

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB956

Hearing Date: Wednesday January 29, 2020
Committee On: Health and Human Services
Introducer: Walz
One Liner: Provide duties for managed care organizations under the Medical Assistance Act

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

Vote Results:

Aye: 7 Senators Arch, Cavanaugh, Hansen, B., Howard, Murman, Walz, Williams
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:

Senator Lynne Walz
Grace Knott
Jessica Thoene
Mary Walsh-Sterup
Bridget Aschoff
Brittany Schuster
Melissa Kimmerling
Edison McDonald

Representing:

Introducer
Nebraska Physical Therapy Association
Nebraska Speech Language Hearing Association
Nebraska Occupational Therapy Association
Self
Self
Self
The Arc of Nebraska

Opponents:

James Watson

Representing:

Nebraska Association of Medicaid Health Plans

Neutral:

Representing:

Summary of purpose and/or changes:

LB956 would amend the Medical Assistance Act to define a material change, define provider, establish procedures for changing an existing provider agreement, require managed care organizations to give 90 days' notice to providers of a material change, require the notice to contain certain language, and clarify where the notice shall be sent. A material change to a provider agreement is any change not clearly identified in the agreement that decreases provider payment or compensation, or increases administrative expense, including altering an existing prior authorization, precertification, notification, or referral program. (Green Copy, Section 2, p. 2-3).

For any material change, LB956 would require the change to take effect on the date provided in the notice, allow for a written protest within 30 days, allow for a negotiation period on the change, allow for an unwinding of the relationship between the provider and managed care organization if negotiations fail, and require the notice to be sent in an orange envelope with specific language (Green Copy, Section 2, pp. 3-4).

Explanation of amendments:

AM 2827 includes the amended provisions of LB 956, LB 955, and LB 1105.

The amended provisions of LB 956 may be found in Sections 1 and 2 of AM 2827, pages 1-2.

AM 2827 amends the green copy of LB 956 by changing the notification of a material change requirement from the proposed ninety days to sixty days. It also removes the proposed "referral program" from inclusion as a material change. The proposed provision relating to the orange envelope would be removed and replaced with an envelope conspicuously marked "contract change." The proposed provisions relating to a negotiation period and an unwinding of the relationship would also be removed. (AM 2827, Section 2, page 2).

AM 2827 would add language stating that notice of a material change may also include real-time communications such as email or teleconferencing, if requested by the provider. If there are three material changes in a twelve-month period, a provider may ask for a copy of the provider contract with changes consolidated in a single document. This document would be for informational purposes only, would have no effect on the terms and conditions of the contract, and would not be construed as the creation of a new contract. (AM 2827, Section 2, page 2).

LB 955

The amended provisions of LB 955 may be found in Section 3 of AM 2827, pages 2-3.

The Department of Health and Human Services (DHHS) is currently required to mail notice to an applicant or recipient of medical assistance services if those services are to be discontinued, denied, or modified. AM 2827 would amend language stating that, except in the case of an emergency, notice must be sent on the same day or the day after the decision is made which adversely effects the applicant's or recipient's receipt of services. DHHS may contact the applicant or recipient through electronic communication, if agreed upon, in addition to mailing such notice. (AM 2827, Section 3, page 3)

The notice of a decision to discontinue or modify eligibility must include an explanation of the action; the reason for the action; the information used to make the decision; contact information for DHHS personnel; information on the right to appeal; and an explanation of the availability of continued benefits pending appeal. (AM 2827, Section 3, page 3).

Motion to include LB 955, as amended, into the committee amendment AM 2827:

Vote: 7-0-0-0

Voting Aye: Senators Arch, Cavanaugh, B. Hansen, Howard, Murman, Walz, Williams

Voting Nay: None

Absent: None

Present Not Voting: None

Public Hearing (1-29-20) testifiers

Proponents:

Senator Lynne Walz - Introducer

Philip Gray - Self

Edison McDonald - The Arc of Nebraska

Andrea Skolkin - Health Care Association of Nebraska

Sarah Maresh - Nebraska Appleseed

Seamus Kelly - Self

Opponents:

Jeremy Brunssen - Department of Health and Human Services

Neutral: None

The amended provisions of LB 1105 may be found in Sections 4 and 5 of AM 2827, pages 3-10.

LB1105 would amend The Medical Assistance Act statutes related to legislative findings regarding Medicaid and recovery audits of Medicaid (Neb. Rev. Stat. Sections 68-973 and 68-974). It would change terminology from "recovery audit contractors" to "program integrity contractors" (throughout). Program integrity contractors would be able to assist with investigating the occurrence of fraud, waste, and abuse. Each investigation or program integrity audit would need to be reviewed within four years of payment, and conclude an audit within 180 days after receipt of all requested material. When conducting a program integrity audit, investigation, or review, a contractor would have to develop and implement a plan with the department for the following: resubmission of claims denied as a result of interpretation of scope of services not previously held by the department; resubmission of documentation when the document is illegible, incomplete, or unclear; and the resubmission of documentation when clerical errors resulted in denial of claims. It would also add language that the program integrity contractor would utilize a health care professional in the specialty area of practice being audited to establish methodology, using established clinical practice guidelines and established standards of care. It would also insert language to allow program integrity contractors to be retained by either the department or the federal Center for Medicare and Medicaid Services (CMS), as opposed to simply the department. (AM2827, Section 5, pp. 4-6).

LB1105 would also amend language to state that claims processed or paid through a capitated Medicaid managed care program would be excluded from audit, and that there shall be no double or simultaneous audits. It would also disallow extrapolated overpayments, unless evidence of a sustained pattern of error, an excessively high error rate, or provider agreement is provided. A program integrity contractor shall be limited to reviewing 200 records or less for the specific service being reviewed. An extrapolated overpayment is defined as an overpayment amount calculated by looking at denials and reductions based on a statistical sampling of a claims universe. A program integrity audit is defined as an audit conducted by CMS, the department, or both. A program integrity contractor is defined as an entity who contracts with the department or CMS to carry out integrity responsibilities such as recovery, integrity, and unified program integrity audits. (AM2827, Section 5, pp. 7-10).

Motion to include LB 1105, as amended, into the committee amendment AM 2827:

Vote: 7-0-0-0

Voting Aye: Senators Arch, Cavanaugh, B. Hansen, Howard, Murman, Walz, Williams

Absent: None

Present Not Voting: None

Public Hearing (2-19-20) testifiers

Proponents:

Senator Ben Hansen - Introducer

Kim Robak - Nebraska Dental Association; and Nebraska Hospital Association

Marty Killeen - Self

Benjamin Reimer - UNMC Pediatric Dentistry

Jessica Meeske - Nebraska Academy of Pediatric Dentistry

Rick Vest - Lancaster Board of Commissioners

Gwendy Meginnis - Lincoln-Lancaster County Health Department

Opponents:

Jeremy Brunssen - Department of Health and Human Services

Neutral: None

