

NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Jim Pillen, Governor

December 1, 2023

The Honorable Jim Pillen
Governor of Nebraska
PO Box 94848
Lincoln, NE 68509

Mr. Brandon Metzler
Clerk of the Legislature
State Capitol Room 2018
Lincoln, NE 68509

Subject: Medicaid Report of Implementation of Rules and Regulations, State Plan Amendments and Waivers

Dear Governor Pillen and Mr. Metzler:

Pursuant to Neb. Rev. Stat. § 68-909, 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, 2022, through November 1, 2023. Information provided includes the projected impact on medical assistance recipients and medical assistance expenditures.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Bagley".

Kevin Bagley, DHA
Director, Division of Medicaid & Long-Term Care

Attachments:

Division of Medicaid & Long-Term Care

Medicaid Report of Implementation of Rules and Regulations, State Plan Amendments and Waivers

December 2023

Neb. Rev. Stat. § 68-909

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Regulation Report

Detailed information on each regulation can be found on the MLTC website at: <https://dhhs.ne.gov/Pages/Medicaid-Rules-and-Regulations.aspx>.

Title 471 Nebraska Medicaid Program Services

Regulation	Purpose	Content	Projected Impact	Status
471 Chapter 1	Information incorporated into new Chapter 47 (Telehealth).	Administration	Removal of telehealth regulations which are being added to new Chapter 47.	Internal DHHS process underway.
471 Chapter 6	General Update	Dental Services	Updates to incorporate changes to the Scope of Coverage of dental services.	Internal DHHS process underway.
471 Chapter 7	General Update	Durable Medical Equipment and Medical Supplies	Updates to incorporate changes that have occurred over time and ensure compliance with state statute, the state plan, and federal regulations.	Public hearing was held on May 31, 2023.
471 Chapter 9	Incorporating Chapter 13 (Nursing Services) into Chapter 9.	Home Health Agencies and Skilled Nursing Services	Updates to incorporate changes that have occurred over time and ensure compliance with state statute, the state plan, and federal regulations. Chapter 13 contains duplicate information and is being incorporated into Chapter 9.	Additional public hearing was held on August 7, 2023.
471 Chapter 13	Information incorporated into Chapter 9 (Home Health Agencies).	Nursing Services	Incorporation into Chapter 9 and elimination of Chapter 13.	Additional public hearing was held on August 7, 2023.
471 Chapter 18	Addition of coverage language.	Physicians Services	Update language to ensure coverage of adult vaccinations per federal requirements.	Internal DHHS process underway.
471 Chapter 27	General Update	Non-Emergency Transportation	Updates to incorporate changes that have occurred over time and ensure compliance with state statute, the state plan, and federal regulations.	Internal DHHS process underway.

Regulation	Purpose	Content	Projected Impact	Status
471 Chapter 36	General Update	Hospice Services	Updates to incorporate changes that have occurred over time ensure compliance with state statute, the state plan, and federal regulations.	Public hearing was held on October 4, 2023.
471 Chapter 45	General Update	Rates for Nursing Facility Services	Addition of federally mandated payment methodology changes.	Public hearing was held on October 11, 2023.
471 Chapter 47	New Chapter	Telehealth	Creation of a standalone telehealth chapter, removing telehealth language from 471 Chapter 1.	Internal DHHS process underway.

Title 477 Medicaid Eligibility

Regulation	Purpose	Content	Projected Impact	Status
477 Chapter 1	General Update	General Definitions	Updates to incorporate federally mandated changes to children's continuous eligibility, and state statutes for pregnant women.	Public hearing is scheduled for December 12, 2023.
477 Chapter 3	General Update	Application Process	Updates to incorporate federally mandated changes to children's continuous eligibility, state statutes for pregnant women, and general program updates.	Public hearing is scheduled for December 12, 2023.
477 Chapter 28	General Update	Children Eligible for IV-E Assistance, Non-IV-E Adoption Subsidy, Former Foster Care Children	Updates to incorporate federally mandated changes to the Former Foster Care eligibility group.	Public hearing is scheduled for December 6, 2023.

State Plan Amendment Report

Detailed information on each State Plan Amendment can be found on the MLTC website at: <https://dhhs.ne.gov/Pages/Medicaid-State-Plan-Amendments.aspx>.

Approved amendments are reflected in the Medicaid State Plan. Detailed information on the State Plan can be found on the MLTC website at: <https://dhhs.ne.gov/Pages/Medicaid-State-Plan.aspx>.

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
22-0006	American Rescue Plan Act COVID-19 Coverage is federally mandated.	Mandates coverage of COVID-19 vaccines, treatments, and testing.	Increases federal and state expenditures.	Approved March 10, 2023, 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.	Approved January 17, 2023, with an effective date of October 1, 2022.
22-0012	SFY23 Outpatient and Professional Provider Rates.	No impacts to recipients.	Increases federal and state expenditures.	Approved November 18, 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.	Approved January 25, 2023, with an effective date of March 1, 2020.
22-0016	Technical correction initiated by CMS regarding the physician-administered drugs average sales price.	No impacts to recipients.	Increases federal and state expenditures.	Approved February 28, 2023, with an effective date of November 11, 2022.
23-0001	Allows APRN's to order home health services.	Expands access to home health services by allowing additional ordering provider types.	No fiscal impact.	Approved May 5, 2023, with an effective date of January 1, 2023.

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
23-0002 (Alternative Benefit Plan)	Allows APRNs to order home health services.	Expand access to home health services by allowing additional ordering provider types.	No fiscal impact.	Approved May 9, 2023, with an effective date of January 1, 2023.
23-0003	Personal assistance service provider rate adjustments.	No impacts to recipients.	Increases federal and state expenditures.	Approved April 26, 2023, with an effective date of January 1, 2023.
23-0004	Updates based on mandated federal change to the former foster care (FFC) category.	Individuals who entered foster care in another state could be eligible for FFC coverage if now living in Nebraska.	No fiscal impact.	Approved June 16, 2023, with an effective date of January 1, 2023.
23-0005	Temporary extension of Medicaid Disaster Relief for the COVID-19 National Emergency - exemption of copayments and premiums, extension of the reasonable opportunity period.	Yes, extends exemptions put into place during the COVID-19 Public Health Emergency.	No fiscal impact.	Approved June 30, 2023, with an effective date of May 12, 2023.
23-0006	Correction to the reimbursement for telehealth for rural health clinics.	No impacts to recipients.	No fiscal impact.	Approved October 20, 2023, with an effective date of July 1, 2023.
23-0007	Technical correction initiated by CMS regarding coverage of over the counter drugs and cosmetic surgery.	No impacts to recipients.	No fiscal impact.	Approved September 21, 2023, with an effective date of July 1, 2023.
23-0008	SFY24 Intermediate Care Facilities (ICF-DD) and Nursing Facility Rates.	No impacts to recipients.	Increases federal and state expenditures.	Approved November 1, 2023, with an effective date of July 1, 2023.
23-0009	SFY24 Inpatient provider rates.	No impacts to recipients.	Increases federal and state expenditures.	Approved October 24, 2023, with an effective date of July 1, 2023.

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
23-0010	SFY24 Outpatient and professional provider rates.	No impacts to recipients.	Increases federal and state expenditures.	Approved October 30, 2023, with an effective date of July 1, 2023.
23-0011	Extension of the exemption from participation in the recover audit contractor.	No impacts to recipients.	No fiscal impact.	Approved October 20, 2023, with an effective date of December 1, 2023.
23-0012	Temporary non-acute stays in accordance with LB227 (2023).	No impacts to recipients.	Increases federal and state expenditures.	Approved October 24, 2023, with an effective date of September 2, 2023.
23-0013	Increase to the personal needs allowance in accordance with LB227 (2023).	Allows recipients in nursing homes to keep additional monies.	Increases federal and state expenditures.	Submitted September 20, 2023, with an effective date of September 1, 2023.
23-0014	Resource disregard when determining eligibility for the aged and disabled groups.	Yes, assists with eligibility determinations for the aged and disabled.	No fiscal impact.	Submitted September 26, 2023, with an effective date of September 1, 2023.
23-0015	Updates based on mandated federal change regarding coverage of adult vaccinations.	Additional services for adults.	Increases federal and state expenditures.	Submitted September 25, 2023, with an effective date of October 1, 2023.
23-0016	iServe online application.	Streamlines the online application portal.	No fiscal impact.	Under internal development.
24-0001	Dental coverage changes.	Additional services for adults.	Increases federal and state expenditures.	Tribal notice posted October 12, 2023, public notice posted October 13, 2023.
24-0002 (Alternative Benefit Plan)	Dental coverage changes.	Additional services for adults.	Increases federal and state expenditures.	Tribal notice posted October 12, 2023, public notice posted October 13, 2023.

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
24-0003	Allowance of 12 months postpartum period for pregnant women in accordance with LB227 (2023).	Extends the postpartum period for pregnant women.	No fiscal impact.	Submitted September 27, 2023, with an effective date of January 1, 2024.
24-0004	Updates based on mandated federal change regarding continuous eligibility for children.	Extends continuous eligibility for children to 12 months.	Increases federal and state expenditures.	Under internal development.
24-0005	Therapeutic family care services in accordance with LB1173 (2022).	Additional services for youth.	Increases federal and state expenditures.	Under internal development.
24-0006	Federal matching proxy methodology for 12 months postpartum care.	No impacts to recipients.	No fiscal impact.	Submitted September 29, 2023, with an effective date of January 1, 2024.

Waiver Report

Detailed information on the Home and Community Based Waivers can be found online at: <https://dhhs.ne.gov/Pages/DD-Eligibility.aspx>.

Home and Community Based Services Waivers

Waiver	Purpose and Content	Impact to Recipients	Status
NE Traumatic Brain Injury Waiver (NE.40199.R05.00)	This waiver provides services and support to individuals with brain injury ages 18 and older in their home or a TBI assisted living facility.	This waiver ensures continued access to services for Medicaid members with traumatic brain injury.	5-year renewal effective October 1, 2023.
NE HCBS for Aged & Adults & Children with Disabilities (NE.0187.R07.03)	This waiver serves individuals of all ages who have a disability or are aged and require a nursing facility (NF) level of care.	This waiver ensures continued access to services for Medicaid members requiring a NF level of care.	5-year renewal effective August 1, 2021. The current amendment was effective July 1, 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).	This waiver ensures continued access to services and supports for Medicaid members requiring intermediate care facility level of care.	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).	This waiver ensures continued access to services and supports for Medicaid members requiring intermediate care facility level of care.	5 year renewal effective March 1, 2022.

Other Waivers

Waiver	Purpose and Content	Impact to Recipients	Status
Managed Care Waiver (NE.0003.R13.00)	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 on October 1, 2022, and will continue through September 30, 2027.
1135 Waiver 1.0	Section 1135 Waiver COVID-19 National Public Health Emergency (PHE).	Used to address immediate needs based on the PHE.	Expired June 6, 2022, due to the end of the PHE.
1115 Demonstration Waiver	Section 1115 demonstration waiver for substance and opioid use disorders (SUD).	This demonstration provided the state with the 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 on August 28, 2020.