

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 27

FINAL READING

Introduced by Pahls, 31; Fulton, 29; Howard, 9.

Read first time January 8, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Medical Assistance Act; to amend
2 sections 85-1,138, 85-1,139, 85-1,140, 85-1,141, and
3 85-1,142, Reissue Revised Statutes of Nebraska, and
4 sections 68-901 and 71-7611, Revised Statutes Cumulative
5 Supplement, 2008; to change and transfer provisions
6 relating to the Autism Treatment Program Act, the Autism
7 Treatment Program Cash Fund, and the administration of
8 the Autism Treatment Program; to provide powers and
9 duties for the Department of Health and Human Services;
10 to harmonize provisions; to repeal the original sections;
11 and to declare an emergency.

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

1 Section 1. Section 68-901, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 68-901 Sections 68-901 to 68-956 and sections 2 to 6 of
4 this act shall be known and may be cited as the Medical Assistance
5 Act.

6 Sec. 2. Section 85-1,138, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 ~~85-1,138~~ Sections ~~85-1,138 to 85-1,142~~ 2 to 6 of this act
9 shall be known and may be cited as the Autism Treatment Program
10 Act.

11 Sec. 3. Section 85-1,139, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 ~~85-1,139~~ The ~~purposes~~ purpose of the Autism Treatment
14 Program Act are is to ~~(1)~~ create the Autism Treatment Program
15 administered by the Center for Autism Spectrum Disorders at the
16 University of Nebraska Medical Center and ~~(2)~~ provide for the
17 development and administration of a waiver or an amendment to an
18 existing waiver under the medical assistance program established in
19 section 68-903.

20 Sec. 4. Section 85-1,140, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 ~~85-1,140~~ The Autism Treatment Program is created. The
23 program shall be administered by the department. ~~Center for~~
24 ~~Autism Spectrum Disorders at the University of Nebraska Medical~~
25 ~~Center. The program shall provide or coordinate the provision of~~

1 statewide intensive early intervention services based on behavioral
2 principles for children with a medical diagnosis of an autism
3 spectrum disorder or an educational verification of autism. The
4 program shall utilize private funds and funds transferred by the
5 Legislature from the Nebraska Health Care Cash Fund to the Autism
6 Treatment Program Cash Fund. Transfers from the Nebraska Health
7 Care Cash Fund in any fiscal year shall be contingent upon the
8 receipt of private matching funds for such program, with no less
9 than one dollar of private funds received for every two dollars
10 transferred from the Nebraska Health Care Cash Fund. Transfers
11 from the Nebraska Health Care Cash Fund under this section and
12 section 71-7611 shall be utilized as the state match for the
13 waiver established under section 85-1,142 upon the approval of such
14 waiver.

15 Sec. 5. Section 85-1,141, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 ~~85-1,141~~ (1) The Autism Treatment Program Cash Fund
18 is created. The fund shall include revenue transferred from the
19 Nebraska Health Care Cash Fund and revenue received from gifts,
20 grants, bequests, donations, other similar donation arrangements,
21 or other contributions from public or private sources. The Autism
22 Treatment Program Cash Fund shall be administered by the Center
23 for Autism Spectrum Disorders at the University of Nebraska Medical
24 Center for purposes of the Autism Treatment Program created in
25 ~~section 85-1,140.~~ The department shall administer the fund. The

1 Autism Treatment Program Cash Fund shall be used as the state's
2 matching share for the waiver established under section 6 of this
3 act and for expenses incurred in the administration of the Autism
4 Treatment Program. Any money in the fund available for investment
5 shall be invested by the state investment officer pursuant to
6 the Nebraska Capital Expansion Act and the Nebraska State Funds
7 Investment Act.

8 (2) The program shall utilize private funds deposited in
9 the Autism Treatment Program Cash Fund and funds transferred by the
10 Legislature from the Nebraska Health Care Cash Fund to the Autism
11 Treatment Program Cash Fund. Transfers from the Nebraska Health
12 Care Cash Fund in any fiscal year shall be contingent upon the
13 receipt of private matching funds for such program, with no less
14 than one dollar of private funds received for every two dollars
15 transferred from the Nebraska Health Care Cash Fund. No donations
16 from a provider of services under Title XIX of the federal Social
17 Security Act shall be deposited into the Autism Treatment Program
18 Cash Fund.

19 Sec. 6. Section 85-1,142, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 ~~85-1,142~~ (1) The Department of Health and Human Services
22 department shall apply for a waiver or an amendment to an
23 existing waiver under the medical assistance program established
24 in section 68-903 for the purpose of providing medical assistance
25 for intensive early intervention services based on behavioral

1 principles for children with a medical diagnosis of an autism
2 spectrum disorder or an educational verification of autism. Such
3 waiver shall not be construed to create an entitlement to services
4 provided under such waiver.

5 (2) It is the intent of the Legislature that such
6 waiver (a) require means testing for and cost-sharing by recipient
7 families, (b) limit eligibility only to children for whom such
8 services have been initiated prior to the age of nine years,
9 (c) limit the number of children served according to available
10 funding, (d) require demonstrated progress toward the attainment
11 of treatment goals as a condition for continued receipt of medical
12 assistance benefits for such treatment, (e) be developed in
13 consultation with the Health and Human Services Committee of
14 the Legislature and the federal Centers for Medicare and Medicaid
15 Services and with the input of parents and families of children
16 with autism spectrum disorders and organizations advocating on
17 behalf of such persons, and (f) be submitted to the federal Centers
18 for Medicare and Medicaid Services as soon as practicable, but no
19 later than ~~July 1, 2008.~~ September 1, 2009.

20 Sec. 7. Section 71-7611, Revised Statutes Cumulative
21 Supplement, 2008, is amended to read:

22 71-7611 (1) The Nebraska Health Care Cash Fund is
23 created. The State Treasurer shall transfer (a) fifty-six million
24 four hundred thousand dollars no later than July 30, 2008, and
25 (b) fifty-five million seven hundred thousand dollars annually

1 thereafter no later than July 15 from the Nebraska Medicaid
2 Intergovernmental Trust Fund and the Nebraska Tobacco Settlement
3 Trust Fund to the Nebraska Health Care Cash Fund, except that such
4 amount shall be reduced by the amount of the unobligated balance
5 in the Nebraska Health Care Cash Fund at the time the transfer is
6 made. On or before May 1, 2008, the State Treasurer shall transfer
7 from the Nebraska Medicaid Intergovernmental Trust Fund and the
8 Nebraska Tobacco Settlement Trust Fund an additional two hundred
9 fifty thousand dollars to the Nebraska Health Care Cash Fund.
10 The state investment officer upon consultation with the Nebraska
11 Investment Council shall advise the State Treasurer on the amounts
12 to be transferred from the Nebraska Medicaid Intergovernmental
13 Trust Fund and from the Nebraska Tobacco Settlement Trust
14 Fund under this section in order to sustain such transfers in
15 perpetuity. The state investment officer shall report to the
16 Legislature on or before October 1 of every even-numbered year on
17 the sustainability of such transfers. Except as otherwise provided
18 by law, no more than the amount specified in subdivisions (1)(a)
19 and (b) of this subsection may be appropriated or transferred from
20 the Nebraska Health Care Cash Fund in any fiscal year.

21 (2) Any money in the Nebraska Health Care Cash Fund
22 available for investment shall be invested by the state investment
23 officer pursuant to the Nebraska Capital Expansion Act and the
24 Nebraska State Funds Investment Act.

25 (3) One million dollars in the Nebraska Health Care Cash

1 Fund ~~is designated~~ shall be transferred each year for to the Autism
2 Treatment Program Act Cash Fund for five fiscal years beginning
3 ~~in fiscal year 2007-08~~ on a date determined by the Department of
4 Health and Human Services but no later than ninety days after a
5 waiver under section 6 of this act has been approved and shall be
6 distributed with matching private funds from the Autism Treatment
7 Program Cash Fund and matching funds from Title XIX of the federal
8 Social Security Act in each fiscal year as follows: (a) First, to
9 the Department of Health and Human Services for costs related to
10 application, and implementation, and administration of the a waiver
11 pursuant to section 6 of this act; (b) second, to the department
12 for other medical costs for children who would not otherwise
13 qualify for medicaid except for the waiver; and (c) third, the
14 balance to fund services pursuant to the waiver. ~~the Autism~~
15 ~~Treatment Program Cash Fund.~~ The State Treasurer shall transfer the
16 balance of the funding to the Autism Treatment Program Cash Fund
17 based on the estimated costs of administrative and other medical
18 costs as determined by the Legislature through the appropriation
19 process. ~~The transfers to the Autism Treatment Program Cash Fund~~
20 ~~in any fiscal year shall be contingent upon the receipt of private~~
21 ~~matching funds under the Autism Treatment Program Act, with no less~~
22 ~~than one dollar of private funds received for every two dollars~~
23 ~~transferred from the Nebraska Health Care Cash Fund to the Autism~~
24 ~~Treatment Program Cash Fund.~~

25 (4) The University of Nebraska and postsecondary

1 educational institutions having colleges of medicine in Nebraska
2 and their affiliated research hospitals in Nebraska, as a condition
3 of receiving any funds appropriated or transferred from the
4 Nebraska Health Care Cash Fund, shall not discriminate against any
5 person on the basis of sexual orientation.

6 (5) The State Treasurer shall transfer two hundred
7 thousand dollars from the Nebraska Health Care Cash Fund to the
8 University of Nebraska Medical Center Cash Fund for the Nebraska
9 Regional Poison Center within fifteen days after each July 1.

10 Sec. 8. Original sections 85-1,138, 85-1,139, 85-1,140,
11 85-1,141, and 85-1,142, Reissue Revised Statutes of Nebraska,
12 and sections 68-901 and 71-7611, Revised Statutes Cumulative
13 Supplement, 2008, are repealed.

14 Sec. 9. Since an emergency exists, this act takes effect
15 when passed and approved according to law.