Intended by Wishart, 27.

Read first time January 14, 2021

Committee: Health and Human Services

A BILL FOR AN ACT relating to the Medical Assistance Act; to amend section 68-911, Reissue Revised Statutes of Nebraska, and section 68-901, Revised Statutes Cumulative Supplement, 2020; to define terms; to require coverage of medications for substance use disorder treatment and addiction medicine services as prescribed; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Section 68-901, Revised Statutes Cumulative Supplement, 2020, is amended to read:

68-901 Sections 68-901 to 68-9,100 and section 3 of this act shall be known and may be cited as the Medical Assistance Act.

Sec. 2. Section 68-911, Reissue Revised Statutes of Nebraska, is amended to read:

68-911 (1) Medical assistance shall include coverage for health care and related services as required under Title XIX of the federal Social Security Act, including, but not limited to:

(a) Inpatient and outpatient hospital services;
(b) Laboratory and X-ray services;
(c) Nursing facility services;
(d) Home health services;
(e) Nursing services;
(f) Clinic services;
(g) Physician services;
(h) Medical and surgical services of a dentist;
(i) Nurse practitioner services;
(j) Nurse midwife services;
(k) Pregnancy-related services;
(l) Medical supplies;
(m) Mental health and substance abuse services; and
(n) Early and periodic screening and diagnosis and treatment services for children which shall include both physical and behavioral health screening, diagnosis, and treatment services; and

(o) Medications for substance use disorder treatment.

(2) In addition to coverage otherwise required under this section, medical assistance may include coverage for health care and related services as permitted but not required under Title XIX of the federal Social Security Act, including, but not limited to:

(a) Prescribed drugs;
(b) Intermediate care facilities for persons with developmental disabilities;

(c) Home and community-based services for aged persons and persons with disabilities;

(d) Dental services;

(e) Rehabilitation services;

(f) Personal care services;

(g) Durable medical equipment;

(h) Medical transportation services;

(i) Vision-related services;

(j) Speech therapy services;

(k) Physical therapy services;

(l) Chiropractic services;

(m) Occupational therapy services;

(n) Optometric services;

(o) Podiatric services;

(p) Hospice services;

(q) Mental health and substance abuse services;

(r) Hearing screening services for newborn and infant children; and

(s) Administrative expenses related to administrative activities, including outreach services, provided by school districts and educational service units to students who are eligible or potentially eligible for medical assistance.

(3) No later than July 1, 2009, the department shall submit a state plan amendment or waiver to the federal Centers for Medicare and Medicaid Services to provide coverage under the medical assistance program for community-based secure residential and subacute behavioral health services for all eligible recipients, without regard to whether the recipient has been ordered by a mental health board under the Nebraska Mental Health Commitment Act to receive such services.

(4) On or before October 1, 2014, the department, after consultation
with the State Department of Education, shall submit a state plan amendment to the federal Centers for Medicare and Medicaid Services, as necessary, to provide that the following are direct reimbursable services when provided by school districts as part of an individualized education program or an individualized family service plan: Early and periodic screening, diagnosis, and treatment services for children; medical transportation services; mental health services; nursing services; occupational therapy services; personal care services; physical therapy services; rehabilitation services; speech therapy and other services for individuals with speech, hearing, or language disorders; and vision-related services.

Sec. 3. (1) For purposes of this section:

(a) Financial requirements means deductibles, copayments, coinsurance, or out-of-pocket maximums;

(b) Managed care organization means an entity which has a contract with the department to provide health insurance coverage under the medical assistance program;

(c) Pharmacy benefit manager means a person or entity that negotiates prescription drug price and rebate arrangements with manufacturers or labelers;

(d) Prior authorization means the process by which the managed care organization or the pharmacy benefit manager determines the medical necessity of otherwise covered health care services prior to the rendering of such health care services. Prior authorization includes any managed care organization or utilization review entity's requirement that a beneficiary or provider notify the managed care organization or utilization review entity prior to providing a health care service; and

(e) Step therapy means a protocol or program that establishes the specific sequence in which prescription drugs for a medical condition that are medically appropriate for a particular patient are authorized by a health insurer or prescription drug management company.
(2) The medical assistance program shall cover medications for substance use disorder treatment in compliance with this section and shall include those medications for substance use disorder treatment in its preferred drug lists. At a minimum, the preferred drug lists shall include all current and new formulations and medications that are approved by the federal Food and Drug Administration for the treatment of substance use disorder.

(3) A managed care organization shall have a process to ensure that a beneficiary obtains a covered benefit for medication for substance use disorder treatment or shall make other arrangements when:

(a) The managed care organization has an otherwise sufficient network but does not have (i) an buprenorphine-waivered provider or a substance use disorder treatment program available to provide the covered benefit to the beneficiary or (ii) a contracted provider available to provide the covered substance use disorder treatment to the beneficiary without unreasonable travel or delay; or

(b) The managed care organization has an insufficient number or type of buprenorphine-waivered providers available to provide the covered substance use disorder treatment to the beneficiary without unreasonable travel or delay.

(4) The substance use disorder treatments required under the medical assistance program shall include, but not be limited to, pharmacologic and behavioral therapies. At a minimum, a formulary used by a managed care organization or managed by a pharmacy benefit manager shall include all current and new formulations and medications approved by the federal Food and Drug Administration for the treatment of opioid-use disorder, including, but not limited to, (a) buprenorphine, (b) methadone, (c) naloxone, (d) naltrexone, and (e) buprenorphine-naloxone combination.

(5) All medications for substance use disorder required for compliance under this section shall be placed on the lowest cost-sharing tier of the formulary managed by the managed care organization or the
pharmacy benefit manager.

(6) Substance use disorder treatment provided for under this section shall not be subject to any of the following:

(a) Any annual or lifetime dollar limitations;

(b) Limitations to a predesignated facility, specific number of visits, days of coverage, days in a waiting period, scope or duration of treatment, or other similar limits;

(c) Financial requirements and quantitative treatment limitations that do not comply with the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008;

(d) Step-therapy or other similar drug-utilization strategies or policies, when the strategy or policy delays or conflicts or interferes with a prescribed or recommended course of treatment by a licensed physician or other health care provider; and

(e) Prior authorization for medications for substance use disorder treatment as specified in this section, as well as any behavioral, cognitive, or mental health services prescribed in conjunction with or supplementary to the substance use disorder treatment.

(7) The department may adopt and promulgate rules and regulations as needed to implement and enforce this section.

Sec. 4. Original section 68-911, Reissue Revised Statutes of Nebraska, and section 68-901, Revised Statutes Cumulative Supplement, 2020, are repealed.