

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 527

Introduced by Jacobson, 42.

Read first time January 22, 2025

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to insurance; to amend sections 44-2702,
2 44-32,180, and 44-4726, Reissue Revised Statutes of Nebraska, and
3 section 77-908, Revised Statutes Cumulative Supplement, 2024; to
4 adopt the Medicaid Access and Quality Act; to redefine a term; to
5 provide for a tax on health maintenance organizations; to change
6 requirements for taxes on prepaid limited health service
7 organizations and direct writing premiums; to harmonize provisions;
8 to repeal the original sections; and to declare an emergency.
9 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 7 of this act shall be known and may be
2 cited as the Medicaid Access and Quality Act.

3 **Sec. 2.** The Legislature finds and declares that:

4 (1) Wide discrepancies between medicaid reimbursement rates and
5 rates of other payers have created challenges to health care access for
6 Nebraska residents covered by medicaid;

7 (2) Approximately one-third of pregnant women, newborns, and
8 children are covered by medicaid and access to health care services is
9 critical for them. Access to labor and delivery services is critical to
10 fostering healthy mothers and babies;

11 (3) Access to primary care is vital to the health of Nebraska
12 communities. Investment in preventative care will help reduce future
13 health care costs to the state and its residents. Improved health
14 outcomes are more likely when patients have access to, and positive
15 relationships with, their primary care provider;

16 (4) Health care access challenges in rural areas have reached a
17 critical point, which requires bold investment and leadership from the
18 state to maintain the health of our rural citizens and communities; and

19 (5) Investment in physical health care access and quality in the
20 medicaid program is an investment in bolstering Nebraska's health care
21 landscape as a whole, addressing health care deserts across the state,
22 and improving the health and prosperity of Nebraska communities.

23 **Sec. 3.** For purposes of the Medicaid Access and Quality Act:

24 (1) Nonhospital provider means a provider of physical health
25 services that does not hold a license as a hospital under the Health Care
26 Facility Licensure Act;

27 (2) Physical health services means services billed under the
28 medicaid practitioner fee schedule to meet the physical health needs of a
29 patient; and

30 (3) Rural means any county in Nebraska having a population of less
31 than one hundred thousand residents.

1 **Sec. 4.** (1) No later than January 1, 2026, the Director of
2 Insurance shall establish a schedule for the collection of a tax of six
3 percent of the gross amount of non-medicare direct writing premiums
4 written under a health maintenance organization certificate of authority
5 pursuant to section 44-32,115, to the extent not preempted by federal
6 law, during the preceding calendar year for business done in the state.
7 The director shall remit the tax paid under this section to the State
8 Treasurer. The State Treasurer shall annually credit the entirety of the
9 tax remitted to the Medicaid Access and Quality Fund.

10 (2) No later than August 1, 2025, the Department of Health and Human
11 Services shall amend the medicaid state plan or file other federal
12 authorizing documents necessary to receive federal financial
13 participation for the Medicaid Access and Quality Act.

14 (3) The tax established by this section shall be effective January
15 1, 2026, and applies to premiums received the previous calendar year for
16 all contractual obligations that remain in force by continuing
17 obligation, renewal, or new issuance on or after January 1, 2026.

18 **Sec. 5.** The Medicaid Access and Quality Fund is created. Interest
19 earned on the fund shall be credited to the fund. Any money in the fund
20 available for investment shall be invested by the state investment
21 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
22 State Funds Investment Act.

23 **Sec. 6.** The Department of Health and Human Services shall use the
24 Medicaid Access and Quality Fund for the following purposes:

25 (1) Beginning January 1, 2026, forty million dollars annually shall
26 be used to obtain federal financial participation for the purpose of
27 enhancing rates paid to nonhospital providers of physical health
28 services, as published in the medicaid practitioner fee schedule. This
29 funding shall not be used to replace or offset existing state funds paid
30 to providers for providing services under the medical assistance program:

31 (a) In calculating a rate enhancement under subdivision (1)(a) of

1 this section, the department shall work with a statewide association
2 exempt from taxation under section 501(c)(6) of the Internal Revenue Code
3 of 1986 that primarily represents health care providers in multiple
4 specialties who are licensed to practice medicine and surgery under the
5 Uniform Credentialing Act; and

6 (b) It is the intent of the Legislature that a rate enhancement
7 provided by subdivision (1) of this section should aim to improve access
8 to care through increasing rates across a broad range of physical health
9 services provided by nonhospital providers, with an emphasis on
10 evaluation and management services, labor and delivery services, and
11 rural services;

12 (2) Beginning no later than January 1, 2027, five million dollars
13 annually shall be used to obtain federal financial participation to pay a
14 monthly per-member fee of not less than seventy-five dollars to qualified
15 primary care providers who meet criteria established by the Department of
16 Health and Human Services to serve as a primary care medical home for
17 target populations;

18 (3) Any remaining funds shall be transferred to the medical
19 assistance program and the Children's Health Insurance Program; and

20 (4) Use of the funds described in this section are subject to all
21 required federal approvals including any approvals necessary for the use
22 of the funds to obtain federal financial participation.

23 **Sec. 7.** It is the intent of the Legislature that the medicaid
24 practitioner fee schedule rates and the General Fund appropriations for
25 rates established in the fee schedule shall not be reduced in amounts
26 lower than the rates published as of July 1, 2024.

27 **Sec. 8.** Section 44-2702, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 44-2702 As used in the Nebraska Life and Health Insurance Guaranty
30 Association Act, unless the context otherwise requires:

31 (1) Account means any of the three accounts created pursuant to

1 section 44-2705;

2 (2) Association means the Nebraska Life and Health Insurance
3 Guaranty Association created by section 44-2705;

4 (3) Authorized, when used in the context of assessments, or
5 authorized assessment means a resolution by the board of directors has
6 passed whereby an assessment will be called immediately or in the future
7 from member insurers for a specified amount. An assessment is authorized
8 when the resolution is passed;

9 (4) Called, when used in the context of assessments, or called
10 assessment means that a notice has been issued by the association to
11 member insurers requiring that an authorized assessment be paid within
12 the timeframe set forth within the notice. An authorized assessment
13 becomes a called assessment when notice is mailed by the association to
14 member insurers;

15 (5) Director means the Director of Insurance;

16 (6) Contractual obligation means any obligation under a policy or
17 contract or certificate under a group policy or contract, or portion
18 thereof, for which coverage is provided under section 44-2703;

19 (7) Covered policy means any policy or contract or portion of such
20 policy or contract for which coverage is provided under section 44-2703;

21 (8) Extra-contractual claims include, but are not limited to, claims
22 relating to bad faith in the payment of claims, punitive or exemplary
23 damages, or attorneys' fees and costs;

24 (9) Benefit plan means a specific employee, union, or association of
25 natural persons benefit plan;

26 (10) Health benefit plan means any hospital or medical expense
27 policy or certificate, ~~health maintenance organization subscriber~~
28 ~~contract~~, or any other similar health contract. Health benefit plan does
29 not include:

30 (a) Accident only insurance;

31 (b) Credit insurance;

1 (c) Dental only insurance;

2 (d) Vision only insurance;

3 (e) Medicare supplement insurance;

4 (f) Benefits for long-term care, home health care, community-based

5 care, or any combination thereof;

6 (g) Disability income insurance;

7 (h) Coverage for onsite medical clinics; or

8 (i) Specified disease, hospital confinement indemnity, or limited
9 benefit health insurance if the types of coverage do not provide
10 coordination of benefits and are provided under separate policies or
11 certificates;

12 (11) Impaired insurer means a member insurer which, after August 24,
13 1975, (a) is deemed by the director to be potentially unable to fulfill
14 its contractual obligations and is not an insolvent insurer and (b) is
15 placed under an order of rehabilitation or conservation by a court of
16 competent jurisdiction;

17 (12) Insolvent insurer means a member insurer which, after August
18 24, 1975, is placed under an order of liquidation by a court of competent
19 jurisdiction with a finding of insolvency;

20 (13) Member insurer means an insurer or health maintenance
21 organization licensed or that holds a certificate of authority to
22 transact in this state any kind of insurance or health maintenance
23 organization business for which coverage is provided for under section
24 44-2703. Member insurer includes any insurer or health maintenance
25 organization whose license or certificate of authority may have been
26 suspended, revoked, not renewed, or voluntarily withdrawn. Member insurer
27 does not include:

28 (a) A hospital or medical service organization, whether profit or
29 nonprofit;

30 (b) A fraternal benefit society;

31 (c) A mandatory state pooling plan;

1 (d) A mutual assessment company or other person that operates on an
2 assessment basis;

3 (e) An assessment association operating under Chapter 44 which
4 issues only policies or contracts subject to assessment;

5 (f) An insurance exchange;

6 (g) An organization that has a certificate or license limited to the
7 issuance of charitable gift annuities;

8 (h) A viatical settlement provider, a viatical settlement broker, or
9 a financing entity under the Viatical Settlements Act; or

10 (i) An entity similar to any entity listed in subdivisions (13)(a)
11 through (h) of this section;

12 (14) Moody's corporate bond yield average means the monthly average
13 of corporate bond yields published by Moody's Investment Service,
14 Incorporated, or any successor to Moody's Investment Service,
15 Incorporated;

16 (15) Owner of a policy or contract, policyholder, policy owner, and
17 contract owner mean the person who is identified as the legal owner under
18 the terms of the policy or contract or who is otherwise vested with legal
19 title to the policy or contract through a valid assignment completed in
20 accordance with the terms of the policy or contract and properly recorded
21 as the owner on the books of the member insurer. Owner, policy owner, and
22 contract owner do not include persons with a mere beneficial interest in
23 a policy or contract;

24 (16) Person means any individual, corporation, partnership, limited
25 liability company, association, government body or entity, or voluntary
26 organization;

27 (17) Plan sponsor means:

28 (a) In the case of a benefit plan established or maintained by a
29 single employer, the employer;

30 (b) In the case of a benefit plan established or maintained by an
31 employee organization, the employee organization; or

1 (c) In the case of a benefit plan established or maintained by two
2 or more employers or jointly by one or more employers and one or more
3 employee organizations, the association, committee, joint board of
4 trustees, or other similar group of representatives of the parties who
5 establish or maintain the benefit plan;

6 (18) Premiums means amounts or considerations, by whatever name
7 called, received on covered policies or contracts less returned premiums,
8 considerations, and deposits, and less dividends and experience credits.
9 Premiums does not include amounts or considerations received for policies
10 or contracts or for the portions of policies or contracts for which
11 coverage is not provided under subsection (2) of section 44-2703, except
12 that assessable premiums shall not be reduced on account of subdivision
13 (2)(b)(iii) of section 44-2703 relating to interest limitations and
14 subdivision (3)(b) of section 44-2703 relating to limitations with
15 respect to one individual, one participant, and one policy or contract
16 owner. Premiums does not include:

17 (a) Premiums on an unallocated annuity contract; or

18 (b) With respect to multiple nongroup life insurance policies owned
19 by one owner, whether the policy or contract owner is an individual,
20 firm, corporation, or other person and whether the persons insured are
21 officers, managers, employees, or other persons, premiums exceeding five
22 million dollars with respect to these policies or contracts, regardless
23 of the number of policies or contracts held by the owner;

24 (19)(a) Principal place of business of a plan sponsor or a person
25 other than a natural person means the single state in which the natural
26 persons who establish policy or contract for the direction, control, and
27 coordination of the operations of the entity as a whole primarily
28 exercise that function. The association shall in its reasonable judgment
29 determine the principal place of business considering the following
30 factors:

31 (i) The state in which the primary executive and administrative

1 headquarters of the entity is located;

2 (ii) The state in which the principal office of the chief executive
3 officer of the entity is located;

4 (iii) The state in which the board of directors or similar governing
5 person or persons of the entity conducts the majority of meetings;

6 (iv) The state in which the executive or management committee of the
7 board of directors or similar governing person or persons of the entity
8 conducts the majority of its meetings;

9 (v) The state from which the management of the overall operations of
10 the entity is directed; and

11 (vi) In the case of a benefit plan sponsored by affiliated companies
12 comprising a consolidated corporation, the state in which the holding
13 company or controlling affiliate has its principal place of business as
14 determined using the factors in subdivisions (19)(a)(i) through (v) of
15 this section, except that in the case of a plan sponsor, if more than
16 fifty percent of the participants in the benefit plan are employed in a
17 single state, that state shall be deemed to be the principal place of
18 business of the plan sponsor.

19 (b) The principal place of business of a plan sponsor of a benefit
20 plan shall be deemed to be the principal place of business of the
21 association, committee, joint board of trustees, or other similar group
22 of representatives of the parties who establish or maintain the benefit
23 plan that, in lieu of a specific or clear designation of a principal
24 place of business, shall be deemed to be the principal place of business
25 of the employer or employee organization that has the largest investment
26 in the benefit plan in question;

27 (20) Receivership court means the court in the insolvent or impaired
28 insurer's state having jurisdiction over the conservation,
29 rehabilitation, or liquidation of the member insurer;

30 (21) Resident means any person to whom a contractual obligation is
31 owed who resides in this state at the date of entry of a court order that

1 determines that a member insurer is an impaired or insolvent insurer,
2 whichever occurs first. A person may be a resident of only one state. A
3 person other than a natural person shall be a resident of its principal
4 place of business. Citizens of the United States that are residents of
5 foreign countries, or are residents of a United States possession,
6 territory, or protectorate that does not have an association similar to
7 the association created by the Nebraska Life and Health Insurance
8 Guaranty Association Act, shall be deemed residents of the state of
9 domicile of the insurer that issued the policies or contracts;

10 (22) State means a state, the District of Columbia, Puerto Rico, and
11 any United States possession, territory, or protectorate;

12 (23) Structured settlement annuity means an annuity purchased in
13 order to fund periodic payments for a plaintiff or other claimant in
14 payment for or with respect to personal injury suffered by the plaintiff
15 or other claimant;

16 (24) Supplemental contract means any agreement entered into between
17 a member insurer and an owner or beneficiary for the distribution of
18 policy or contract proceeds under a covered policy or contract; and

19 (25) Unallocated annuity contract means an annuity contract or group
20 annuity certificate that is not issued to and owned by an individual,
21 except to the extent of any annuity benefits guaranteed to an individual
22 by an insurer under the contract or certificate.

23 **Sec. 9.** Section 44-32,180, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 44-32,180 (1) Any health maintenance organization subject to the
26 Health Maintenance Organization Act shall also be subject to (a) the
27 premium taxation provisions of Chapter 77, article 9, to the extent that
28 the direct writing premiums are not otherwise subject to taxation under
29 such article, ~~and~~ (b) the retaliatory taxation provisions of section
30 44-150, and (c) the tax levied by section 4 of this act.

31 (2) Any capitation payment made in accordance with the Medical

1 Assistance Act shall be excluded from computation of any tax obligation
2 imposed by subsection (1) of this section.

3 **Sec. 10.** Section 44-4726, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 44-4726 ~~(1)~~The same taxes provided for in section 44-32,180 shall
6 be imposed upon each prepaid limited health service organization, and
7 such organizations also shall be entitled to the same tax deductions,
8 reductions, abatements, and credits that health maintenance organizations
9 are entitled to receive.

10 ~~(2) Any capitation payment made in accordance with the Medical~~
11 ~~Assistance Act shall be excluded from computation of any tax obligation~~
12 ~~imposed by subsection (1) of this section.~~

13 **Sec. 11.** Section 77-908, Revised Statutes Cumulative Supplement,
14 2024, is amended to read:

15 77-908 (1) Every insurance company organized under the stock,
16 mutual, assessment, or reciprocal plan, except fraternal benefit
17 societies, which is transacting business in this state shall, on or
18 before March 1 of each year, pay a tax to the director of one percent of
19 the gross amount of direct writing premiums received by it during the
20 preceding calendar year for business done in this state, except that (a)
21 ~~(1)~~ for group sickness and accident insurance the rate of such tax shall
22 be five-tenths of one percent, (b) and ~~(2)~~ for property and casualty
23 insurance, excluding individual sickness and accident insurance, the rate
24 of such tax shall be one percent, and (c) in addition to the tax paid
25 under this section, for health maintenance organizations subject to the
26 Health Maintenance Organization Act, the tax levied by section 4 of this
27 act.

28 (2) A captive insurer authorized under the Captive Insurers Act that
29 is transacting business in this state shall, on or before March 1 of each
30 year, pay to the director a tax of one-fourth of one percent of the gross
31 amount of direct writing premiums received by such insurer during the

1 preceding calendar year for business transacted in the state.

2 (3) The taxable premiums shall include premiums paid on the lives of
3 persons residing in this state and premiums paid for risks located in
4 this state whether the insurance was written in this state or not,
5 including that portion of a group premium paid which represents the
6 premium for insurance on Nebraska residents or risks located in Nebraska
7 included within the group when the number of lives in the group exceeds
8 five hundred. The tax shall also apply to premiums received by domestic
9 companies for insurance written on individuals residing outside this
10 state or risks located outside this state if no comparable tax is paid by
11 the direct writing domestic company to any other appropriate taxing
12 authority. Companies whose scheme of operation contemplates the return of
13 a portion of premiums to policyholders, without such policyholders being
14 claimants under the terms of their policies, may deduct such return
15 premiums or dividends from their gross premiums for the purpose of tax
16 calculations. Any such insurance company shall receive a credit on the
17 tax imposed, except the tax paid under subdivision (1)(c) of this
18 section, as provided in the Creating High Impact Economic Futures Act,
19 the Nebraska Job Creation and Mainstreet Revitalization Act, the New
20 Markets Job Growth Investment Act, the Nebraska Higher Blend Tax Credit
21 Act, the Relocation Incentive Act, the Sustainable Aviation Fuel Tax
22 Credit Act, the Nebraska Shortline Rail Modernization Act, and the
23 Affordable Housing Tax Credit Act.

24 **Sec. 12.** Original sections 44-2702, 44-32,180, and 44-4726, Reissue
25 Revised Statutes of Nebraska, and section 77-908, Revised Statutes
26 Cumulative Supplement, 2024, are repealed.

27 **Sec. 13.** Since an emergency exists, this act takes effect when
28 passed and approved according to law.