

AMENDMENTS TO LB 1063

Introduced by Health and Human Services

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Sections 1 to 8 of this act shall be known and
4 may be cited as the Children's Health and Treatment Act.

5 Sec. 2. The purposes of the Children's Health and
6 Treatment Act are to:

7 (1) Clarify the meaning of the term medically necessary
8 for purposes of the medical assistance program for children under
9 nineteen years of age, to ensure children obtain needed services;

10 (2) Prohibit certain diagnosis-based exclusions; and

11 (3) Preserve family unity by ensuring that children
12 eligible for the medical assistance program receive necessary
13 health care services and treatment.

14 Sec. 3. For purposes of the Children's Health and
15 Treatment Act:

16 (1) Department means the Department of Health and Human
17 Services;

18 (2) Medical assistance program means the program
19 established pursuant to section 68-903; and

20 (3) Medically necessary means necessary to correct or
21 ameliorate defects or physical or mental illnesses or conditions.

22 Sec. 4. (1) In accordance with 42 U.S.C. 1396a(a)(43)
23 and 42 U.S.C. 1396d(r), as such sections existed on January 1,

1 2012, the department shall provide early and periodic screening,
2 diagnostic, and treatment services to all children under nineteen
3 years of age who are eligible for coverage under the medical
4 assistance program.

5 (2) For children under nineteen years of age, the
6 department shall provide or arrange for the provision of necessary
7 health care diagnostic and treatment screening and other measures
8 described in 42 U.S.C. 1396d(a), as such section existed on
9 January 1, 2012, to correct or ameliorate defects or physical or
10 mental illnesses or conditions discovered by the screening process
11 regardless of whether such health care diagnostic and treatment
12 screening and other measures described in 42 U.S.C. 1396d(a), as
13 such section existed on January 1, 2012, are covered services
14 under the medicaid state plan. All such services and other measures
15 shall be provided or authorized when they are determined to be
16 medically necessary. Medical necessity shall be determined on an
17 individualized, case-by-case basis for each child.

18 Sec. 5. The Children's Health and Treatment Act does
19 not limit the authority of the department or a department
20 contractor to (1) limit coverage of treatments or services that
21 are unsafe, experimental, or not generally accepted as treatment
22 within the medical community, (2) use utilization controls or prior
23 authorization for services, or (3) perform utilization reviews.

24 Sec. 6. (1) The department may not arbitrarily deny or
25 reduce the amount, duration, or scope of a required service to an
26 otherwise eligible recipient solely because of the diagnosis, type
27 of illness, or condition.

1 (2) The department shall not deny or reduce the amount,
2 duration, or scope of a required service to an otherwise eligible
3 recipient under nineteen years of age, based solely on the
4 recipient's age.

5 Sec. 7. The department shall adopt and promulgate rules
6 and regulations to carry out the Children's Health and Treatment
7 Act. On and after the effective date of this act, the department
8 shall not apply clinical criteria or guidelines, medical necessity
9 criteria, or other similar criteria to determine medical necessity
10 that are inconsistent with the Children's Health and Treatment Act
11 or that have not been adopted and promulgated pursuant to the
12 Administrative Procedure Act.

13 Sec. 8. The Children's Health and Treatment Act shall be
14 interpreted to be consistent with 42 U.S.C. 1396a(a)(43) and 42
15 U.S.C. 1396d(r), as such sections existed on January 1, 2012, and
16 shall be reasonably and broadly construed in favor of providing
17 treatment and services rather than excluding or denying treatment
18 or services.

19 Sec. 9. Section 68-901, Revised Statutes Supplement,
20 2011, is amended to read:

21 68-901 Sections 68-901 to 68-971 and sections 1 to 8 of
22 this act shall be known and may be cited as the Medical Assistance
23 Act.

24 Sec. 10. Section 68-912, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 68-912 (1) Except as otherwise provided in the Children's
27 Health and Treatment Act:

1 (a) The department may establish ~~(a)~~ (i) premiums,
2 copayments, and deductibles for goods and services provided under
3 the medical assistance program, ~~(b)~~ (ii) limits on the amount,
4 duration, and scope of goods and services that recipients may
5 receive under the medical assistance program, and ~~(e)~~ (iii)
6 requirements for recipients of medical assistance as a necessary
7 condition for the continued receipt of such assistance, including,
8 but not limited to, active participation in care coordination and
9 appropriate disease management programs and activities;~~;~~

10 ~~(2)~~ (b) In establishing and limiting coverage for
11 services under the medical assistance program, the department shall
12 consider ~~(a)~~ (i) the effect of such coverage and limitations
13 on recipients of medical assistance and medical assistance
14 expenditures, ~~(b)~~ (ii) the public policy in section 68-905, ~~(e)~~
15 (iii) the experience and outcomes of other states, ~~(d)~~ (iv) the
16 nature and scope of benchmark or benchmark-equivalent health
17 insurance coverage as recognized under federal law, and ~~(e)~~ (v)
18 other relevant factors as determined by the department; ~~and;~~

19 ~~(3)~~ (c) Coverage for mandatory and optional services and
20 limitations on covered services as established by the department
21 prior to July 1, 2006, shall remain in effect until revised,
22 amended, repealed, or nullified pursuant to law. Any proposed
23 reduction or expansion of services or limitation of covered
24 services by the department under this section shall be subject
25 to the reporting and review requirements of section 68-909.

26 ~~(4)~~ (2) Except as otherwise provided in this subsection,
27 proposed rules and regulations under this section relating to the

1 establishment of premiums, copayments, or deductibles for eligible
2 recipients or limits on the amount, duration, or scope of covered
3 services for eligible recipients shall not become effective until
4 the conclusion of the earliest regular session of the Legislature
5 in which there has been a reasonable opportunity for legislative
6 consideration of such rules and regulations. This subsection does
7 not apply to rules and regulations that are (a) required by
8 federal or state law, (b) related to a waiver in which recipient
9 participation is voluntary, or (c) proposed due to a loss of
10 federal matching funds relating to a particular covered service
11 or eligibility category. Legislative consideration includes, but
12 is not limited to, the introduction of a legislative bill, a
13 legislative resolution, or an amendment to pending legislation
14 relating to such rules and regulations.

15 Sec. 11. If any section in this act or any part of any
16 section is declared invalid or unconstitutional, the declaration
17 shall not affect the validity or constitutionality of the remaining
18 portions.

19 Sec. 12. Original section 68-912, Reissue Revised
20 Statutes of Nebraska, and section 68-901, Revised Statutes
21 Supplement, 2011, are repealed.