

## LEGISLATIVE BILL 276

Approved by the Governor April 22, 2014

Introduced by Nordquist, 7; Campbell, 25.

FOR AN ACT relating to medicaid; to amend sections 43-2511, 43-2513, 43-2515, 79-1119, and 79-1145, Reissue Revised Statutes of Nebraska, section 79-1018.01, Revised Statutes Cumulative Supplement, 2012, and section 68-911, Revised Statutes Supplement, 2013; to change provisions relating to the statewide billing system and funding for services under the Early Intervention Act; to provide for a state plan amendment under the Medical Assistance Act for certain services provided by school districts; to change local system formula resources under the Tax Equity and Educational Opportunities Support Act; to change the amount of appropriations for and requirements for reimbursement under the Special Education Act; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 43-2511, Reissue Revised Statutes of Nebraska, is amended to read:

43-2511 There is hereby established a statewide billing system for accessing federal medicaid funds for special education and related services provided by school districts. The system shall apply to all students verified with disabilities from date of diagnosis to twenty-one years of age as allowed under the federal Medicare Catastrophic Coverage Act of 1988. The system shall be developed, implemented, and administered jointly by the Department of Health and Human Services and the State Department of Education. On or before October 1, 2015, the Department of Health and Human Services and the State Department of Education shall jointly revise the statewide billing system to streamline and simplify the claims process, to update reimbursement rates, and to incorporate services included in the state plan amendment submitted pursuant to subsection (4) of section 68-911. After the reimbursement rates have been updated pursuant to this section, such rates shall be reviewed at least once every five years. School districts, educational service units, or approved cooperatives providing special education and related services shall be required to participate in the statewide billing system. It is the intent of this section that Eleven and fifty-four hundredths percent of federal medicaid funds received by school districts pursuant to such billing system shall be considered reimbursement for the costs to school districts associated with the implementation and administration of such a system, and such costs shall be included in shall be eligible for payment through the medicaid reimbursement rates to be established for each therapy service. From the amount provided pursuant to section 43-2515 to aid in carrying out the Early Intervention Act, the Department of Health and Human Services shall retain, for the purposes of implementing and administering the statewide billing system and early intervention services coordination services, an amount equal to the lesser of the actual cost of implementing and administering the statewide billing system and early intervention services coordination services or (1) for fiscal year 2014-15, two hundred forty-two thousand dollars, (2) for fiscal year 2015-16, three hundred thousand dollars, or (3) for fiscal year 2016-17 and each fiscal year thereafter, the amount retained for such purposes for the prior year increased by five percent.

Sec. 2. Section 43-2513, Reissue Revised Statutes of Nebraska, is amended to read:

43-2513 For purposes of the general fund budget of expenditures as defined in section 79-1003, funds received to carry out the services coordination functions and the administration of the billing system or designated as reimbursement for costs associated with the implementation and administration of the billing system pursuant to section 43-2511 shall be considered special grant funds.

Sec. 3. Section 43-2515, Reissue Revised Statutes of Nebraska, is amended to read:

43-2515 On For years 1993 through 2015, on or before October 1, 1993, and for each year thereafter, the Department of Health and Human Services and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the amount of federal medicaid funds paid to school districts pursuant to the Early Intervention Act for special education services for children five years of age and older for the immediately preceding fiscal year. The General Fund appropriation to the State Department

of Education for state special education aid for the then-current fiscal year shall be decreased by an amount equal to the amount that would have been reimbursed with state general funds to the school districts through the special education reimbursement process for special education services for children five years of age and older that was paid to school districts or approved cooperatives with federal medicaid funds.

It For fiscal years through fiscal year 2015-16, it is the intent of the Legislature that an amount equal to the amount that would have been reimbursed with state general funds to the school districts, certified to the budget administrator, be appropriated from the General Fund to aid in carrying out the provisions of the Early Intervention Act and other related early intervention services.

For 2015 and each year thereafter, on or before December 1, the Department of Health and Human Services and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the aggregate amount to be included in the local system formula resources pursuant to subdivision (16) of section 79-1018.01 for all local systems for aid to be calculated pursuant to the Tax Equity and Educational Opportunities Support Act for the next school fiscal year.

For fiscal year 2016-17 and each fiscal year thereafter, it is the intent of the Legislature that, in addition to other state and federal funds used to carry out the Early Intervention Act, funds equal to the lesser of the amount certified to the budget administrator or the amount appropriated or transferred for such purposes pursuant to this section for the immediately preceding fiscal year increased by five percent be appropriated from the General Fund to aid in carrying out the provisions of the Early Intervention Act and other related early intervention services.

Sec. 4. Section 68-911, Revised Statutes Supplement, 2013, 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; and

(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.

(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.

Sec. 5. Section 79-1018.01, Revised Statutes Cumulative Supplement, 2012, is amended to read:

79-1018.01 Except as otherwise provided in this section, local system formula resources include other actual receipts available for the funding of general fund operating expenditures as determined by the department for the second school fiscal year immediately preceding the school fiscal year in which aid is to be paid. Other actual receipts include:

(1) Public power district sales tax revenue;

(2) Fines and license fees;

(3) Tuition receipts from individuals, other districts, or any other source except receipts derived from adult education, receipts derived from summer school tuition, receipts derived from early childhood education tuition, tuition receipts from converted contracts beginning with the calculation of state aid to be distributed in school fiscal year 2011-12, and receipts from educational entities as defined in section 79-1201.01 for providing distance education courses through the Educational Service Unit Coordinating Council to such educational entities;

(4) Transportation receipts;

(5) Interest on investments;

(6) Other miscellaneous noncategorical local receipts, not including receipts from private foundations, individuals, associations, or charitable organizations;

(7) Special education receipts;

(8) Special education receipts and non-special education receipts from the state for wards of the court and wards of the state;

(9) All receipts from the temporary school fund. Receipts from the temporary school fund shall only include (a) receipts pursuant to section 79-1035, to the extent that such receipts for the calculation of aid for school fiscal year 2018-19 and each school fiscal year thereafter are not returned to the temporary school fund pursuant to section 79-309.01, and (b) the receipt of funds pursuant to section 79-1036 for property leased for a public purpose as set forth in subdivision (1)(a) of section 77-202;

(10) Motor vehicle tax receipts received;

(11) Pro rata motor vehicle license fee receipts;

(12) Other miscellaneous state receipts excluding revenue from the textbook loan program authorized by section 79-734;

(13) Impact aid entitlements for the school fiscal year which have actually been received by the district to the extent allowed by federal law;

(14) All other noncategorical federal receipts;

(15) All receipts pursuant to the enrollment option program under sections 79-232 to 79-246;

(16) Receipts under the federal Medicare Catastrophic Coverage Act of 1988, as such act existed on ~~May 8, 2001~~, January 1, 2014, as authorized pursuant to sections 43-2510 and 43-2511 ~~but only to the extent of the amount the local system would have otherwise received pursuant to the Special Education Act for services to school-age children, excluding amounts designated as reimbursement for costs associated with the implementation and administration of the billing system pursuant to section 43-2511;~~

(17) Receipts for accelerated or differentiated curriculum programs

pursuant to sections 79-1106 to 79-1108.03; and

(18) Revenue received from the nameplate capacity tax distributed pursuant to section 77-6204.

Sec. 6. Section 79-1119, Reissue Revised Statutes of Nebraska, is amended to read:

79-1119 ~~Excess~~ For aid distributed in school fiscal years prior to 2015-16, excess cost means the difference between the total cost of the special education program excluding residential care and the number of students in the special education program multiplied by the adjusted average per pupil cost of the preceding year for the school district of residence of each child. For aid distributed in school fiscal year 2015-16 and each school fiscal year thereafter, excess cost means the difference between the total cost of the special education program excluding residential care minus federal medicaid funds received pursuant to section 43-2511 for services to school-age children excluding amounts designated as reimbursement for costs associated with the implementation and administration of the billing system pursuant to section 43-2511 and minus the product of the number of students in the special education program multiplied by the adjusted average per pupil cost of the preceding year for the school district of residence of each child.

Sec. 7. Section 79-1145, Reissue Revised Statutes of Nebraska, is amended to read:

79-1145 (1) For each fiscal year prior to fiscal year 2014-15, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections for the previous fiscal year, multiplied by one plus a rate of increased by five percent.

(2) For fiscal year 2014-15 and each fiscal year thereafter, the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 shall not exceed the aggregate amount of General Funds appropriated pursuant to such sections for the previous fiscal year, increased by ten percent. For purposes of this section, for fiscal year 2016-17 the aggregate amount of General Funds appropriated for special education programs and support services pursuant to sections 79-1129, 79-1132, and 79-1144 for the previous fiscal year shall be the net amount after any decrease required pursuant to section 43-2515.

Sec. 8. Original sections 43-2511, 43-2513, 43-2515, 79-1119, and 79-1145, Reissue Revised Statutes of Nebraska, section 79-1018.01, Revised Statutes Cumulative Supplement, 2012, and section 68-911, Revised Statutes Supplement, 2013, are repealed.