LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 610

Introduced by Mello, 5; Campbell, 25.

Read first time January 21, 2009

Committee: Health and Human Services

A BILL

FOR AN ACT relating to the Medical Assistance Act; to amend section 68-912, Revised Statutes Cumulative Supplement, 2008; to change provisions relating to limitations on services for persons with disabilities; to repeal the original section; and to declare an emergency.

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

Section 1. Section 68-912, Revised Statutes Cumulative Supplement, 2008, is amended to read:

68-912 (1) The department may establish (a) premiums, copayments, and deductibles for goods and services provided under the medical assistance program, (b) limits on the amount, duration, and scope of goods and services that recipients may receive under the medical assistance program, and (c) requirements for recipients of medical assistance as a necessary condition for the continued receipt of such assistance, including, but not limited to, active participation in care coordination and appropriate disease management programs and activities.

(2) For individuals with disabilities or other chronic conditions for whom habilitation, rehabilitation services to meet goals of or to maintain or develop independent living, the department shall establish a procedure to allow for an exception to limitations or caps on services under the medical assistance program. The procedure shall include, but not be limited to, provisions that:

(a) A request for exception shall be submitted by the recipient or the recipient's legally responsible individual with a demonstration of need to be provided by the individual's physician or other licensed medical professional;

(b) Services shall be continued pending a decision on the exception by the department;

(c) A decision on a request for an exception shall be

made within ten business days after receipt of the request;

(d) A request which is not acted on within such ten-day period shall be deemed to be approved;

(e) Periodic reporting shall be made by the physician or licensed medical professional as to the continuing need for such services;

(f) No premium shall be charged to an individual receiving an exception under this subsection; and

(g) If the individual no longer needs the services under an exception, the limits established by the department shall apply for the following fiscal year. An individual may reapply for exception under this subsection if he or she again meets the requirements of this subsection.

A decision of the department under this subsection may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(3) The department shall disregard income to the level of five hundred percent of the federal Office of Management and Budget income poverty guidelines when determining any premium to be paid by the family of a child or children receiving services under specialized waivers, including, but not limited to, the medicaid waiver known as the Katie Beckett waiver and any medicaid home and community-based services waiver pursuant to federal regulation. Home and community-based waiver services shall be available at the same or greater level as would be available in any and all

institutions covered by the medical assistance program.

~~(2)~~ (4) In establishing and limiting coverage for services under the medical assistance program, the department shall consider (a) the effect of such coverage and limitations on recipients of medical assistance and medical assistance expenditures, (b) the public policy in section 68-905, (c) the experience and outcomes of other states, (d) the nature and scope of benchmark or benchmark-equivalent health insurance coverage as recognized under federal law, and (e) other relevant factors as determined by the department.

~~(3)~~ (5) Coverage for mandatory and optional services and limitations on covered services as established by the department prior to July 1, 2006, shall remain in effect until revised, amended, repealed, or nullified pursuant to law. Any proposed reduction or expansion of services or limitation of covered services by the department under this section shall be subject to the reporting and review requirements of section 68-909.

~~(4)~~ (6) Except as otherwise provided in this subsection, proposed rules and regulations under this section relating to the establishment of premiums, copayments, or deductibles for eligible recipients or limits on the amount, duration, or scope of covered services for eligible recipients shall not become effective until the conclusion of the earliest regular session of the Legislature in which there has been a reasonable opportunity for legislative consideration of such rules and regulations. This subsection does

not apply to rules and regulations that are (a) required by federal or state law, (b) related to a waiver in which recipient participation is voluntary, or (c) proposed due to a loss of federal matching funds relating to a particular covered service or eligibility category. Legislative consideration includes, but is not limited to, the introduction of a legislative bill, a legislative resolution, or an amendment to pending legislation relating to such rules and regulations.

Sec. 2. Original section 68-912, Revised Statutes Cumulative Supplement, 2008, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.