

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 603

FINAL READING

Introduced by Health and Human Services Committee: Gay, 14,
Chairperson; Campbell, 25; Gloor, 35; Howard, 9;
Pankonin, 2; Stuthman, 22; Wallman, 30.

Read first time January 21, 2009

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health; to amend sections 68-911,
2 68-915, 71-801, and 71-808, Revised Statutes Cumulative
3 Supplement, 2008; to change provisions relating to
4 medical assistance and behavioral health services; to
5 adopt the Behavioral Health Workforce Act and the
6 Children and Family Behavioral Health Support Act;
7 to harmonize provisions; to provide operative dates;
8 to repeal the original sections; and to declare an
9 emergency.

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

1 Section 1. Section 68-911, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 68-911 (1) Medical assistance shall include coverage for
4 health care and related services as required under Title XIX of the
5 federal Social Security Act, including, but not limited to:

- 6 (a) Inpatient and outpatient hospital services;
- 7 (b) Laboratory and X-ray services;
- 8 (c) Nursing facility services;
- 9 (d) Home health services;
- 10 (e) Nursing services;
- 11 (f) Clinic services;
- 12 (g) Physician services;
- 13 (h) Medical and surgical services of a dentist;
- 14 (i) Nurse practitioner services;
- 15 (j) Nurse midwife services;
- 16 (k) Pregnancy-related services;
- 17 (l) Medical supplies; and
- 18 (m) Early and periodic screening and diagnosis and
19 treatment services for children.

20 (2) ~~Medical~~ In addition to coverage otherwise required
21 under this section, medical assistance may include coverage for
22 health care and related services as permitted but not required
23 under Title XIX of the federal Social Security Act, including, but
24 not limited to:

- 25 (a) Prescribed drugs;

- 1 (b) Intermediate care facilities for the mentally
2 retarded;
- 3 (c) Home and community-based services for aged persons
4 and persons with disabilities;
- 5 (d) Dental services;
- 6 (e) Rehabilitation services;
- 7 (f) Personal care services;
- 8 (g) Durable medical equipment;
- 9 (h) Medical transportation services;
- 10 (i) Vision-related services;
- 11 (j) Speech therapy services;
- 12 (k) Physical therapy services;
- 13 (l) Chiropractic services;
- 14 (m) Occupational therapy services;
- 15 (n) Optometric services;
- 16 (o) Podiatric services;
- 17 (p) Hospice services;
- 18 (q) Mental health and substance abuse services;
- 19 (r) Hearing screening services for newborn and infant
20 children; and
- 21 (s) Administrative expenses related to administrative
22 activities, including outreach services, provided by school
23 districts and educational service units to students who are
24 eligible or potentially eligible for medical assistance.
- 25 (3) No later than July 1, 2009, the department

1 shall submit a state plan amendment or waiver to the federal
 2 Centers for Medicare and Medicaid Services to provide coverage
 3 under the medical assistance program for community-based secure
 4 residential and subacute behavioral health services for all
 5 eligible recipients, without regard to whether the recipient has
 6 been ordered by a mental health board under the Nebraska Mental
 7 Health Commitment Act to receive such services.

8 Sec. 2. Section 68-915, Revised Statutes Cumulative
 9 Supplement, 2008, is amended to read:

10 68-915 The following persons shall be eligible for
 11 medical assistance:

12 (1) Dependent children as defined in section 43-504;

13 (2) Aged, blind, and disabled persons as defined in
 14 sections 68-1002 to 68-1005;

15 (3) Children under nineteen years of age who are eligible
 16 under section 1905(a)(i) of the federal Social Security Act;

17 (4) Persons who are presumptively eligible as allowed
 18 under sections 1920 and 1920B of the federal Social Security Act;

19 (5) Children under nineteen years of age and ~~pregnant~~
 20 ~~women~~ with a family income equal to or less than ~~one~~ two hundred
 21 ~~eighty-five~~ percent of the Office of Management and Budget income
 22 poverty guideline, as allowed under Title XIX and Title XXI of
 23 the federal Social Security Act, without regard to resources,
 24 and pregnant women with a family income equal to or less than
 25 one hundred eighty-five percent of the Office of Management

1 and Budget income poverty guideline, as allowed under Title
2 XIX and Title XXI of the federal Social Security Act, without
3 regard to resources. Children described in this subdivision and
4 subdivision (6) of this section shall remain eligible for six
5 consecutive months from the date of initial eligibility prior
6 to redetermination of eligibility. The department may review
7 eligibility monthly thereafter pursuant to rules and regulations
8 adopted and promulgated by the department. The department may
9 determine upon such review that a child is ineligible for medical
10 assistance if such child no longer meets eligibility standards
11 established by the department;

12 (6) For purposes of Title XIX of the federal Social
13 Security Act as provided in subdivision (5) of this section,
14 children with a family income as follows:

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

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

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

1 (7) Persons who are medically needy caretaker relatives
2 as allowed under 42 U.S.C. 1396d(a) (ii);

3 (8) As allowed under 42 U.S.C. 1396a(a) (10) (A) (ii),
4 disabled persons as defined in section 68-1005 with a family income
5 of less than two hundred fifty percent of the Office of Management
6 and Budget income poverty guideline and who, but for earnings in
7 excess of the limit established under 42 U.S.C. 1396d(q) (2) (B),
8 would be considered to be receiving federal Supplemental Security
9 Income. The department shall apply for a waiver to disregard any
10 unearned income that is contingent upon a trial work period in
11 applying the Supplemental Security Income standard. Such disabled
12 persons shall be subject to payment of premiums as a percentage of
13 family income beginning at not less than two hundred percent of
14 the Office of Management and Budget income poverty guideline. Such
15 premiums shall be graduated based on family income and shall not be
16 less than two percent or more than ten percent of family income;
17 and

18 (9) As allowed under 42 U.S.C. 1396a(a) (10) (A) (ii),
19 persons who:

20 (a) Have been screened for breast and cervical cancer
21 under the Centers for Disease Control and Prevention breast and
22 cervical cancer early detection program established under Title XV
23 of the federal Public Health Service Act, 42 U.S.C. 300k et seq.,
24 in accordance with the requirements of section 1504 of such act, 42
25 U.S.C. 300n, and who need treatment for breast or cervical cancer,

1 including precancerous and cancerous conditions of the breast or
2 cervix;

3 (b) Are not otherwise covered under creditable coverage
4 as defined in section 2701(c) of the federal Public Health Service
5 Act, 42 U.S.C. 300gg(c);

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

7 (d) Are not eligible for medical assistance under any
8 mandatory categorically needy eligibility group.

9 Eligibility shall be determined under this section
10 using an income budgetary methodology that determines children's
11 eligibility at no greater than ~~one~~ two hundred ~~eighty-five~~ percent
12 of the Office of Management and Budget income poverty guideline and
13 adult eligibility using adult income standards no greater than the
14 applicable categorical eligibility standards established pursuant
15 to state or federal law. The department shall determine eligibility
16 under this section pursuant to such income budgetary methodology
17 and subdivision (1)(q) of section 68-1713.

18 Sec. 3. Section 71-801, Revised Statutes Cumulative
19 Supplement, 2008, is amended to read:

20 71-801 Sections 71-801 to 71-818 and sections 5 to 14 of
21 this act shall be known and may be cited as the Nebraska Behavioral
22 Health Services Act.

23 Sec. 4. Section 71-808, Revised Statutes Cumulative
24 Supplement, 2008, is amended to read:

25 71-808 (1) A regional behavioral health authority shall

1 be established in each behavioral health region by counties acting
2 under provisions of the Interlocal Cooperation Act. Each regional
3 behavioral health authority shall be governed by a regional
4 governing board consisting of one county board member from each
5 county in the region. Board members shall serve for staggered
6 terms of three years and until their successors are appointed and
7 qualified. Board members shall serve without compensation but shall
8 be reimbursed for their actual and necessary expenses as provided
9 in sections 81-1174 to 81-1177.

10 (2) The regional governing board shall appoint a regional
11 administrator who shall be responsible for the administration
12 and management of the regional behavioral health authority. Each
13 regional behavioral health authority shall encourage and facilitate
14 the involvement of consumers in all aspects of service planning
15 and delivery within the region and shall coordinate such activities
16 with the office of consumer affairs within the division. Each
17 regional behavioral health authority shall establish and utilize
18 a regional advisory committee consisting of consumers, providers,
19 and other interested parties and may establish and utilize such
20 other task forces, subcommittees, or other committees as it deems
21 necessary and appropriate to carry out its duties under this
22 section.

23 (3) Each county in a behavioral health region shall
24 provide funding for the operation of the behavioral health
25 authority and for the provision of behavioral health services

1 in the region. The total amount of funding provided by counties
2 under this subsection shall be equal to one dollar for every three
3 dollars from the General Fund. The division shall annually certify
4 the total amount of county matching funds to be provided. At least
5 forty percent of such amount shall consist of local and county
6 tax revenue, and the remainder shall consist of other nonfederal
7 sources. The regional governing board of each behavioral health
8 authority, in consultation with all counties in the region, shall
9 determine the amount of funding to be provided by each county
10 under this subsection. Any General Funds transferred from regional
11 centers for the provision of community-based behavioral health
12 services after July 1, 2004, and funds received by a regional
13 behavioral health authority for the provision of behavioral health
14 services to children under section 10 of this act shall be
15 excluded from any calculation of county matching funds under this
16 subsection.

17 Sec. 5. Sections 5 to 11 of this act shall be known and
18 may be cited as the Children and Family Behavioral Health Support
19 Act.

20 Sec. 6. No later than January 1, 2010, the department
21 shall establish a Children and Family Support Hotline which shall:

22 (1) Be a single point of access for children's behavioral
23 health triage through the operation of a twenty-four-hour-per-day,
24 seven-day-per-week telephone line;

25 (2) Be administered by the division and staffed by

1 trained personnel under the direct supervision of a qualified
2 mental health, behavioral health, or social work professional
3 engaged in activities of mental health treatment;

4 (3) Provide screening and assessment;

5 (4) Provide referral to existing community-based
6 resources; and

7 (5) Be evaluated. The evaluation shall include, but not
8 be limited to, the county of the caller, the reliability and
9 consistency of the information given, an analysis of services
10 needed or requested, and the degree to which the caller reports
11 satisfaction with the referral service.

12 Sec. 7. (1) No later than January 1, 2010, the department
13 shall establish a Family Navigator Program to respond to children's
14 behavioral health needs. The program shall be administered by the
15 division and consist of individuals trained and compensated by the
16 department who, at a minimum, shall:

17 (a) Provide peer support; and

18 (b) Provide connection to existing services, including
19 the identification of community-based services.

20 (2) The Family Navigator Program shall be evaluated. The
21 evaluation shall include, but not be limited to, an assessment
22 of the quality of the interactions with the program and the
23 effectiveness of the program as perceived by the family, whether
24 the family followed through with the referral recommendations, the
25 availability and accessibility of services, the waiting time for

1 services, and cost and distance factors.

2 Sec. 8. No later than January 1, 2010, the department
3 shall provide post-adoption and post-guardianship case management
4 services for adoptive and guardianship families of former state
5 wards on a voluntary basis. The department shall notify adoptive
6 parents and guardians of the availability of such services and the
7 process to access such services and that such services are provided
8 on a voluntary basis. Notification shall be in writing and shall be
9 provided at the time of finalization of the adoption agreement or
10 completion of the guardianship and each six months thereafter until
11 dissolution of the adoption, until termination of the guardianship,
12 or until the former state ward attains nineteen years of age,
13 whichever is earlier. Post-adoption and post-guardianship case
14 management services under this section shall be administered by the
15 Division of Children and Family Services and shall be evaluated.
16 The evaluation shall include, but not be limited to, the number
17 and percentage of persons receiving such services and the degree of
18 problem resolution reported by families receiving such services.

19 Sec. 9. The department shall provide an annual report,
20 no later than December 1, to the Governor and the Legislature
21 on the operation of the Children and Family Support Hotline
22 established under section 6 of this act, the Family Navigator
23 Program established under section 7 of this act, and the provision
24 of voluntary post-adoption and post-guardianship case management
25 services under section 8 of this act.

1 Sec. 10. It is the intent of the Legislature to
2 appropriate from the General Fund five hundred thousand dollars for
3 fiscal year 2009-10 and one million dollars for fiscal year 2010-11
4 to the Department of Health and Human Services – Behavioral Health,
5 Program 38, Behavioral Health Aid, for behavioral health services
6 for children under the Nebraska Behavioral Health Services Act,
7 including, but not limited to, the expansion of the Professional
8 Partner Program and services provided using a sliding-fee schedule.
9 General Funds appropriated pursuant to this section shall be
10 excluded from the calculation of county matching funds under
11 subsection (3) of section 71-808, shall be allocated to the
12 regional behavioral health authorities, and shall be distributed
13 based on the 2008 allocation formula. For purposes of this section,
14 children means Nebraska residents under nineteen years of age.

15 Sec. 11. (1) The Children’s Behavioral Health Oversight
16 Committee of the Legislature is created as a special legislative
17 committee. The committee shall consist of nine members of the
18 Legislature appointed by the Executive Board of the Legislative
19 Council as follows: (a) Two members of the Appropriations Committee
20 of the Legislature, (b) two members of the Health and Human
21 Services Committee of the Legislature, (c) two members of the
22 Judiciary Committee of the Legislature, and (d) three members
23 of the Legislature who are not members of such committees.
24 The Children’s Behavioral Health Oversight Committee shall elect
25 a chairperson and vice-chairperson from among its members. The

1 executive board shall appoint members of the committee no later
2 than thirty days after the operative date of this section and
3 within the first six legislative days of the regular legislative
4 session in 2011. The committee and this section terminate on
5 December 31, 2012.

6 (2) The committee shall monitor the effect of
7 implementation of the Children and Family Behavioral Health Support
8 Act and other child welfare and juvenile justice initiatives by the
9 department related to the provision of behavioral health services
10 to children and their families.

11 (3) The committee shall meet at least quarterly with
12 representatives of the Division of Behavioral Health and the
13 Division of Children and Family Services of the Department of
14 Health and Human Services and with other interested parties and may
15 meet at other times at the call of the chairperson.

16 (4) Staff support for the committee shall be provided by
17 existing legislative staff as directed by the executive board. The
18 committee may request the executive board to hire consultants that
19 the committee deems necessary to carry out the purposes of the
20 committee under this section.

21 (5) The committee shall provide a report to the Governor
22 and the Legislature no later than December 1 of each year.
23 The report shall include, but not be limited to, findings and
24 recommendations relating to the provision of behavioral health
25 services to children and their families.

1 Sec. 12. Sections 12 to 14 of this act shall be known and
2 may be cited as the Behavioral Health Workforce Act.

3 Sec. 13. The Legislature finds that there are
4 insufficient behavioral health professionals in the Nebraska
5 behavioral health workforce and further that there are insufficient
6 behavioral health professionals trained in evidence-based practice.
7 This workforce shortage leads to inadequate accessibility and
8 response to the behavioral health needs of Nebraskans of all ages:
9 Children; adolescents; and adults. These shortages have led to
10 well-documented problems of consumers waiting for long periods of
11 time in inappropriate settings because appropriate placement and
12 care is not available. As a result, mentally ill patients end up in
13 hospital emergency rooms which are the most expensive level of care
14 or are incarcerated and do not receive adequate care, if any.

15 As the state moves from institutional to community-based
16 behavioral health services, the behavioral health services
17 workforce shortage is increasingly felt by the inability to hire
18 and retain behavioral health professionals in Nebraska. In Laws
19 2004, LB 1083, the Legislature pledged to "promote activities
20 in research and education to improve the quality of behavioral
21 health services, the recruitment and retention of behavioral
22 health professionals, and the availability of behavioral health
23 services". The purpose of the Behavioral Health Workforce Act is to
24 realize the commitment made in LB 1083 to improve community-based
25 behavioral health services for Nebraskans and thus focus on

1 addressing behavioral health issues before they become a crisis
2 through increasing the number of behavioral health professionals
3 and train these professionals in evidence-based practice and
4 alternative delivery methods which will improve the quality
5 of care, including utilizing the existing infrastructure and
6 telehealth services which will expand outreach to more rural areas
7 in Nebraska.

8 Sec. 14. (1) The Behavioral Health Education Center is
9 created beginning July 1, 2009, and shall be administered by the
10 University of Nebraska Medical Center.

11 (2) The center shall:

12 (a) Provide funds for two additional medical residents
13 in a Nebraska-based psychiatry program each year starting in 2010
14 until a total of eight additional psychiatry residents are added
15 in 2013. Beginning in 2011 and every year thereafter, the center
16 shall provide psychiatric residency training experiences that serve
17 rural Nebraska and other underserved areas. As part of his or her
18 residency training experiences, each center-funded resident shall
19 participate in the rural training for a minimum of one year.
20 Beginning in 2012, a minimum of two of the eight center-funded
21 residents shall be active in the rural training each year;

22 (b) Focus on the training of behavioral health
23 professionals in telehealth techniques, including taking advantage
24 of a telehealth network that exists, and other innovative means
25 of care delivery in order to increase access to behavioral health

1 services for all Nebraskans;

2 (c) Analyze the geographic and demographic availability
3 of Nebraska behavioral health professionals, including
4 psychiatrists, social workers, community rehabilitation workers,
5 psychologists, substance abuse counselors, licensed mental health
6 practitioners, behavioral analysts, peer support providers, primary
7 care physicians, nurses, nurse practitioners, and pharmacists;

8 (d) Prioritize the need for additional professionals by
9 type and location;

10 (e) Establish learning collaborative partnerships with
11 other higher education institutions in the state, hospitals, law
12 enforcement, community-based agencies, and consumers and their
13 families in order to develop evidence-based, recovery-focused,
14 interdisciplinary curriculum and training for behavioral
15 health professionals delivering behavioral health services
16 in community-based agencies, hospitals, and law enforcement.
17 Development and dissemination of such curriculum and training
18 shall address the identified priority needs for behavioral health
19 professionals; and

20 (f) Beginning in 2011, develop two interdisciplinary
21 behavioral health training sites each year until a total of
22 six sites have been developed. Four of the six sites shall
23 be in counties with a population of fewer than fifty thousand
24 inhabitants. Each site shall provide annual interdisciplinary
25 training opportunities for a minimum of three behavioral health

1 professionals.

2 (3) No later than December 1, 2011, and no later than
3 December 1 of every odd-numbered year thereafter, the center shall
4 prepare a report of its activities under the Behavioral Health
5 Workforce Act. The report shall be filed with the Clerk of the
6 Legislature and shall be provided to any member of the Legislature
7 upon request.

8 Sec. 15. Sections 2 and 16 of this act become operative
9 three calendar months after the adjournment of this legislative
10 session. The other sections of this act become operative on their
11 effective date.

12 Sec. 16. Original section 68-915, Revised Statutes
13 Cumulative Supplement, 2008, is repealed.

14 Sec. 17. Original sections 68-911, 71-801, and 71-808,
15 Revised Statutes Cumulative Supplement, 2008, are repealed.

16 Sec. 18. Since an emergency exists, this act takes effect
17 when passed and approved according to law.