

E AND R AMENDMENTS TO LB 1158

Introduced by Larson, 40, Chairman Enrollment and Review

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

3 Section 1. Section 68-908, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

5 68-908 (1) The department shall administer the medical
6 assistance program.

7 (2) The department may (a) enter into contracts
8 and interagency agreements, (b) adopt and promulgate rules
9 and regulations, (c) adopt fee schedules, (d) apply for and
10 implement waivers and managed care plans for services for eligible
11 recipients, including services under the Nebraska Behavioral
12 Health Services Act, and (e) perform such other activities as
13 necessary and appropriate to carry out its duties under the
14 Medical Assistance Act. A covered item or service as described
15 in section 68-911 that is furnished through a school-based health
16 center, furnished by a provider, and furnished under a managed
17 care plan pursuant to a waiver does not require prior consultation
18 or referral by a patient's primary care physician to be covered.
19 Any federally qualified health center providing services as a
20 sponsoring facility of a school-based health center shall be
21 reimbursed for such services provided at a school-based health
22 center at the federally qualified health center reimbursement rate.

23 (3) The department shall maintain the confidentiality

1 of information regarding applicants for or recipients of medical
2 assistance and such information shall only be used for purposes
3 related to administration of the medical assistance program and the
4 provision of such assistance or as otherwise permitted by federal
5 law.

6 (4) (a) The department shall prepare an annual summary
7 and analysis of the medical assistance program for legislative
8 and public review, including, but not limited to, a description
9 of eligible recipients, covered services, provider reimbursement,
10 program trends and projections, program budget and expenditures,
11 the status of implementation of the Medicaid Reform Plan, and
12 recommendations for program changes.

13 (b) The department shall provide a draft report of such
14 summary and analysis to the Medicaid Reform Council no later than
15 September 15 of each year. The council shall conduct a public
16 meeting no later than October 1 of each year to discuss and receive
17 public comment regarding such report. The council shall provide
18 any comments and recommendations regarding such report in writing
19 to the department no later than November 1 of each year. The
20 department shall submit a final report of such summary and analysis
21 to the Governor, the Legislature, and the council no later than
22 December 1 of each year. Such final report shall include a response
23 to each written recommendation provided by the council.

24 Sec. 2. All contracts and agreements relating to the
25 medical assistance program governing at-risk managed care service
26 delivery for behavioral health services entered into by the
27 department on or after July 1, 2012, shall:

1 (1) Provide a definition and cap on administrative
2 spending that (a) shall not exceed seven percent unless the
3 implementing department includes detailed requirements for
4 tracking administrative spending to ensure (i) that administrative
5 expenditures do not include additional profit and (ii) that any
6 administrative spending is necessary to improve the health status
7 of the population to be served and (b) shall not under any
8 circumstances exceed ten percent;

9 (2) Provide a definition of annual contractor profits and
10 losses and restrict such profits and losses under the contract so
11 that (a) profit shall not exceed three percent per year and (b)
12 losses shall not exceed three percent per year, as a percentage of
13 the aggregate of all income and revenue earned by the contractor
14 and related parties, including parent and subsidy companies and
15 risk-bearing partners, under the contract;

16 (3) Provide for reinvestment of (a) any profits in excess
17 of the contracted amount, (b) performance contingencies imposed
18 by the department, and (c) any unearned incentive funds, to fund
19 additional behavioral health services for children, families, and
20 adults according to a plan developed with input from stakeholders,
21 including consumers and their family members, the office of
22 consumer affairs within the division, and the regional behavioral
23 health authority and approved by the department. Such plan shall
24 address the behavioral health needs of adults and children,
25 including filling service gaps and providing system improvements;

26 (4) Provide for a minimum medical loss ratio of
27 eighty-five percent of the aggregate of all income and revenue

1 earned by the contractor and related parties under the contract;

2 (5) Provide that contractor incentives, in addition to
3 potential profit, be at least one and one-half percent of the
4 aggregate of all income and revenue earned by the contractor and
5 related parties under the contract;

6 (6) Provide that a minimum of one-quarter percent of the
7 aggregate of all income and revenue earned by the contractor and
8 related parties under the contract be at risk as a penalty if the
9 contractor fails to meet the minimum performance metrics defined in
10 the contract, and such penalties, if charged, shall be accounted
11 for in a manner that shall not reduce or diminish service delivery
12 in any way; and

13 (7) Be reviewed and awarded competitively and in full
14 compliance with the procurement requirements of the State of
15 Nebraska.

16 Sec. 3. Section 71-801, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 71-801 Sections 71-801 to 71-830 and section 2 of this
19 act shall be known and may be cited as the Nebraska Behavioral
20 Health Services Act.

21 Sec. 4. Original section 71-801, Reissue Revised Statutes
22 of Nebraska, and section 68-908, Revised Statutes Cumulative
23 Supplement, 2010, are repealed.

24 Sec. 5. Since an emergency exists, this act takes effect
25 when passed and approved according to law.

26 2. On page 1, strike beginning with "section" in line 1
27 through line 6 and insert "section 71-801, Reissue Revised Statutes

1 of Nebraska, and section 68-908, Revised Statutes Cumulative
2 Supplement, 2010; to change provisions relating to the medical
3 assistance program; to provide requirements for behavioral health
4 managed care contracts; to harmonize provisions; to repeal the
5 original sections; and to declare an emergency."