

NEBRASKA



Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

Division of Medicaid & Long-Term Care

Nebraska Medicaid Regulations,
State Plan Amendments, and Waiver Report

November 28, 2022

Prepared in Accordance with Neb. Rev. Stat. §68-909(2)

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DEPT. OF HEALTH AND HUMAN SERVICES



Pete Ricketts, Governor

November 28, 2022

Patrick O'Donnell
Clerk of the Legislature
Room 2018, State Capitol
Lincoln, NE 68509

Dear Mr. O'Donnell:

Pursuant to Neb. Rev. Stat. §68-909(2), the Division of Medicaid and Long-Term Care (MLTC) is submitting this report to the Governor and the Legislature. This report summarizes the purpose and content of proposed rules and regulations, state plan amendments, or waivers from November 1, 2021, through November 1, 2022. Information provided includes the projected impact on recipients of medical assistance and medical assistance expenditures.

If you have any questions, please contact Catherine Gekas Steeby, Administrator II for Policy at Catherine.gekassteeby@nebraska.gov.

Sincerely,

Kevin Bagley, Director
Division of Medicaid and Long-Term Care
Department of Health and Human Services

Attachments: 3

[Detailed information on each Regulation can be found on the MLTC website, here.](#)

Regulation	Purpose	Content	Projected Impact	Status
Title 471 Nebraska Medicaid Program Services				
471 Chapter 3	General update	Payment for Medicaid Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective June 6, 2022
471 Chapter 4	General update	Ambulance Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective May 8, 2022
471 Chapter 7	General update	Durable Medical Equipment and Medical Supplies	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Internal DHHS process underway
471 Chapter 9	Combining chapter 13 (Nursing Services) into chapter 9.	Home Health Agencies and Skilled Nursing Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation. Chapter 13 contains duplicate information and is being combined into chapter 9.	Public hearing held on September 26, 2022
471 Chapter 10	Addition of payment methodology language per LB1053 (2020)	Hospital Services	Addition of payment methodology language.	Promulgated effective June 6, 2022
471 Chapter 11	General update	Indian Health Service Facilities	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Regulations rejected November, 2021
471 Chapter 12	Addition of payment methodology language per LB1053 (2020)	Nursing Facility Services	Addition of payment methodology language.	Promulgated effective June 6, 2022
471 Chapter 13	Information incorporated in chapter 9 (Home Health Agencies).	Nursing Services	Incorporation into chapter 9 and elimination of chapter 13.	Public hearing held on September 26, 2022
471 Chapter 15	General update	Personal Assistance Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective June 6, 2022
471 Chapter 16	General update	Pharmacy Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective December 26, 2021
471 Chapter 18	General update	Physicians Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective July 10, 2022
471 Chapter 19	General update	Podiatry Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective December 26, 2021
471 Chapter 20	General update	Psychiatric Services for Individuals Age 21 and Older	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Internal DHHS process underway
471 Chapter 21	General update	Rehabilitation Care in Hospitals	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Rulemaking terminated November 15, 2022
471 Chapter 22	General update	Respiratory Therapy Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective December 26, 2021
471 Chapter 23	General update	Speech Pathology and Audiology Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective December 26, 2021
471 Chapter 24	General update	Visual Care Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective December 27, 2021
471 Chapter 26	General update	Ambulatory Surgical Center Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Rulemaking terminated November 15, 2022
471 Chapter 28	General update	Presumptive Eligibility	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Rulemaking terminated November 15, 2022
471 Chapter 29	General update	Federally Qualified Health Centers	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Rulemaking terminated November 15, 2022
471 Chapter 31	General update	Services in Intermediate Care Facilities for Persons with Developmental Disabilities	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective December 26, 2021

Regulation	Purpose	Content	Projected Impact	Status
471 Chapter 32	General update	Child Mental Health and Substance Use	Adding direct care staffing, leave, and licensure information	Internal DHHS process underway
471 Chapter 33	General update	Health Checks and Treatment Services for Conditions Disclosed during Health Checks	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Promulgated effective February 12, 2022
471 Chapter 34	General update	Rural Health Clinics	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Rulemaking terminated November 15, 2022
471 Chapter 35	General update	Rehabilitative Psychiatric Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Internal DHHS process underway
471 Chapter 36	General update	Hospice Services	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Rulemaking terminated November 15, 2022
471 Chapter 37	General update	Program of All-Inclusive Care for the Elderly	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Rulemaking terminated November 15, 2022
471 Chapter 42	General update	Freestanding Birth Centers	Updates to incorporate changes which have occurred over time, ensure compliance with statute, state plan and federal regulation	Rulemaking terminated November 15, 2022
471 Chapter 44	Adult Level of Care	Nursing Facility Level of Care Determination for Adults	Updates regarding telehealth	Promulgated effective May 11, 2022
471 Chapter 45	Addition of payment methodology language per LB1053 (2020)	Rates for Nursing Facility Services	Addition of payment methodology language.	Promulgated effective June 6, 2022
471 Chapter 46	Addition of payment methodology language per LB1053 (2020)	Rates for Hospital Services	Addition of payment methodology language.	Promulgated effective June 6, 2022

Detailed information on each State Plan Amendment can be found on the MLTC website, [here](#).

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
21-0008	SFY22 Nursing Facility Rates	Legislatively appropriated nursing facility rate increase	Increases federal and state expenditures	Approved December 22, 2021 with an effective date of July 1, 2021
21-0009	SFY22 ICF-DD Rates	Legislatively appropriated ICF-DD rate increase	Increases federal and state expenditures	Approved December 22, 2021 with an effective date of July 1, 2021
21-0010	SFY22 Inpatient Provider Rates	Legislatively appropriated inpatient provider rate increase	Increases federal and state expenditures	Approved February 2, 2022 with an effective date of July 1, 2021
21-0011	SFY22 Outpatient and Professional Provider Rates	Legislatively appropriated inpatient provider rate increase	Increases federal and state expenditures	Approved November 19, 2021 with an effective date of July 1, 2021
21-0012	Medicaid Insurance for Workers with Disabilities (MIWD) eligibility changes.	Implementation of changes to MIWD eligibility in accordance with LB323 (2020)	Increases federal and state expenditures	Approved December 17, 2021 with an effective date of October 1, 2021
21-0013	Non-Emergency Medical Transportation federally mandated technical updates.	No impacts to recipients.	No fiscal impact	Approved January 10, 2022 with an effective date of December 27, 2021
21-0015	Third Party Liability federally mandated technical updates.	No impacts to recipients.	No fiscal impact	Approved January 20, 2022 with an effective date of December 31, 2021
21-0016	Annual waiver of the Recovery Audit Contractor (RAC)	No impacts to recipients.	No fiscal impact	Approved February 15, 2022 with an effective date of December 1, 2021
22-0001	Medicaid Disaster Relief for the COVID-19 National Emergency (7) - Nursing facility rate increase for January 1, 2022 through June 30, 2022.	No impacts to recipients.	Increases federal and state expenditures	Approved February 11, 2022 with an effective date of January 1, 2022
22-0002	Supplemental Graduate Medical Education Payments - Outpatient Payments	No impacts to recipients.	Increases federal and state expenditures	Approved November 23, 2022 with an effective date of January 1, 2022
22-0003	Consolidated Appropriations Act Clinical Trials federally mandated	Provides coverage of routine patient costs associated with participation in qualifying clinical trials.	No fiscal impact	Approved June 16, 2022 with an effective date of January 1, 2022
22-0004	Childrens Health Insurance Program American Resuce Plan Act COVID-19 Coverage Mandates federally mandate	Mandates coverage of COVID-19 vaccines, treatments, and testing.	Increases federal and state expenditures	Approved March 10, 2022 with an effective date of March 11, 2021
22-0005	Supplemental Graduate Medical Education Payments - Inpatient Payments	No impacts to recipients.	Increases federal and state expenditures	Approved November 23, 2022 with an effective date of January 1, 2022
22-0006	American Resuce Plan Act COVID-19 Coverage Mandates federally mandate	Mandates coverage of COVID-19 vaccines, treatments, and testing.	Increases federal and state expenditures	Submitted October 24, 2022 with an effective date of March 11, 2021
22-0007	Allows Tribal Telehealth to be billed as an Encounter	No impacts to recipients.	Increases federal expenditures only	Submitted November 7, 2022 with an effective date of October 1, 2022
22-0008	Consolidated Appropriations Act Clinical Trials ABP federally mandated	Provides coverage of routine patient costs associated with participation in qualifying clinical trials.	No fiscal impact	Approved July 15, 2022 with an effective date of January 1, 2022
22-0009	SFY23 Nursing Facility Rates	No impacts to recipients.	Increases federal and state expenditures	Approved November 10, 2022 with an effective date of July 1, 2022
22-0010	SFY23 ICF-DD Rates	No impacts to recipients.	Increases federal and state expenditures	Approved November 22, 2022 with an effective date of July 1, 2022
22-0011	SFY23 Inpatient Provider Rates	No impacts to recipients.	Increases federal and state expenditures	Approved November 1, 2022 with an effective date of July 1, 2022
22-0012	SFY23 Outpatient and Professional Provider Rates	No impacts to recipients.	Increases federal and state expenditures	Submitted August 26, 2022 with an effective date of July 1, 2022
22-0015	Medicaid Disaster Relief for the COVID-19 National Emergency (8) federally mandated - Waiver of signature for medication counseling	No impacts to recipients.	No fiscal impact	Submitted November 14, 2022 with an effective date of March 1, 2020

Waiver	Purpose and Content	Impact to Recipients	Status
Home and Community Based Services Waivers			
NE Traumatic Brain Injury Waiver (NE.40199.R04.10)	This waiver provides assisted living service for individuals with brain injury ages 18 to 64	Ensures continued access to services for Medicaid members with traumatic brain injury	5 year renewal effective October 1, 2018. Current amendment effective 07/01/2022.
NE HCBS for Aged & Adults & Children with Disabilities (NE.0187.R07.03)	The Waiver serves individuals of all ages who have a disability or are aged and require a nursing facility (NF) level of care	Ensures continued access to services for Medicaid members requiring nursing facility level of care	5 year renewal effective August 1, 2021. Current amendment effective 07/01/2022.
Comprehensive developmental disabilities (CDD) waiver (NE.4154.R07.00)	Allows persons of all ages with developmental disabilities to maximize their independence as they live, work, socialize, and participate to the fullest extent possible in their communities. A participant must have a developmental disability and needs that require services like those provided by an intermediate care facility for persons with developmental disabilities (ICF-DD).	Elimination of some services and encompasses previous DD waivers into one comprehensive waiver for all ages	5 year renewal effective March 1, 2022.
Developmental disabilities adult day (DDAD) waiver (NE.0394.R04.00)	Allows persons ages 21 and over with developmental disabilities to maximize their independence as they live, work, socialize, and participate to the fullest extent possible in their communities. A participant must have a developmental disability and needs that require services like those provided by an intermediate care facility for persons with developmental disabilities (ICF-DD).	Unbundling of services, modifications to service definitions, provider qualification revisions, as well as other changes	5 year renewal effective March 1, 2022.
Other Waivers			
Managed Care Waiver (03.R09.M02)	This 1915(b) waiver provides the authority to operate a managed care delivery system in Nebraska	Allows the state to implement the integrated managed care program, Heritage Health.	Approved by CMS for October 2020 through June 2022.
1135 Waiver 1.0	Section 1135 Waiver COVID-19 National Emergency	Used to address immediate needs based on the PHE	Approved by CMS March 15, 2020 effective March 1, 2020.
1115 Demonstration Waiver	Section 1115 demonstration waiver for substance and opioid use disorders.	This demonstration provided the state with authority to provide high-quality, clinically appropriate treatment to beneficiaries with SUD while they are short-term residents in residential and inpatient treatment settings that qualify as IMDs. It also supports state efforts to implement models of care focused on increasing support for individuals in the community and home, outside of institutions, and improve access to a continuum of SUD evidence-based services at varied levels of intensity.	Approved by CMS August 28, 2020.