

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	\$2,124,774		\$4,099,549	
CASH FUNDS				
FEDERAL FUNDS	\$2,890,581		\$5,631,162	
OTHER FUNDS				
TOTAL FUNDS	\$5,015,355		\$9,730,711	

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 976 proposes the formation of the Certified Community Behavioral Health Clinic Act. The legislation defines eligibility criteria of community mental health clinics, payment systems, and directs the Nebraska Department of Health and Human Services to apply to the Centers for Medicare and Medicaid Services (CMS) any approval request necessary to implement the Act.

The bill provides language to increase access to behavioral health treatment and to expand capacity to address increased need and to establish community partnerships with law enforcement, schools and hospitals to carry out the intent of the Act.

DHHS would have to apply for and be approved by the Center for Medicaid and Medicare to implement the Certified Community Behavioral Health Clinic (CCBHC) program. DHHS is using the assumption of a January 1, 2023 therefore, the estimated costs would be half of the costs for a full fiscal year.

DHHS notes that the fiscal impact is difficult to quantify due to several factors. One being that it is unknown how many eligible licenses mental health substance abuse treatment centers (MHSU) may pursue certification as a CCBHC. Currently there are 61 MHSU that are licensed but other eligible entities may qualify for certification.

The second issue is establishing the Prospective Payment System (PPS). The payment methodology has two options of a Fee for Service (FFS) or managed care. The managed care PPS may be more feasible to implement to reduce administrative burden for the providers. The PPS would also have to be approved by CMS.

The Department estimated a CCBHC PPS rate of \$243 (based on other states and our FQHC encounter rates) multiplied by the reduced monthly claim line count and annualized, resulted in a 12-month estimate of \$18,663,858. Calculating the offset from the paid claim amounts, this results in a 12-month cost estimate of approximately \$9,730,711 for FY 2023-24.

The Department also anticipates additional associated administrative costs. Some of the costs cannot be estimated until an alternatives analysis is completed as part of program planning, given then various alternatives available to implement payment for this service. The Department can expect to need to procure or amend a contract to include a scope of work to set PPS rates, which is estimated to cost \$75,000. The department can also expect to utilize SME and project management support to implement this service authority, at an estimated cost of \$75,000. Therefore, the department is estimating an additional \$150,000 of administrative costs for SFY23 to implement.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 976	AM:	AGENCY/POLT. SUB: Nebraska Department of Health and Human Services	
REVIEWED BY: Ann Linneman	DATE: 1-19-2022	PHONE: (402) 471-4180	
COMMENTS: No basis to disagree with the Nebraska Department of Health and Human Services' assessment of fiscal impact.			

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) John Meals

Date Prepared 1-19-2022

Phone: (5) 471-6719

	<u>FY 2022-2023</u>		<u>FY 2023-2024</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$2,124,774		\$4,099,549	
CASH FUNDS				
FEDERAL FUNDS	\$2,890,581		\$5,631,162	
OTHER FUNDS				
TOTAL FUNDS	\$5,015,355		\$9,730,711	

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

LB976 outlines the provisions for implementation of a new provider type: Certified Community Behavioral Health Clinics (CCBHCs). The bill bases authorization of CCBHCs on section 223 of the Protecting Access to Medicare (PAMA) Act (2014), which outlines the federal requirements for participation within a demonstration program establishing state certification of CCBHCs. States can effectuate CCBHC integration without participating in the demonstration itself by submitting a State Plan Amendment (SPA) and promulgating necessary regulations, and this bill directs the Department to do so under section 6, subsection 2, page 3, lines 15 to 17, and section 7, page 3, lines 20 and 21.

The bill provides that licensed mental health substance use (MHSU) treatment centers defined under Neb. Rev. Stat. 71-423 may become CCBHCs. In order to become certified, they must meet federal certification criteria regarding staffing, availability and accessibility of services, care coordination, scope of services, quality and other reporting, and organizational authority criteria, as enacted by PAMA. The full requirements under each of these criteria are outlined and clarified by the Substance Abuse and Mental Health Services Administration (SAMHSA). The Department will have to incorporate these federal certification criteria into the necessary regulatory framework. There are flexibilities woven into the federal certification guidance, including the ability for states to set staff composition parameters within CCBHCs, set standards for mobile services and the use of telehealth modalities, and specify the scope of certain services to comport with the needs of target populations. On this final point, the certification criteria outline how states must prepare an assessment of needs for target populations encompassing cultural, linguistic, and treatment needs in addition to preparing a staffing plan to inform the certification process.

There will be a direct fiscal impact to the Department. Though the impact is generally estimated to be large, it is difficult to quantify, in part because it unknown how many eligible licensed MHSU treatment centers (61 licensed as of 12/15/21) may pursue certification, and as recommended below, the provider scope may change. Fiscal impact will also be affected by how the Department chooses to implement the Prospective Payment System (PPS) for CCBHC reimbursement. PPS, either at a daily rate (PPS-1) or a monthly rate (PPS-2). If PPS-2 is chosen, then per the federal certification guidance, separate rates will have to be calculated using the same methodology but specific to certain high-need populations, which the Department would also be responsible for identifying. In tandem, expenses tied to the costliest clients served by CCBHCs will have to be cut from cost reports and a system of partial reimbursement for those expenses will have to be implemented. Additionally, the Department will have to institute a quality bonus payment system for CCBHCs that meet the required quality measures found on page 102 of SAMHSA’s federal criteria guidance. Overall, while PPS-2 would be more administratively burdensome to implement, it would also provide more flexibility in the rates that CCBHCs receive, depending on the needs of those they serve.

In choosing between PPS-1 and PPS-2, the Department will also have to decide between implementing the payment methodology through Fee For Service (FFS) or managed care. Given that the vast majority of

beneficiaries fall under the latter category, it is most feasible to pursue a managed care PPS. The Department would then have to decide between implementing a capitation rate system within the contracts that is actuarially sound in accordance with the single payable rate calculated, or implementing a reconciliation system that provides payments in intervals that are intended to adjust for the difference between the capitation rates and the single payable rate. An analysis of these options will be necessary to determine exactly how the Department should implement the PPS.

Based on the current CCBHCs in Nebraska, the Department looked at the utilization and reimbursement for those National Provider Identifiers (NPIs), which worked out to the following average counts:

- Monthly claim lines paid to these providers (limited to the NPIs associated with their behavioral health provider specialty codes): 8,534
- Ave monthly payments made to these providers: \$992,572
- Ave. monthly unduplicated Medicaid persons receiving services: 1,464

The Department made a reduction in the figures, to reflect the end of the Public Health Emergency Maintenance of Eligibility provisions, resulting in a 25 percent reduction in the final amounts:

- Monthly claim lines paid to these providers (limited to the NPIs associated with their behavioral health provider specialty codes): 6,401
- Ave monthly payments made to these providers: \$744,429
- Ave. monthly unduplicated Medicaid persons receiving services: 1,098

Then, the Department estimated a CCBHC PPS rate of \$243 (based on other states and our FQHC encounter rates) multiplied by the reduced monthly claim line count and annualized, resulted in a 12-month estimate of \$18,663,858. Calculating the offset from the paid claim amounts, this results in a 12-month cost estimate of approximately \$9,730,711.

Based on the FY23 FMAP rate, this would result in a GF/FF split of \$4,099,549 GF and \$5,631,162 FF over a 12 month period. The department assumed implementation of the service as of January 1, 2023 and therefore would realize half of the estimated aid cost in SFY23 and a full year of aid costs beginning in SFY24.

The Department would note that associated administrative costs will be incurred. Some of the costs cannot be estimated until an alternatives analysis is completed as part of program planning, given then various alternatives available to implement payment for this service. Any administrative costs would be matched 50/50 with federal funds. The department can expect to need to procure or amend a contract to include a scope of work to set PPS rates, which is estimated to cost \$75,000. The department can also expect to utilize SME and project management support to implement this service authority, at an estimated cost of \$75,000. Therefore, the department is estimating an additional \$150,000 of administrative costs for SFY23 to implement.

MAJOR OBJECTS OF EXPENDITURE				
PERSONAL SERVICES:	NUMBER OF POSITIONS		2022-2023	2023-2024
POSITION TITLE	22-23	23-24	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$5,015,355	\$9,730,711