

ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012
COMMITTEE STATEMENT
LB1063

Hearing Date: Thursday February 09, 2012
Committee On: Health and Human Services
Introducer: Cook
One Liner: Adopt the Children's Health and Treatment Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Bloomfield, Campbell, Cook, Gloor, Howard, Krist, Lambert
Nay:
Absent:
Present Not Voting:

Proponents:
Senator Tanya Cook
James Goddard
Amy Richardson
Patrick Connell
Judy Domina
Lee Searcey
Connie Kroksh
Judith Bothern
Kelly Brey Love
Mary Fraser Meints
Caitlin Pardue
Tom McBride
Jonah Deppe
Roger Meyer

Representing:
District #13
Nebraska Appleseed
NABHO, CAFCON, Lutheran Family Services
Boys Town National Research Hospital
Nebraska Family Support Network
Self
Self
Self
Self
Uta Halee Girls Village
Voices for Children in Nebraska
Epworth Village and CAFCON
NAMI Nebraska
Self

Opponents:
Vivianne Chaumont

Representing:
DHHS, Division of Medicaid and Long-term Care

Neutral:

Representing:

Summary of purpose and/or changes:

LB 1063 provides for the Children's Health and Treatment Act. The purposes of the Children's Health and Treatment Act are to: (1) Clarify the meaning of the term medically necessary for purposes of the medical assistance program for children under twenty-one years of age and to ensure children obtain needed services; (2) Prohibit certain diagnosis-based exclusions; and (3) Preserve family units by ensuring that children eligible for the medical assistance program receive necessary health care services and treatment.

Medically necessary means necessary to correct or ameliorate defects or physical or mental illnesses or conditions.

The bill requires the department to provide early and periodic screening, diagnostic, and treatment services to all

children under twenty-one years of age who are eligible for coverage under the medical assistance program. LB 1063 requires the department to provide or arrange for the provision of necessary health care diagnostic and treatment screening and other measures to correct or ameliorate defects or physical or mental illnesses or conditions discovered by the screening process regardless of whether such health care diagnostic and treatment screening and other measures described are covered services under the Medicaid state plan. All such services and other measures shall be provided or authorized when they are determined to be medically necessary. In making a medical necessity determination: (a) There shall be a presumption in favor of the medical judgment of the treating physician or treating health care provider; and (b) Medical necessity shall be determined on an individualized, case-by-case basis for each child.

The Children's Health and Treatment Act does not restrict the authority of the department to limit coverage of treatments or services that are unsafe, experimental, or not generally accepted as treatment within the medical community.

Finally, LB 1063 provides that the department may not arbitrarily deny or reduce the amount, duration, or scope of a required service to an otherwise eligible recipient solely because of the diagnosis, type of illness, or condition or for a recipient under twenty-one years of age, based solely on the recipient's age.

Explanation of amendments:

The Committee Amendment becomes the bill.

The Committee Amendment provides for the Children's Health and Treatment Act.

The purposes of the Children's Health and Treatment Act are to:

- (1) Clarify the meaning of the term medically necessary for purposes of the medical assistance program for children under nineteen years of age and to ensure children obtain needed services;
- (2) Prohibit certain diagnosis-based exclusions; and
- (3) Preserve family units by ensuring that children eligible for the medical assistance program receive necessary health care services and treatment.

Medically necessary means necessary to correct or ameliorate defects or physical or mental illnesses or conditions.

The amendment requires the department to provide early and periodic screening, diagnostic, and treatment services to all children under nineteen years of age who are eligible for coverage under the medical assistance program.

The amendment requires, for children under nineteen years of age, the department to provide, or arrange for, the provision of necessary health care diagnostic and treatment screening and other measures as described in 42 U.S.C. 1396d(a) that existed on January 1, 2012 to correct or ameliorate defects or physical or mental illnesses or conditions discovered by the screening process regardless of whether such health care diagnostic and treatment screening and other measures described are covered services under the Medicaid state plan. All such services and other measures shall be provided or authorized when they are determined to be medically necessary. A medical necessity determination shall be determined on an individualized, case-by-case basis for each child.

The Children's Health and Treatment Act does not limit the authority of the department or department contractor to (1) to limit coverage of treatments or services that are unsafe, experimental, or not generally accepted as treatment within the medical community, (2) use utilization controls or prior authorization for services, or (3) perform utilization reviews.

The Committee Amendment provides that the department may not arbitrarily deny or reduce the amount, duration, or scope of a required service to an otherwise eligible recipient solely because of the diagnosis, type of illness, or condition or for a recipient under nineteen years of age, based solely on the recipient's age.

The department shall adopt and promulgate rules and regulations. The Department shall not apply clinical criteria or guidelines or medical necessity criteria that are inconsistent with the act or that have not been adopted and promulgated

pursuant to the Administrative Procedure Act.

The act shall be interpreted to be consistent with federal guidelines as existed on January 1, 2012 and shall be reasonably and broadly be construed in favor of providing treatment and services rather than excluding or denying treatment or services.

Kathy Campbell, Chairperson