

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 968**

Introduced by Wayne, 13.

Read first time January 10, 2018

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to persons with disabilities; to amend section  
2 68-915, Revised Statutes Cumulative Supplement, 2016; to adopt the  
3 Disability Employment and Engagement Program Act; to change  
4 provisions relating to eligibility for the medical assistance  
5 program; to harmonize provisions; and to repeal the original  
6 section.

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

1           Section 1. Sections 1 to 5 of this act shall be known and may be  
2 cited as the Disability Employment and Engagement Program Act.

3           Sec. 2. For purposes of the Disability Employment and Engagement  
4 Program Act:

5           (1) Department means the Department of Health and Human Services;

6           (2) Employed individual with a medically improved condition means a  
7 person who (a) is at least sixteen but less than sixty-five years of age,  
8 (b) ceases to be eligible for medical assistance under the medical  
9 assistance program established pursuant to section 68-903 because the  
10 individual, by reason of medical improvement, is determined at the time  
11 of a regularly scheduled continuing disability review to no longer be  
12 eligible for benefits, (c) continues to have a medically determinable  
13 impairment, and (d)(i) is earning at least the applicable minimum wage  
14 and working at least forty hours per month or (ii) is engaged in work for  
15 wages or other measures; and

16           (3) Person with a disability who is employed means a person who is  
17 at least sixteen years of age but less than sixty-five years of age and  
18 who (a) is disabled under Title II or Title XVI of the federal Social  
19 Security Act, as such act existed on January 1, 2018, or (b) has been  
20 determined to be disabled by the department.

21           Sec. 3. (1) Medical assistance pursuant to the medical assistance  
22 program established in section 68-903 shall continue to be paid on behalf  
23 of a person with a disability who is employed, including an employed  
24 individual with a medically improved condition, whose family income is  
25 less than four hundred fifty percent of the Office of Management and  
26 Budget income poverty guideline for the size of family involved.  
27 Allowable assets for participation in the program shall be (a) twenty  
28 thousand dollars for a family of one, (b) thirty thousand dollars for a  
29 family of two, and (c) forty thousand dollars for a family of three or  
30 more.

31           (2) Such recipients of medical assistance whose family income is one

1 hundred and fifty percent or more of the income poverty guideline may be  
2 required to pay a premium in an amount established by the department in  
3 rules and regulations using a sliding-fee or tiered-fee approach, but the  
4 premium shall not exceed seven percent of the recipient family's unearned  
5 income plus three percent of the recipient family's earned income.

6       Sec. 4. In order to increase the utilization and effectiveness of  
7 the benefits under section 3 of this act, the department shall:

8           (1) Provide education and training to all department staff;

9           (2) Conduct outreach and education about the availability of such  
10 benefits, focused on the eligible populations;

11           (3) Submit an annual report to the Governor and electronically to  
12 the Legislature which shall contain the following information: (a) The  
13 number of individuals receiving benefits under such section; (b)  
14 demographic information about the recipients, including age, gender,  
15 disability type, ethnicity, education level, county of residence, Title  
16 II eligibility, earned income, and amount of premium payment; (c)  
17 internal and external educational activities about the availability and  
18 purpose of such benefits; (d) outreach activities to increase the  
19 utilization of benefits available under such section; and (e) the costs  
20 and benefits of the benefits provided pursuant to such section; and

21           (4) Establish a Disability Employment and Engagement Program  
22 Advisory Committee to advise the department regarding implementation of  
23 the Disability Employment and Engagement Program Act. The advisory  
24 committee shall consist of the (a) chief executive officer of the  
25 department or his or her designee, (b) the director of the Division of  
26 Rehabilitation Services of the State Department of Education, (c) one  
27 member of the Health and Human Services Committee of the Legislature,  
28 appointed by the chairperson of such committee, (d) one representative of  
29 the Governor's Policy Research Office, selected by the Governor, (e) one  
30 representative of the Legislative Fiscal Analyst, selected by the  
31 Legislative Fiscal Analyst, (f) one representative from the entity

1 providing benefits planning, assistance, and outreach pursuant to a grant  
2 under 42 U.S.C. 1320b-20, as such section existed on January 1, 2018, (g)  
3 one representative from the federal Protection and Advocacy for  
4 Individuals with Developmental Disabilities program created by the  
5 federal Developmental Disabilities Assistance and Bill of Rights Act, 42  
6 U.S.C. 15001 et seq., as such act existed on January 1, 2018, (h) one  
7 representative from the Division of Developmental Disabilities of the  
8 Department of Health and Human Services who is responsible for disability  
9 determinations, and (i) at least an equal number of persons with  
10 disabilities who are employed and employed individuals with medically  
11 improved conditions.

12       Sec. 5. The department shall adopt and promulgate rules and  
13 regulations to carry out the Disability Employment and Engagement Program  
14 Act.

15       Sec. 6. Section 68-915, Revised Statutes Cumulative Supplement,  
16 2016, is amended to read:

17       68-915 The following persons shall be eligible for medical  
18 assistance:

19       (1) Dependent children as defined in section 43-504;

20       (2) Aged, blind, and disabled persons as defined in sections 68-1002  
21 to 68-1005;

22       (3) Children under nineteen years of age who are eligible under  
23 section 1905(a)(i) of the federal Social Security Act;

24       (4) Persons who are presumptively eligible as allowed under sections  
25 1920 and 1920B of the federal Social Security Act;

26       (5) Children under nineteen years of age with a family income equal  
27 to or less than two hundred percent of the Office of Management and  
28 Budget income poverty guideline, as allowed under Title XIX and Title XXI  
29 of the federal Social Security Act, without regard to resources, and  
30 pregnant women with a family income equal to or less than one hundred  
31 eighty-five percent of the Office of Management and Budget income poverty

1 guideline, as allowed under Title XIX and Title XXI of the federal Social  
2 Security Act, without regard to resources. Children described in this  
3 subdivision and subdivision (6) of this section shall remain eligible for  
4 six consecutive months from the date of initial eligibility prior to  
5 redetermination of eligibility. The department may review eligibility  
6 monthly thereafter pursuant to rules and regulations adopted and  
7 promulgated by the department. The department may determine upon such  
8 review that a child is ineligible for medical assistance if such child no  
9 longer meets eligibility standards established by the department;

10 (6) For purposes of Title XIX of the federal Social Security Act as  
11 provided in subdivision (5) of this section, children with a family  
12 income as follows:

13 (a) Equal to or less than one hundred fifty percent of the Office of  
14 Management and Budget income poverty guideline with eligible children one  
15 year of age or younger;

16 (b) Equal to or less than one hundred thirty-three percent of the  
17 Office of Management and Budget income poverty guideline with eligible  
18 children over one year of age and under six years of age; or

19 (c) Equal to or less than one hundred percent of the Office of  
20 Management and Budget income poverty guideline with eligible children six  
21 years of age or older and less than nineteen years of age;

22 (7) Persons who are medically needy caretaker relatives as allowed  
23 under 42 U.S.C. 1396d(a)(ii);

24 (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), disabled persons  
25 as defined in section 68-1005 with a family income of less than two  
26 hundred fifty percent of the Office of Management and Budget income  
27 poverty guideline and who, but for earnings in excess of the limit  
28 established under 42 U.S.C. 1396d(q)(2)(B), would be considered to be  
29 receiving federal Supplemental Security Income. ~~The department shall~~  
30 ~~apply for a waiver to disregard any unearned income that is contingent~~  
31 ~~upon a trial work period in applying the Supplemental Security Income~~

1 ~~standard. Such disabled persons shall be subject to payment of premiums~~  
2 ~~as a percentage of family income beginning at not less than two hundred~~  
3 ~~percent of the Office of Management and Budget income poverty guideline.~~  
4 ~~Such premiums shall be graduated based on family income and shall not be~~  
5 ~~less than two percent or more than ten percent of family income;~~

6 (9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), persons who:

7 (a) Have been screened for breast and cervical cancer under the  
8 Centers for Disease Control and Prevention breast and cervical cancer  
9 early detection program established under Title XV of the federal Public  
10 Health Service Act, 42 U.S.C. 300k et seq., in accordance with the  
11 requirements of section 1504 of such act, 42 U.S.C. 300n, and who need  
12 treatment for breast or cervical cancer, including precancerous and  
13 cancerous conditions of the breast or cervix;

14 (b) Are not otherwise covered under creditable coverage as defined  
15 in section 2701(c) of the federal Public Health Service Act, 42 U.S.C.  
16 300gg(c);

17 (c) Have not attained sixty-five years of age; and

18 (d) Are not eligible for medical assistance under any mandatory  
19 categorically needy eligibility group; and

20 (10) Persons eligible for services described in subsection (3) of  
21 section 68-972.

22 Except as provided in section 68-972, eligibility shall be  
23 determined under this section using an income budgetary methodology that  
24 determines children's eligibility at no greater than two hundred percent  
25 of the Office of Management and Budget income poverty guideline and adult  
26 eligibility using adult income standards no greater than the applicable  
27 categorical eligibility standards established pursuant to state or  
28 federal law. The department shall determine eligibility under this  
29 section pursuant to such income budgetary methodology and subdivision (1)  
30 (q) of section 68-1713.

31 Sec. 7. Original section 68-915, Revised Statutes Cumulative

1 Supplement, 2016, is repealed.