

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1087

FINAL READING

Introduced by Jacobson, 42; Armendariz, 18; Ballard, 21; Blood, 3; Bosn, 25; Brewer, 43; Cavanaugh, J., 9; Clements, 2; Conrad, 46; DeKay, 40; Dorn, 30; Dover, 19; Fredrickson, 20; Holdcroft, 36; Ibach, 44; Lippincott, 34; McDonnell, 5; Meyer, 41; Walz, 15; Wishart, 27; Day, 49; Vargas, 7; Brandt, 32; Murman, 38; Raybould, 28; Cavanaugh, M., 6; Dungan, 26; Bostar, 29; Hughes, 24; Lowe, 37; Moser, 22; Kauth, 31; Hardin, 48.

Read first time January 09, 2024

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to public health and welfare; to amend section
- 2 71-1798, Revised Statutes Supplement, 2023; to adopt the Hospital
- 3 Quality Assurance and Access Assessment Act; to provide duties for
- 4 the Nebraska Center for Nursing; to repeal the original section; and
- 5 to declare an emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and may be
2 cited as the Hospital Quality Assurance and Access Assessment Act.

3 Sec. 2. For purposes of the Hospital Quality Assurance and Access
4 Assessment Act:

5 (1) Assessment means a quality assurance and access assessment
6 imposed on hospitals pursuant to section 3 of this act;

7 (2) Department means the Division of Medicaid and Long-Term Care of
8 the Department of Health and Human Services;

9 (3) Hospital means a hospital as defined in section 71-419 or a
10 rural emergency hospital as described in section 71-477;

11 (4) Medical assistance program means the medical assistance program
12 established pursuant to the Medical Assistance Act; and

13 (5) Net patient revenue means the revenue paid to a hospital for
14 patient care, room, board, and services less contractual adjustments, bad
15 debt, and revenue from sources other than operations, including, but not
16 limited to, interest, guest meals, gifts, and grants.

17 Sec. 3. (1) The department shall amend the medicaid state plan or
18 file other federal authorizing documents to establish assessments and
19 directed-payment programs for hospital inpatient and outpatient services.

20 (2) Upon approval by the federal Centers for Medicare and Medicaid
21 Services of a hospital assessment and a directed-payment program, the
22 department shall impose an assessment on hospitals to assure quality and
23 access in the medical assistance program.

24 (3) The department may establish different assessment rates based on
25 categories of hospital or hospital services as allowed by federal law.

26 (4) The department shall consult with a statewide association
27 representing a majority of hospitals and health systems in Nebraska
28 regarding the development, implementation, and annual renewal of the
29 assessments and the directed-payment programs.

30 (5) The department shall partner with a statewide association
31 representing a majority of hospitals and health systems in Nebraska to:

1 (a) Aggregate inpatient, outpatient, and clinic claims data in order
2 to establish quality improvement metrics and track progress on identified
3 metrics; and

4 (b) Design and implement quality initiatives to improve children's
5 mental health, adult mental health, maternity care, and senior care.

6 (6) The department shall adopt and promulgate rules and regulations
7 that are necessary to implement the Hospital Quality Assurance and Access
8 Assessment Act.

9 Sec. 4. (1) Except as provided in section 6 of this act, the
10 department shall collect assessments from hospitals and remit the
11 assessments to the State Treasurer for credit to the Hospital Quality
12 Assurance and Access Assessment Fund. It is the intent of the Legislature
13 that no proceeds from the fund, including the federal match, shall be
14 credited directly to the General Fund except as provided in subdivision
15 (3)(a) of section 6 of this act.

16 (2) The first quarterly payment of each fiscal year made by the
17 department shall be transferred from the General Fund. All remaining
18 quarterly payments shall be paid as provided in section 6 of this act.

19 Sec. 5. (1) Each hospital shall pay an assessment based on net
20 patient revenue for the purpose of improving the quality of, and access
21 to, hospital care in the state. The statewide aggregate assessment shall
22 equal (a) the state share of the payments authorized by the federal
23 Centers for Medicare and Medicaid Services and (b) funds for expenditures
24 as provided in subsection (3) of section 6 of this act. The statewide
25 aggregate assessment total shall not exceed six percent of the net
26 patient revenue of all assessed hospitals.

27 (2)(a) A hospital shall pay its quarterly assessment within thirty
28 days after receipt of its quarterly directed payments. Failure of a
29 hospital to remit the assessments may result in penalties, interest, or
30 legal action.

31 (b) A new hospital shall begin paying an assessment and receiving

1 directed payments at the start of the first full fiscal year after the
2 hospital is eligible for medicaid reimbursement for inpatient or
3 outpatient services. A hospital that has merged with another hospital
4 shall have its assessment and directed payments revised at the start of
5 the first full fiscal year after the merger is recognized by the
6 department. A closed hospital shall be retroactively responsible for
7 assessments owed and shall receive directed payments for services
8 provided.

9 (3) If the department determines that a hospital has underpaid or
10 overpaid assessments, the department shall notify the hospital of the
11 unpaid assessments or of any refund due. Such payment or refund shall be
12 due or refunded within thirty days after the date of the notice.

13 Sec. 6. (1) The Hospital Quality Assurance and Access Assessment
14 Fund is created. Interest earned on the fund shall be credited to the
15 fund. Any money in the fund available for investment shall be invested by
16 the state investment officer pursuant to the Nebraska Capital Expansion
17 Act and the Nebraska State Funds Investment Act.

18 (2) The department shall use the Hospital Quality Assurance and
19 Access Assessment Fund, including the matching federal financial
20 participation, for the purpose of enhancing rates paid to hospitals under
21 the medical assistance program except as allowed by subsection (3) of
22 this section. Money in the fund shall not be used to replace or offset
23 existing state funds paid to hospitals for providing services under the
24 medical assistance program.

25 (3) The Hospital Quality Assurance and Access Assessment Fund shall
26 also be used to:

27 (a) Reimburse the General Fund the amount of the first quarterly
28 payment on or before June 30 of each fiscal year;

29 (b) Reimburse the department an administrative fee of three percent
30 of the assessment, not to exceed fifteen million dollars per year, to
31 collect assessments and administer directed-payment programs established

1 by the Hospital Quality Assurance and Access Assessment Act;

2 (c) Provide the Nebraska Center for Nursing Board one-half of one
3 percent of the assessment, not to exceed two million five hundred
4 thousand dollars per year, for the expansion of clinical nursing training
5 sites as authorized in subsection (3) of section 71-1798; and

6 (d) Provide funding of three and one-half percent of the assessment,
7 not to exceed seventeen million five hundred thousand dollars per year,
8 for rates for nonhospital providers in the medical assistance program,
9 continuous eligibility for children, or the designated health information
10 exchange authorized in section 81-6,125.

11 (4) In calculating rates, the proceeds from assessments and federal
12 match not utilized under subsection (3) of this section shall be used to
13 enhance rates for hospital inpatient and outpatient services in addition
14 to any funds appropriated by the Legislature.

15 (5) The department shall collect data for revenue, discharge, and
16 inpatient days from a hospital that does not file an annual medicare cost
17 report. At the request of the department, a hospital that does not file
18 an annual medicare cost report shall submit such requested data to the
19 department.

20 (6) The department shall prohibit a medicaid managed care
21 organization from (a) setting, establishing, or negotiating reimbursement
22 rates with a hospital in a manner that takes into account, directly or
23 indirectly, a directed payment that a hospital receives under the
24 Hospital Quality Assurance and Access Assessment Act, (b) unnecessarily
25 delaying a directed payment to a hospital, or (c) recouping or offsetting
26 a directed payment for any reason.

27 (7)(a) A hospital shall not:

28 (i) Set, establish, or negotiate reimbursement rates with a managed
29 care organization in a manner that directly or indirectly takes into
30 account a directed payment that a hospital receives under the Hospital
31 Quality Assurance and Access Assessment Act; or

1 (ii) Directly pass on the cost of an assessment to patients or
2 nonmedicaid payors, including as a fee or rate increase.

3 (b) A hospital that violates this subsection shall not receive a
4 directed payment for the remainder of the rate year. This subsection
5 shall not be construed to prohibit a hospital from negotiating with a
6 payor for a rate increase.

7 Sec. 7. It is the intent of the Legislature that medicaid rates
8 paid for hospital inpatient and outpatient services and the General Fund
9 appropriations for hospital inpatient and outpatient services in the
10 medical assistance program shall not be reduced to an amount below the
11 rates paid and General Fund appropriations for these services in fiscal
12 year 2023-24.

13 Sec. 8. Assessments and directed-payment programs shall be treated
14 as a separate component in developing rates paid to hospitals and shall
15 not be included with existing rate components. The assessments and
16 directed-payment programs shall be retroactive to July 1, 2024, or the
17 effective date approved by the federal Centers for Medicare and Medicaid
18 Services.

19 Sec. 9. (1) The department shall discontinue the collection of
20 assessments when federal matching funds are unavailable. In such case,
21 the department shall terminate the collection of the assessments
22 beginning on the date such federal matching funds become unavailable.

23 (2) If collection of assessments is discontinued as provided in this
24 section, the money in the Hospital Quality Assurance and Access
25 Assessment Fund shall be returned to the hospitals from which the
26 assessments were collected on the same proportional basis as the
27 assessments were assessed for the quarter in which the assessment was
28 terminated.

29 Sec. 10. Section 71-1798, Revised Statutes Supplement, 2023, is
30 amended to read:

31 71-1798 (1) The Nebraska Center for Nursing is established. The

1 center shall address issues of supply and demand for nurses, including
2 issues of recruitment, retention, and utilization of nurses. The
3 Legislature finds that the center will repay the state's investment by
4 providing an ongoing strategy for the allocation of the state's resources
5 directed towards nursing.

6 (2) The primary goals for the center are:

7 (a) To develop a strategic statewide plan to alleviate the nursing
8 shortage in Nebraska by:

9 (i) Establishing and maintaining a database on nursing supply and
10 demand in Nebraska, including current supply and demand and future
11 projections; and

12 (ii) Selecting priorities from the plan to be addressed;

13 (b) To convene various groups representative of nurses, other health
14 care providers, business and industry, consumers, legislators, and
15 educators to:

16 (i) Review and comment on data analysis prepared for the center;

17 (ii) Recommend systemic changes, including strategies for
18 implementation of recommended changes; and

19 (iii) Evaluate and report the results of these efforts to the
20 Legislature and the public; and

21 (c) To enhance and promote recognition, reward, and renewal
22 activities for nurses by:

23 (i) Proposing and creating recognition, reward, and renewal
24 activities; and

25 (ii) Promoting media and positive image-building efforts for
26 nursing.

27 (3) After consultation with a statewide association representing
28 hospitals and health systems that provide clinical nursing opportunities,
29 the Nebraska Center for Nursing Board shall provide for the expansion of
30 clinical training sites for nurses throughout the state, giving
31 preference to areas that have lower numbers of registered nurses per

1 capita compared to the state average, and shall provide for the
2 development of programs that:

3 (a) Incentivize clinical nurses to become clinical nurse faculty;

4 (b) Incentivize nurse faculty to partner with staff nurses in the
5 development of clinical nurse faculty;

6 (c) Expand simulation training for nurse clinical education; and

7 (d) Incentivize hospital facilities to support the center in
8 carrying out this subsection.

9 (4) The Nebraska Center for Nursing shall partner with a statewide
10 association representing a majority of hospitals and health systems in
11 Nebraska to increase the workforce development of nurses and other health
12 professionals by providing at least fifty million dollars per year in
13 private investments for statewide health care workforce development.

14 Sec. 11. Original section 71-1798, Revised Statutes Supplement,
15 2023, is repealed.

16 Sec. 12. Since an emergency exists, this act takes effect when
17 passed and approved according to law.