

## LEGISLATIVE BILL 541

Approved by the Governor April 11, 2012

Introduced by Health and Human Services Committee: Campbell, 25, Chairperson; Bloomfield, 17; Cook, 13; Gloor, 35; Howard, 9; Krist, 10; Wallman, 30.

FOR AN ACT relating to the Medical Assistance Act; to amend section 68-901, Revised Statutes Supplement, 2011; to provide for contracts with third parties to promote the integrity of the medical assistance program and assist cost-containment efforts; to harmonize provisions; to repeal the original section; and to declare an emergency.

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

Section 1. Section 68-901, Revised Statutes Supplement, 2011, is amended to read:

68-901 Sections 68-901 to 68-971 and sections 2 and 3 of this act shall be known and may be cited as the Medical Assistance Act.

Sec. 2. The Legislature finds that the medical assistance program would benefit from increased efforts to (1) prevent improper payments to service providers, including, but not limited to, enforcement of eligibility criteria for recipients of benefits, enforcement of enrollment criteria for providers of benefits, determination of third-party liability for benefits, review of claims for benefits prior to payment, and identification of the extent and cause of improper payment, (2) identify and recoup improper payments, including, but not limited to, identification and investigation of questionable payments for benefits, administrative recoupment of payments for benefits, and referral of cases of fraud to the state medicaid fraud control unit for prosecution, and (3) collect postpayment reimbursement, including, but not limited to, maximizing prescribed drug rebates and maximizing recoveries from estates for paid benefits.

Sec. 3. (1) The department shall contract with one or more recovery audit contractors to promote the integrity of the medical assistance program and to assist with cost-containment efforts and recovery audits. The contract or contracts shall include services for (a) cost-avoidance through identification of third-party liability, (b) cost recovery of third-party liability through postpayment reimbursement, (c) casualty recovery of payments by identifying and recovering costs for claims that were the result of an accident or neglect and payable by a casualty insurer, and (d) reviews of claims submitted by providers of services or other individuals furnishing items and services for which payment has been made to determine whether providers have been underpaid or overpaid and take actions to recover any overpayments identified.

(2) The department shall contract with one or more persons to support a health insurance premium assistance payment program.

(3) The department may enter into any other contracts deemed to increase the efforts to promote the integrity of the medical assistance program.

(4) Contracts entered into under the authority of this section may be on a contingent fee basis. Contracts entered into on a contingent fee basis shall provide that contingent fee payments are based upon amounts recovered, not amounts identified, and that contingent fee payments are not to be paid on amounts subsequently repaid due to determinations made in appeal proceedings. Contracts shall be in compliance with federal law and regulations when pertinent, including a limit on contingent fees of no more than twelve and one-half percent of amounts recovered, and initial contracts shall be entered into as soon as practicable under such federal law and regulations.

(5) All amounts recovered and savings generated as a result of this section shall be returned to the medical assistance program.

(6) The department shall by December 1, 2012, report to the Legislature the status of the contracts, including the parties, the programs and issues addressed, the estimated cost recovery, and the savings accrued as a result of the contracts.

(7) For purposes of this section:

(a) Person means bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations; and

(b) Recovery audit contractor means private entities with which the department contracts to audit claims for medical assistance, identify underpayments and overpayments, and recoup overpayments.

Sec. 4. Original section 68-901, Revised Statutes Supplement, 2011, is repealed.

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