

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 238

Introduced by McDonnell, 5.

Read first time January 11, 2021

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Ground Emergency Medical Transport Act;
2 to amend sections 68-977, 68-978, 68-979, 68-981, 68-982, 68-983,
3 68-985, and 68-986, Reissue Revised Statutes of Nebraska; to define
4 and eliminate terms; to restate intent; to change provisions
5 relating to supplemental reimbursement eligibility and payment; to
6 change references to an intergovernmental transfer program and
7 capitation payments and provide for a certified public expenditure
8 program; to update federal references; to change Department of
9 Health and Human Services duties and powers as prescribed; to
10 eliminate a provision relating to commencement of increased
11 capitation payments; to harmonize provisions; to repeal the original
12 sections; to outright repeal section 68-988, Reissue Revised
13 Statutes of Nebraska; and to declare an emergency.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-977, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 68-977 Sections 68-977 to 68-987 ~~68-988~~ shall be known and may be
4 cited as the Ground Emergency Medical Transport Act.

5 Sec. 2. Section 68-978, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 68-978 For purposes of the Ground Emergency Medical Transport Act:

8 (1) Advanced life support means special services designed to provide
9 definitive prehospital emergency medical care, including, but not limited
10 to, cardiopulmonary resuscitation, cardiac monitoring, cardiac
11 defibrillation, advanced airway management, intravenous therapy,
12 administration with drugs and other medicinal preparations, and other
13 specified techniques and procedures;

14 (2) Basic life support means emergency first aid and cardiopulmonary
15 resuscitation procedures to maintain life without invasive techniques;

16 (3) Certified public expenditure means an expenditure for which
17 there is certification that public funds for services provided have been
18 expended as necessary for federal financial participation pursuant to the
19 requirements of section 1903(w) of the federal Social Security Act and 42
20 C.F.R. 433.51, as such act and regulation existed on January 1, 2021;

21 ~~(3) Capitation payment means a payment the state makes periodically~~
22 ~~to a contractor on behalf of each beneficiary enrolled under a contract~~
23 ~~and based on the actuarially sound capitation rate for the provision of~~
24 ~~services under the state plan and which the state makes regardless of~~
25 ~~whether the particular beneficiary receives services during the period~~
26 ~~covered by the payment;~~

27 (4) Dry run means ground emergency medical transport services
28 provided by an eligible ground emergency medical transport services
29 provider to an individual who is released on the scene without
30 transportation by ambulance to a medical facility;

31 (5) Ground emergency medical transport means the act of transporting

1 an individual from any point of origin to the nearest medical facility
2 capable of meeting the emergency medical needs of the patient, including
3 dry runs;

4 (6) Ground emergency medical transport services means advanced life
5 support, limited advanced life support, and basic life support services
6 provided to an individual by ground emergency medical transport services
7 providers before or during ground emergency medical transport;

8 (7) Limited advanced life support means special services to provide
9 prehospital emergency medical care limited to techniques and procedures
10 that exceed basic life support but are less than advanced life support
11 services; and

12 (8) Medical transport means transportation to secure medical
13 examinations and treatment for an individual.

14 Sec. 3. Section 68-979, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 68-979 It is the intent of the Legislature that the department not
17 incur any unreimbursable costs and that no General Funds be used in
18 carrying out the Ground Emergency Medical Transport Act.

19 An eligible provider or a governmental entity affiliated with an
20 eligible provider, as a condition of receiving supplemental reimbursement
21 through a program under section 68-981, shall agree to reimburse the
22 department for any costs of implementing and administering the program.
23 The department shall develop, in consultation with eligible providers, a
24 methodology and schedule for billing participating providers.

25 ~~Revenue from the intergovernmental transfer program created under~~
26 ~~the Ground Emergency Medical Transport Act shall be deposited into the~~
27 ~~Health and Human Services Cash Fund.~~

28 Sec. 4. Section 68-981, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 68-981 Participation in the supplemental reimbursement program by an
31 eligible provider is voluntary. A provider is eligible for supplemental

1 reimbursement only if the provider has all of the following
2 characteristics continuously during a fiscal year of the state:

3 (1) Provides ground emergency medical transport services to medicaid
4 beneficiaries;

5 (2) Is enrolled as a medicaid provider for the period being claimed;
6 and

7 (3) Is owned or operated by the state or a city, county, rural or
8 suburban fire protection district, hospital district, federally
9 recognized Indian tribe, or another unit of government. ~~;~~ ~~and~~

10 ~~(4) Participates in the intergovernmental transfer program created~~
11 ~~pursuant to section 68-983.~~

12 Sec. 5. Section 68-982, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 68-982 (1) An eligible provider's supplemental reimbursement
15 pursuant to the Ground Emergency Medical Transport Act shall be
16 calculated and paid as follows:

17 (a) The supplemental reimbursement shall equal the amount of federal
18 financial participation received as a result of the claims submitted
19 pursuant to the act; and

20 (b) In no instance may the amount certified pursuant to section
21 68-985, when combined with the amount received from all other sources of
22 reimbursement from the medical assistance program, exceed one hundred
23 percent of actual costs, as determined pursuant to the medicaid state
24 plan, for ground emergency medical transport services.

25 (2) The supplemental reimbursement shall be distributed exclusively
26 to eligible providers under a payment method based on ground emergency
27 medical transport services provided to medicaid beneficiaries by eligible
28 providers on the a per-transport basis of actual and allowable costs that
29 are or other federally permissible basis.

30 Sec. 6. Section 68-983, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 68-983 (1) The department shall design and implement, in
2 consultation with eligible providers as described in section 68-981, a
3 supplemental reimbursement program, including such a program utilizing
4 certified public expenditures, for an intergovernmental transfer program
5 relating to medicaid managed care ground emergency medical transport
6 services, including services provided by emergency medical technicians at
7 the basic, advanced, and paramedic levels in prestabilization and
8 preparation for transport, in order to increase capitation payments for
9 the purpose of increasing reimbursement to eligible providers.

10 (2) Effective on the date described in subsection (2) of section
11 68-986, ground emergency medical transport benefits shall be covered and
12 reimbursed on a fee-for-service basis regardless of whether the recipient
13 of the benefit is enrolled in a managed care plan or receives medicaid
14 services through a fee-for-service contract.

15 ~~(2)(a) To the extent intergovernmental transfers are voluntarily~~
16 ~~made by, and accepted from, an eligible provider described in section~~
17 ~~68-981 or a governmental entity affiliated with an eligible provider, the~~
18 ~~department shall make increased capitation payments to applicable~~
19 ~~medicaid managed care plans.~~

20 ~~(b) The increased capitation payments made pursuant to this section~~
21 ~~shall be in actuarially determined amounts at least to the extent~~
22 ~~permissible under federal law.~~

23 ~~(c) Except as provided in subsection (6) of this section, all funds~~
24 ~~associated with intergovernmental transfers made and accepted pursuant to~~
25 ~~this section shall be used to fund additional payments to medicaid~~
26 ~~managed care plans.~~

27 ~~(d) Medicaid managed care plans shall enter into contracts or~~
28 ~~contract amendments with providers for the disbursement of any amount of~~
29 ~~increased capitation payments made pursuant to this section.~~

30 (3) The supplemental reimbursement intergovernmental transfer
31 program developed pursuant to this section shall be implemented on the

1 date federal approval is obtained and only to the extent certified public
2 expenditures ~~intergovernmental transfers~~ from the eligible provider or
3 the governmental entity with which it is affiliated are provided for this
4 purpose.

5 (4) To the extent permitted by federal law, the department may
6 implement the supplemental reimbursement ~~intergovernmental transfer~~
7 program and ~~increased capitation payments~~ pursuant to this section
8 retroactive to the date that the state plan amendment is submitted to the
9 Centers for Medicare and Medicaid Services of the United States
10 Department of Health and Human Services pursuant to section 68-986.

11 ~~(5) Participation in intergovernmental transfers under this section~~
12 ~~is voluntary on the part of the transferring entities for purposes of all~~
13 ~~applicable federal laws.~~

14 ~~(6)(a) As a condition of participation under this section, each~~
15 ~~eligible provider or the governmental entity affiliated with an eligible~~
16 ~~provider shall agree to reimburse the department for any costs associated~~
17 ~~with implementing such program.~~

18 ~~(b) Intergovernmental transfers described in this section are~~
19 ~~subject to a twenty percent administration fee of the nonfederal share~~
20 ~~paid to the department and are allowed to count as a cost of providing~~
21 ~~the services.~~

22 ~~(5) (7)~~ As a condition of participation under this section, medicaid
23 managed care plans, eligible providers, and governmental entities
24 affiliated with eligible providers shall agree to comply with any
25 requests for information or similar data requirements imposed by the
26 department for purposes of obtaining supporting documentation necessary
27 to claim federal funds or to obtain federal approval.

28 Sec. 7. Section 68-985, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 68-985 If a governmental entity elects to seek supplemental
31 reimbursement pursuant to the Ground Emergency Medical Transport Act on

1 behalf of an eligible provider owned or operated by the entity, the
2 governmental entity shall:

3 (1) Certify, in conformity with the requirements of 42 C.F.R.
4 433.51, as such regulation existed on January 1, 2021, and with any other
5 applicable federal requirements, that the claimed expenditures for ground
6 emergency medical transport services are eligible for federal financial
7 participation;

8 (2) Provide evidence supporting the certification as specified by
9 the department;

10 (3) Submit data as specified by the department to determine the
11 appropriate amounts to claim as expenditures qualifying for federal
12 financial participation; and

13 (4) Keep, maintain, and have readily retrievable any records
14 specified by the department to fully disclose reimbursement amounts to
15 which the eligible provider is entitled and any other records required by
16 the federal Centers for Medicare and Medicaid Services.

17 Sec. 8. Section 68-986, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 68-986 (1) On or before September 15, 2021 ~~January 1, 2018~~, the
20 department shall submit an application to the Centers for Medicare and
21 Medicaid Services of the United States Department of Health and Human
22 Services amending the medicaid state plan to provide for the supplemental
23 reimbursement rate for ground emergency medical transport services as
24 specified in the Ground Emergency Medical Transport Act.

25 (2) To the extent allowed by federal law and upon federal approval,
26 the department shall implement subsection (2) of section 68-983
27 retroactive to the first day of the calendar quarter in which the
28 department submitted the state plan amendment to the Centers for Medicare
29 and Medicaid Services of the United States Department of Health and Human
30 Services.

31 (3) ~~(2)~~ The department shall ~~may~~ limit the program to those costs

1 that are allowable expenditures under Title XIX of the federal Social
2 Security Act, 42 U.S.C. 1396 et seq., as such act and sections existed on
3 January 1, 2021 ~~April 1, 2017~~. Without such federal approval, the Ground
4 Emergency Medical Transport Act may not be implemented.

5 (4) ~~(3)~~ The supplemental reimbursement ~~intergovernmental transfer~~
6 program authorized in section 68-983 shall be implemented only if and to
7 the extent federal financial participation is available and is not
8 otherwise jeopardized and any necessary federal approval has been
9 obtained.

10 ~~(4) To the extent that the chief executive officer of the department~~
11 ~~determines that the payments made pursuant to section 68-983 do not~~
12 ~~comply with federal medicaid requirements, the chief executive officer~~
13 ~~may return or not accept an intergovernmental transfer and may adjust~~
14 ~~payments as necessary to comply with federal medicaid requirements.~~

15 Sec. 9. Original sections 68-977, 68-978, 68-979, 68-981, 68-982,
16 68-983, 68-985, and 68-986, Reissue Revised Statutes of Nebraska, are
17 repealed.

18 Sec. 10. The following section is outright repealed: Section
19 68-988, Reissue Revised Statutes of Nebraska.

20 Sec. 11. Since an emergency exists, this act takes effect when
21 passed and approved according to law.