

## LEGISLATIVE BILL 857

Approved by the Governor April 2, 2024

Introduced by Dungan, 26; Bosn, 25; Hughes, 24; Conrad, 46; Cavanaugh, M., 6; Vargas, 7; DeBoer, 10.

A BILL FOR AN ACT relating to public health and welfare; to amend section 68-996, Revised Statutes Cumulative Supplement, 2022, and sections 68-901 and 68-911, Revised Statutes Supplement, 2023; to create the Nebraska Prenatal Plus Program; to define terms; to provide powers and duties for the Department of Health and Human Services; to provide for termination of the program; to state intent regarding appropriations; to change provisions relating to coverage of continuous glucose monitoring under the Medical Assistance Act and to permitted uses of the Medicaid Managed Care Excess Profit Fund; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 68-901, Revised Statutes Supplement, 2023, is amended to read:

68-901 Sections 68-901 to 68-9,104 and sections 2 to 7 of this act shall be known and may be cited as the Medical Assistance Act.

Sec. 2. For purposes of sections 2 to 7 of this act:

(1) At-risk mother means a woman who is (a) eligible for medicaid, (b) pregnant, and (c) determined by her health care provider to be at risk of having a negative maternal or infant health outcome; and

(2) Targeted case management has the same meaning as defined in 42 C.F.R. 440.169, as such regulation existed on January 1, 2024, and may only be delivered in a clinical setting by a health care provider licensed pursuant to the Uniform Credentialing Act.

Sec. 3. The Nebraska Prenatal Plus Program is created within the Department of Health and Human Services. The purpose of the Nebraska Prenatal Plus Program is to reduce the incidence of low birth weight, pre-term birth, and adverse birth outcomes while also addressing other lifestyle, behavioral, and nonmedical aspects of an at-risk mother's life that may affect the health and well-being of the mother or the child. This program shall terminate on June 30, 2028.

Sec. 4. Services eligible for reimbursement for at-risk mothers under the Nebraska Prenatal Plus Program include, but are not limited to: (1) Six or fewer sessions of nutrition counseling; (2) psychosocial counseling and support; (3) general client education and health promotion; (4) breastfeeding support; and (5) targeted case management.

Sec. 5. The Department of Health and Human Services may reimburse eligible services for the Nebraska Prenatal Plus Program for at-risk mothers at an enhanced rate and shall file a state plan amendment or waiver, as necessary, no later than October 1, 2024, to implement the program.

Sec. 6. The Department of Health and Human Services shall electronically submit a report to the Legislature on or before December 15 of each year beginning December 15, 2024, on the Nebraska Prenatal Plus Program which includes (1) the number of mothers served, (2) the services offered, and (3) the birth outcomes for each mother served.

Sec. 7. It is the intent of the Legislature to use the Medicaid Managed Care Excess Profit Fund established in section 68-996 to fund the services provided under the Nebraska Prenatal Plus Program.

Sec. 8. Section 68-911, Revised Statutes Supplement, 2023, 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;
  - (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;
  - (o) Rural health clinic services; and
  - (p) Federally qualified health center 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.

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

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

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

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

Sec. 9. Section 68-996, Revised Statutes Cumulative Supplement, 2022, is amended to read:

68-996 The Medicaid Managed Care Excess Profit Fund is created. The fund shall contain money returned to the State Treasurer pursuant to subdivision (3) of section 68-995. The fund shall first be used to offset any losses under subdivision (2) of section 68-995 and then to provide for services addressing the health needs of adults and children under the Medical Assistance Act, including filling service gaps, providing system improvements, providing coverage for continuous glucose monitors as described in section 68-911, and sustaining access to care, and the Nebraska Prenatal Plus Program as determined by the Legislature. The fund shall only be used for the purposes described in this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 10. Original section 68-996, Revised Statutes Cumulative Supplement, 2022, and sections 68-901 and 68-911, Revised Statutes Supplement, 2023, are repealed.