

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 599**

Introduced by Campbell, 25; Ashford, 20; Nordquist, 7.

Read first time January 19, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the medical assistance program; to amend  
2 section 68-915, Reissue Revised Statutes of Nebraska, and  
3 sections 4-110 and 68-901, Revised Statutes Cumulative  
4 Supplement, 2010; to provide for coverage for certain  
5 children as prescribed; to repeal the original sections;  
6 and to declare an emergency.

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

1           Section 1. Section 4-110, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           4-110 Verification of lawful presence in the United  
4 States pursuant to section 4-108 is not required for:

5           (1) Any purpose for which lawful presence in the United  
6 States is not restricted by law, ordinance, or regulation;

7           (2) Assistance for health care services and products, not  
8 related to an organ transplant procedure, that are necessary for the  
9 treatment of an emergency medical condition, including emergency  
10 labor and delivery, manifesting itself by acute symptoms of  
11 sufficient severity, including severe pain, such that the absence of  
12 immediate medical attention could reasonably be expected to result in  
13 (a) placing the patient's health in serious jeopardy, (b) serious  
14 impairment to bodily functions, or (c) serious dysfunction of any  
15 bodily organ or part;

16           (3) Short-term, noncash, in-kind emergency disaster  
17 relief;

18           (4) Public health assistance for immunizations with  
19 respect to diseases and for testing and treatment of symptoms of  
20 communicable diseases, whether or not such symptoms are caused by a  
21 communicable disease; or

22           (5) Programs, services, or assistance necessary for the  
23 protection of life or safety, such as soup kitchens, crisis  
24 counseling and intervention, and short-term shelter, which (a)  
25 deliver in-kind services at the community level, including those

1 which deliver such services through public or private, nonprofit  
2 agencies and (b) do not condition the provision of assistance, the  
3 amount of assistance provided, or the cost of assistance provided on  
4 the income or resources of the recipient.

5 The Legislature finds that unborn children do not have  
6 immigration status and therefor are not within the scope of section  
7 4-108. Prenatal care services available pursuant to section 68-915  
8 and section 4 of this act to unborn children, whose eligibility is  
9 independent of the mother's eligibility status, shall not be deemed  
10 to be tied to the immigration status of the mother and therefor are  
11 not included in the restrictions imposed by section 4-108.

12 Sec. 2. Section 68-901, Revised Statutes Cumulative  
13 Supplement, 2010, is amended to read:

14 68-901 Sections 68-901 to 68-969 and section 4 of this  
15 act shall be known and may be cited as the Medical Assistance Act.

16 Sec. 3. Section 68-915, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 68-915 The following persons shall be eligible for  
19 medical assistance:

20 (1) Dependent children as defined in section 43-504;

21 (2) Aged, blind, and disabled persons as defined in  
22 sections 68-1002 to 68-1005;

23 (3) Children under nineteen years of age who are eligible  
24 under section 1905(a)(i) of the federal Social Security Act;

25 (4) Persons who are presumptively eligible as allowed

1 under sections 1920 and 1920B of the federal Social Security Act;

2 (5) Children under nineteen years of age with a family  
3 income equal to or less than two hundred percent of the Office of  
4 Management and Budget income poverty guideline, as allowed under  
5 Title XIX and Title XXI of the federal Social Security Act, without  
6 regard to resources, and pregnant women with a family income equal to  
7 or less than one hundred eighty-five percent of the Office of  
8 Management and Budget income poverty guideline, as allowed under  
9 Title XIX and Title XXI of the federal Social Security Act, without  
10 regard to resources. Children described in this subdivision and  
11 subdivision (6) of this section shall remain eligible for six  
12 consecutive months from the date of initial eligibility prior to  
13 redetermination of eligibility. The department may review eligibility  
14 monthly thereafter pursuant to rules and regulations adopted and  
15 promulgated by the department. The department may determine upon such  
16 review that a child is ineligible for medical assistance if such  
17 child no longer meets eligibility standards established by the  
18 department;

19 (6) For purposes of Title XIX of the federal Social  
20 Security Act as provided in subdivision (5) of this section, children  
21 with a family income as follows:

22 (a) Equal to or less than one hundred fifty percent of  
23 the Office of Management and Budget income poverty guideline with  
24 eligible children one year of age or younger;

25 (b) Equal to or less than one hundred thirty-three

1 percent of the Office of Management and Budget income poverty  
2 guideline with eligible children over one year of age and under six  
3 years of age; or

4 (c) Equal to or less than one hundred percent of the  
5 Office of Management and Budget income poverty guideline with  
6 eligible children six years of age or older and less than nineteen  
7 years of age;

8 (7) Persons who are medically needy caretaker relatives  
9 as allowed under 42 U.S.C. 1396d(a)(ii);

10 (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),  
11 disabled persons as defined in section 68-1005 with a family income  
12 of less than two hundred fifty percent of the Office of Management  
13 and Budget income poverty guideline and who, but for earnings in  
14 excess of the limit established under 42 U.S.C. 1396d(q)(2)(B), would  
15 be considered to be receiving federal Supplemental Security Income.  
16 The department shall apply for a waiver to disregard any unearned  
17 income that is contingent upon a trial work period in applying the  
18 Supplemental Security Income standard. Such disabled persons shall be  
19 subject to payment of premiums as a percentage of family income  
20 beginning at not less than two hundred percent of the Office of  
21 Management and Budget income poverty guideline. Such premiums shall  
22 be graduated based on family income and shall not be less than two  
23 percent or more than ten percent of family income; ~~and~~

24 (9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii),  
25 persons who:

1           (a) Have been screened for breast and cervical cancer  
2 under the Centers for Disease Control and Prevention breast and  
3 cervical cancer early detection program established under Title XV of  
4 the federal Public Health Service Act, 42 U.S.C. 300k et seq., in  
5 accordance with the requirements of section 1504 of such act, 42  
6 U.S.C. 300n, and who need treatment for breast or cervical cancer,  
7 including precancerous and cancerous conditions of the breast or  
8 cervix;

9           (b) Are not otherwise covered under creditable coverage  
10 as defined in section 2701(c) of the federal Public Health Service  
11 Act, 42 U.S.C. 300gg(c);

12           (c) Have not attained sixty-five years of age; and

13           (d) Are not eligible for medical assistance under any  
14 mandatory categorically needy eligibility group; and -

15           (10) Persons eligible for services described in  
16 subsection (3) of section 4 of this act.

17           ~~Eligibility~~ Except as provided in section 4 of this act,  
18 eligibility shall be determined under this section using an income  
19 budgetary methodology that determines children's eligibility at no  
20 greater than two hundred percent of the Office of Management and  
21 Budget income poverty guideline and adult eligibility using adult  
22 income standards no greater than the applicable categorical  
23 eligibility standards established pursuant to state or federal law.  
24 The department shall determine eligibility under this section  
25 pursuant to such income budgetary methodology and subdivision (1)(q)

1 of section 68-1713.

2 Sec. 4. (1) The Legislature finds that:

3 (a) Title XXI of the federal Social Security Act, as  
4 amended, and the rules and regulations promulgated pursuant thereto,  
5 authorize the State Children's Health Insurance Program to assist  
6 state efforts to initiate and expand provisions of child health  
7 assistance to uninsured, low-income children;

8 (b) As defined in Title XXI of the federal Social  
9 Security Act, as amended, and the rules and regulations promulgated  
10 pursuant thereto, child means an individual under the age of nineteen  
11 years, including any period of time from conception to birth, up to  
12 age nineteen years;

13 (c) Pursuant to Title XXI of the federal Social Security  
14 Act, as amended, and the rules and regulations promulgated pursuant  
15 thereto, eligibility can only be conferred to a targeted low-income  
16 child, including an unborn child, under a separate child health  
17 program;

18 (d) Under Title XXI of the federal Social Security Act,  
19 as amended, and the rules and regulations promulgated pursuant  
20 thereto, child health assistance is available to benefit unborn  
21 children independent of the mother's eligibility and immigration  
22 status;

23 (e) Under Title XXI of the federal Social Security Act,  
24 as amended, and the rules and regulations promulgated pursuant  
25 thereto, child health assistance expressly includes prenatal care

1 that connects to the health of the unborn child;

2 (f) Prenatal care has been clearly shown to reduce the  
3 likelihood of premature delivery or low birth weight, both of which  
4 are associated with a wide range of congenital disability as well as  
5 infant mortality, and such care can detect a great number of serious  
6 and even life-threatening disabilities, many of which can now be  
7 successfully treated in utero;

8 (g) Ensuring prenatal care for more children will  
9 significantly help reduce infant mortality and morbidity rates and  
10 will spare many infants from the burden of congenital disabilities  
11 and reduce the cost of treating those congenital disabilities after  
12 birth;

13 (h) It is well established that access to prenatal care  
14 can improve health outcomes during infancy as well as over a child's  
15 life. Since healthy babies and children require less medical care  
16 than babies and children with health problems, provisions of prenatal  
17 care will result in lower medical expenditures for the affected  
18 children in the long run; and

19 (i) Adopting federal law to provide for medical services  
20 related to unborn children before birth will result in healthier  
21 infants, better long-term child growth and development, and ultimate  
22 cost savings to the state through reduced expenditures for high cost  
23 neonatal and potential long-term medical rehabilitation.

24 (2) Such coverage shall be implemented through the  
25 creation of a separate program as allowed under Title XXI of the



1 federal Social Security Act, as amended, and 42 C.F.R. 457.10, solely  
2 for the unborn children of mothers who are ineligible for coverage  
3 under Title XIX of the federal Social Security Act. All other aspects  
4 of the medical assistance program relating to the State Child Health  
5 Insurance Program remain a medicaid expansion program as defined in  
6 42 C.F.R. 457.10.

7 (3) The benefits provided pursuant to this subsection,  
8 unless the recipient qualifies for coverage under Title XIX of the  
9 federal Social Security Act, as amended, shall be prenatal care and  
10 pregnancy-related services connected to the health of the unborn  
11 child, including: (a) Professional fees for labor and delivery,  
12 including live birth, fetal death, miscarriage, and ectopic  
13 pregnancy; (b) pharmaceuticals and prescription vitamins; (c)  
14 outpatient hospital care; (d) radiology, ultrasound, and other  
15 necessary imaging; (e) necessary laboratory testing; (f) hospital  
16 costs related to labor and delivery; (g) services related to  
17 conditions that could complicate the pregnancy, including those for  
18 diagnosis or treatment of illness or medical conditions that threaten  
19 the carrying of the unborn child to full term or the safe delivery of  
20 the unborn child; and (h) other pregnancy-related services approved  
21 by the department. Services not covered under this subsection include  
22 medical issues separate to the mother and unrelated to pregnancy.

23 (4) The department shall receive the state and federal  
24 funds appropriated or provided for benefits provided pursuant to this  
25 section. Within thirty days after the effective date of this act, the

1 department shall submit a state plan amendment or waiver for approval  
2 by the federal Centers for Medicare and Medicaid Services to provide  
3 coverage under the medical assistance plan to persons eligible under  
4 this section.

5 (5) Eligibility shall be determined under this section  
6 using an income budgetary methodology that determines children's  
7 eligibility at no greater than one hundred eighty-five percent of the  
8 Office of Management and Budget income poverty guideline.

9 Sec. 5. Original section 68-915, Reissue Revised Statutes  
10 of Nebraska, and sections 4-110 and 68-901, Revised Statutes  
11 Cumulative Supplement, 2010, are repealed.

12 Sec. 6. Since an emergency exists, this act takes effect  
13 when passed and approved according to law.