

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 204

Introduced by Thompson, 14

Read first time January 7, 2005

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to medical services; to amend section 47-703,
2 Reissue Revised Statutes of Nebraska, and sections
3 71-919, 71-922, and 71-926, Revised Statutes Supplement,
4 2004; to provide a rate of payment for certain medical
5 services and emergency protective custody situations; and
6 to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 47-703, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 47-703. (1) Upon a showing that reimbursement from the
4 sources enumerated in section 47-702 is not available, in whole or
5 in part, the costs of medical services shall be paid, at the same
6 rate as the rate paid for such services pursuant to the medical
7 assistance program established under sections 68-1018 to 68-1025,
8 by the appropriate governmental agency. Such payment shall be made
9 within ninety days after such showing. For purposes of this
10 section, a showing shall be deemed sufficient if a provider of
11 medical services signs an affidavit stating that (a) in the case of
12 an insurer, health maintenance organization, preferred provider
13 organization, or other similar source, a written denial of payment
14 has been issued or (b) in all other cases, efforts have been made
15 to identify sources and to collect from those sources and more than
16 one hundred eighty days have passed or the normal collection
17 efforts are exhausted since the medical services were rendered but
18 full payment has not been received. Such affidavit shall be
19 forwarded to the appropriate governmental agency. In no event
20 shall the provider of medical services be required to file a suit
21 in a court of law or retain the services of a collection agency to
22 satisfy the requirement of showing that reimbursement is not
23 available pursuant to this section.

24 (2) In the case of medical services necessitated by
25 injuries or wounds suffered during the course of apprehension or
26 arrest, the appropriate governmental agency shall be the arresting
27 agency. In all other cases, the appropriate governmental agency
28 shall be the agency responsible for operation of the institution or

1 facility in which the recipient of the services is lodged, except
2 that when the agency is holding the individual solely for another
3 jurisdiction, the agency may, by contract or otherwise, seek
4 reimbursement from the other jurisdiction for the costs of the
5 medical services provided to the individual being held for that
6 jurisdiction.

7 (3) Except as provided in section 47-705, a governmental
8 agency shall not be responsible for paying the costs of any medical
9 services provided to an individual if such services are provided
10 after he or she is released from the legal custody of the
11 governmental agency or when the individual is released on parole.

12 (4) Any governmental agency requesting medical services
13 for an individual who is arrested, detained, taken into custody, or
14 incarcerated shall notify the provider of such services of (a) all
15 information possessed by the agency concerning potential sources of
16 payment and (b) the name of the appropriate governmental agency
17 pursuant to subsection (2) of this section.

18 Sec. 2. Section 71-919, Revised Statutes Supplement,
19 2004, is amended to read:

20 71-919. (1) A law enforcement officer who has probable
21 cause to believe that a person is mentally ill and dangerous and
22 that the harm described in section 71-908 is likely to occur before
23 mental health board proceedings under the Nebraska Mental Health
24 Commitment Act may be initiated to obtain custody of the person may
25 take such person into emergency protective custody, cause him or
26 her to be taken into emergency protective custody, or continue his
27 or her custody if he or she is already in custody. Such person
28 shall be admitted to the nearest appropriate and available medical

1 facility and shall not be placed in a jail. Each county shall make
2 arrangements with appropriate medical facilities inside or outside
3 the county for such purpose and shall pay the cost of the emergency
4 protective custody of persons from such county in such facilities,
5 including the costs of medical services, at the same rate as the
6 rate paid for such services pursuant to the medical assistance
7 program established under sections 68-1018 to 68-1025. A mental
8 health professional who has probable cause to believe that a person
9 is mentally ill and dangerous may cause such person to be taken
10 into custody and shall have a limited privilege to hold such person
11 until a law enforcement officer or other authorized person arrives
12 to take custody of such person.

13 (2) Upon admission to a medical facility of a person
14 taken into emergency protective custody by a law enforcement
15 officer under this section, such officer shall execute a written
16 certificate prescribed and provided by the Director of Health and
17 Human Services. The certificate shall allege the officer's belief
18 that the person in custody is mentally ill and dangerous and shall
19 contain a summary of the person's behavior supporting such
20 allegations. A copy of such certificate shall be immediately
21 forwarded to the county attorney.

22 (3) The administrator of the facility shall have such
23 person evaluated by a mental health professional as soon as
24 reasonably possible but not later than thirty-six hours after
25 admission. The mental health professional shall not be the mental
26 health professional who causes such person to be taken into custody
27 under this section and shall not be a member or alternate member of
28 the mental health board that will preside over any hearing under

1 the Nebraska Mental Health Commitment Act with respect to such
2 person. A person shall be released from emergency protective
3 custody after completion of such evaluation unless the mental
4 health professional determines, in his or her clinical opinion,
5 that such person is mentally ill and dangerous.

6 Sec. 3. Section 71-922, Revised Statutes Supplement,
7 2004, is amended to read:

8 71-922. (1) A petition filed by the county attorney
9 under section 71-921 may contain a request for the emergency
10 protective custody and evaluation of the subject prior to
11 commencement of a mental health board hearing pursuant to such
12 petition with respect to the subject. Upon receipt of such request
13 and upon a finding of probable cause to believe that the subject is
14 mentally ill and dangerous as alleged in the petition, the court or
15 chairperson of the mental health board may issue a warrant
16 directing the sheriff to take custody of the subject. If the
17 subject is already in emergency protective custody under a
18 certificate filed under section 71-919, a copy of such certificate
19 shall be filed with the petition. The subject in such custody
20 shall be held in the nearest appropriate and available medical
21 facility and shall not be placed in a jail. Each county shall make
22 arrangements with appropriate medical facilities inside or outside
23 the county for such purpose and shall pay the cost of the emergency
24 protective custody of persons from such county in such facilities,
25 including the costs of medical services, at the same rate as the
26 rate paid for such services pursuant to the medical assistance
27 program established under sections 68-1018 to 68-1025.

28 (2) The petition and all subsequent pleadings and filings

1 in the case shall be entitled In the Interest of, Alleged
 2 to be Mentally Ill and Dangerous. The county attorney may dismiss
 3 the petition at any time prior to the commencement of the hearing
 4 of the mental health board under section 71-924, and upon such
 5 motion by the county attorney, the mental health board shall
 6 dismiss the petition.

7 Sec. 4. Section 71-926, Revised Statutes Supplement,
 8 2004, is amended to read:

9 71-926. (1) At the conclusion of a mental health board
 10 hearing under section 71-924 and prior to the entry of a treatment
 11 order by the board under section 71-925, the board may (a) order
 12 that the subject be retained in custody until the entry of such
 13 order and the subject may be admitted for treatment pursuant to
 14 such order or (b) order the subject released from custody under
 15 such conditions as the board deems necessary and appropriate to
 16 prevent the harm described in section 71-908 and to assure the
 17 subject's appearance at a later disposition hearing by the board.
 18 A subject shall be retained in custody under this section at the
 19 nearest appropriate and available medical facility and shall not be
 20 placed in a jail. Each county shall make arrangements with
 21 appropriate medical facilities inside or outside the county for
 22 such purpose and shall pay the cost of the emergency protective
 23 custody of persons from such county in such facilities, including
 24 the costs of medical services, at the same rate as the rate paid
 25 for such services pursuant to the medical assistance program
 26 established under sections 68-1018 to 68-1025.

27 (2) A subject who has been ordered to receive inpatient
 28 or outpatient treatment by a mental health board may be provided

1 treatment while being retained in emergency protective custody and
2 pending admission of the subject for treatment pursuant to such
3 order.

4 Sec. 5. Original section 47-703, Reissue Revised
5 Statutes of Nebraska, and sections 71-919, 71-922, and 71-926,
6 Revised Statutes Supplement, 2004, are repealed.