

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 519

Introduced by McGill, 26.

Read first time January 21, 2009

Committee: Health and Human Services

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 behavioral
4 health providers; to create and provide duties for the
5 Provider Reimbursement Rate Commission; and to declare an
6 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 under the medicaid program
7 or other state-funded behavioral health programs.

8 Sec. 2. For purposes of sections 1 to 7 of this act:

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

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

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

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

25 (5) Provider reimbursement means any payment made to

1 a behavioral health care services provider by the Department of
2 Health and Human Services or the medicaid program for reimbursement
3 of behavioral health care services or programs; and

4 (6) State-funded behavioral health programs includes all
5 behavioral health care services provided by behavioral health care
6 services providers, which programs are state funded, in full or in
7 part, directly or through interlocal agreement.

8 Sec. 3. On or before June 15, 2010, and on or before
9 January 15 of each subsequent year, the Department of Health
10 and Human Services shall file with the Clerk of the Legislature
11 an annual report and summary of the state of behavioral health
12 care services, specifying the rates of payment for each category
13 of behavioral health care services reimbursed by the department
14 under the medicaid program and each level of behavioral health
15 care services identified for payment by the department under
16 other state-funded behavioral health programs. The department shall
17 report payment rates utilized during the immediately preceding
18 months of the then-current fiscal year, shall, using the average
19 compounded consumer price index during the same time period, also
20 calculate and report the projected increase to such rates in the
21 same percentage as the average compounded consumer price index, and
22 shall report to the Clerk of the Legislature the estimated amount
23 of General Fund appropriations necessary to fully fund the cost
24 of reimbursement for behavioral health care services after such
25 increase is enacted. The Clerk of the Legislature shall deliver a

1 copy of the report required by this section to the Appropriations
2 Committee of the Legislature.

3 Sec. 4. By August 1 of each year, the Department of
4 Health and Human Services shall file with the Clerk of the
5 Legislature a report identifying the final rates to be used for the
6 upcoming fiscal year for payment for each category of behavioral
7 health care services reimbursed by the department under the
8 medicaid program and each level of behavioral health care services
9 identified for payment by the department under other state-funded
10 behavioral health programs. The final rates shall be determined
11 by taking the provider reimbursement rates utilized during the
12 twelve months of the preceding fiscal year and calculating the
13 average compounded consumer price index during the same time
14 period to increase the provider rates, at a minimum, in an amount
15 equal to the exact percentage of the average compounded consumer
16 price index, plus any necessary market adjustments identified
17 by the Provider Reimbursement Rate Commission, and shall report
18 to the Clerk of the Legislature the exact amount of General
19 Fund appropriations necessary to adequately and fully fund the
20 final projected costs of reimbursement for behavioral health care
21 services for the upcoming fiscal year. The Clerk of the Legislature
22 shall deliver a copy of the report required by this section to the
23 Appropriations Committee of the Legislature.

24 Sec. 5. (1) The Provider Reimbursement Rate Commission is
25 established. The Director of Medicaid and Long-Term Care shall be a

1 member of the commission. The Director of Health and Human Services
2 shall be the chairperson of the commission and shall appoint the
3 following members to the commission:

4 (a) A provider of juvenile justice services;

5 (b) A provider of child welfare services;

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

8 (d) A provider of developmental disabilities services;

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

11 (f) A representative of the Division of Children and
12 Family Services of the Department of Health and Human Services who
13 has expertise in child welfare services;

14 (g) A representative of the Division of Behavioral Health
15 of the department who has expertise in mental health and addiction
16 services; and

17 (h) A representative of the administrative services
18 organization responsible for authorizing treatment services in
19 Nebraska.

20 (2) The term of office of each appointed member shall
21 be four years, except that of the initial members appointed, four
22 members shall serve for terms of two years. If a vacancy occurs
23 on the commission prior to the expiration of a term, the Director
24 of Health and Human Services shall make an appointment to become
25 immediately effective for the unexpired term.

1 (3) A majority of the members of the commission shall
2 constitute a quorum for the transaction of business. Official
3 action by the commission shall require the approval of a majority
4 of the commission members.

5 (4) Members of the commission are not entitled to
6 additional compensation for service on the commission but, in
7 the discretion of the Director of Health and Human Services, may
8 be reimbursed for expenses incurred in the performance of official
9 duties as provided in sections 81-1174 to 81-1177.

10 (5) The department shall provide administrative support
11 staff necessary to support the performance of the functions of the
12 commission.

13 Sec. 6. (1) The Provider Reimbursement Rate Commission
14 shall:

15 (a) Develop a method for determining necessary
16 market adjustments for behavioral health care services provider
17 reimbursement;

18 (b) Review and report to the Legislature necessary
19 market adjustments above and beyond the consumer price index
20 for reimbursement provided for each level of behavioral health care
21 services;

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

24 (d) Review the reimbursements provided for behavioral
25 health care services and identify the difference, if any, between

1 the cost of health care and the reimbursement rate; and

2 (e) Make recommendations for future rate adjustments to
3 the Governor, the Legislature, and the Department of Health and
4 Human Services.

5 (2) For purposes of developing a method for determining
6 necessary market adjustments for reimbursement amounts, the
7 commission shall consider:

8 (a) Recruitment and retention of qualified personnel and
9 behavioral health care services providers;

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

12 (c) Future cost-of-living adjustments needed to maintain
13 competitive wage levels and adequate funding for services provided
14 by behavioral health care services providers;

15 (d) The level of experience and education required for
16 specific personnel and behavioral health care services provider
17 positions; and

18 (e) Acceptable costs of services.

19 (3) The commission shall complete an initial review of
20 the status of behavioral health care reimbursement rates and the
21 cost of behavioral health care services provided during FY2009-10,
22 shall identify the necessary market adjustments for reimbursement
23 rates above and beyond the consumer price index, and shall make
24 its initial report to the Legislature, the Department of Health and
25 Human Services, and the Governor by July 1, 2010.

1 Sec. 7. Nothing in sections 1 to 6 of this act requires
2 the Legislature to appropriate funds recommended by the Provider
3 Reimbursement Rate Commission.

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