

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 576

Introduced by Kruse, 13

Read first time January 17, 2007

Committee: Appropriations

A BILL

1 FOR AN ACT relating to appropriations; to state intent relating
2 to behavioral health care services; to define terms; to
3 provide for rate increases for payments to adult and
4 child behavioral health providers; to create and provide
5 duties for the Provider Reimbursement Rate Commission;
6 and to declare an emergency.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. It is the intent of the Legislature to provide
2 the funding necessary for an annual rate increase, to be determined
3 in accordance with the compounded change in the consumer price
4 index during the twelve months preceding each annual rate increase,
5 for behavioral health care services providers which contract to
6 provide behavioral health care services for children, youth, or
7 adult populations, under the medicaid program or other state-funded
8 behavioral health programs.

9 Sec. 2. For purposes of sections 1 to 6 of this act:

10 (1) Behavioral health care services includes psychiatric,
11 mental health, developmental, behavioral, substance abuse, and
12 chemical dependency services and all such services provided as part
13 of child welfare, child protection and safety, and juvenile justice
14 services;

15 (2) Behavioral health care services provider means any
16 nongovernmental organization, licensed by the State of Nebraska,
17 providing community-based or locally delivered behavioral health
18 care programs or services to children, youth, or adult populations;

19 (3) Consumer price index means the Consumer Price Index
20 for All Urban Consumers - All Items index published by the United
21 States Department of Labor, Bureau of Labor Statistics or, if not
22 in existence, such index or procedure that reasonably reflects
23 increases or decreases in consumer prices in the United States;

24 (4) Medicaid program means the medical assistance program
25 established pursuant to the Medical Assistance Act;

1 (5) Provider reimbursement means any payment made to
2 a behavioral health care services provider by the Department of
3 Health and Human Services or the medicaid program for reimbursement
4 of behavioral health care services or programs; and

5 (6) State-funded behavioral health programs includes
6 all programs and services provided by behavioral health care
7 services providers, including psychiatric, behavioral, mental
8 health, developmental, substance abuse, and chemical dependency
9 services, and all such services provided as part of child welfare,
10 child protection and safety, and juvenile justice services, which
11 programs are state funded, in full or in part, directly or through
12 interlocal agreement.

13 Sec. 3. On or before June 15, 2008, and on or before
14 January 15 of each subsequent year, the Nebraska Health and Human
15 Services System shall file with the Clerk of the Legislature
16 an annual report and summary of the state of behavioral health
17 care services, specifying the rates of payment for each category
18 of behavioral health care services reimbursed by the Department
19 of Health and Human Services Finance and Support under the
20 medicaid program and each level of behavioral health care services
21 identified for payment by the Department of Health and Human
22 Services under other state-funded behavioral health programs. The
23 system shall report payment rates utilized during the immediately
24 preceding months of the then-current fiscal year and, using the
25 average compounded consumer price index during the same time

1 period, shall also calculate and report the projected increase
2 to such rates in the same percentage as the average compounded
3 consumer price index, and shall report to the Clerk of the
4 Legislature the estimated amount of General Fund appropriations
5 necessary to fully fund the cost of provider reimbursement for
6 behavioral health care services after such increase is enacted.
7 The Clerk of the Legislature shall deliver a copy of the report
8 required by this section to the Appropriations Committee of the
9 Legislature.

10 Sec. 4. By August 1 of each year, the Nebraska Health and
11 Human Services System shall file with the Clerk of the Legislature
12 a report identifying the final rates to be used for the upcoming
13 fiscal year for payment for each category of behavioral health care
14 services reimbursed by the Department of Health and Human Services
15 Finance and Support under the medicaid program and each level
16 of behavioral health care services identified for payment by the
17 Department of Health and Human Services under other state-funded
18 behavioral health programs. The final rates shall be determined
19 by taking the provider reimbursement rates utilized during the
20 twelve months of the preceding fiscal year and calculating the
21 average compounded consumer price index during the same time
22 period to increase the provider rates, at a minimum, in an amount
23 equal to the exact percentage of the average compounded consumer
24 price index, plus any necessary market adjustments identified by
25 the Provider Reimbursement Rate Commission, and shall report to

1 the Clerk of the Legislature the exact amount of General Fund
2 appropriations necessary to adequately and fully fund the final
3 projected costs of provider reimbursement for behavioral health
4 care services for the upcoming fiscal year. The Clerk of the
5 Legislature shall deliver a copy of the report required by this
6 section to the Appropriations Committee of the Legislature.

7 Sec. 5. (1) The Provider Reimbursement Rate Commission
8 is established. The Director of Finance and Support shall be a
9 member of the commission. The Director of Health and Human Services
10 shall be the chairperson of the commission and shall appoint the
11 following members to the commission:

12 (a) A provider of juvenile justice services;

13 (b) A provider of child welfare services;

14 (c) Two providers of mental health services, addiction
15 services, or integrated treatment in these areas;

16 (d) A provider of developmental disabilities services;

17 (e) A representative of the Office of Juvenile Services
18 who has expertise in juvenile justice;

19 (f) A representative of the division of protection and
20 safety of the Department of Health and Human Services who has
21 expertise in child welfare services;

22 (g) A representative of the division of mental health
23 and substance abuse of the department who has expertise in mental
24 health and addiction services; and

25 (h) A representative of the administrative services

1 organization responsible for authorizing treatment services in
2 Nebraska.

3 (2) The term of office of each appointed member shall
4 be four years, except that of the initial members appointed, four
5 members shall serve for terms of two years. If a vacancy occurs
6 on the commission prior to the expiration of a term, the director
7 shall make an appointment to become immediately effective for the
8 unexpired term.

9 (3) A majority of the members of the commission shall
10 constitute a quorum for the transaction of business. Official
11 action by the commission shall require the approval of a majority
12 of the commission members.

13 (4) Members of the commission are not entitled to
14 additional compensation for service on the commission but, in
15 the discretion of the director, may be reimbursed for expenses
16 incurred in the performance of official duties as provided in
17 sections 81-1174 to 81-1177.

18 (5) The Department of Health and Human Services shall
19 provide administrative support staff necessary to support the
20 performance of the functions of the commission.

21 Sec. 6. (1) The Provider Reimbursement Rate Commission
22 shall:

23 (a) Develop a methodology for determining necessary
24 market adjustments for behavioral health care services provider
25 reimbursement amounts for behavioral health services;

1 (b) Review and report to the Legislature necessary
2 market adjustments, above and beyond the consumer price index,
3 for reimbursement provided for each level of care;

4 (c) Conduct a survey of behavioral health care services
5 providers' costs of delivering services for each level of care;

6 (d) Review the reimbursements provided for behavioral
7 health services and identify the difference, if any, between the
8 cost of care and the reimbursement rate; and

9 (e) Make recommendations for future rate adjustments to
10 the Governor, the Legislature, and the Nebraska Health and Human
11 Services System.

12 (2) For purposes of developing a methodology for
13 determining necessary market adjustments for reimbursement amounts,
14 the commission shall consider:

15 (a) Recruitment and retention of qualified personnel and
16 caregivers;

17 (b) Current wage and hour data of similar positions in
18 the public sector and private sector;

19 (c) Future cost-of-living adjustments needed to maintain
20 competitive wage levels and adequate funding for services provided
21 by the provider;

22 (d) The level of experience and education required for
23 specific personnel and caregiver positions; and

24 (e) Acceptable costs of services.

25 (3) The commission shall complete an initial review of

1 the status of behavioral health care reimbursement rates and the
2 cost of care for behavioral health care services provided during
3 FY2007-08, shall identify the necessary market adjustments for
4 reimbursement rates above and beyond the consumer price index, and
5 shall make its initial report to the Legislature, the Nebraska
6 Health and Human Services System, and the Governor by July 1, 2008.

7 Sec. 7. Since an emergency exists, this act takes effect
8 when passed and approved according to law.