

LEGISLATIVE BILL 599

Passed over the Governor's veto April 18, 2012.

Introduced by Campbell, 25; Ashford, 20; Nordquist, 7; Howard, 9; Mello, 5; Council, 11.

FOR AN ACT relating to the medical assistance program; to amend section 68-915, Reissue Revised Statutes of Nebraska, section 4-110, Revised Statutes Cumulative Supplement, 2010, and section 68-901, Revised Statutes Supplement, 2011; to change provisions relating to verification of lawful presence; to provide for coverage of certain children pursuant to the medical assistance program; to state findings; to provide duties for the Department of Health and Human Services; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 4-110, Revised Statutes Cumulative Supplement, 2010, is amended to read:

4-110 Verification of lawful presence in the United States pursuant to section 4-108 is not required for:

- (1) Any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;
- (2) Assistance for health care services and products, not related to an organ transplant procedure, that are necessary for the treatment of an emergency medical condition, including emergency labor and delivery, manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in (a) placing the patient's health in serious jeopardy, (b) serious impairment to bodily functions, or (c) serious dysfunction of any bodily organ or part;
- (3) Short-term, noncash, in-kind emergency disaster relief;
- (4) Public health assistance for immunizations with respect to diseases and for testing and treatment of symptoms of communicable diseases, whether or not such symptoms are caused by a communicable disease; or
- (5) Programs, services, or assistance necessary for the protection of life or safety, such as soup kitchens, crisis counseling and intervention, and short-term shelter, which (a) deliver in-kind services at the community level, including those which deliver such services through public or private, nonprofit agencies and (b) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the recipient.

The Legislature finds that unborn children do not have immigration status and therefor are not within the scope of section 4-108. Prenatal care services available pursuant to section 68-915 and section 4 of this act to unborn children, whose eligibility is independent of the mother's eligibility status, shall not be deemed to be tied to the immigration status of the mother and therefor are not included in the restrictions imposed by section 4-108.

Sec. 2. Section 68-901, Revised Statutes Supplement, 2011, is amended to read:

68-901 Sections 68-901 to 68-971 and section 4 of this act shall be known and may be cited as the Medical Assistance Act.

Sec. 3. Section 68-915, Reissue Revised Statutes of Nebraska, is amended to read:

68-915 The following persons shall be eligible for medical assistance:

- (1) Dependent children as defined in section 43-504;
- (2) Aged, blind, and disabled persons as defined in sections 68-1002 to 68-1005;
- (3) Children under nineteen years of age who are eligible under section 1905(a)(i) of the federal Social Security Act;
- (4) Persons who are presumptively eligible as allowed under sections 1920 and 1920B of the federal Social Security Act;
- (5) Children under nineteen years of age with a family income equal to or less than two hundred percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources, and pregnant women with a family income equal to or less than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources. Children described in this subdivision and subdivision (6) of

this section shall remain eligible for six consecutive months from the date of initial eligibility prior to redetermination of eligibility. The department may review eligibility monthly thereafter pursuant to rules and regulations adopted and promulgated by the department. The department may determine upon such review that a child is ineligible for medical assistance if such child no longer meets eligibility standards established by the department;

(6) For purposes of Title XIX of the federal Social Security Act as provided in subdivision (5) of this section, children with a family income as follows:

(a) Equal to or less than one hundred fifty percent of the Office of Management and Budget income poverty guideline with eligible children one year of age or younger;

(b) Equal to or less than one hundred thirty-three percent of the Office of Management and Budget income poverty guideline with eligible children over one year of age and under six years of age; or

(c) Equal to or less than one hundred percent of the Office of Management and Budget income poverty guideline with eligible children six years of age or older and less than nineteen years of age;

(7) Persons who are medically needy caretaker relatives as allowed under 42 U.S.C. 1396d(a)(ii);

(8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), disabled persons as defined in section 68-1005 with a family income of less than two hundred fifty percent of the Office of Management and Budget income poverty guideline and who, but for earnings in excess of the limit established under 42 U.S.C. 1396d(q)(2)(B), would be considered to be receiving federal Supplemental Security Income. The department shall apply for a waiver to disregard any unearned income that is contingent upon a trial work period in applying the Supplemental Security Income standard. Such disabled persons shall be subject to payment of premiums as a percentage of family income beginning at not less than two hundred percent of the Office of Management and Budget income poverty guideline. Such premiums shall be graduated based on family income and shall not be less than two percent or more than ten percent of family income; and

(9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), persons who:

(a) Have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under Title XV of the federal Public Health Service Act, 42 U.S.C. 300k et seq., in accordance with the requirements of section 1504 of such act, 42 U.S.C. 300n, and who need treatment for breast or cervical cancer, including precancerous and cancerous conditions of the breast or cervix;

(b) Are not otherwise covered under creditable coverage as defined in section 2701(c) of the federal Public Health Service Act, 42 U.S.C. 300gg(c);

(c) Have not attained sixty-five years of age; and

(d) Are not eligible for medical assistance under any mandatory categorically needy eligibility group; and-

(10) Persons eligible for services described in subsection (3) of section 4 of this act.

Eligibility Except as provided in section 4 of this act, eligibility shall be determined under this section using an income budgetary methodology that determines children's eligibility at no greater than two hundred percent of the Office of Management and Budget income poverty guideline and adult eligibility using adult income standards no greater than the applicable categorical eligibility standards established pursuant to state or federal law. The department shall determine eligibility under this section pursuant to such income budgetary methodology and subdivision (1)(q) of section 68-1713.

Sec. 4. (1) The Legislature finds that:

(a) Title XXI of the federal Social Security Act, as amended, and the rules and regulations promulgated pursuant thereto, authorize the State Children's Health Insurance Program to assist state efforts to initiate and expand provisions of child health assistance to uninsured, low-income children;

(b) As defined in Title XXI of the federal Social Security Act, as amended, and the rules and regulations promulgated pursuant thereto, child means an individual under the age of nineteen years, including any period of time from conception to birth, up to age nineteen years;

(c) Pursuant to Title XXI of the federal Social Security Act, as amended, and the rules and regulations promulgated pursuant thereto, eligibility can only be conferred to a targeted low-income child, including an unborn child, under a separate child health program;

(d) Under Title XXI of the federal Social Security Act, as amended, and the rules and regulations promulgated pursuant thereto, child health

assistance is available to benefit unborn children independent of the mother's eligibility and immigration status;

(e) Under Title XXI of the federal Social Security Act, as amended, and the rules and regulations promulgated pursuant thereto, child health assistance expressly includes prenatal care that connects to the health of the unborn child;

(f) Prenatal care has been clearly shown to reduce the likelihood of premature delivery or low birth weight, both of which are associated with a wide range of congenital disabilities as well as infant mortality, and such care can detect a great number of serious and even life-threatening disabilities, many of which can now be successfully treated in utero;

(g) Ensuring prenatal care for more children will significantly help reduce infant mortality and morbidity rates and will spare many infants from the burden of congenital disabilities and reduce the cost of treating those congenital disabilities after birth;

(h) It is well established that access to prenatal care can improve health outcomes during infancy as well as over a child's life. Since healthy babies and children require less medical care than babies and children with health problems, provision of prenatal care will result in lower medical expenditures for the affected children in the long run; and

(i) Adopting federal law to provide for medical services related to unborn children before birth will result in healthier infants, better long-term child growth and development, and ultimate cost savings to the state through reduced expenditures for high cost neonatal and potential long-term medical rehabilitation.

(2) Such coverage shall be implemented through the creation of a separate program as allowed under Title XXI of the federal Social Security Act, as amended, and 42 C.F.R. 457.10, solely for the unborn children of mothers who are ineligible for coverage under Title XIX of the federal Social Security Act. All other aspects of the medical assistance program relating to the State Children's Health Insurance Program remain a medicaid expansion program as defined in 42 C.F.R. 457.10.

(3) The benefits provided pursuant to this subsection, unless the recipient qualifies for coverage under Title XIX of the federal Social Security Act, as amended, shall be prenatal care and pregnancy-related services connected to the health of the unborn child, including: (a) Professional fees for labor and delivery, including live birth, fetal death, miscarriage, and ectopic pregnancy; (b) pharmaceuticals and prescription vitamins; (c) outpatient hospital care; (d) radiology, ultrasound, and other necessary imaging; (e) necessary laboratory testing; (f) hospital costs related to labor and delivery; (g) services related to conditions that could complicate the pregnancy, including those for diagnosis or treatment of illness or medical conditions that threaten the carrying of the unborn child to full term or the safe delivery of the unborn child; and (h) other pregnancy-related services approved by the department. Services not covered under this subsection include medical issues separate to the mother and unrelated to pregnancy.

(4) The department shall receive the state and federal funds appropriated or provided for benefits provided pursuant to this section. Within thirty days after the effective date of this act, the department shall submit a state plan amendment or waiver for approval by the federal Centers for Medicare and Medicaid Services to provide coverage under the medical assistance program to persons eligible under this section.

(5) Eligibility shall be determined under this section using an income budgetary methodology that determines children's eligibility at no greater than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline.

Sec. 5. Original section 68-915, Reissue Revised Statutes of Nebraska, section 4-110, Revised Statutes Cumulative Supplement, 2010, and section 68-901, Revised Statutes Supplement, 2011, are repealed.