

Revised to include provisions adopted in AM 2762 AM 644 and AM 2878

**FISCAL NOTE**  
**LEGISLATIVE FISCAL ANALYST ESTIMATE**

<b>ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)</b>				
	<b>FY 2024-25</b>		<b>FY 2025-26</b>	
	<b>EXPENDITURES</b>	<b>REVENUE</b>	<b>EXPENDITURES</b>	<b>REVENUE</b>
GENERAL FUNDS	\$11,470			
CASH FUNDS	\$726,177		\$1,452,354	
FEDERAL FUNDS	\$1,243,745		\$2,418,670	
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b>\$1,981,392</b>		<b>\$3,871,024</b>	

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

As amended, the bill includes the provisions from [LB 62](#), introduced in 2023, as well as [LB 871](#) and [LB 1237](#), introduced in 2024.

The provisions of LB 1237 require a summary of specific data pertaining to the administration of Medicaid in Nebraska be submitted by the Department of Health and Human Services (DHHS) to the Legislature. DHHS would need to contract with DAS OCIO to modify the Medicaid Management Information System (MMIS) and the Nebraska Family Online Client User System (NFOCUS) to enable collection of the specified data. For this purpose, DHHS needs \$45,880 in FY25 only. These IT updates qualify for 75% federal funds, amounting to \$34,410, and 25% general funds, amounting to \$11,470. DHHS would incur additional expenses to comply with the reporting requirement however those internal costs to the agency will be absorbed within current appropriations.

The provisions of LB 871 require a report by DHHS regarding the Temporary Assistance for Needy Families (TANF) program. The report is required to include specific information and be submitted electronically to the Health and Human Services Committee by November 1 of each year. The provisions of the bill would require approximately 90 total staff hours to compile and review the report for submission. Federal TANF administrative funds pay for the staff time that would be directed to this purpose.

The original provisions of LB62, which are incorporated in the bill as amended, requires DHHS to provide coverage for all necessary translation and interpretation services for eligible recipients utilizing a medical assistance program services no later than January 1, 2024 and require such services to be funded by the Medicaid Managed Care Excess Profit Fund. DHHS indicates the earliest possible implementation date is January 2025. A review of various states' reimbursement models as well as other states' expenditures for language services produced by the National Health Law Program in 2017 can be found here: [Medicaid CHIP LEP models](#)

LB 62 requires DHHS to maximize federal funding for such services. For all adults on Medicaid, translation and interpretation services qualify for 50% federal matching rate (FMAP). The Medicaid federal matching rate for translation and interpretation services for children in families with English as a Second Language (ESL) is 75% as set forth in Section 1903(a)(2)(E) of the Social Security Act. The federal matching rate for translation services is calculated differently for children covered the Children's Health Insurance Program (CHIP) as set forth in Section 2105(a)(1)(D)(iv) of the Social Security Act: states are paid either the enhanced FMAP rate (used to reimburse states for both services and administrative costs under CHIP) +5 percentage points or 75% FMAP, whichever is higher. For the purposes of this fiscal note the 75% FMAP is used for children though the actual federal contribution may be higher for CHIP eligible children. The fiscal note for DHHS acknowledges the higher match rate is available but defers to the 50/50 due to concerns with system modifications. This fiscal shows an estimated breakdown for adults and children, applying the higher federal match for children.

The total Nebraska Medicaid population in November 2022 was 383,505 total enrollees. The total number of children enrolled in both Medicaid and CHIP was 191,467 children or 49.93% of all Medicaid enrollees. DHHS also provides an estimate of 1,687,589 claims. During this time, no one was disenrolled from Medicaid due to changes in circumstances which was a policy accompanying the Federal COVID-19 Public Health Emergency (PHE). This fiscal note assumes a 10% reduction in overall enrollees and number of claims due to the forthcoming redeterminations required over the 12-month period starting March 1, 2023. As such the basis for this fiscal note is 345,155 total Medicaid enrollees, 172,320 of which are children in either Medicaid or CHIP and 172,834 are adults, and 1,518,831 claims. The fiscal note for DHHS does not reflect any decline in eligible enrollees or claims due to the unwinding of the PHE.

DHHS provides an estimate sourced from the census website that 4.75% of Nebraskans have Limited English Proficiency (LEP) and an estimate sourced from the CDC that 1% of Nebraskans are Deaf. As such, there are an assumed 8,210 LEP adults, 8,185 LEP children, 1,728 Deaf adults, and 1,723 Deaf children in the Medicaid population who would be impacted by this legislation. For such individuals, there would be 87,333 of the 1,518,831 claims which would need translation and interpretation services – 36,126 claims for LEP adults, 36,019 claims for LEP children, 7,605 for Deaf adults, and 7,583 for Deaf children.

There is no basis to disagree with the estimated breakdown provided by DHHS for types of interpretation: 10% would require in-person translation services, 65% would require translation services over the phone, and 25% would require video remote interpretation. The average cost for in-person translation services is estimated to be \$97.50 per hour with a minimum requirement of 2 hours for an estimate of \$195 per visit. There is reason to dispute the estimated cost of \$2.13 per minute for over the phone translation which was used by DHHS (particularly government discounts available for such services) therefore this fiscal note uses an estimated cost of \$1.50 per minute for an estimated cost of \$22.50 for a 15-minute visit. The average cost for video remote translation is estimated to be \$2.72 per minute with a minimum length of 15 minutes for an estimated cost of \$40.80 for a 15-minute visit. The total estimated cost of translation and interpretation services starting January 1, 2025 is \$1,935,512 in FY25 and \$3,871,024 in FY26. The following chart breaks down, for a full year such as FY26, costs by fund for adults and children.

	Adults	Children	Total
General Funds	\$969,197	\$483,157	\$1,452,354
Federal Funds	\$969,197	\$1,449,473	\$2,418,670
Total	\$1,938,394	\$1,932,630	\$3,871,024

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE

LB: 62      AM: 2762,644,2878      AGENCY/POLT. SUB: Nebraska Department of Health & Human Services

REVIEWED BY: Ann Linneman      DATE: 3-18-2024      PHONE: (402) 471-4180

COMMENTS: Concur with the Nebraska Department of Health & Human Services' assessment of fiscal impact.

Technical note: The agency requested cash spending authority for the MCO Excess Profit Fund in FY25 to complete the PHE unwind of Medicaid. General Funds would be required for that purpose if this bill passes.

**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 3-18-2024

Phone: (5) 471-6719

	<u>FY 2024-2025</u>		<u>FY 2025-2026</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
<b>GENERAL FUNDS</b>	\$11,470			
<b>CASH FUNDS</b>	\$1,223,139		\$2,446,277	
<b>FEDERAL FUNDS</b>	\$1,257,548		\$2,446,278	
<b>OTHER FUNDS</b>				
<b>TOTAL FUNDS</b>	\$2,492,157	\$0	\$4,892,555	\$0

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

**Explanation of Estimate:**

LB62 with amendments combines three initially separate bills and their related fiscal impacts.

**#1 – LB62 from 2023**

This bill mandates that the Medicaid program cover translation and interpretation services as a covered service.

Per Federal guidance, interpreters are not Medicaid-qualified providers; however, their services may be reimbursed when billed by a qualified provider rendering a Medicaid-covered service. Interpreters may not be paid separately.

The Centers for Medicare and Medicaid Services (CMS) allows for reimbursement at the standard 50% federal matching rate for this service. This must be claimed as an administrative expense if it is not included and paid for in the rate for direct services.

A higher match rate is available when claimed under administration and when services are provided to “children of families for whom English is not their primary language,” and family members of these children. The higher match rate is 75% under Medicaid; and 75% or the state's enhanced Federal Medical Assistance Percentage (FMAP) + 5%, whichever is higher under CHIP, subject to the 10% statutory limit on CHIP administration.

AM2762 added that the non-federal share portion of these expenses are to be covered by the Medicaid Managed Care Excess Profit Fund. The estimated direct impact to Nebraska Medicaid is expected to be approximately \$4,892,555 per year with the cash fund and federal fund impact dependent on the match rates referenced above. MLTC is unsure if systems could be modified to allow for enhanced claiming and recommends using the standard 50/50 FMAP allowed for this service. The earliest effective/operative date is January 1, 2025. The estimate for one half of State Fiscal Year (SFY) 2025 is \$2,446,277.

Based off November 2022 enrollment, there is an estimated population of 22,102 Medicaid eligible members who are likely to utilize translation and interpretation services. 18,258 members who have limited English proficiency and 3,844 members who are deaf. These members are estimated to account for 97,036 claims per year and represent 5.75% of Nebraska’s Medicaid population.

Estimates of in-person, telephone, and video remote interpreting and translation services from the January 2018 article "Medical Interpreters in Outpatient Practice" result in an average cost of \$50.42 per claim. This amount multiplied by the estimated number of claims (97,036) is the calculation for \$4,892,555 in annual cost.

The costs vary greatly for in-person services with an average cost per hour of \$97.50, requiring a two-hour minimum service time, even if the service lasts less than 30 minutes. Telephonic and remote video services average \$2.13 per minute and \$2.72 per minute respectively with typical minimum service units of 15 minutes.

In-person interpreter costs can range upwards of \$150 per hour and typically have required service time minimums of 2 hours. Other service options such as telephone and video remote interpreting typically see minimums of 15 minutes per service and can cost up to \$3.49 per minute. The article is available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5758324/>

Covering this new service will also require internal and contract (actuary) time and resources to operationalize coverage. The department would estimate that this would be additional absorbed time to draft and submit a SPA for the coverage. The Health Services and Rates and Reimbursement team would need to research and implement a policy around how we will cover the service, and the state actuary would need to perform a program change analysis to include it in capitation rates for CY2025.

We estimate approximately 20 hours each for a Rates and Reimbursement program specialist and Health Services Program Specialist-RN for the policy and payment coverage determinations and standard hours for Medicaid SPAs. Absorbed costs are estimated at \$2,300.

### **#2 – LB1237 from 2024**

This portion of the bill mandates the inclusion of new reporting items in the annual report submitted to the legislature by the Department of Health and Human Services (DHHS) for Medicaid and Children's Health Insurance Program (CHIP).

The bill requires DHHS to report on a wide array of statistics, including the number and percentage of applications approved and denied, details on eligibility determinations, case closures, and demographic breakdowns of enrollees by program type, geographic area, and race/ethnicity, if available. Additionally, the legislation calls for reporting on the average processing time for applications, the re-enrollment rates post-termination, client call durations, and the number of requests for fair hearings and the outcomes of these hearings.

To comply with these reporting requirements, DHHS will need to allocate resources toward detailed requirements gathering, coding, testing, and documentation. Administration expenses related to eligibility appeals and required reporting, estimated to be \$12,000 per year, will be absorbed by DHHS. System updates will also be needed for the Medicaid Management Information System (MMIS) and the Nebraska Family Online Client User System (NFOCUS). To make these necessary changes to MMIS and NFOCUS, the following hours are needed: 238 hours for a Batch Technical Analyst and 300 hours for a Business Analyst. These hours result in a total expense of \$45,880. Technology updates would qualify for 75% federal funds and a 25% general funds match rate.

### **#3 – LB871 from 2024**

This portion of the bill requires DHHS to submit a report to the Nebraska Legislature by November 1st each year on the anticipated expenditures for the Temporary Assistance for Needy Families (TANF) grant funds. The earliest effective operative date for this bill would be starting November 1, 2024. Additionally, the requirement to make determinations of how the use of funds is more beneficial to families than an increase in ADC would require DHHS to speculate and justify how the use of TANF funds for services and programs is more beneficial than additional funding directly to families. The report must include the following information:

1. A clear description of programs and services currently funded by the TANF program.
2. A clear explanation of the TANF purpose met by the program.
3. For programs and services provided by entities other than the state, a clear description of the recipient of the TANF funds.
4. For programs other than the Aid to Dependent Children (ADC) program, a statement explaining how an expenditure for that program or service is more likely to help families achieve economic mobility and self-sufficiency than an increase in expenditures for the ADC program.
5. The number of persons served under each program or service.
6. All costs and expenditures associated with each program or service.

Currently, DHHS submits a TANF Expenditure Plan annually to the Legislative Fiscal Office. The current plan lists the expenditures and a description of the services. This bill would require DHHS to provide additional data noted above in an annual report. The current Expenditure Plan that is provided is not statutorily required and the submission date would need to be adjusted to combine the two reports and reduce duplication of effort on Department staff for pulling the information together. The additional data components would require additional staff time to compile the information together as well as time for the reviews of the information by Department leadership.

The report proposed by this bill would be prepared by a TANF Program Specialist annually. The estimated time for the Program Specialist to evaluate the programs and services, compile the data and prepare the report is 80 hours. An additional 10 hours of staff time is anticipated for the review and submission of the report by the Administrator, Deputy Director, Director, and Office of Legislative Services staff. Federal TANF funds would be expended for the staff costs.

<b>MAJOR OBJECTS OF EXPENDITURE</b>				
PERSONAL SERVICES:				
POSITION TITLE	NUMBER OF POSITIONS		2024-2025	2025-2026
	24-25	25-26	EXPENDITURES	EXPENDITURES
Benefits.....				
Operating.....			\$45,880	\$0
Travel.....				
Capital Outlay.....				
Aid.....			\$2,446,277	\$4,892,555
Capital Improvements.....				
<b>TOTAL.....</b>			<b>\$2,492,157</b>	<b>\$4,892,555</b>