

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 556

Final Reading

Introduced by McGill, 26; Ashford, 20; Dubas, 34.

Read first time January 23, 2013

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to children's health care; to amend sections
2 68-911 and 71-8506, Reissue Revised Statutes of Nebraska;
3 to provide for telehealth services for children's
4 behavioral health; to state intent for behavioral health
5 screenings; to provide for education and training on
6 children's behavioral health; to create a pilot program;
7 to change provisions relating to medical assistance
8 coverage and telehealth transmission requirements; and to
9 repeal the original sections.

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

1 Section 1. (1) The Department of Health and Human
2 Services shall adopt and promulgate rules and regulations providing
3 for telehealth services for children's behavioral health. Such rules
4 and regulations relate specifically to children's behavioral health
5 and are in addition to the Nebraska Telehealth Act.

6 For purposes of sections 1 to 4 of this act, child means
7 a person under nineteen years of age.

8 (2) The rules and regulations required pursuant to
9 subsection (1) of this section shall include, but not be limited to:

10 (a) An appropriately trained staff member or employee
11 familiar with the child's treatment plan or familiar with the child
12 shall be immediately available in person to the child receiving a
13 telehealth behavioral health service in order to attend to any urgent
14 situation or emergency that may occur during provision of such
15 service. This requirement may be waived by the child's parent or
16 legal guardian;

17 (b) In cases in which there is a threat that the child
18 may harm himself or herself or others, before an initial telehealth
19 service the health care practitioner shall work with the child and
20 his or her parent or guardian to develop a safety plan. Such plan
21 shall document actions the child, the health care practitioner, and
22 the parent or guardian will take in the event of an emergency or
23 urgent situation occurring during or after the telehealth session.
24 Such plan may include having a staff member or employee familiar with
25 the child's treatment plan immediately available in person to the

1 child, if such measures are deemed necessary by the team developing
2 the safety plan; and

3 (c) Services provided by means of telecommunications
4 technology, other than telehealth behavioral health services received
5 by a child, are not covered if the child has access to a comparable
6 service within thirty miles of his or her place of residence.

7 Sec. 2. It is the intent of the Legislature that
8 behavioral health screenings be offered by physicians at the time of
9 childhood physicals. The physician shall explain that such screening
10 is optional. The results of behavioral health screenings and any
11 related documents shall not be included in the child's school record
12 and shall not be provided to the child's school or to any other
13 person or entity without the express consent of the child's parent or
14 legal guardian.

15 Sec. 3. The Behavioral Health Education Center created
16 pursuant to section 71-830 shall provide education and training for
17 educators on children's behavioral health in the areas of the state
18 served by the Behavioral Health Screening and Referral Pilot Program
19 created pursuant to section 4 of this act.

20 Sec. 4. (1) The University of Nebraska Medical Center
21 shall create the Behavioral Health Screening and Referral Pilot
22 Program. The pilot program shall utilize a strategy of screening and
23 behavioral health intervention in coordination with the regional
24 behavioral health authorities established pursuant to section 71-808
25 in which the clinics identified under subsection (2) of this section

1 are located. It is the intent of the Legislature that the pilot
2 program demonstrate a method of addressing the unmet emotional or
3 behavioral health needs of children that can be replicated statewide.

4 Under the pilot program, behavioral health screening will be offered:

5 (a) In primary care providers' offices during examinations under the
6 early and periodic screening, diagnosis, and treatment services
7 program pursuant to 42 U.S.C. 1396d(r), as such section existed on
8 January 1, 2013; or (b) upon request from parents or legal guardians
9 who have concerns about a child's behavioral health.

10 (2) Three clinics shall be selected to serve as sites for
11 the pilot program, including at least one rural and one urban clinic.
12 Selected clinics shall have child psychologists integrated in the
13 pediatric practice of the clinics. Parents or legal guardians of
14 children participating in the pilot program shall be offered routine
15 mental and behavioral health screening for their child during
16 required physical examinations or at the request of a parent or legal
17 guardian. Behavioral health screening shall be administered by clinic
18 staff and interpreted by the psychiatrist, psychiatric nurse
19 practitioner, psychologist, or licensed mental health practitioner
20 and the child's primary care physician.

21 (3) Children identified through such screenings as being
22 at risk may be referred for further evaluation and diagnosis as
23 indicated. If intervention is required, the primary care medical
24 team, including the psychologist and the primary care physician,
25 shall develop a treatment plan collaboratively with the parent or

1 legal guardian and any other individuals identified by the parent or
2 legal guardian. If appropriate, the child shall receive behavioral
3 therapy, medication, or combination therapy within the primary care
4 practice setting.

5 (4) Consultation via telephone or telehealth with faculty
6 and staff of the departments of Child and Adolescent Psychiatry,
7 Psychiatric Nursing, and Developmental Pediatrics, and the Munroe-
8 Meyer Institute Psychology Department, of the University of Nebraska
9 Medical Center shall be available to the primary care practice and
10 the children as needed to manage the care of children with mental or
11 behavioral health issues that require more specialized care than can
12 be provided by the primary care practice.

13 (5) Data on the pilot program shall be collected and
14 evaluated by the Interdisciplinary Center for Program Evaluation at
15 the Munroe-Meyer Institute of the University of Nebraska Medical
16 Center. Evaluation of the pilot program shall include, but not be
17 limited to:

18 (a) The number of referrals for behavioral health
19 screening under the pilot program;

20 (b) Whether each referral is initiated by a parent, a
21 school, or a physician;

22 (c) The number of children and adolescents recommended
23 for further psychological assessment after screening for a possible
24 behavioral health disorder;

25 (d) The number and type of further psychological

1 assessments of children and adolescents recommended and conducted;

2 (e) The number and type of behavioral health disorders in
3 children and adolescents diagnosed as a result of a further
4 psychological assessment following a behavioral health screening
5 under the pilot program;

6 (f) The number and types of referrals of children and
7 adolescents for behavioral health treatment from primary care medical
8 practitioners;

9 (g) The number of children and adolescents successfully
10 treated for a behavioral health disorder based upon patient reports,
11 parent ratings, and academic records;

12 (h) The number and type of referrals of children and
13 adolescents to psychiatric backup services at the University of
14 Nebraska Medical Center;

15 (i) The number of children and adolescents diagnosed with
16 a behavioral health disorder who are successfully managed or treated
17 through psychiatric backup services from the University of Nebraska
18 Medical Center;

19 (j) The number and types of medications, consultations,
20 or prescriptions ordered by psychiatric nurse practitioners for
21 children and adolescents;

22 (k) The number of referrals of children and adolescents
23 for severe behavioral health disorders and consultations to child
24 psychiatrists, developmental pediatricians, or psychologists
25 specializing in treatment of adolescents;

1 (l) The number of children and adolescents referred to
2 psychiatric hospitals or emergency departments of acute care
3 hospitals for treatment for dangerous or suicidal behavior;

4 (m) The number of children and adolescents prescribed
5 psychotropic medications and the types of such psychotropic
6 medications; and

7 (n) Data collection on program costs and financial impact
8 as related to capacity for replication in other primary care
9 practices. Primary program costs include physician and psychologist
10 time for conducting screenings, family interviews, further testing,
11 and specialist consulting costs relating to consulting services by
12 psychiatric nurses, developmental pediatricians, and psychologists.
13 Treatment or medications paid by private insurance, the medical
14 assistance program, or the State Children's Health Insurance Program
15 shall not be included in program costs pursuant to this subdivision.

16 (6) This section terminates two years after the effective
17 date of this act.

18 Sec. 5. Section 68-911, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 68-911 (1) Medical assistance shall include coverage for
21 health care and related services as required under Title XIX of the
22 federal Social Security Act, including, but not limited to:

23 (a) Inpatient and outpatient hospital services;

24 (b) Laboratory and X-ray services;

25 (c) Nursing facility services;

1 (d) Home health services;
2 (e) Nursing services;
3 (f) Clinic services;
4 (g) Physician services;
5 (h) Medical and surgical services of a dentist;
6 (i) Nurse practitioner services;
7 (j) Nurse midwife services;
8 (k) Pregnancy-related services;
9 (l) Medical supplies; ~~and~~
10 (m) Mental health and substance abuse services; and
11 ~~(n)~~ Early and periodic screening and diagnosis and
12 treatment services for children which shall include both physical and
13 behavioral health screening, diagnosis, and treatment services.

14 (2) In addition to coverage otherwise required under this
15 section, medical assistance may include coverage for health care and
16 related services as permitted but not required under Title XIX of the
17 federal Social Security Act, including, but not limited to:

18 (a) Prescribed drugs;
19 (b) Intermediate care facilities for the mentally
20 retarded;
21 (c) Home and community-based services for aged persons
22 and persons with disabilities;
23 (d) Dental services;
24 (e) Rehabilitation services;
25 (f) Personal care services;

- 1 (g) Durable medical equipment;
- 2 (h) Medical transportation services;
- 3 (i) Vision-related services;
- 4 (j) Speech therapy services;
- 5 (k) Physical therapy services;
- 6 (l) Chiropractic services;
- 7 (m) Occupational therapy services;
- 8 (n) Optometric services;
- 9 (o) Podiatric services;
- 10 (p) Hospice services;
- 11 (q) Mental health and substance abuse services;
- 12 (r) Hearing screening services for newborn and infant
- 13 children; and
- 14 (s) Administrative expenses related to administrative
- 15 activities, including outreach services, provided by school districts
- 16 and educational service units to students who are eligible or
- 17 potentially eligible for medical assistance.
- 18 (3) No later than July 1, 2009, the department shall
- 19 submit a state plan amendment or waiver to the federal Centers for
- 20 Medicare and Medicaid Services to provide coverage under the medical
- 21 assistance program for community-based secure residential and
- 22 subacute behavioral health services for all eligible recipients,
- 23 without regard to whether the recipient has been ordered by a mental
- 24 health board under the Nebraska Mental Health Commitment Act to
- 25 receive such services.

1 Sec. 6. Section 71-8506, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-8506 (1) ~~On or after July 1, 2000, in person~~ In-person
4 contact between a health care practitioner and a patient shall not be
5 required under the medical assistance program established pursuant to
6 the Medical Assistance Act and Title XXI of the federal Social
7 Security Act, as amended, for health care services delivered through
8 telehealth that are otherwise eligible for reimbursement under such
9 program and federal act. Such services shall be subject to
10 reimbursement policies developed pursuant to such program and federal
11 act. This section also applies to managed care plans which contract
12 with the department pursuant to the Medical Assistance Act only to
13 the extent that:

14 (a) Health care services delivered through telehealth are
15 covered by and reimbursed under the medicaid fee-for-service program;
16 and

17 (b) Managed care contracts with managed care plans are
18 amended to add coverage of health care services delivered through
19 telehealth and any appropriate capitation rate adjustments are
20 incorporated.

21 (2) The reimbursement rate for a telehealth consultation
22 shall, as a minimum, be set at the same rate as the medical
23 assistance program rate for a comparable in-person consultation.

24 (3) The department shall establish rates for transmission
25 cost reimbursement for telehealth consultations, considering, to the

1 extent applicable, reductions in travel costs by health care
2 practitioners and patients to deliver or to access health care
3 services and such other factors as the department deems relevant.
4 Such rates shall include reimbursement for all two-way, real-time,
5 interactive communications, unless provided by an Internet service
6 provider, between the patient and the physician or health care
7 practitioner at the distant site which comply with the federal Health
8 Insurance Portability and Accountability Act of 1996 and rules and
9 regulations adopted thereunder and with regulations relating to
10 encryption adopted by the federal Centers for Medicare and Medicaid
11 Services and which satisfy federal requirements relating to
12 efficiency, economy, and quality of care.

13 Sec. 7. Original sections 68-911 and 71-8506, Reissue
14 Revised Statutes of Nebraska, are repealed.