paid. Such refund shall be carried on the books of the state as an adjustment to income and not as an expenditure or disbursement.

(7) Whenever it is ascertained that by mistake or otherwise the State of Nebraska or any of its departments, agencies, or officers shall have caused to be made a disbursement which for any reason is refunded to the state, the amount so disbursed and refunded to the state shall be credited to the fund and account from which the disbursement was made as an adjustment of expenditures and disbursements and not as a receipt. Such credited refund shall be considered part of the original appropriation to the department or agency and to the appropriate program and may be expended therefrom without further or additional appropriation. When a refund to the state or any of its departments or agencies is related to a transaction which occurred during a prior fiscal period, the refund shall be credited to the unappropriated surplus account of the fund from which the disbursement was originally made, except that medicaid refunds or rebates for (a) pharmaceuticals, (b) third-party liability recoveries, and (c) surveillance and utilization reviews which have occurred during a prior fiscal period shall be treated as an adjustment to expenditures in the year in which the refund or rebate is received.

Sec. 3. Original sections 68-1036.02 and 81-1121, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.