

# NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES



Jim Pillen, Governor

December 1, 2024

The Honorable Jim Pillen  
Governor of Nebraska  
P.O. Box 94848  
Lincoln, NE 68509

Mr. Brandon Metzler  
Clerk of the Legislature  
P.O. Box 94604  
Lincoln, NE 68509

Subject: Medicaid Report of Implementation of Rules and Regulations, State Plan Amendments and Waivers

Dear Governor Pillen and Mr. Metzler:

Pursuant to Neb. Rev. Stat. § 68-909, the Division of Medicaid and Long-Term Care (MLTC) is submitting this report to the Governor and the Legislature. This report summarizes the purpose and content of proposed rules and regulations, state plan amendments, or waivers from November 1, 2023, through November 1, 2024. Information provided includes the projected impact on medical assistance recipients and medical assistance expenditures.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Ahern".

Matthew Ahern  
Interim Director, Division of Medicaid and Long-Term Care

Attachment

# Division of Medicaid and Long-Term Care

## Medicaid Report of Implementation of Rules and Regulations, State Plan Amendments and Waivers

**December 2024**

Neb. Rev. Stat. § 68-909

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# Regulation Report

Detailed information on each regulation can be found on the Division of Developmental Disabilities website at:

<https://dhhs.ne.gov/Pages/DD-Regulations-and-Waivers.aspx>

## Title 403 Medicaid Home and Community-Based Waiver Services for Individuals with Developmental Disabilities

Regulation	Purpose	Content	Projected Impact	Status
<b>403 Chapter 1</b>	General Update	Update Definitions	Updates to incorporate changes to changes that have occurred over time and ensure compliance with state statute, and federal regulations.	Promulgated May 2024
<b>403 Chapter 2</b>	General Update	Update Terminology	Updates to incorporate changes to the terminology of Intermediate Care Facilities for Individuals with Intellectual Disabilities.	Promulgated May 2024
<b>403 Chapter 3</b>	Waiver Service Updates	Removed outdated services and added new services	Updates to incorporate changes to self-directed services and include the new services that have been added over time.	Promulgated May 2024
<b>403 Chapter 4</b>	Waiver Service Updates	Replaced and removed outdated services, service definitions, and limitations	Updates to incorporate changes that have occurred over time and ensure compliance with current CMS-approved HCBS Waivers.	Promulgated May 2024
<b>403 Chapter 5</b>	Waiver Service Updates	Replaced and removed outdated services, service definitions, and limitations	Updates to incorporate changes that have occurred over time and ensure compliance with current CMS-approved HCBS Waivers.	Promulgated May 2024
<b>403 Chapter 6</b>	New Chapter	Family Support Waiver (FSW)	Creation of a standalone FSW chapter to add authority for the Nebraska Department of Health and Human Services to establish, administer, and implement the FSW.	Promulgated May 2024

## Title 404 Medicaid Home and Community-Based Waiver Services for Individuals with Developmental Disabilities

Regulation	Purpose	Content	Projected Impact	Status
<b>404 Chapter 4</b>	General Update	Administration	Updates regarding crimes which give the department discretion to impose discipline against providers who violate Title 471 NAC2.	Promulgated September 2024

Detailed information on each regulation can be found on the Division of Medicaid and Long-Term Care (MLTC) website at: <https://dhhs.ne.gov/Pages/Medicaid-Rules-and-Regulations.aspx>.

## Title 405 ICF/DD Reimbursement Protection Act

Regulation	Purpose	Content	Projected Impact	Status
<b>405 Chapter 2</b>	The proposed changes implement a new discounted quality assurance assessment rate for high volume facilities.	Nursing Facility Quality Assurance Assessment Act	These regulations impact both Medicaid-enrolled providers as well as beneficiaries receiving nursing facility care.	Internal DHHS process underway.

## Title 471 Nebraska Medicaid Program Services

Regulation	Purpose	Content	Projected Impact	Status
<b>471 Chapter 1</b>	The proposed changes remove requirements for telehealth services for physical and behavioral health services and incorporate the relevant portions to a proposed new regulatory chapter.	Administration	These regulations impact the administration of services to Medicaid beneficiaries.	Internal DHHS process underway.

Regulation	Purpose	Content	Projected Impact	Status
<b>471 Chapter 6</b>	The proposed changes update definitions; remove the annual benefit cap for adult beneficiaries; allow for dentists to use greater discretion to extract asymptomatic wisdom teeth; update general, covered, and diagnostic service requirements; modify processes for provider payment for dentures; remove teledentistry requirements; remove unnecessary, redundant, or unclear language; add clarification language; correct typographical and punctuation errors; update formatting; and renumber the regulatory chapter.	Dental Services	These regulations impact dental providers and Medicaid beneficiaries, as they limit who can provide and receive the specific services.	Internal DHHS process underway.
<b>471 Chapter 20</b>	The proposed changes remove duplicative statutory and inconsistent language from the regulations.	Psychiatric Services for Individuals Age 21 and Older	These regulations do not impact the scope of work.	Under internal development.
<b>471 Chapter 27</b>	The proposed changes update current limitations around additional passengers and clarify language to ensure that all beneficiaries have access to these services.	Non-Emergency Medical Transportation Services	These regulations impact Medicaid beneficiaries in need of non-emergency medical transportation services.	Internal DHHS process underway.

Regulation	Purpose	Content	Projected Impact	Status
<b>471 Chapter 32</b>	The proposed changes incorporate the requirements for therapeutic group home services and therapeutic family care services.	Mental Health and Substance Abuse Treatment Services for Children and Adolescents	The proposed changes do not impact the scope of work as the agency already offers these types of services.	Under internal development.
<b>471 Chapter 35</b>	The proposed changes remove duplicative statutory and inconsistent language, restructure the regulatory chapter, update terminology throughout the chapter, correct punctuation, update headings, and performed a compliance review to determine uniformity with State Plan, other NAC chapters, federal law, federal regulations, and best practices.	Rehabilitative Psychiatric Services	The proposed changes do not impact the scope of work as the agency already offers these types of services.	Under internal development.
<b>471 Chapter 47</b>	The proposed adoption specifies the regulations scope and authority; sets out the requirements for service; provider, originating and distant site, documentation, and billing; and incorporates the requirements which allow for audio-only behavioral health services.	Telehealth	These regulations will impact Medicaid providers who wish to provide Medicaid services through telehealth.	Internal DHHS process underway.

## Title 477 Medicaid Eligibility

Regulation	Purpose	Content	Projected Impact	Status
<b>477 Chapter 12</b>	The regulations are being updated to include changes reflected in Section 5112 of the Consolidated Appropriations Act, 2023, which provides 12 continuous coverage months to every child under the age of 19 found eligible for Medicaid or Children’s Health Insurance Program (CHIP) in Nebraska.	Third-Party Resources and Child Support Enforcement	These regulations impact Medicaid eligible children under the age of 19.	Under internal development.
<b>477 Chapter 19</b>	The regulations are being updated to include changes reflected in Section 5112 of the Consolidated Appropriations Act, 2023, which provides 12 continuous coverage months to every child under the age of 19 found eligible for Medicaid or Children’s Health Insurance Program (CHIP) in Nebraska.	Modified Adjusted Gross Income (MAGI)-Based Programs	These regulations impact Medicaid eligible children under the age of 19.	Under internal development.
<b>477 Chapter 25</b>	The proposed changes will align the treatment of certain income deductions for individuals receiving home and community-based and institutional care with how these deductions are treated according to the Medicaid State Plan.	Budgeting for the Medically Needy	The regulations do not impact regulated entities.	Internal DHHS process underway.



## Title 482 Nebraska Medicaid Managed Care

Regulation	Purpose	Content	Projected Impact	Status
<b>482 Chapter 1</b>	The proposed changes align the Medicaid managed care program with the revisions that have taken effect due to the re-procurement of the state's Medicaid managed care contracts.	Introductions and Definitions	These regulations impact Medicaid beneficiaries, entities contracted with the state of Nebraska, and taxpayers more broadly. Because the majority of Medicaid beneficiaries in Nebraska receive their health care benefits through a managed care.	Under internal development.
<b>482 Chapter 2</b>	The proposed changes align the Medicaid managed care program with the revisions that have taken effect due to the re-procurement of the state's Medicaid managed care contracts.	Member Participation and Enrollment	These regulations impact Medicaid beneficiaries, entities contracted with the state of Nebraska, and taxpayers more broadly. Because the majority of Medicaid beneficiaries in Nebraska receive their health care benefits through a managed care.	Under internal development.
<b>482 Chapter 4</b>	The proposed changes align the Medicaid managed care program with the revisions that have taken effect due to the re-procurement of the state's Medicaid managed care contracts.	The Heritage Health Managed Care Core Benefits Package	These regulations impact Medicaid beneficiaries, entities contracted with the state of Nebraska, and taxpayers more broadly. Because the majority of Medicaid beneficiaries in Nebraska receive their health care benefits through a managed care.	Under internal development.
<b>482 Chapter 5</b>	This regulatory chapter is being repealed in its entirety.	The Dental Benefits Package	N/A	Under internal development.

<b>482 Chapter 6</b>	The proposed changes align the Medicaid managed care program with the revisions that have taken effect due to the re-procurement of the state's Medicaid managed care contracts.	Quality	These regulations impact Medicaid beneficiaries, entities contracted with the state of Nebraska, and taxpayers more broadly. Because the majority of Medicaid beneficiaries in Nebraska receive their health care benefits through a managed care.	Under internal development.
<b>482 Chapter 7</b>	The proposed changes align the Medicaid managed care program with the revisions that have taken effect due to the re-procurement of the state's Medicaid managed care contracts.	Rights and Responsibilities	These regulations impact Medicaid beneficiaries, entities contracted with the state of Nebraska, and taxpayers more broadly. Because the majority of Medicaid beneficiaries in Nebraska receive their health care benefits through a managed care.	Under internal development.

## State Plan Amendment Report

Detailed information on each State Plan Amendment can be found on the MLTC website at: <https://dhhs.ne.gov/Pages/Medicaid-State-Plan-Amendments.aspx>.

Approved amendments are reflected in the Medicaid State Plan. Detailed information on the State Plan can be found on the MLTC website at: <https://dhhs.ne.gov/Pages/Medicaid-State-Plan.aspx>.

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
<b>NE 23-0013</b>	Personal Needs Allowance – Increases the personal needs allowance in accordance with LB227 (2023).	Allows beneficiaries in nursing homes to keep additional monies.	Increases federal and state expenditures.	Approved by CMS on November 3, 2023 with an effective date of September 1, 2023.
<b>NE 23-0014</b>	1902(r)(2) Vehicle Disregard – Excludes certain vehicles when determining eligibility for the aged and disabled groups.	Assists with eligibility determinations for the aged and disabled beneficiaries.	No fiscal impact.	Approved by CMS on December 11, 2023 with an effective date of September 1, 2023.

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
<b>NE 23-0015</b>	Adult Vaccines – Updates based on mandated federal change regarding coverage of adult vaccinations.	Adds services for adults.	Increases federal and state expenditures.	Approved by CMS on December 4, 2023 with an effective date of October 1, 2023.
<b>NE 23-0016</b>	iServe Application – Changes Nebraska’s online application for benefits, known as iServe.	Streamlines the online application portal.	No fiscal impact.	Approved by CMS on September 17, 2024 with an effective date of October 16, 2023.
<b>NE 24-0001</b>	Dental Coverage – Eliminates the \$750-per-year adult dental benefit limit, to allow public health licensed dental hygienists to provide certain dental services, and to better align language in the State Plan with state regulations in 471 NAC 6.	Adds services for adults.	Increases federal and state expenditures.	Approved by CMS on February 21, 2024 with an effective date of January 1, 2024.
<b>NE 24-0002</b>	Dental Coverage Alternative Benefit Plan (ABP) – Eliminates the \$750-per-year adult dental benefit limit, to allow public health licensed dental hygienists to provide certain dental services, and to better align language in the State Plan with state regulations in 471 NAC 6.	Adds services for adults.	Increases federal and state expenditures.	Approved by CMS on March 13, 2024 with an effective date of January 1, 2024.

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
<b>NE 24-0003</b>	Postpartum Coverage – Provides 12 months of postpartum coverage to Medicaid-eligible pregnant beneficiaries.	Extends the postpartum period for pregnant women.	No fiscal impact.	Approved by CMS on December 8, 2023 with an effective date of January 1, 2024.
<b>NE 24-0004</b>	Continuous Eligibility for Children – Extends continuous eligibility for children enrolled in Medicaid to 12 months.	Extends continuous eligibility for children to 12 months.	Increases federal and state expenditures.	Approved by CMS on April 30, 2024 with an effective date of January 1, 2024.
<b>NE 24-0005</b>	Therapeutic Family Care (TFC) Services – Adds a TFC program.	Adds services for youth.	Increases federal and state expenditures.	Submitted to CMS December 28, 2023 with an effective date of May 1, 2024.
<b>NE 24-0006</b>	Federal Medical Assistance Percentage (FMAP) Proxy Methodology – Authorizes increased federal financial participation (FFP) for newly eligible beneficiaries receiving postpartum coverage.	No impact.	No fiscal impact.	Approved by CMS on December 8, 2023 with an effective date of January 1, 2024.
<b>NE 24-0007</b>	Children’s Health Insurance Program (CHIP) Continuous Eligibility for Children – Implements Section 5112 of the Consolidated Appropriations Act, 2023.	Extends continuous eligibility for children enrolled in CHIP to 12 months.	Increases federal and state expenditures.	Approved by CMS on December 8, 2024 with an effective date of January 1, 2024.

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
<b>NE 24-0008</b>	Long-Term Acute Care Hospital (LTACH) – Adds long-term acute care hospitals as a new provider specialty type.	No impact.	No fiscal impact.	Submitted to CMS on September 4, 2024 with an effective date of July 1, 2024.
<b>NE 24-0009</b>	Rural Emergency Hospitals (REH) – Adds coverage of a new REH specialty type.	Beneficiaries may be able to receive Medicaid-covered services at any REH facility enrolled with Medicaid.	No fiscal impact.	Submitted to CMS on September 4, 2024 with an effective date of July 1, 2024.
<b>NE 24-0010</b>	SFY25 Outpatient and Professional Provider Rates – Increases provider rates for dental services, pharmacy dispensing fees, lactation counseling, and personal assistance services (PAS).	No impact.	Increases federal and state expenditures.	Submitted to CMS on September 4, 2024 with an effective date of July 1, 2024.
<b>NE 24-0015</b>	Children’s Health Insurance Program (CHIP) Vaccine Coverage and Children’s Health Insurance Program (CHIP) Continuous Eligibility for Children – Includes provisions required by Section 11405(b)(1) of the Inflation Reduction Act (IRA); Implements Section 5112 of the Consolidated Appropriations Act, 2023.	Access to vaccines without cost-sharing; Children up to age 19 who are eligible and enrolled in CHIP will receive 12 months of continuous eligibility based on their initial determination.	No fiscal impact.	Approved by CMS on July 23, 2024 with an effective date of October 1, 2023.

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
<b>NE 24-0016</b>	Insurance for Workers with Disabilities (MIWD) Premiums – Includes cost-sharing provisions for certain Medicaid beneficiaries enrolled in the MIWD program.	Beneficiaries enrolled in the MIWD program will have a monthly premium applied which must be paid in order to receive coverage for the benefit month.	No fiscal impact.	Approved by CMS on July 5, 2024 with an effective date of May 1, 2024.
<b>NE 24-0017</b>	Temporary Extension to the Disaster Relief Policies for the COVID-19 National Emergency – Extends suspension of premiums for individuals in the Transitional Medical Assistance Program.	Extends the suspension of beneficiaries' premiums for an additional six months.	Increases federal and state expenditures.	Approved by CMS on July 9, 2024 with an effective date of May 1, 2024.
<b>NE 24-0018-A</b>	Copay Discontinuance – Permanently discontinues copayments.	Beneficiaries will no longer have to pay a copayment when receiving Medicaid services.	Increases federal and state expenditures.	Approved by CMS on September 11, 2024 with an effective date of May 1, 2024.
<b>NE 24-0020</b>	Occupational Therapy, Physical Therapy, Speech Pathology and Audiology Services – Allows occupational therapy, physical therapy, speech pathology and audiology services to be delivered and billed by home health agencies.	Beneficiaries are able to receive these services through home health agencies.	No fiscal impact.	Approved by CMS on September 11, 2024 with an effective date of May 1, 2024.
<b>NE 24-0021</b>	SFY25 ICF/DD Inflation Factor – Adds new inflation factor for payment rates.	No impact.	Increases federal and state expenditures.	Submitted to CMS on September 4, 2024 with an effective date of July 1, 2024.

State Plan Amendment	Purpose and Content	Impact to Recipients	Impact to Expenditures	Status
<b>NE 24-0022</b>	SFY25 NF Inflation Factor – Updates inflation factor for payment rates.	No impact.	Increases federal and state expenditures.	Submitted to CMS on September 4, 2024 with an effective date of July 1, 2024.
<b>NE 24-0023</b>	Interpretation Services – Implements coverage of interpretation services as required by LB62 (2023).	Beneficiaries will have improved access to covered services.	Increases federal and state expenditures.	Submitted to CMS on September 26, 2024 with an effective date of July 1, 2024.
<b>NE 24-0024</b>	Prenatal Plus Program – Creates Prenatal Plus program.	Beneficiaries who are at risk may have improved health outcomes.	Increases federal and state expenditures.	Submitted to CMS on October 16, 2024 with an effective date of January 1, 2025.
<b>NE 24-0027</b>	Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) – Clarifies which provider types can order DMEPOS.	No impact.	No fiscal impact.	Submitted to CMS on September 26, 2024 with an effective date of January 1, 2025.
<b>NE 24-0031</b>	Interpretation Services Alternative Benefit Plan (ABP) – Implements coverage of interpretation services as required by LB62 (2023).	Beneficiaries will have improved access to covered services.	No fiscal impact.	Submitted to CMS on September 30, 2024 with an effective date of July 1, 2024.

# Waiver Report

Detailed information on the Home and Community Based Waivers can be found online at: <https://dhhs.ne.gov/Pages/DD-Eligibility.aspx>.

## Home and Community Based Services Waivers

Waiver	Purpose and Content	Impact to Recipients	Status
<b>NE Traumatic Brain Injury Waiver (NE.40199.R05.00)</b>	This waiver provides services and support to individuals with brain injury ages 18 and older in their home or a TBI assisted living facility.	This waiver ensures continued access to services for Medicaid members with traumatic brain injury.	5-year renewal effective October 1, 2023.
<b>NE HCBS for Aged &amp; Adults &amp; Children with Disabilities (NE.0187.R07.03)</b>	This waiver serves individuals of all ages who have a disability or are aged and require a nursing facility (NF) level of care.	This waiver ensures continued access to services for Medicaid members requiring a NF level of care.	5-year renewal effective August 1, 2021.  Amendment to increase waiver capacity effective July 1, 2024.
<b>Comprehensive Developmental Disabilities (CDD) Waiver (NE.4154.R07.00)</b>	Allows persons of all ages with developmental disabilities to maximize their independence as they live, work, socialize, and participate to the fullest extent possible in their communities. A participant must have a developmental disability and needs that require services like those provided by an intermediate care facility for persons with developmental disabilities (ICF-DD).	This waiver ensures continued access to services and supports for Medicaid members requiring intermediate care facility level of care.	5-year renewal effective March 1, 2022.  Amendment to update rate determination methods and allow a supplemental payment to be submitted to CMS for approval in October 2024.



Waiver	Purpose and Content	Impact to Recipients	Status
<b>Developmental Disabilities Adult Day (DDAD) Waiver (NE.0394.R04.00)</b>	Allows persons ages 21 and over with developmental disabilities to maximize their independence as they live, work, socialize, and participate to the fullest extent possible in their communities. A participant must have a developmental disability and needs that require services like those provided by an intermediate care facility for persons with developmental disabilities (ICF-DD).	This waiver ensures continued access to services and supports for Medicaid members requiring intermediate care facility level of care.	5-year renewal effective March 1, 2022.  Amendment to update rate determination methods and allow a supplemental payment to be submitted to CMS for approval in October 2024.
<b>Family Support Waiver (FSW) Waiver (NE.2366.R00.00)</b>	Allows support to individuals birth through age 21 with intellectual and developmental disabilities and their families to maximize their independence as they live, recreate, socialize, and participate to the fullest extent possible in their communities. A participant must have a developmental disability and needs that require services like those provided by an intermediate care facility for persons with developmental disabilities (ICF-DD).	This waiver ensures continued access to services and supports for Medicaid members ages 0-21 requiring Intermediate Care Facility level of care.	New Waiver  3-year waiver effective March 1, 2024.

## Other Waivers

Waiver	Purpose and Content	Impact to Recipients	Status
<b>Managed Care Waiver (NE.0003.R13.00)</b>	The 1915(b) waiver provides the authority to operate a managed care delivery system in Nebraska	Allows the state to implement the integrated managed care program, Heritage Health.	Approval received to integrate dental services into managed care, effective January 1, 2024.

<p><b>1115 Demonstration Waiver</b></p>	<p>Section 1115 demonstration waiver for substance and opioid use disorders (SUD).</p>	<p>This demonstration provided the state with the authority to provide high-quality, clinically appropriate treatment to beneficiaries with SUD while they are short-term residents in residential and inpatient treatment settings that qualify as IMDs. It also supports state efforts to implement models of care focused on increasing support for individuals in the community and home, outside of institutions, and improve access to a continuum of SUD evidence-based services at varied levels of intensity.</p>	<p>Temporary one-year extension received from the Centers for Medicare and Medicaid Services (CMS) on June 17, 2024, extending the initial waiver period expiration from June 30, 2024 to June 30, 2025.</p>
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