

## LEGISLATIVE BILL 411

Approved by the Governor May 26, 2003

Introduced by Speaker Bromm, 23; at the request of the Governor

AN ACT relating to the medical assistance program; to amend sections 68-1019.02 and 68-1020, Revised Statutes Supplement, 2002; to change provisions relating to coverage and eligibility; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 68-1019.02, Revised Statutes Supplement, 2002, is amended to read:

68-1019.02. The Department of Health and Human Services Finance and Support may initiate the following limits as to amount, duration, and scope of services or goods recipients may receive under the medical assistance program:

(1) Chiropractic services for all eligible groups: Limit the number of manual manipulations to eighteen treatments in a five-month period, and limit coverage of stabilization of care to one visit per month, and limit adult chiropractic visits to twenty per year;

(2) Podiatric services for all eligible groups: Reduce payment by twelve percent for certain surgical procedures if done in a hospital outpatient setting rather than in the office of a podiatrist;

(3) Occupational therapy, physical therapy, and speech, hearing, and language therapy for adults: Limit coverage of therapy provided by home health agencies and emphasize an increase in independent therapy by these health care providers;

(4) Limit amount of payments for ventilator-dependent recipients to the cost of care of average institutional costs and limit other in-home nursing costs to the highest case-mix level per diem for nursing facilities;

(5) Dental services for adults: Eliminate coverage of cast partial dentures and eliminate coverage of partial dentures except to replace front teeth;

(6) Dental services for children: Restrict coverage criteria for children's orthodontics by allowing coverage for (a) craniofacial birth defects affecting the occlusion and (b) mutilated and severe occlusion cases only;

(7) Visual care: All routine eye exams to be billed at the intermediate level of care, set maximum payment levels for eyeglass lenses rather than pay laboratory invoice costs, establish medical necessity criteria for eyeglass tints and UV coating, and establish a selection of frame styles coverable, and limit adults to one replacement of frames and lenses per year;

~~(7)~~ (8) Durable medical equipment: Reduce payment levels for equipment and supplies, simplify policies and procedures for converting durable medical equipment rental to purchase, and eliminate future coverage of external powered prosthetic devices;

~~(8)~~ (9) Hearing aids: Reduce hearing aid dispensing fees;

~~(9)~~ (10) Further expand the mandate to use bioequivalent generic drugs;

~~(10)~~ (11) Transportation services: Eliminate transportation to non-medicaid-coverable services except for transportation to adult day services as defined in section 71-404; reimbursements and lodging when provided through a hospital shall be included as a medical transportation service under the medical assistance program; and set taxi reimbursement at seventy-five percent of customary charge; and

~~(11)~~ (12) Eliminate coverage of mileage and conference fees for home-based service providers providing outpatient psychiatric services for adults.

Sec. 2. Section 68-1020, Revised Statutes Supplement, 2002, is amended to read:

68-1020. (1) Medical assistance shall be paid on behalf of (a) dependent children, (b) aged, blind, and disabled persons, as defined in sections 43-504 and 68-1002 to 68-1005, and (c) all persons less than ~~twenty-one~~ nineteen years of age who are eligible under section 1905(a)(i) of the federal Social Security Act, as such section existed on January 1, 2002.

(2) The Department of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations governing provision of such medical assistance benefits to qualified persons:

(a) Who are presumptively eligible as allowed under ~~42 U.S.C. 1396a,~~ as such section existed on January 1, 2002, and sections 1920A and sections

1920 and 1920B of the federal Social Security Act, as such sections existed on January 1, 2002;

(b) Who have a family income equal to or less than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, as such titles existed on January 1, 2002, without regard to resources, including all children under nineteen years of age and pregnant women as allowed under 42 U.S.C. 1396a, as such section existed on January 1, 2002, and section 2110 of the federal Social Security Act, as such section existed on January 1, 2002. Children described in this subdivision shall remain eligible for six consecutive months from the date of initial eligibility prior to redetermination of eligibility. The department may review eligibility monthly thereafter pursuant to rules and regulations adopted and promulgated by the department. Such rules and regulations shall specify the nature of such reviews and the information upon which such reviews will be based and shall require the consideration of variations in family income and other relevant factors in conducting such reviews. The department may determine upon such review that a child is ineligible for medical assistance benefits if such child no longer meets eligibility standards established by the department. All children currently eligible on August 16, 2002, shall have their initial period of continuous eligibility reduced to six months and shall have their eligibility redetermined pursuant to subsection (5) of this section and subdivision (1)(s) of section 68-1713. Beginning on August 16, 2002, the department shall report to the Legislature and the Governor on a quarterly basis until November 3, 2003, and each December 1 thereafter. The report shall include, but shall not be limited to, the number of monthly reviews conducted, the number of children determined to be ineligible under this subdivision, and demographic information concerning the reviews, including family income, county of residence, ages of children, and reasons for ineligibility;

(c) Who, for purposes of Title XIX of the federal Social Security Act as provided in subdivision (b) of this subsection, are children in families with income as follows:

(i) Equal to or less than one hundred fifty percent of the Office of Management and Budget income poverty guideline with eligible children one year of age or younger;

(ii) Equal to or less than one hundred thirty-three percent of the Office of Management and Budget income poverty guideline with eligible children over one year of age and under six years of age; or

(iii) Equal to or less than one hundred percent of the Office of Management and Budget income poverty guideline with eligible children six years of age or older and less than nineteen years of age; or

(d) Who are medically needy caretaker relatives as allowed under section 1905(a)(ii) of the federal Social Security Act, as such section existed on January 1, 2002. The department shall provide medical assistance until June 30, 2003, to caretaker relatives with family incomes equal to or less than fifty percent of the Office of Management and Budget income poverty guideline and who would otherwise be ineligible for medical assistance on and after August 16, 2002.

(3) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii), as such section existed on January 1, 2002, medical assistance shall be paid on behalf of disabled persons as defined in section 68-1005 who are in families whose net income is less than two hundred fifty percent of the Office of Management and Budget income poverty guideline applicable to a family of the size involved and who but for earnings in excess of the limit established under 42 U.S.C. 1396d(q)(2)(B) of the federal Social Security Act, as such section existed on January 1, 2002, would be considered to be receiving federal Supplemental Security Income. The Department of Health and Human Services shall apply for a waiver to disregard any unearned income that is contingent upon a trial work period in applying the Supplemental Security Income standard. Such disabled persons shall be subject to payment of premiums as a percentage of the family's net income beginning at not less than two hundred percent of the Office of Management and Budget net income poverty guideline. Such premiums shall be graduated based on family income and shall not be less than two percent or more than ten percent of family net income.

(4) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii), as such section existed on January 1, 2002, medical assistance shall be paid on behalf of persons who:

(a) Have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under Title XV of the federal Public Health Service Act, 42 U.S.C. 300k et seq., as such sections existed on January 1,

2002, in accordance with the requirements of section 1504 of such act, 42 U.S.C. 300n, as such section existed on January 1, 2002, and who need treatment for breast or cervical cancer, including precancerous and cancerous conditions of the breast or cervix;

(b) Are not otherwise covered under creditable coverage, as defined in section 2701(c) of the federal Public Health Service Act, 42 U.S.C. 300gg(c), as such section existed on January 1, 2002;

(c) Have not attained sixty-five years of age; and

(d) Are not eligible for medicaid under any mandatory categorically needy eligibility group.

(5) Eligibility shall be determined under this section using an income budgetary methodology that determines children's eligibility at no greater than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline and adult eligibility using adult income standards no greater than the applicable categorical eligibility standards established pursuant to state or federal law. Beginning on August 16, 2002, the department shall redetermine eligibility under this section pursuant to such income budgetary methodology and subdivision (1)(s) of section 68-1713.

(6) The department shall adopt and promulgate rules and regulations to implement this section.

Sec. 3. Original sections 68-1019.02 and 68-1020, Revised Statutes Supplement, 2002, are repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.