

Revised based on new information

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2022-23		FY 2023-24	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See Below		See Below	

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

This bill requires the Department of Health and Human Services in compliance with federal law to consider all treatments for end stage renal disease as eligible services under emergency medical services in the Medicaid Program no later than October 1, 2022. The operative date of the act is October 1, 2023.

This bill would allow coverage of outpatient and home dialysis, hemodialysis and directed living donor kidney transplants under emergency medical services which cover undocumented workers in compliance with federal law. Federal statute defines an emergency medical condition as “a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in – (A) placing the patient’s health in serious jeopardy; (B) serious impairment to bodily functions, or (C) serious dysfunction of any bodily organ or part.” States define how emergency services are covered within this federal definition.

Some states do cover dialysis under emergency services. Coverage of those services would comply with federal law, since the Centers for Medicare and Medicaid (CMS) have approved those services. Arizona and Colorado are two such states. Both cover limited end-stage renal services under emergency services; Arizona for outpatient dialysis and Colorado covers inpatient dialysis. This bill covers services beyond those approved in these two states and others. Illinois covers transplants, but from a separate state-only fund. Depending on what the meaning of “considered all treatments” means, CMS may or may not approve the state plan amendment that would be required. If it means the inclusion of all services listed, it would not be approved. If it includes only those services that have been previously approved by CMS, those limited services would be approved.

Other states that provide these services have determined there were savings from diverting irregularly provided dialysis provided in emergency rooms to regular services being provided in clinic settings. Nebraska, however, has a very low use of emergency medical care for undocumented individuals compared to the other states providing end-stage renal treatment as an emergency service. In FY 2021, total expenditures were \$472,549. None of the services were for end-stage renal disease treatment.

The Department of Health and Human Services estimates the cost for all treatments to be \$4.8 million in FY 2023 and \$6.4 million for FY 2023. Because the department is showing no current use of emergency rooms for dialysis, these estimates which are based on national averages seem high. More study is needed to determine the impact.

The DHHS fiscal note assumes all costs are paid from General Funds. The bill only authorizes the services to be covered if in compliance with federal law, so the services would only be provided if approved by CMS.

Technical note: The operative date of the act of October 1, 2023, is later than the directive to consider all treatments for end-stage renal disease.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 862	AM:	AGENCY/POLT. SUB: Nebraska Department of Health and Human Services	
REVIEWED BY: Ann Linneman	DATE: 1-24-2022	PHONE: (402) 471-4180	
COMMENTS: The Nebraska Department of Health and Human Services’ assessment of fiscal impact appears reasonable.			

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) John Meals

Date Prepared 1-21-2022

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	<u>FY 2022-2023</u>		<u>FY 2023-2024</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$4,829,625		\$6,439,500	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$4,829,625	\$0	\$6,439,500	\$0

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

LB862 Requires coverage of dialysis and kidney transplants as prescribed. And, no later than October 1, 2022, the department shall in compliance with federal law as of January 1, 2021, consider all treatments for end stage renal disease, including but not limited to, outpatient and home dialysis, hemodialysis, and directed living donor kidney transplants as eligible treatments under the emergency medical services assistance program.

This bill would expand the emergency medical services assistance program (EMSA) to cover continuous and re-occurring treatment of end stage renal disease to the undocumented residents of Nebraska, effective 10.1.22.

According to the Migration Policy Institute the total unauthorized immigrant population in Nebraska was approximately 42,000. Source: <https://www.migrationpolicy.org/programs/data-hub/charts/unauthorized-immigrant-populations-country-and-region-top-state-and-county>

Kidney.org statistics show that In 2018, 22,393 people received a kidney transplant and 554,038 received dialysis to replace kidney function. Using US Census population estimates for 2018, that represents 0.007% of the population who received a kidney transplant and 0.17% received dialysis.

In 2020, the average cost of a kidney transplant was \$442,500 (source: <https://www.statista.com/statistics/1100710/organ-transplantation-costs-breakdown-us/>) and the average annual cost of dialysis is \$72,000 (source: <https://health.costhelper.com/dialysis.html>).

The estimate is calculated based on the following table:

US Population from 2018 Census	327,167,439
Us population receiving Kidney transplant in 2018	22,393
Percent of US population receiving transplants	0.007%
US Population on dialysis in 2018	554,038
% of population needing a dialysis in 2018	0.17%
Estimated number of undocumented immigrants (UI)	42,000
Percent of US population on dialysis	0.17%
Estimated number of UI needing dialysis	71
Estimated annual cost of dialysis	\$72,000
Total estimated Annual cost for dialysis	\$5,112,000.00

Estimated number of undocumented immigrants (UI)	42,000
Percent of US population receiving transplant	0.007%
Estimated number of UI receiving transplant	3
Estimated annual cost of kidney transplant	\$442,500
Total estimated cost for transplants	\$1,327,500
Total estimated Costs for 2 Transplants and Dialysis/Yr	\$6,439,500

As federal law expressly does not allow via Medicaid in EMSA the coverage of organ transplant procedure, that would have to be covered by state general funds. It is also anticipated that the additional expansion of the dialysis services would not meet the definition of an emergent need and would have to be covered by all state general funds.

Passage of this bill will require the rewriting of 477 NAC 27. The estimated absorbed cost of \$645.

MAJOR OBJECTS OF EXPENDITURE				
PERSONAL SERVICES:				
POSITION TITLE	NUMBER OF POSITIONS		2022-2023	2023-2024
	22-23	23-24	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....			\$4,829,625	\$6,439,500
Capital Improvements.....				
TOTAL.....			\$4,829,625	\$6,439,500