

Government, Military, and Veterans Affairs

LB 867

February 4, 2016

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Division of Medicaid and Long-Term Care
Department of Health and Human Services**

Good afternoon, Senator Murante and members of the Government, Military, and Veterans Affairs Committee. My name is Calder Lynch (C-A-L-D-E-R-L-Y-N-C-H). I am the Director of the Medicaid and Long-Term Care Division of the Department of Health and Human Services. Thank you for this opportunity to speak on LB 867. While DHHS is neutral on this legislation as I understand that the Department of Corrections has submitted some technical concerns regarding the provisions that specifically impact their agency, I appreciate the inclusion of updated authority for state agencies to issue emergency regulations.

The Division of Medicaid and Long-Term Care (MLTC), as well as our sister divisions with DHHS, issues numerous regulations per year impacting our Medicaid clients and providers. However, due to the lengthy process required under current law to approve rules in our state, the Medicaid program is sometimes at risk with not complying with state and federal law changes and court decisions in a timely manner. These include matters impacting Medicaid enrollment and provider reimbursement. Noncompliance can lead to audit findings or even Medicaid disallowances, requiring the state to reimburse the federal government. As highlighted by the report issued in September by the Performance Audit Committee, Nebraska does not allow for time-limited emergency regulations like every other state does. From my experience in Louisiana, emergency rules are important tools to ensure laws can be quickly adopted when necessary.

LB 867 incorporates several of the report's recommendations in allowing for emergency regulations, clarifying the distinction between regulations and guidance documents, and exempting technical and reference citation changes from the formal regulatory process. While these are important first steps, I believe that a continued focus on modernizing the APA is warranted. I hope that this legislation will mark the beginning of an ongoing conversation on how to further improve the APA in Nebraska.

I'm happy to answer any questions you may have.