

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 239

Introduced by Cavanaugh, M., 6.

Read first time January 14, 2025

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to developmental disabilities services; to
2 amend sections 83-1216 and 83-1216.02, Reissue Revised Statutes of
3 Nebraska; to change powers and duties of the Department of Health
4 and Human Services; to change requirements relating to funding
5 priorities; to eliminate a sunset date; and to repeal the original
6 sections.

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

1 **Section 1.** Section 83-1216, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 83-1216 (1) The department shall administer the medicaid home and
4 community-based services waivers upon application approval by the federal
5 Centers for Medicare and Medicaid Services. The amount of funding for any
6 person receiving services shall be determined using an objective
7 assessment process developed by the department and approved by the
8 federal Centers for Medicare and Medicaid Services. The objective
9 assessment formula shall be published on the department's website and
10 shall be subject to approval by the Governor's developmental disability
11 advisory board or the interested parties stakeholder group as required by
12 the access rule. The tool shall not decrease an individual's budget to
13 the point that the individual is removed from a setting. Residential
14 settings shall be provided as an option to those in funding priority one,
15 two, three, and five. Residential settings shall also be an option for
16 those in funding priority four and six under the consideration of the
17 objective assessment process. A request for a redetermination from an
18 individual, family member, or guardian under this tool shall be completed
19 within thirty days. The objective assessment process shall be person-
20 centered and designed with consideration of the individual support plan
21 developed for the individual. The objective assessment process shall have
22 an independent mediated review process which shall be administered
23 outside the department.

24 (2) The department shall provide directly or by contract service
25 coordination to Nebraska residents found to be eligible for specialized
26 services. The individual or legal representative shall decide the entity
27 that provides such specialized services.

28 (3) It is the intent of the Legislature that the department take all
29 possible steps to maximize federal funding. All Nebraska residents
30 eligible for funding for specialized services through the department
31 shall apply for and accept any federal medicaid benefits for which they

1 may be eligible and benefits from other funding sources within the
2 department, the State Department of Education, specifically including the
3 Division of Rehabilitation Services, and other agencies to the maximum
4 extent possible.

5 (4) The priorities for funding the medicaid home and community-based
6 services waivers under this section are as follows:

7 (a) The first funding priority of the state shall be responding to
8 the needs of persons with developmental disabilities in immediate crisis
9 due to caregiver death, homelessness, or a threat to the life and safety
10 of the person, family member, or others residing in the same household,
11 or the general public. The department shall create a form and process for
12 an expedited request for consideration of funding priority one status.
13 The department shall respond to this form within five calendar days of
14 the date of original submission;

15 (b) The second funding priority of the state in responding to the
16 needs of persons with developmental disabilities shall be for persons
17 that have resided in an institutional setting for a period of at least
18 two ~~twelve~~ consecutive months and who are requesting community-based
19 services and those persons who are at risk for placement in juvenile
20 detention centers;

21 (c) The third funding priority of the state in responding to the
22 needs of persons with developmental disabilities shall be for serving
23 wards of the department or persons who have ever been placed under the
24 supervision of the Office of Probation Administration by the Nebraska
25 court system ~~who are transitioning upon age nineteen with no other~~
26 ~~alternatives as determined by the department to support residential~~
27 ~~services necessary to pursue economic self-sufficiency;~~

28 (d) The fourth funding priority of the state in responding to the
29 needs of persons with developmental disabilities shall be for serving
30 persons at any point after transitioning from the education system upon
31 attaining eighteen ~~twenty-one~~ years of age or who have departed the

1 education system to maintain skills and receive the day services
2 necessary to pursue economic self-sufficiency or independence consistent
3 with such person's abilities;

4 (e) The fifth funding priority of the state in responding to the
5 needs of persons with developmental disabilities shall be, upon approval
6 by the Centers for Medicare and Medicaid Services of the United States
7 Department of Health and Human Services, for serving a dependent of a
8 member of the armed forces of the United States who is a legal resident
9 of this state due to the service member's military assignment in
10 Nebraska; and

11 (f) The sixth funding priority of the state in responding to the
12 needs of persons with developmental disabilities shall be for serving all
13 other persons by date of application.

14 **Sec. 2.** Section 83-1216.02, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 83-1216.02 (1) If the department determines that there are not
17 enough funds available to provide services to all eligible individuals
18 under subdivision (4)(d) of section 83-1216, the department shall provide
19 day services to individuals who:

20 (a) Are transitioning from the education system upon attaining
21 twenty-one years of age on or after July 1, 2019; and

22 (b) Are determined by the department to be otherwise eligible for
23 the day services in accordance with the Developmental Disabilities
24 Services Act.

25 (2) The department shall provide services comparable to the day
26 services the individual would have received pursuant to subdivision (4)
27 (d) of section 83-1216 if funds were available.

28 (3) No later than September 15 of each year, the director shall
29 provide electronic notification to the Health and Human Services
30 Committee of the Legislature and the Appropriations Committee of the
31 Legislature of the estimated number of individuals needing services under

1 subsection (4) of section 83-1216 and the net additional resources
2 necessary to provide services to all eligible individuals under
3 subsection (4) of section 83-1216 other than subdivision (f) of such
4 subsection.

5 ~~(4) This section terminates June 30, 2025.~~

6 **Sec. 3.** Original sections 83-1216 and 83-1216.02, Reissue Revised
7 Statutes of Nebraska, are repealed.