

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 21**

Introduced by Krist, 10.

Read first time January 08, 2015

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to behavioral health services; to amend  
2 sections 71-801, 71-806, and 71-831, Revised Statutes Cumulative  
3 Supplement, 2014; to provide requirements for rate increases for  
4 providers; to harmonize provisions; to repeal the original sections;  
5 and to declare an emergency.  
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 71-801, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 71-801 Sections 71-801 to 71-831 and section 2 of this act shall be  
4 known and may be cited as the Nebraska Behavioral Health Services Act.

5 Sec. 2. (1) All rate increases for providers of behavioral health  
6 services under the medical assistance program shall be passed on in their  
7 entirety to such providers by any contractor governing at-risk managed  
8 care service delivery for behavioral health services.

9 (2) All rate increases described in subsection (1) of this section  
10 shall go into effect on the first day of the next fiscal year following  
11 enactment of such rate increases.

12 (3) Behavioral health services providers providing behavioral health  
13 services to recipients under the medical assistance program shall be  
14 informed of any rate changes no later than the start of the next fiscal  
15 year immediately following such changes. Any rate adjustments made by any  
16 contractor governing at-risk managed care service delivery for behavioral  
17 health services shall be reported to the Division of Medicaid and Long-  
18 Term Care of the department, to the Division of Behavioral Health of the  
19 department, and to the Appropriations Committee of the Legislature,  
20 showing (a) how rate increase funds were distributed by billing code and  
21 (b) that such funds were used solely for the rate increase.

22 Sec. 3. Section 71-806, Revised Statutes Cumulative Supplement,  
23 2014, is amended to read:

24 71-806 (1) The division shall act as the chief behavioral health  
25 authority for the State of Nebraska and shall direct the administration  
26 and coordination of the public behavioral health system, including, but  
27 not limited to: (a) Administration and management of the division,  
28 regional centers, and any other facilities and programs operated by the  
29 division; (b) integration and coordination of the public behavioral  
30 health system; (c) comprehensive statewide planning for the provision of  
31 an appropriate array of community-based behavioral health services and

1 continuum of care; (d) coordination and oversight of regional behavioral  
2 health authorities, including approval of regional budgets and audits of  
3 regional behavioral health authorities; (e) development and management of  
4 data and information systems; (f) subject to section 2 of this act,  
5 prioritization and approval of all expenditures of funds received and  
6 administered by the division, including: The establishment of rates to be  
7 paid; reimbursement methodologies for behavioral health services;  
8 methodologies to be used by regional behavioral health authorities in  
9 determining a consumer's financial eligibility as provided in subsection  
10 (2) of section 71-809; and fees and copays to be paid by consumers of  
11 such services; (g) cooperation with the department in the licensure and  
12 regulation of behavioral health professionals, programs, and facilities;  
13 (h) cooperation with the department in the provision of behavioral health  
14 services under the medical assistance program; (i) audits of behavioral  
15 health programs and services; and (j) promotion of activities in research  
16 and education to improve the quality of behavioral health services,  
17 recruitment and retention of behavioral health professionals, and access  
18 to behavioral health programs and services.

19 (2) The department shall adopt and promulgate rules and regulations  
20 to carry out the Nebraska Behavioral Health Services Act.

21 Sec. 4. Section 71-831, Revised Statutes Cumulative Supplement,  
22 2014, is amended to read:

23 71-831 All contracts and agreements relating to the medical  
24 assistance program governing at-risk managed care service delivery for  
25 behavioral health services entered into by the department on or after  
26 July 1, 2012, shall:

27 (1) Provide a definition and cap on administrative spending that (a)  
28 shall not exceed seven percent unless the implementing department  
29 includes detailed requirements for tracking administrative spending to  
30 ensure (i) that administrative expenditures do not include additional  
31 profit and (ii) that any administrative spending is necessary to improve

1 the health status of the population to be served and (b) shall not under  
2 any circumstances exceed ten percent;

3 (2) Provide a definition of annual contractor profits and losses and  
4 restrict such profits and losses under the contract so that (a) profit  
5 shall not exceed three percent per year and (b) losses shall not exceed  
6 three percent per year, as a percentage of the aggregate of all income  
7 and revenue earned by the contractor and related parties, including  
8 parent and subsidy companies and risk-bearing partners, under the  
9 contract;

10 (3) Provide for reinvestment of (a) any profits in excess of the  
11 contracted amount, (b) performance contingencies imposed by the  
12 department, and (c) any unearned incentive funds, to fund additional  
13 behavioral health services for children, families, and adults according  
14 to a plan developed with input from stakeholders, including consumers and  
15 their family members, the office of consumer affairs within the division,  
16 and the regional behavioral health authority and approved by the  
17 department. Such plan shall address the behavioral health needs of adults  
18 and children, including filling service gaps and providing system  
19 improvements;

20 (4) Provide for a minimum medical loss ratio of eighty-five percent  
21 of the aggregate of all income and revenue earned by the contractor and  
22 related parties under the contract;

23 (5) Provide that contractor incentives, in addition to potential  
24 profit, be at least one and one-half percent of the aggregate of all  
25 income and revenue earned by the contractor and related parties under the  
26 contract;

27 (6) Provide that a minimum of one-quarter percent of the aggregate  
28 of all income and revenue earned by the contractor and related parties  
29 under the contract be at risk as a penalty if the contractor fails to  
30 meet the minimum performance metrics defined in the contract, and such  
31 penalties, if charged, shall be accounted for in a manner that shall not

1 reduce or diminish service delivery in any way;~~and~~

2 (7) Comply with the requirements of section 2 of this act; and

3 (8 7) Be reviewed and awarded competitively and in full compliance  
4 with the procurement requirements of the State of Nebraska.

5 Sec. 5. Original sections 71-801, 71-806, and 71-831, Revised  
6 Statutes Cumulative Supplement, 2014, are repealed.

7 Sec. 6. Since an emergency exists, this act takes effect when  
8 passed and approved according to law.