

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 541**

Introduced by Health and Human Services Committee: Campbell, 25,  
Chairperson; Bloomfield, 17; Cook, 13; Gloor, 35;  
Howard, 9; Krist, 10; Wallman, 30.

Read first time January 18, 2011

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Medical Assistance Act; to amend section  
2 68-901, Revised Statutes Cumulative Supplement, 2010; to  
3 provide for contracts with third parties to promote the  
4 integrity of the medical assistance program and assist  
5 cost-containment efforts; to harmonize provisions; to  
6 repeal the original section; and to declare an emergency.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 68-901, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3           68-901 Sections 68-901 to 68-969 and sections 2 and 3 of  
4 this act shall be known and may be cited as the Medical Assistance  
5 Act.

6           Sec. 2. The Legislature finds that the medical assistance  
7 program would benefit from increased efforts to (1) prevent improper  
8 payments to service providers, including, but not limited to,  
9 enforcement of eligibility criteria for recipients of benefits,  
10 enforcement of enrollment criteria for providers of benefits,  
11 determination of third-party liability for benefits, review of claims  
12 for benefits prior to payment, and identification of the extent and  
13 cause of improper payment, (2) identify and recoup improper payments,  
14 including, but not limited to, identification and investigation of  
15 questionable payments for benefits, administrative recoupment of  
16 payments for benefits, and referral of cases of fraud to the state  
17 medicaid fraud control unit for prosecution, and (3) collect  
18 postpayment reimbursement, including, but not limited to, maximizing  
19 prescribed drug rebates and maximizing recoveries from estates for  
20 paid benefits.

21           Sec. 3. (1) The department shall contract with one or  
22 more recovery audit contractors to promote the integrity of the  
23 medical assistance program and to assist with cost-containment  
24 efforts and recovery audits. The contract or contracts shall include  
25 services for (a) cost-avoidance through identification of third-party

1 liability, (b) cost recovery of third-party liability through  
2 postpayment reimbursement, (c) casualty recovery of payments by  
3 identifying and recovering costs for claims that were the result of  
4 an accident or neglect and payable by a casualty insurer, and (d)  
5 reviews of claims submitted by providers of services or other  
6 individuals furnishing items and services for which payment has been  
7 made to determine whether providers have been underpaid or overpaid  
8 and take actions to recover any overpayments identified.

9 (2) The department shall contract with one or more  
10 persons to support a health insurance premium assistance payment  
11 program.

12 (3) The department may enter into any other contracts  
13 deemed to increase the efforts to promote the integrity of the  
14 medical assistance program.

15 (4) Contracts entered into under the authority of this  
16 section may be on a contingent fee basis and are exempt from section  
17 73-203. Contracts entered into on a contingent fee basis shall  
18 provide that contingent fee payments are based upon amounts  
19 recovered, not amounts identified, and that contingent fee payments  
20 are not to be paid on amounts subsequently repaid due to  
21 determinations made in appeal proceedings. Contracts shall be in  
22 compliance with federal law and regulations when pertinent. It is the  
23 intent of the Legislature that the initial contracts shall be entered  
24 into on or before July 1, 2011.

25 (5) The department shall by December 1, 2011, report to

1 the Legislature the status of the contracts, including the parties,  
2 the programs and issues addressed, the estimated cost recovery, and  
3 the savings accrued as a result of the contracts.

4 (6) For purposes of this section:

5 (a) Person means bodies politic and corporate, societies,  
6 communities, the public generally, individuals, partnerships, limited  
7 liability companies, joint-stock companies, and associations; and

8 (b) Recovery audit contractor means private entities with  
9 which the department contracts to audit claims for medical  
10 assistance, identify underpayments and overpayments, and recoup  
11 overpayments.

12 Sec. 4. Original section 68-901, Revised Statutes  
13 Cumulative Supplement, 2010, is repealed.

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