

LEGISLATIVE BILL 8

Approved by the Governor August 15, 2002

Introduced by Speaker Bromm, 23; Jensen, 20; at the request of the Governor

AN ACT relating to public assistance; to amend sections 68-1019 and 68-1713, Revised Statutes Supplement, 2000, and section 68-1020, Revised Statutes Supplement, 2001; to change provisions relating to medical assistance eligibility and earnings determinations and transitional health care benefits; to provide and change powers and duties; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. Section 68-1019, Revised Statutes Supplement, 2000, is amended to read:

68-1019. (1) Medical assistance on behalf of recipients shall be paid directly to vendors.

(2) On behalf of recipients over sixty-five years of age, medical assistance shall include care in an institution for mental diseases.

(3) On behalf of all recipients, medical assistance shall include:

(a) Inpatient and outpatient hospital care;

(b) Laboratory and X-ray services;

(c) Nursing home services;

(d) Care home services;

(e) Home health care services;

(f) Nursing services;

(g) Clinic services;

(h) Services of practitioners licensed by the Department of Health and Human Services Regulation and Licensure; and

(i) Such drugs, appliances, and health aids as may be prescribed by practitioners licensed by the Department of Health and Human Services Regulation and Licensure.

(4) ~~The Director~~ Department of Health and Human Services Finance and Support ~~may~~ shall ~~adopt and promulgate rules and regulations to establish a schedule of premiums, copayments, and deductibles for goods and services provided under the medical assistance program. Such schedule as may be allowed by Title XIX or Title XXI of the federal Social Security Act, as amended as of September 1, 1998. The system of copayments and deductibles in the schedule~~ shall discourage abuse of high-cost services and encourage the utilization of cost-effective services. Prior to the adoption of the schedule of copayments and deductibles, ~~the director~~ department shall provide a report to the Governor and the Legislature outlining proposed copayments and deductibles. The report shall collect and summarize available data from other states concerning their experience with copayments and deductibles, determine if vendors may be reimbursed for copayments and deductibles resulting from a recipient's inability to pay, evaluate the collectability of copayments and deductibles, and assess the effect of copayments and deductibles on recipients, vendors, access to and availability of care, and utilization of affected medical assistance program services. The report shall include data from Nebraska as it becomes available. The report shall also provide information as to other cost-containment mechanisms which have been implemented or proposed by the ~~Department of Health and Human Services Finance and Support~~ department for the fiscal year. If the ~~director~~ department is proposing to adopt a schedule, the report shall be provided to the Governor and the Legislature by December 1. No schedule of copayments and deductibles shall be put into effect until July 1 following the report, except that for the first year the schedule shall be put into effect by April 1. If the ~~director~~ department is proposing elimination or modification of an existing schedule of copayments and deductibles, a report on the proposed changes shall be provided to the Governor and the Legislature by December 1. The proposed modification or elimination of the schedule of copayments and deductibles shall not take place prior to the July 1 following this report. ~~A vendor~~ Vendors shall be responsible for collecting any applicable copayment or deductible from the recipient.

(5) ~~The Director~~ Department of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations to provide limits as to the amount, duration, and scope of goods and services and goods recipients may receive under the medical assistance program. ~~For purposes of providing limits as to the amount, duration, and scope of services and goods recipients~~

may receive under the medical assistance program, the Department of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations. The limits adopted shall in all respects comply with applicable provisions of Title XIX of the federal Social Security Act and the related federal regulations, as they may be amended from time to time. Prior to the adoption of such rules and regulations, the ~~director~~ department shall provide a report to the Governor and the Legislature outlining proposed limits. Such report shall be provided to the Governor and the Legislature by December 1. No rules or regulations to implement such limits shall be put into effect until April 1 following the report.

(6) No vendor shall advertise or promote through newspapers, magazines, circulars, direct mail, directories, radio, television, or otherwise that such vendor will waive the collection of all or any portion of any copayment or deductible established pursuant to subsection (4) of this section.

Sec. 2. Section 68-1020, Revised Statutes Supplement, 2001, is amended to read:

68-1020. (1) Medical assistance shall be paid on behalf of (a) dependent children, (b) aged, ~~persons,~~ blind, ~~individuals,~~ and disabled ~~individuals~~ persons, as defined in sections 43-504 and 68-1002 to 68-1005, and ~~on behalf of all individuals~~ (c) all persons less than twenty-one years of age who are eligible under section 1905(a) of the federal Social Security Act, as such section existed on ~~September 1, 2001~~ January 1, 2002.

(2) The Department ~~Director~~ of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations governing provision of such medical assistance benefits to qualified ~~individuals~~ persons:

(a) Who are presumptively eligible as allowed under 42 U.S.C. 1396a, as such section existed on ~~September 1, 2001~~ January 1, 2002, and sections 1920A and 1920B of the federal Social Security Act, as such sections existed on ~~September 1, 2001~~ January 1, 2002;

(b) Who have a family income ~~at or below~~ equal to or less than one hundred eighty-five percent of the Office of Management and Budget income poverty line guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, as such titles existed on ~~September 1, 2001~~ January 1, 2002, without regard to resources, including all children under nineteen years of age and pregnant women as allowed under 42 U.S.C. 1396a, as such section existed on ~~September 1, 2001~~ January 1, 2002, and section 2110 of the federal Social Security Act, as such section existed on ~~September 1, 2001~~ January 1, 2002. Children described in this subdivision shall remain eligible for a ~~twelve-month period of time~~ six consecutive months from the date of initial eligibility prior to redetermination of eligibility. The department may review eligibility monthly thereafter pursuant to rules and regulations adopted and promulgated by the department. Such rules and regulations shall specify the nature of such reviews and the information upon which such reviews will be based and shall require the consideration of variations in family income and other relevant factors in conducting such reviews. The department may determine upon such review that a child is ineligible for medical assistance benefits if such child no longer meets eligibility standards established by the department. All children currently eligible on the effective date of this act shall have their initial period of continuous eligibility reduced to six months and shall have their eligibility redetermined pursuant to subsection (5) of this section and subdivision (1)(s) of section 68-1713. Beginning on the effective date of this act, the department shall report to the Legislature and the Governor on a quarterly basis until November 3, 2003, and each December 1 thereafter. The report shall include, but shall not be limited to, the number of monthly reviews conducted, the number of children determined to be ineligible under this subdivision, and demographic information concerning the reviews, including family income, county of residence, ages of children, and reasons for ineligibility; ~~or~~

(c) Who, for purposes of Title XIX of the federal Social Security Act as provided in subdivision (b) of this subsection, are children in families with income as follows:

(i) Equal to or less than one hundred fifty percent of the Office of Management and Budget income poverty guideline with eligible children one year of age or younger;

(ii) Equal to or less than one hundred thirty-three percent of the Office of Management and Budget income poverty guideline with eligible children over one year of age and under six years of age; or

(iii) Equal to or less than one hundred percent of the Office of Management and Budget income poverty guideline with eligible children six years of age or older and less than nineteen years of age; or

(d) Who are medically needy caretaker relatives as allowed under section 1905(a)(ii) of the federal Social Security Act, as such section existed on January 1, 2002. The department shall provide medical assistance until June 30, 2003, to caretaker relatives with family incomes equal to or less than fifty percent of the Office of Management and Budget income poverty guideline and who would otherwise be ineligible for medical assistance on and after the effective date of this act. ~~September 1, 2001~~, and who have children with allocated income as follows:

(i) ~~At or below one hundred fifty percent of the Office of Management and Budget poverty line with eligible children one year of age or younger;~~

(ii) ~~At or below one hundred thirty-three percent of the Office of Management and Budget poverty line with eligible children over one year of age and under six years of age; or~~

(iii) ~~At or below one hundred percent of the Office of Management and Budget poverty line with eligible children six years of age or more and under fifteen years of age.~~

(3) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii), as such section existed on ~~September 1, 2001~~ January 1, 2002, medical assistance shall be paid on behalf of disabled persons as defined in section 68-1005 who are in families whose net income is less than two hundred fifty percent of the Office of Management and Budget income poverty line guideline applicable to a family of the size involved and who but for earnings in excess of the limit established under 42 U.S.C. 1396d(q)(2)(B) of the federal Social Security Act, as such section existed on ~~September 1, 2001~~ January 1, 2002, would be considered to be receiving federal Supplemental Security Income. The Department of Health and Human Services shall apply for a waiver to disregard any unearned income that is contingent upon a trial work period in applying the Supplemental Security Income standard. Such disabled persons shall be subject to payment of premiums as a percentage of the family's net income beginning at not less than two hundred percent of the Office of Management and Budget net income poverty line guideline. Such premiums shall be graduated based on family income and shall not be less than two percent or more than ten percent of family net income.

(4) As allowed pursuant to 42 U.S.C. 1396a(a)(10)(A)(ii), as such section existed on ~~September 1, 2001~~ January 1, 2002, medical assistance shall be paid on behalf of persons who:

(a) Have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under Title XV of the federal Public Health Service Act, 42 U.S.C. 300k et seq., as such sections existed on ~~September 1, 2001~~ January 1, 2002, in accordance with the requirements of section 1504 of such act, 42 U.S.C. 300n, as such section existed on ~~September 1, 2001~~ January 1, 2002, and who need treatment for breast or cervical cancer, including precancerous and cancerous conditions of the breast or cervix;

(b) Are not otherwise covered under creditable coverage, as defined in section 2701(c) of the federal Public Health Service Act, 42 U.S.C. 300gg(c), as such section existed on ~~September 1, 2001~~ January 1, 2002;

(c) Have not attained sixty-five years of age; and

(d) Are not eligible for medicaid under any mandatory categorically needy eligibility group.

(5) Eligibility shall be determined under this section using an income budgetary methodology that determines children's eligibility at no greater than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline and adult eligibility using adult income standards no greater than the applicable categorical eligibility standards established pursuant to state or federal law. Beginning on the effective date of this act, the department shall redetermine eligibility under this section pursuant to such income budgetary methodology and subdivision (1)(s) of section 68-1713.

(6) The department shall adopt and promulgate rules and regulations to implement this section.

Sec. 3. Section 68-1713, Revised Statutes Supplement, 2000, is amended to read:

68-1713. (1) The Department of Health and Human Services shall submit a waiver request or requests to the United States Department of Health and Human Services and the United States Department of Agriculture as necessary for federal authorization to implement the provisions of the Welfare Reform Act. The Department of Health and Human Services may include the provisions of sections 68-1718 to 68-1726 in its waiver requests and shall designate counties for implementation on or after July 1, 1995, of such sections for recipient families in the aid to dependent children program. It

is the intent of the Legislature that such designated counties include at least one county with a population of not more than thirty-five thousand inhabitants and one county with a population of at least one hundred fifty thousand inhabitants but not more than three hundred thousand inhabitants.

The Department of Health and Human Services shall implement the following policies:

- (a) Permit Work Experience in Private for Profit Enterprises;
- (b) Permit Job Search to Extend Beyond Eight Weeks Each Year;
- (c) Permit Employment to be Considered a JOBS Program Component;
- (d) Make Sanctions More Stringent to Emphasize Participant Obligations;
- (e) Alternative Hearing Process;
- (f) Permit Adults in Two-Parent Households to Participate in JOBS Activities Based on Their Self-Sufficiency Needs;
- (g) Eliminate Exemptions for Individuals with Children Between the Ages of 12 Weeks and Age Six;
- (h) Providing Poor Working Families with Transitional Child Care to Ease the Transition from Welfare to Self-Sufficiency;
- (i) Provide Transitional Health Care for ~~24~~ 12 Months After Termination of ADC;
- (j) Cap Family Benefits Based on the Number of Children in the Unit at the Time of Initial Eligibility;
- (k) Require Adults to Ensure that Children in the Family Unit Attend School;
- (l) Encourage Minor Parents to Live with Their Parents;
- (m) Establish a Resource Limit of \$4,000 for a single individual and \$6,000 for two or more individuals for ADC;
- (n) Exclude the Value of One Vehicle Per Family When Determining ADC Eligibility;
- (o) Exclude the Cash Value of Life Insurance Policies in Calculating Resources for ADC;
- (p) Permit the Self-Sufficiency Contract Assessment to Substitute for the Six-Month ADC Redetermination Process;
- (q) Establish Food Stamps as a Continuous Benefit with Eligibility Reevaluated with Yearly Redeterminations;
- (r) Establish a Budget the Gap Methodology Whereby Countable Earned Income is Subtracted from the Standard of the Need and Payment is Based on the Difference or Maximum Payment Level, Whichever is Less. That this Gap be Established at a Level that Encourages Work but at Least at a Level that Ensures that Those Currently Eligible for ADC do not Lose Eligibility Because of the Adoption of this Methodology;
- (s) Adopt ~~the Food Stamp Program's~~ an Earned Income Disregard of Twenty Percent of Gross Earnings in the ADC Program and One Hundred Dollars in the ~~and~~ Related Medical Assistance Program;
- (t) Disregard Financial Assistance Received Intended for Books, Tuition, or Other Self-Sufficiency Related Use;
- (u) Culture: Eliminate the 100-Hour Rule, The Quarter of Work Requirement, and The 30-Day Unemployed/Underemployed Period for ADC-UP Eligibility;
- (v) Make ADC a Time-Limited Program;
- (w) Eliminate Self-Initiated Training as a JOBS Option; and
- (x) Other Waivers: Statewide Operation of the Demonstration Project.

At the end of the first year of implementation, the department shall identify any adjustments or adaptations that may be needed before the policies of the Welfare Reform Act are implemented in other areas of the state. Such review shall include an evaluation of the impact of such policies. The department shall implement the policies in additional counties as necessary to complete statewide implementation.

(2) The Department of Health and Human Services shall (a) apply for a waiver to allow for a sliding-fee schedule for the population served by the caretaker relative program or (b) pursue other public or private mechanisms, to provide for transitional health care benefits to individuals and families who do not qualify for cash assistance. It is the intent of the Legislature that transitional health care coverage be made available on a sliding-scale basis to individuals and families with incomes up to one hundred eighty-five percent of the federal poverty level if other health care coverage is not available.

Sec. 4. Original sections 68-1019 and 68-1713, Revised Statutes Supplement, 2000, and section 68-1020, Revised Statutes Supplement, 2001, are repealed.

Sec. 5. Since an emergency exists, this act takes effect when passed and approved according to law.