

LEGISLATURE OF NEBRASKA
 NINETY-NINTH LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 709
 FINAL READING

Introduced by Erdman, 47; Aguilar, 35; Baker, 44; Beutler, 28;
 Bourne, 8; Brown, 6; Burling, 33; Byars, 30;
 Combs, 32; Connealy, 16; Cornett, 45; Cudaback, 36;
 Cunningham, 40; Engel, 17; Flood, 19; Foley, 29;
 Friend, 10; Heidemann, 1; Hudkins, 21; Jensen, 20;
 Johnson, 37; Kremer, 34; Kruse, 13; Langemeier, 23;
 Louden, 49; Mines, 18; Dw. Pedersen, 39;
 D. Pederson, 42; Preister, 5; Price, 26;
 Redfield, 12; Schimek, 27; Smith, 48; Stuhr, 24;
 Stuthman, 22; Wehrbein, 2

Read first time January 19, 2005

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health care; to adopt the Medicaid Reform
 2 Act and the Long-Term Care Partnership Program
 3 Development Act; to provide termination dates; and to
 4 declare an emergency.
 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 of this act shall be known
2 and may be cited as the Medicaid Reform Act. The Medicaid Reform
3 Act terminates on January 1, 2006.

4 Sec. 2. The Legislature finds that:

5 (1) The medical assistance program has resulted in
6 significantly increased expenditures by the State of Nebraska;

7 (2) In response to such increased expenditures, the
8 Legislature has taken various actions affecting the availability
9 and adequacy of medical assistance benefits to Nebraska residents
10 under the program;

11 (3) As a result of such increased expenditures, the
12 medical assistance program may become fiscally unsustainable; and

13 (4) Fundamental reform of the medical assistance program
14 is necessary in order to ensure future sustainability of the
15 program for the benefit of Nebraska residents.

16 Sec. 3. The Legislature finds that:

17 (1) The medicaid program under Title XIX of the Social
18 Security Act, 42 U.S.C. 1396 et seq., provides essential health
19 care and long-term care coverage to low-income children, pregnant
20 women, and families, individuals with disabilities, and senior
21 citizens serving over one in ten Nebraskans;

22 (2) The medicaid program covers one in four children in
23 rural areas;

24 (3) The medicaid program is the largest single purchaser
25 of maternity care and pays for over one-third of the births in the
26 United States each year;

27 (4) Medicaid is America's single largest purchaser of
28 nursing home services and other long-term care, covering the

1 majority of nursing home residents;

2 (5) In Nebraska, the elderly and individuals with
3 disabilities comprise twenty-three and three-tenths percent of the
4 medicaid population and represent sixty-seven and two-tenths
5 percent of medicaid expenditures;

6 (6) In Nebraska, low-income children and their parents
7 comprise seventy-six and seven-tenths percent of the medicaid
8 population and represent thirty-two and eight-tenths percent of
9 medicaid expenditures;

10 (7) Medicaid pays for personal care and other supportive
11 services necessary to enable individuals with disabilities to
12 remain in the community, to work, and to maintain independence; and

13 (8) Medicaid is the single largest source of revenue for
14 the nation's safety net hospitals and health centers and is
15 critical to the ability of these providers to continue to serve
16 medicaid enrollees and uninsured Americans.

17 Sec. 4. The purpose of the Medicaid Reform Act is to
18 provide for reform of the medical assistance program established in
19 section 68-1018, also known as medicaid, and a substantive
20 recodification of statutes relating to such program, including, but
21 not limited to, the enactment of policies to (1) moderate the
22 growth of medicaid spending, (2) ensure future sustainability of
23 the medical assistance program for Nebraska residents, (3)
24 establish priorities and ensure flexibility in the allocation of
25 medical assistance benefits, and (4) provide alternatives to
26 medicaid eligibility for Nebraska residents.

27 Sec. 5. (1) It is the intent of the Legislature to
28 provide for the development of a medicaid reform plan for the State

1 of Nebraska and the enactment of necessary and appropriate
2 legislation to implement such plan.

3 (2) It is the intent of the Legislature that such plan
4 consider and address: (a) The needs of low-income, disabled, and
5 aged persons currently receiving medicaid services; (b) avoiding
6 the shifting of the primary costs of health care services to
7 providers of care; (c) the appropriate role of county government in
8 providing health care services; (d) the availability and
9 affordability of private health care insurance and long-term care
10 insurance; (e) the personal responsibility of persons, who are
11 able, to select and provide for all or a portion of the payment for
12 their health care services; (f) the fiscal sustainability of such
13 plan; and (g) alternatives to increase federal funding for services
14 in order to reduce dependence on General Funds and maintain or
15 increase the total amount of funding for such services, and the
16 possible utilization of national consultants to assist in the
17 consideration of such alternatives.

18 Sec. 6. The Governor and the chairperson of the Health
19 and Human Services Committee of the Legislature shall each
20 designate one person who shall be responsible to the Governor and
21 the committee for the development of a medicaid reform plan for the
22 State of Nebraska. Such plan shall be developed in consultation
23 with the Governor, the committee, the Policy Cabinet established in
24 section 81-3009, and the federal Centers for Medicare and Medicaid
25 Services. Public input shall be solicited, and at least one public
26 meeting shall be conducted in each congressional district during
27 preparation of the plan and prior to submission of the plan.
28 Monthly reports shall be provided to the Governor and the committee

1 during preparation of the plan. Such reports shall be reviewed by
2 the Medicaid Reform Advisory Council established in section 7 of
3 this act and shall be available to the public. Such plan shall be
4 submitted to the Governor and the Legislature no later than
5 December 1, 2005, and shall include recommendations for the
6 development of medicaid plan amendments and waivers and draft
7 legislation necessary to support such plan. The committee shall
8 conduct a public hearing on or before December 15, 2005, to receive
9 public input regarding the plan.

10 Sec. 7. (1) The Medicaid Reform Advisory Council is
11 established. The council shall consist of five persons appointed
12 by the Governor and five persons appointed by the chairperson of
13 the Health and Human Services Committee of the Legislature. The
14 council shall consist of, but not be limited to, at least one
15 representative from each of the following classes of persons:
16 Health care providers, health care consumers and consumer
17 advocates, business representatives, insurers, and elected
18 officials.

19 (2) The council shall meet monthly with persons
20 designated by the Governor and the chairperson of the Health and
21 Human Services Committee under section 6 of this act and shall
22 review monthly reports submitted by such designees under such
23 section. Minutes of such meetings shall be available to the public
24 and provided to the Governor and members of the Health and Human
25 Services Committee of the Legislature.

26 (3) The council shall review the medicaid reform plan
27 submitted under section 6 of this act and shall provide
28 recommendations relating to the plan to the Governor and the

1 Legislature on or before December 14, 2005.

2 (4) Members of the council shall serve without
3 compensation for such service but shall be reimbursed for their
4 actual and necessary expenses as provided in sections 81-1174 to
5 81-1177.

6 Sec. 8. The chairperson of the Health and Human Services
7 Committee of the Legislature, in consultation with the committee,
8 may prepare and introduce legislation in the Ninety-ninth
9 Legislature, Second Session, to implement the medicaid reform plan
10 developed under section 6 of this act.

11 Sec. 9. Sections 9 to 13 of this act shall be known and
12 may be cited as the Long-Term Care Partnership Program Development
13 Act. The Long-Term Care Partnership Program Development Act
14 terminates on January 1, 2006.

15 Sec. 10. The purpose of the Long-Term Care Partnership
16 Program Development Act is to provide for the development of a plan
17 to establish a long-term care partnership program in the State of
18 Nebraska and the enactment of necessary and appropriate legislation
19 to implement such plan and such program.

20 Sec. 11. The Legislature finds that:

21 (1) The medical assistance program has resulted in
22 significantly increased expenditures by the State of Nebraska;

23 (2) Efforts must be made to encourage the purchase of
24 long-term care insurance and reduce reliance on medicaid to fund
25 long-term nursing home services and home or community-based
26 services;

27 (3) Several states have enacted legislation to establish
28 long-term care partnership programs that contain asset protection

1 components, including estate asset protection after the death of
2 the insured;

3 (4) The federal Omnibus Budget Reconciliation Act of 1993
4 limited state asset protection programs established after May 14,
5 1993, by requiring recovery from the estates of all persons
6 receiving services under medicaid;

7 (5) Several states have memorialized Congress to remove
8 such restrictions on state asset protection programs; and

9 (6) It is prudent to develop a plan for the establishment
10 of a long-term care partnership program in the State of Nebraska
11 and the enactment of necessary and appropriate legislation to
12 implement such plan and such program in the event that current
13 federal restrictions are removed.

14 Sec. 12. The Nebraska Health and Human Services System
15 and the Department of Insurance, in consultation with the Health
16 and Human Services Committee of the Legislature, shall prepare a
17 plan for the establishment of a long-term care partnership program
18 in the State of Nebraska. Such plan shall be submitted to the
19 Governor and the Legislature no later than December 1, 2005. In
20 preparing such plan, the Nebraska Health and Human Services System
21 and the Department of Insurance shall analyze partnership programs
22 established by states prior to the enactment of federal
23 restrictions on the establishment of such programs under the
24 federal Omnibus Budget Reconciliation Act of 1993.

25 Sec. 13. The chairperson of the Health and Human
26 Services Committee of the Legislature, in consultation with members
27 of the committee, may prepare and introduce legislation in the
28 Ninety-ninth Legislature, Second Session, to implement the plan

1 developed under section 12 of this act.

2 Sec. 14. Since an emergency exists, this act takes

3 effect when passed and approved according to law.