

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 61

Introduced by Storer, 43; DeKay, 40; Dorn, 30; Holdcroft, 36; Jacobson,
42; Strommen, 47.

Read first time January 09, 2025

Committee:

1 A BILL FOR AN ACT relating to public health and welfare; to amend section
2 68-911, Revised Statutes Cumulative Supplement, 2024; to require the
3 Department of Health and Human Services to file an amendment to the
4 home and community-based services waiver for the aged and disabled
5 for memory care rates; and to repeal the original section.

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

1 **Section 1.** Section 68-911, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 68-911 (1) Medical assistance shall include coverage for health care
4 and related services as required under Title XIX of the federal Social
5 Security Act, including, but not limited to:

- 6 (a) Inpatient and outpatient hospital services;
- 7 (b) Laboratory and X-ray services;
- 8 (c) Nursing facility services;
- 9 (d) Home health services;
- 10 (e) Nursing services;
- 11 (f) Clinic services;
- 12 (g) Physician services;
- 13 (h) Medical and surgical services of a dentist;
- 14 (i) Nurse practitioner services;
- 15 (j) Nurse midwife services;
- 16 (k) Pregnancy-related services;
- 17 (l) Medical supplies;
- 18 (m) Mental health and substance abuse services;
- 19 (n) Early and periodic screening and diagnosis and treatment
20 services for children which shall include both physical and behavioral
21 health screening, diagnosis, and treatment services;
- 22 (o) Rural health clinic services; and
- 23 (p) Federally qualified health center services.

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

- 28 (a) Prescribed drugs;
- 29 (b) Intermediate care facilities for persons with developmental
30 disabilities;
- 31 (c) Home and community-based services for aged persons and persons

1 with disabilities;

2 (d) Dental services;

3 (e) Rehabilitation services;

4 (f) Personal care services;

5 (g) Durable medical equipment;

6 (h) Medical transportation services;

7 (i) Vision-related services;

8 (j) Speech therapy services;

9 (k) Physical therapy services;

10 (l) Chiropractic services;

11 (m) Occupational therapy services;

12 (n) Optometric services;

13 (o) Podiatric services;

14 (p) Hospice services;

15 (q) Mental health and substance abuse services;

16 (r) Hearing screening services for newborn and infant children; and

17 (s) Administrative expenses related to administrative activities,
18 including outreach services, provided by school districts and educational
19 service units to students who are eligible or potentially eligible for
20 medical assistance.

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

28 (4) On or before October 1, 2014, the department, after consultation
29 with the State Department of Education, shall submit a state plan
30 amendment to the federal Centers for Medicare and Medicaid Services, as
31 necessary, to provide that the following are direct reimbursable services

1 when provided by school districts as part of an individualized education
2 program or an individualized family service plan: Early and periodic
3 screening, diagnosis, and treatment services for children; medical
4 transportation services; mental health services; nursing services;
5 occupational therapy services; personal care services; physical therapy
6 services; rehabilitation services; speech therapy and other services for
7 individuals with speech, hearing, or language disorders; and vision-
8 related services.

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

13 (b) Effective August 1, 2024, eligible recipients shall include all
14 individuals who meet local coverage determinations, as defined in section
15 1869(f)(2)(B) of the federal Social Security Act, as amended, as such act
16 existed on January 1, 2024, and shall include individuals with
17 gestational diabetes.

18 (c) It is the intent of the Legislature that no more than six
19 hundred thousand dollars be appropriated annually from the Medicaid
20 Managed Care Excess Profit Fund, as described in section 68-996, for the
21 purpose of implementing subdivision (5)(b) of this section. Any amount in
22 excess of six hundred thousand dollars shall be funded by the Medicaid
23 Managed Care Excess Profit Fund.

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

30 (7)(a) No later than October 1, 2025, the department shall submit a
31 medicaid waiver or state plan amendment to the federal Centers for

1 Medicare and Medicaid Services to designate two medical respite
2 facilities to reimburse for services provided to an individual who is:

3 (i) Homeless; and

4 (ii) An adult in the expansion population.

5 (b) For purposes of this subsection:

6 (i) Adult in the expansion population means an adult (A) described
7 in 42 U.S.C. 1396a(a)(10)(A)(i)(VIII) as such section existed on January
8 1, 2024, and (B) not otherwise eligible for medicaid as a mandatory
9 categorically needy individual;

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

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

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

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

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

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

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

31 (8)(a) No later than January 1, 2025, the department shall provide

1 coverage for an electric personal-use breast pump for every pregnant
2 woman covered under the medical assistance program, or child covered
3 under the medical assistance program if the pregnant woman is not
4 covered, beginning at thirty-six weeks gestation or the child's date of
5 birth, whichever is earlier. The electric personal-use breast pump shall
6 be capable of (i) sufficiently supporting milk supply, (ii) double and
7 single side pumping, and (iii) suction power ranging from zero mmHg to
8 two hundred fifty mmHg. No later than January 1, 2025, the department
9 shall provide coverage for a minimum of ten lactation consultation visits
10 for every mother covered under the medical assistance program or child
11 covered under the medical assistance program, if the mother is not
12 covered under such program.

13 (b) It is the intent of the Legislature that the appropriation for
14 lactation consultation visits shall be equal to an amount that is a one
15 hundred forty-five percent rate increase over the current lactation
16 consultation rate paid by the department.

17 (9)(a) No later than January 1, 2024, the department shall provide
18 coverage, and reimbursement to providers, for all necessary translation
19 and interpretation services for eligible recipients utilizing a medical
20 assistance program service. The department shall take all actions
21 necessary to maximize federal funding to carry out this subsection.

22 (b) The services described in subdivision (9)(a) of this section
23 shall be funded by the Medicaid Managed Care Excess Profit Fund as
24 described in section 68-996.

25 (10)(a) No later than September 30, 2025, the department shall
26 submit an application to the federal Centers for Medicare and Medicaid
27 Services to amend the home and community-based services waiver for the
28 aged and disabled to include a rate for memory care provided by an
29 assisted-living facility.

30 (b) It is the intent of the Legislature to appropriate to the
31 department XXX dollars from the General Fund and XXX dollars from federal

1 funds for fiscal year 2025-26 and XXX dollars from the General Fund and
2 XXX dollars from federal funds for fiscal year 2026-27 for the payment of
3 memory care rates. Such funds shall be used by the department to pay a
4 daily rate of XXX dollars for memory care provided by an assisted-living
5 facility under the home and community-based services waiver for the aged
6 and disabled.

7 **Sec. 2.** Original section 68-911, Revised Statutes Cumulative
8 Supplement, 2024, is repealed.