

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 380

Introduced by Fredrickson, 20.

Read first time January 16, 2025

Committee: Health and Human Services

1 A BILL FOR AN ACT relating to the Medical Assistance Act; to amend
2 sections 68-995 and 68-996, Revised Statutes Cumulative Supplement,
3 2024; to establish requirements for Department of Health and Human
4 Services' contractors providing medical assistance services; to
5 provide duties for the Division of Medicaid and Long-Term Care; to
6 harmonize provisions; and to repeal the original sections.

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

1 **Section 1.** Section 68-995, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 68-995 (1) All contracts and agreements relating to the medical
4 assistance program governing at-risk managed care service delivery for
5 health services entered into by the department and existing on or after
6 August 11, 2020, shall:

7 (a) ~~(1)~~ Provide a definition and cap on administrative spending such
8 that (i) ~~(a)~~ administrative expenditures do not include profit greater
9 than the contracted amount, (ii) ~~(b)~~ any administrative spending is
10 necessary to improve the health status of the population to be served,
11 and (iii) ~~(c)~~ administrative expenditures do not include contractor
12 incentives. Administrative spending shall not under any circumstances
13 exceed twelve percent. Such spending shall be tracked by the contractor
14 and reported quarterly to the department and electronically to the Clerk
15 of the Legislature;

16 (b) ~~(2)~~ Provide a definition of annual contractor profits and losses
17 and restrict such profits and losses under the contract so that profit
18 shall not exceed a percentage specified by the department but not more
19 than three percent per year as a percentage of the aggregate of all
20 income and revenue earned by the contractor and related parties,
21 including parent and subsidiary companies and risk-bearing partners,
22 under the contract;

23 (c) ~~(3)~~ Provide for return of (i) ~~(a)~~ any remittance if the
24 contractor does not meet the minimum medical loss ratio, (ii) ~~(b)~~ any
25 unearned incentive funds, and (iii) ~~(c)~~ any other funds in excess of the
26 contractor limitations identified in state or federal statute or contract
27 to the State Treasurer for credit to the Medicaid Managed Care Excess
28 Profit Fund;

29 (d) ~~(4)~~ Provide for a minimum medical loss ratio of eighty-five
30 percent of the aggregate of all income and revenue earned by the
31 contractor and related parties under the contract;

1 (e) ~~(5)~~ Provide that contractor incentives, in addition to potential
2 profit, be up to two percent of the aggregate of all income and revenue
3 earned by the contractor and related parties under the contract; and

4 (f) ~~(6)~~ Be reviewed and awarded competitively and in full compliance
5 with the procurement requirements of the State of Nebraska.

6 (2) A contractor shall:

7 (a) Not reduce department-posted medicaid rates;

8 (b) Not impose quantitative treatment limitations, or financial
9 restrictions, limitations, or requirements, on the provision of mental
10 health or substance use disorder services that are more restrictive than
11 the predominant restrictions, limitations, or requirements imposed on
12 substantially all benefit coverage for other conditions;

13 (c) Maintain an adequate provider network to provide mental health
14 and substance use disorder services;

15 (d) Apply criteria in accordance with generally recognized standards
16 of care and make utilization review policies available to the public,
17 providers, and recipients through electronic or paper means when
18 performing a utilization review of mental health or substance use
19 disorder services; and

20 (e) Not rescind or modify an authorization for a mental health or
21 substance use disorder service after the provider renders the service
22 pursuant to a determination of medical necessity, except in cases of
23 fraud or a violation of a provider's contract with a health insurer.

24 **Sec. 2.** Section 68-996, Revised Statutes Cumulative Supplement,
25 2024, is amended to read:

26 68-996 (1) The Medicaid Managed Care Excess Profit Fund is created.
27 The fund shall contain money returned to the State Treasurer pursuant to
28 subdivision (1)(c) ~~(3)~~ of section 68-995.

29 (2) The fund shall first be used to offset any losses under
30 subdivision (1)(b) ~~(2)~~ of section 68-995 and then to provide for (a)
31 services addressing the health needs of adults and children under the

1 Medical Assistance Act, including filling service gaps, ~~(b) providing~~
2 system improvements, ~~(c) providing~~ evidence-based early intervention home
3 visitation programs, ~~(d) providing~~ medical respite services, ~~(e)~~
4 translation and interpretation services, ~~(f) providing~~ coverage for
5 continuous glucose monitors as described in section 68-911, ~~(g) providing~~
6 other services sustaining access to care, ~~(h)~~ the Nebraska Prenatal Plus
7 Program, and ~~(i) providing~~ grants pursuant to the Intergenerational Care
8 Facility Incentive Grant Program as determined by the Legislature. The
9 fund shall only be used for the purposes described in this section.

10 (3) Any money in the fund available for investment shall be invested
11 by the state investment officer pursuant to the Nebraska Capital
12 Expansion Act and the Nebraska State Funds Investment Act. Beginning
13 October 1, 2024, any investment earnings from investment of money in the
14 fund shall be credited to the General Fund.

15 **Sec. 3.** The Division of Medicaid and Long-Term Care of the
16 Department of Health and Human Services shall:

17 (1) Require contractor compliance with federal and state laws and
18 rules and regulations applicable to coverage for mental health or
19 substance use disorder services including early and periodic screening
20 and diagnostic and treatment services for children and youth in the
21 medical assistance program;

22 (2) Make public the surveys, financial analyses, and contract audits
23 and parity reports prepared by a contractor and the results of parity
24 compliance reports;

25 (3) Ensure access to mental health and substance use disorder
26 service providers, including access parity with medical and surgical
27 service providers, through regulation and review of claims, provider
28 reimbursement procedures, network adequacy, and provider reimbursement
29 rate adequacy;

30 (4) Establish a monthly electronic communication system with all
31 health care providers in the medical assistance program relating to any

1 amendment or other change in the contracts with medicaid managed care
2 organizations;

3 (5) Define network adequacy; and

4 (6) Annually post criteria used by the Division of Medicaid and
5 Long-Term Care to assess network adequacy and each managed care
6 organization's compliance on the Department of Health and Human Services
7 website.

8 **Sec. 4.** Original sections 68-995 and 68-996, Revised Statutes
9 Cumulative Supplement, 2024, are repealed.