

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 556

Introduced by McGill, 26; Ashford, 20; Dubas, 34.

Read first time January 23, 2013

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to children's health care; to amend sections
2 68-911 and 71-8506, Reissue Revised Statutes of Nebraska,
3 and section 79-214, Revised Statutes Cumulative
4 Supplement, 2012; to state findings and intent; to
5 provide for telehealth services for children through
6 public schools; to provide for implementation and
7 development teams; to provide for behavioral health
8 screenings as prescribed; to change provisions relating
9 to the medical assistance program, telehealth
10 transmission services, and school physical examinations
11 as prescribed; and to repeal the original sections.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) The Legislature finds that:

2 (a) Providing centralized telehealth medical and
3 behavioral health services for children in public schools will help
4 parents access health care for their school children;

5 (b) Providing such services will allow the parents and
6 child to see, hear, and interact with a physician or behavioral
7 health professional;

8 (c) Providing such services will (a) reduce the time that
9 a child spends out of the classroom, (b) address the shared community
10 goal of keeping children healthy and in school, (c) provide access to
11 medical and behavioral health professionals to rural or underserved
12 areas that may not otherwise have access to such medical
13 professionals;

14 (d) Telehealth services are already utilized in Nebraska
15 but cannot be accessed in schools and are not available to all
16 physicians and behavioral health professionals;

17 (e) Providing such services will allow parents to access
18 health care for their children without having to jeopardize their
19 income, salary, or employment status;

20 (f) No state-mandated training or certification in the
21 operation of telehealth services shall be required for persons at the
22 receiving site; and

23 (g) In order to provide telehealth services in the most
24 cost-efficient manner, all types of telehealth transmission services
25 should be covered by the medical assistance program established

1 pursuant to the Medical Assistance Act.

2 (2) It is the intent of the Legislature:

3 (a) That a greater number of physicians and medical
4 professionals have access to telehealth services for the purpose of
5 consultation on and provision of behavioral health services and other
6 medical services for children;

7 (b) To provide coverage under the medical assistance
8 program for the most efficient and least expensive telehealth
9 transmission services, including, but not limited to, secure wireless
10 connections that meet federal requirements;

11 (c) To expand community-based services provided by the
12 regional behavioral health authorities so that they may provide
13 support in the local public schools; and

14 (d) To authorize each regional behavioral health
15 authority to establish an implementation and development team to aid
16 in implementation of telehealth services for children's behavioral
17 health and to develop recommendations for future actions to improve
18 children's behavioral health services.

19 Sec. 2. (1) The Department of Health and Human Services,
20 in collaboration with the State Department of Education, shall adopt
21 and promulgate rules and regulations providing for telehealth
22 services for children through the public schools. Such rules and
23 regulations shall provide a means for school personnel, physicians,
24 and behavioral health professionals to communicate with each other
25 regarding telehealth services for either medical or behavioral health

1 conditions.

2 (2) The rules and regulations required pursuant to
3 subsection (1) of this section shall include, but not be limited to:

4 (a) School personnel or other adults present when a child
5 is receiving telehealth services at a public school site need not
6 have medical training, except that a school nurse, a counselor, or
7 another person familiar with the child's treatment plan and able to
8 attend to any emergencies shall be present with the child at such
9 site;

10 (b) Telehealth services may be received by a child at a
11 public school site regardless of the distance between such site and
12 the nearest health care facility offering a comparable service;

13 (c) Telehealth services received by a child at a public
14 school site shall be eligible for coverage under the medical
15 assistance program pursuant to section 68-911; and

16 (d) Transmission costs and related services for
17 telehealth services received by a child at a public school site shall
18 be reimbursed under the medical assistance program as provided in
19 section 71-8506.

20 (3) The Department of Health and Human Services and the
21 State Department of Education shall work with the implementation and
22 development teams established pursuant to section 3 of this act in
23 adopting and promulgating such rules and regulations.

24 Sec. 3. (1) Each regional behavioral health authority
25 created under section 71-807 shall appoint an implementation and

1 development team whose members shall include educators, social
2 workers, parents, behavioral health professionals, and other persons
3 interested in children's behavioral health and in expanding access to
4 children's behavioral health services.

5 (2) The purposes of the implementation and development
6 teams include, but are not limited to:

7 (a) Advise the behavioral health regions, the Department
8 of Health and Human Services, and the State Department of Education
9 on strategies for implementation of the requirements of section 2 of
10 this act;

11 (b) Provide education and training for educators on
12 children's behavioral health; and

13 (c) Identify strategies to include the family in
14 behavioral health interventions for children.

15 (3) The implementation and development teams shall
16 conduct public meetings and forums as necessary and shall publicize
17 their findings and determinations.

18 Sec. 4. It is the intent of the Legislature that
19 behavioral health screenings be part of childhood physicals. The
20 Department of Health and Human Services shall provide training for
21 health care professionals on providing child behavioral health
22 screenings. Child behavioral health screenings shall be considered
23 preventive services for purposes of the federal Patient Protection
24 and Affordable Care Act, Public Law 111-148.

25 Sec. 5. Section 68-911, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 68-911 (1) Medical assistance shall include coverage for
3 health care and related services as required under Title XIX of the
4 federal Social Security Act, including, but not limited to:

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

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

- 24 (a) Prescribed drugs;
- 25 (b) Intermediate care facilities for the mentally

- 1 retarded;
- 2 (c) Home and community-based services for aged persons
- 3 and persons with disabilities;
- 4 (d) Dental services;
- 5 (e) Rehabilitation services;
- 6 (f) Personal care services;
- 7 (g) Durable medical equipment;
- 8 (h) Medical transportation services;
- 9 (i) Vision-related services;
- 10 (j) Speech therapy services;
- 11 (k) Physical therapy services;
- 12 (l) Chiropractic services;
- 13 (m) Occupational therapy services;
- 14 (n) Optometric services;
- 15 (o) Podiatric services;
- 16 (p) Hospice services;
- 17 (q) Mental health and substance abuse services,
- 18 including, but not limited to, behavioral health consultations;
- 19 (r) Hearing screening services for newborn and infant
- 20 children; and
- 21 (s) Administrative expenses related to administrative
- 22 activities, including outreach services, provided by school districts
- 23 and educational service units to students who are eligible or
- 24 potentially eligible for medical assistance.
- 25 (3) No later than July 1, 2009, the department shall

1 submit a state plan amendment or waiver to the federal Centers for
2 Medicare and Medicaid Services to provide coverage under the medical
3 assistance program for community-based secure residential and
4 subacute behavioral health services for all eligible recipients,
5 without regard to whether the recipient has been ordered by a mental
6 health board under the Nebraska Mental Health Commitment Act to
7 receive such services.

8 Sec. 6. Section 71-8506, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 71-8506 (1) On or after July 1, 2000, in-person contact
11 between a health care practitioner and a patient shall not be
12 required under the medical assistance program established pursuant to
13 the Medical Assistance Act and Title XXI of the federal Social
14 Security Act, as amended, for health care services delivered through
15 telehealth that are otherwise eligible for reimbursement under such
16 program and federal act. Such services shall be subject to
17 reimbursement policies developed pursuant to such program and federal
18 act. This section also applies to managed care plans which contract
19 with the department pursuant to the Medical Assistance Act only to
20 the extent that:

21 (a) Health care services delivered through telehealth are
22 covered by and reimbursed under the medicaid fee-for-service program;
23 and

24 (b) Managed care contracts with managed care plans are
25 amended to add coverage of health care services delivered through

1 telehealth and any appropriate capitation rate adjustments are
2 incorporated.

3 (2) The reimbursement rate for a telehealth consultation
4 shall, as a minimum, be set at the same rate as the medical
5 assistance program rate for a comparable in-person consultation.

6 (3) The department shall establish rates for transmission
7 cost reimbursement for telehealth consultations, considering, to the
8 extent applicable, reductions in travel costs by health care
9 practitioners and patients to deliver or to access health care
10 services and such other factors as the department deems relevant.
11 Such rates shall include reimbursement for all means of transmission,
12 including secure wireless transmissions which comply with the federal
13 Health Insurance Portability and Accountability Act and rules and
14 regulations adopted thereunder and with regulations relating to
15 encryption adopted by the federal Centers for Medicare and Medicaid
16 Services.

17 Sec. 7. Section 79-214, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 79-214 (1) For school years before school year 2012-13:

20 (a) Except as provided in subdivision (1)(b) of this
21 section, the school board of any school district shall not admit any
22 child into the kindergarten of any school of such school district
23 unless such child has reached the age of five years or will reach
24 such age on or before October 15 of the current year; and

25 (b) The board may admit a child who will reach the age of

1 five between October 16 and February 1 of the current school year if
2 the parent or guardian requests such entrance and provides an
3 affidavit stating that (i) the child attended kindergarten in another
4 jurisdiction in the current school year, (ii) the family anticipates
5 relocation to another jurisdiction that would allow admission within
6 the current year, or (iii) the child has demonstrated through
7 recognized assessment procedures approved by the board that he or she
8 is capable of carrying the work of kindergarten.

9 (2) For school year 2012-13 and each school year
10 thereafter:

11 (a) Except as provided in subdivision (2)(b) of this
12 section, the school board of any school district shall not admit any
13 child into the kindergarten of any school of such school district
14 unless such child has reached the age of five years on or before July
15 31 of the calendar year in which the school year for which the child
16 is seeking admission begins; and

17 (b) The board may admit a child who will reach the age of
18 five years on or after August 1 and on or before October 15 of such
19 school year if the parent or guardian requests such entrance and
20 provides an affidavit stating that (i) the child attended
21 kindergarten in another jurisdiction in the current school year, (ii)
22 the family anticipates relocation to another jurisdiction that would
23 allow admission within the current year, or (iii) the child has
24 demonstrated through a recognized assessment procedure approved by
25 the board that he or she is capable of carrying the work of

1 kindergarten. On or before January 1, 2012, each school board shall,
2 for purposes of this subdivision, approve and make available a
3 recognized assessment procedure for determining if a child is capable
4 of carrying the work of kindergarten. The school board shall update
5 approved procedures as the board deems appropriate.

6 (3) The board shall comply with the requirements of
7 subsection (2) of section 43-2007 and shall require evidence of: (a)
8 A physical examination by a physician, a physician assistant, or an
9 advanced practice registered nurse, practicing under and in
10 accordance with his or her respective certification act, within six
11 months prior to the entrance of a child into the beginner grade, and
12 the seventh grade, and the ninth grade or, in the case of a transfer
13 from out of state, to any other grade of the local school. Such
14 examination shall include a behavioral health screening; and (b) for
15 school year 2006-07 and each school year thereafter, a visual
16 evaluation by a physician, a physician assistant, an advanced
17 practice registered nurse, or an optometrist within six months prior
18 to the entrance of a child into the beginner grade or, in the case of
19 a transfer from out of state, to any other grade of the local school,
20 which consists of testing for amblyopia, strabismus, and internal and
21 external eye health, with testing sufficient to determine visual
22 acuity, except that no such physical examination or visual evaluation
23 shall be required of any child whose parent or guardian objects in
24 writing. The cost of such physical examination and visual evaluation
25 shall be borne by the parent or guardian of each child who is

1 examined.

2 Sec. 8. Original sections 68-911 and 71-8506, Reissue
3 Revised Statutes of Nebraska, and section 79-214, Revised Statutes
4 Cumulative Supplement, 2012, are repealed.