

Health and Human Services Committee
LB 270
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Good afternoon, Senator Campbell and members of the Health and Human Services Committee, my name is Vivianne Chaumont (V-I-V-I-A-N-N-E-C-H-A-U-M-O-N-T), Director of Division of Medicaid and Long-Term Care for the Department of Health and Human Services. I am here to testify in opposition to LB 270.

LB 270 requires Nebraska Medicaid to submit a State Plan Amendment or a waiver under section 1915(c) of the federal Social Security Act with the Centers for Medicare and Medicaid Services (CMS) to provide coverage under the Medicaid program for home and community based services for children with serious emotional disturbance.

The differences between a 1915(c) waiver and a State Plan Amendment are significant. The bill leaves it up to the Department to decide which option to implement without any indication as to what is the intended goal of the new program. Waivers have client caps and require Medicaid cost neutrality. Please note that the CMS requirement is cost neutrality for the Medicaid program, not cost neutrality for the state budget. Under the State Plan, once a population is defined, all clients that meet the definition have to be provided the services. Either way, any client who is found eligible qualifies for all covered benefits in the Medicaid program.

Financial eligibility for children who are eligible for waiver services is calculated based on a household of one so that the income of the parents is not counted at all. According to the Centers for Disease Control and Prevention, the parents of 14.5% of children 4 to 17 years of age who have talked with a health care provider or school staff about the child's emotional or behavioral difficulties report that their child has a serious difficulty. In Nebraska, 14.5% of the total population of children and young adults ages 4 through 20 would be estimated at 68,379. Without more clarity in the bill or as implemented by the Department, this population is potentially eligible for this new program.

In addition to the bill not identifying the purpose of the program or indicating which option the Department should implement, the bill does not define the term serious emotional disturbance. There are a variety of definitions available in the literature for that term. The impact of the program is different depending on what definition is used.

The bill states that children four to 21 are eligible for the program. However, according to state statute at Section 68-915, Nebraska Medicaid covers children under 19. Nebraska Medicaid

currently covers 19 to 21 year olds if they meet another eligibility group, that is, if they are pregnant or disabled. LB 270 appears to expand Medicaid by adding a new eligibility group. Whether or not the State Plan option could cover this new eligibility group is uncertain.

The bill does not clearly define the level of care necessary to meet the new program's criteria. Individuals under 1915(c) waivers need to meet an institutional level of care, that is, but for the community services, the individuals would be in an institution. Individuals who have been "deinstitutionalized or diverted from a psychiatric hospital level of care" are very different from individuals who meet that institutional level of care at assessment.

The State Plan option does not require individuals to meet an institutional level of care at assessment which opens that option much more and makes it even more important to carefully define the eligible group. What does it mean to have been "deinstitutionalized?" If the child was "institutionalized" without medical necessity, is that child eligible? If a parent asked for a child to be institutionalized and the child was not, is that child now considered "diverted" from a hospital? The target population needs to be carefully defined because everyone that meets it will be eligible for full Medicaid benefits.

In order for CMS to approve either option, we would have to establish that the services provided under the waiver are not duplicative of existing Medicaid State Plan services. LB 270 requires coverage of services which are currently covered under the State Plan, specifically the professional resource family care and wrap services that include many individual therapeutic services like intensive out-patient therapy that are offered to individuals in the community-based setting. The bill needs to define what wrap services are envisioned.

The bill's requirement to submit a State Plan Amendment or a waiver by September 1, 2013 is not realistic. Waivers under section 1915(c) require significant time and planning. A State Plan Amendment to accommodate this population will require comparable activities. Each service must be defined with specificity. Providers for those services need to be identified and the qualifications for those providers need to be detailed. A methodology for the rates has to be established for each new service. For the waiver, a level of care assessment has to be developed; for the State Plan, a service evaluation has to be created. The development of quality assurance measures are mandatory and are specific to the services offered under either option. Strategies to evaluate those measures also have to be developed. Additionally, criteria need to be established to identify when an individual no longer qualifies for the new services and how to transition the individual from services. The filing of either option requires stakeholder meetings and input. Extensive financial analysis is part of the required submissions.

Additionally, services must be based on a clinical standard that is identified through a needs based evaluation. This evaluation must be done independently with a conflict free evaluator with the resulting information used to create an individualized service plan. This individualized plan must be patient centered and the Medicaid recipient must actively participate in the development and planning process. This would require more resources not currently available.

As a result of all of the issues referenced above, it was very difficult to prepare a fiscal note. Development of waivers is a data intensive process. In the timeframe available, it was impossible to do the type of analysis needed that would be required in a waiver submission.

Regardless of all of the problems discussed above, LB 270 is an expansion of Medicaid eligibles and an expansion of Medicaid services. For all of these reasons, the Department opposes LB 270.

I am happy to answer questions.