

ASSEMBLY BILL NO. 429—COMMITTEE ON HEALTH
AND HUMAN SERVICES

(ON BEHALF OF DIVISION OF HEALTH CARE
FINANCING AND POLICY)

MARCH 10, 1999

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning division of health care financing and policy of department of human resources and children's health insurance program. (BDR 38-635)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to public welfare; clarifying the duties of and making various changes concerning the division of health care financing and policy of the department of human resources; making various changes concerning the children's health insurance program; repealing the prospective expiration of the provisions governing the division of health care financing and policy; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 422 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2, 3 and 4 of this act.
- 3 **Sec. 2.** *“Children’s health insurance program” means the program*
- 4 *established pursuant to 42 U.S.C. §§ 1397aa to 1397jj, inclusive, to*
- 5 *provide health insurance for uninsured children from low-income*
- 6 *families in this state.*
- 7 **Sec. 3.** *1. Before adopting, amending or repealing any regulation*
- 8 *for the administration of a program of public assistance or any other*
- 9 *program for which the division of health care financing and policy is*
- 10 *responsible, the administrator shall give at least 30 days’ notice of his*
- 11 *intended action.*

1 2. The notice of intent to act upon a regulation must:

2 (a) Include a statement of the need for and purpose of the proposed
3 regulation, and either the terms or substance of the proposed regulation
4 or a description of the subjects and issues involved, and of the time when,
5 the place where, and the manner in which, interested persons may
6 present their views thereon.

7 (b) Include a statement identifying the entities that may be financially
8 affected by the proposed regulation and the potential financial impact, if
9 any, upon local government.

10 (c) State each address at which the text of the proposed regulation
11 may be inspected and copied.

12 (d) Be mailed to all persons who have requested in writing that they be
13 placed upon a mailing list, which must be kept by the administrator for
14 that purpose.

15 3. All interested persons must be afforded a reasonable opportunity
16 to submit data, views or arguments upon a proposed regulation, orally or
17 in writing. The administrator shall consider fully all oral and written
18 submissions relating to the proposed regulation.

19 4. The administrator shall keep, retain and make available for public
20 inspection written minutes of each public hearing held pursuant to this
21 section in the manner provided in subsections 1 and 2 of NRS 241.035.

22 5. The administrator may record each public hearing held pursuant
23 to this section and make those recordings available for public inspection
24 in the manner provided in subsection 4 of NRS 241.035.

25 6. An objection to any regulation on the ground of noncompliance
26 with the procedural requirements of this section may not be made more
27 than 2 years after its effective date.

28 **Sec. 4.** 1. If the division of health care financing and policy denies
29 an application for the children's health insurance program, the division
30 shall provide written notice of the decision to the applicant. An applicant
31 who disagrees with the denial of the application may request a review of
32 the case and a hearing before an impartial hearing officer by filing a
33 written request within 30 days after the date of the notice of the decision
34 at the address specified in the notice.

35 2. The division of health care financing and policy shall adopt
36 regulations regarding the review and hearing before an impartial
37 hearing officer. The decision of the hearing officer must be in writing.

38 3. The applicant may at any time within 30 days after the date on
39 which the written decision is mailed, petition the district court of the
40 judicial district in which the applicant resides to review the decision. The
41 district court shall review the decision on the record. The decision and
42 record must be certified as correct and filed with the court by the
43 administrator of the division for health care financing and policy.

1 **4. The review by the court must be in accordance with NRS 422.299.**

2 **Sec. 5.** NRS 422.001 is hereby amended to read as follows:

3 422.001 As used in this chapter, unless the context otherwise requires,
4 the words and terms defined in NRS 422.010 to 422.055, inclusive, **and**
5 **section 2 of this act** have the meanings ascribed to them in those sections.

6 **Sec. 6.** NRS 422.050 is hereby amended to read as follows:

7 422.050 **1.** "Public assistance" includes:

8 ~~(1.)~~ **(a)** State supplementary assistance;

9 ~~(2.)~~ **(b)** Temporary assistance for needy families;

10 ~~(3.)~~ **(c)** Medicaid;

11 ~~(4.)~~ **(d)** Food stamp assistance;

12 ~~(5.)~~ **(e)** Low-income home energy assistance;

13 ~~(6.)~~ **(f)** The program for child care and development; and

14 ~~(7.)~~ **(g)** Benefits provided pursuant to any other public welfare program
15 administered by the welfare division or the division of health care financing
16 and policy pursuant to such additional federal legislation as is not
17 inconsistent with the purposes of this chapter.

18 **2. The term does not include the children's health insurance**
19 **program.**

20 **Sec. 7.** NRS 422.2352 is hereby amended to read as follows:

21 422.2352 As used in NRS 422.2352 to 422.2374, inclusive, **and**
22 **section 3 of this act**, 422.301 to 422.306, inclusive, **and** 422.380 to
23 422.390, inclusive, ~~and 422.580,~~ unless the context otherwise requires,
24 "administrator" means the administrator of the division of health care
25 financing and policy.

26 **Sec. 8.** NRS 422.2366 is hereby amended to read as follows:

27 422.2366 **1.** The administrator or his designated representative may
28 administer oaths and take testimony thereunder and issue subpoenas
29 requiring the attendance of witnesses before the division of health care
30 financing and policy at a designated time and place and the production of
31 books, papers and records relative to:

32 (a) Eligibility or continued eligibility to provide medical care, remedial
33 care or other services pursuant to the state plan for Medicaid ~~or~~ **or the**
34 **children's health insurance program;** and

35 (b) Verification of treatment and payments to a provider of medical
36 care, remedial care or other services pursuant to the state plan for Medicaid
37 ~~or~~ **or the children's health insurance program.**

38 **2.** If a witness fails to appear or refuses to give testimony or to produce
39 books, papers and records as required by the subpoena, the district court of
40 the county in which the investigation is being conducted may compel the
41 attendance of the witness, the giving of testimony and the production of
42 books, papers and records as required by the subpoena.

1 **Sec. 9.** NRS 422.290 is hereby amended to read as follows:

2 422.290 1. To restrict the use or disclosure of any information
3 concerning applicants for and recipients of public assistance *or assistance*
4 *pursuant to the children's health insurance program* to purposes directly
5 connected to the administration of this chapter, and to provide safeguards
6 therefor, under the applicable provisions of the Social Security Act, the
7 welfare division and the division of health care financing and policy shall
8 establish and enforce reasonable regulations governing the custody, use and
9 preservation of any records, files and communications filed with the
10 welfare division or the division of health care financing and policy.

11 2. If, pursuant to a specific statute or a regulation of the welfare
12 division or the division of health care financing and policy, names and
13 addresses of, or information concerning, applicants for and recipients of
14 assistance , *including, without limitation, assistance pursuant to the*
15 *children's health insurance program,* are furnished to or held by any other
16 agency or department of government, such agency or department of
17 government is bound by the regulations of the department prohibiting the
18 publication of lists and records thereof or their use for purposes not directly
19 connected with the administration of this chapter.

20 3. Except for purposes directly connected with the administration of
21 this chapter, no person may publish, disclose or use, or permit or cause to
22 be published, disclosed or used, any confidential information pertaining to
23 a recipient of assistance , *including, without limitation, a recipient of*
24 *assistance pursuant to the children's health insurance program,* under
25 the provisions of this chapter.

26 **Sec. 10.** NRS 422.293 is hereby amended to read as follows:

27 422.293 1. When a recipient of Medicaid *or a recipient of insurance*
28 *provided pursuant to the children's health insurance program* incurs an
29 illness or injury for which medical services are payable ~~under the state~~
30 ~~plan~~ *by the department* and which is incurred under circumstances
31 creating a legal liability in some person other than the recipient or a
32 division of the department to pay all or part of the costs of such services,
33 the department is subrogated to the right of the recipient to the extent of all
34 such costs and may join or intervene in any action by the recipient or his
35 successors in interest to enforce such legal liability.

36 2. If a recipient or his successors in interest fail or refuse to commence
37 an action to enforce the legal liability, the department may commence an
38 independent action, after notice to the recipient or his successors in interest,
39 to recover all costs to which it is entitled. In any such action by the
40 department, the recipient or his successors in interest may be joined as
41 third-party defendants.

42 3. In any case where the department is subrogated to the rights of the
43 recipient or his successors in interest as provided in subsection 1, the

1 department has a lien upon the proceeds of any recovery from the persons
2 liable, whether the proceeds of the recovery are by way of judgment,
3 settlement or otherwise. Such a lien must be satisfied in full, unless reduced
4 pursuant to subsection 5, at such time as:

5 (a) The proceeds of any recovery or settlement are distributed to or on
6 behalf of the recipient, his successors in interest or his attorney; and

7 (b) A dismissal by any court of any action brought to enforce the legal
8 liability established by subsection 1.

9 No such lien is enforceable unless written notice is first given to the person
10 against whom the lien is asserted.

11 4. The recipient or his successors in interest shall notify the department
12 in writing before entering any settlement agreement or commencing any
13 action to enforce the legal liability referred to in subsection 1. Except if
14 extraordinary circumstances exist, a person who fails to comply with the
15 provisions of this subsection shall be deemed to have waived any
16 consideration by the director or his designated representative of a reduction
17 of the amount of the lien pursuant to subsection 5 and shall pay to the
18 department all costs to which it is entitled and its court costs and attorney's
19 fees.

20 5. If the department receives notice pursuant to subsection 4, the
21 director or his designated representative may, in consideration of the legal
22 services provided by an attorney to procure a recovery for the recipient,
23 reduce the lien on the proceeds of any recovery.

24 6. The attorney of a recipient:

25 (a) Shall not condition the amount of attorney's fees or impose
26 additional attorney's fees based on whether a reduction of the lien is
27 authorized by the director or his designated representative pursuant to
28 subsection 5.

29 (b) Shall reduce the amount of the fees charged the recipient for services
30 provided by the amount the attorney receives from the reduction of a lien
31 authorized by the director or his designated representative pursuant to
32 subsection 5.

33 **Sec. 11.** NRS 422.29314 is hereby amended to read as follows:

34 422.29314 1. The welfare division shall provide public assistance
35 pursuant to:

36 (a) The program established to provide temporary assistance for needy
37 families;

38 (b) ~~["The program for assistance to the medically indigent;"]~~ **Medicaid;** or

39 (c) Any program for which a grant has been provided to this state
40 pursuant to 42 U.S.C. §§ 1397 et seq.,

41 to a qualified alien who complies with the requirements established by the
42 welfare division pursuant to federal law and this chapter for the receipt of
43 benefits pursuant to that program.

1 2. As used in this section, “qualified alien” has the meaning ascribed to
2 it in 8 U.S.C. § 1641.

3 **Sec. 12.** NRS 422.294 is hereby amended to read as follows:

4 422.294 1. Subject to the provisions of subsection 2, if an application
5 for public assistance *or claim for services* is not acted upon by the ~~{welfare~~
6 ~~division}~~ *department* within a reasonable time after the filing of the
7 application ~~{}~~ *or claim for services*, or is denied in whole or in part, or if
8 any grant of public assistance *or claim for services* is reduced, suspended
9 or terminated, the applicant for or recipient of public assistance may appeal
10 to the ~~{welfare-division}~~ *department* and may be represented in the appeal
11 by counsel or other representative of his choice.

12 2. Upon the initial decision to deny, reduce, suspend or terminate
13 public assistance ~~{, the welfare-division}~~ *or services, the department* shall
14 notify that applicant or recipient of its decision, the regulations involved
15 and his right to request a hearing within a certain period. If a request for a
16 hearing is received within that period, the ~~{welfare-division}~~ *department*
17 shall notify that person of the time, place and nature of the hearing. The
18 ~~{welfare-division}~~ *department* shall provide an opportunity for a hearing of
19 that appeal and shall review his case regarding all matters alleged in that
20 appeal.

21 3. The ~~{welfare-division}~~ *department* is not required to grant a hearing
22 pursuant to this section if the request for the hearing is based solely upon
23 the provisions of a federal law or a law of this state that requires an
24 automatic adjustment to the amount of public assistance *or services* that
25 may be received by an applicant or recipient.

26 **Sec. 13.** NRS 422.296 is hereby amended to read as follows:

27 422.296 1. At any hearing held pursuant to the provisions of
28 subsection 2 of NRS 422.294, opportunity must be afforded all parties to
29 respond and present evidence and argument on all issues involved.

30 2. Unless precluded by law, informal disposition may be made of any
31 hearing by stipulation, agreed settlement, consent order or default.

32 3. The record of a hearing must include:

33 (a) All pleadings, motions and intermediate rulings.

34 (b) Evidence received or considered.

35 (c) Questions and offers of proof and objections, and rulings thereon.

36 (d) Any decision, opinion or report by the hearing officer presiding at
37 the hearing.

38 4. Oral proceedings, or any part thereof, must be transcribed on request
39 of any party seeking judicial review of the decision.

40 5. Findings of fact must be based exclusively on substantial evidence.

6. Any employee or other representative of the ~~{welfare division}~~ department who investigated or made the initial decision to deny, modify or cancel a grant of public assistance shall not participate in the making of any decision made pursuant to the hearing.

Sec. 14. NRS 422.298 is hereby amended to read as follows:

422.298 1. A decision or order issued by a hearing officer must be in writing. A final decision must include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory or regulatory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A copy of the decision or order must be delivered by certified mail to each party and to his attorney or other representative.

2. The ~~{welfare division}~~ department or an applicant for or recipient of public assistance or services may, at any time within 90 days after the date on which the written notice of the decision is mailed, petition the district court of the judicial district in which the applicant for or recipient of public assistance resides to review the decision. The district court shall review the decision on the record of the case before the hearing officer. The decision and record must be certified as correct and filed with the clerk of the court by the ~~{state welfare administrator.}~~ department.

Sec. 15. NRS 422.299 is hereby amended to read as follows:

422.299 1. Before the date set by the court for hearing, an application may be made to the court by motion, with notice to the opposing party and an opportunity for that party to respond, for leave to present additional evidence. If it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the ~~{welfare division.}~~ department, the court may order that the additional evidence be taken before the ~~{welfare division}~~ department upon conditions determined by the court. The ~~{welfare division}~~ department may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

2. The review must be conducted by the court without a jury and must be confined to the record. In cases of alleged irregularities in procedure before the ~~{welfare division.}~~ department, not shown in the record, proof thereon may be taken in the court. The court, at the request of either party, shall hear oral argument and receive written briefs.

3. The court shall not substitute its judgment for that of the ~~{welfare division}~~ department as to the weight of the evidence on questions of fact. The court may affirm the decision of the ~~{welfare division}~~ department or remand the case for further proceedings. The court may reverse the decision and remand the case to the ~~{division}~~ department for further

1 proceedings if substantial rights of the appellant have been prejudiced
2 because the ~~{welfare division's}~~ *department's* findings, inferences,
3 conclusions or decisions are:

4 (a) In violation of constitutional, regulatory or statutory provisions;

5 (b) In excess of the statutory authority of the ~~{welfare division;}~~
6 *department;*

7 (c) Made upon unlawful procedure;

8 (d) Affected by other error of law;

9 (e) Clearly erroneous in view of the reliable, probative and substantial
10 evidence on the whole record; or

11 (f) Arbitrary or capricious or characterized by abuse of discretion or
12 clearly unwarranted exercise of discretion.

13 4. An aggrieved party may obtain review of any final judgment of the
14 district court by appeal to the supreme court. The appeal must be taken in
15 the manner provided for civil cases.

16 **Sec. 16.** NRS 422.306 is hereby amended to read as follows:

17 422.306 1. Upon receipt of a request for a hearing from a provider of
18 services under the state plan for Medicaid, the division of health care
19 financing and policy shall appoint a hearing officer to conduct the hearing.
20 Any employee or other representative of the division of health care
21 financing and policy who investigated or made the initial decision
22 regarding the action taken against a provider of services may not be
23 appointed as the hearing officer or participate in the making of any decision
24 pursuant to the hearing.

25 2. The division of health care financing and policy shall adopt
26 regulations prescribing the procedures to be followed at the hearing.

27 3. The decision of the hearing officer is a final decision. Any party,
28 including the division of health care financing and policy, who is aggrieved
29 by the decision of the hearing officer may appeal that decision to the
30 district court ~~{ }~~ *in and for Carson City by filing a petition for judicial*
31 *review within 30 days after receiving the decision of the hearing officer.*

32 4. *A petition for judicial review filed pursuant to this section must be*
33 *served upon every party within 30 days after the filing of the petition for*
34 *judicial review.*

35 5. *Unless otherwise provided by the court:*

36 (a) *Within 90 days after the service of the petition for judicial review,*
37 *the division of health care financing and policy shall transmit to the*
38 *court the original or a certified copy of the entire record of the*
39 *proceeding under review, including, without limitation, a transcript of*
40 *the evidence resulting in the final decision of the hearing officer;*

41 (b) *The petitioner who is seeking judicial review pursuant to this*
42 *section shall serve and file an opening brief within 40 days after the*

1 *division of health care financing and policy gives written notice to the*
2 *parties that the record of the proceeding under review has been filed with*
3 *the court;*

4 *(c) The respondent shall serve and file an answering brief within 30*
5 *days after service of the opening brief; and*

6 *(d) The petitioner may serve and file a reply brief within 30 days after*
7 *service of the answering brief.*

8 **6. Within 7 days after the expiration of the time within which the**
9 **petitioner may reply, any party may request a hearing. Unless a request**
10 **for hearing has been filed, the matter shall be deemed submitted.**

11 **7.** The review of the court must be confined to the record. The court
12 shall not substitute its judgment for that of the hearing officer as to the
13 weight of the evidence on questions of fact. The court may affirm the
14 decision of the hearing officer or remand the case for further proceedings.
15 The court may reverse or modify the decision if substantial rights of the
16 appellant have been prejudiced because the administrative findings,
17 inferences, conclusions or decisions are:

18 (a) In violation of constitutional or statutory provisions;

19 (b) In excess of the statutory authority of the division of health care
20 financing and policy;

21 (c) Made upon unlawful procedure;

22 (d) Affected by other error of law;

23 (e) Clearly erroneous in view of the reliable, probative and substantial
24 evidence on the whole record; or

25 (f) Arbitrary or capricious or characterized by abuse of discretion or
26 clearly unwarranted exercise of discretion.

27 **Sec. 17.** NRS 422.369 is hereby amended to read as follows:

28 422.369 A person authorized by the ~~[welfare]~~ division *of health care*
29 *financing and policy* to furnish the types of medical and remedial care for
30 which assistance may be provided under the plan, or an agent or employee
31 of the authorized person, who, with the intent to defraud, furnishes such
32 care upon presentation of a Medicaid card which he knows was obtained or
33 retained in violation of any of the provisions of NRS 422.361 to 422.367,
34 inclusive, or is forged, expired or revoked, is guilty of a category D felony
35 and shall be punished as provided in NRS 193.130. In addition to any other
36 penalty, the court shall order the person to pay restitution.

37 **Sec. 18.** NRS 422.3742 is hereby amended to read as follows:

38 422.3742 1. If the plan for personal responsibility signed by the head
39 of a household pursuant to NRS 422.3724 includes a provision providing
40 for the payment of transitional assistance to the head of the household, the
41 welfare division may provide transitional assistance to the head of the
42 household if the household becomes ineligible for benefits for one or more

1 of the reasons described in 42 U.S.C. § 608(a)(11). The welfare division
2 shall not provide transitional assistance pursuant to this section for more
3 than 12 consecutive months.

4 2. As used in this section, “transitional assistance” means:

5 (a) Assistance provided by the welfare division to low-income families
6 to pay for the costs of child care; or

7 (b) Medicaid provided pursuant to the plan administered by the ~~welfare~~
8 ~~division~~ **department** pursuant to NRS 422.271.

9 **Sec. 19.** NRS 422.385 is hereby amended to read as follows:

10 422.385 1. The allocations and payments required pursuant to NRS
11 422.387 must be made, to the extent allowed by the state plan for
12 Medicaid, from the Medicaid budget account.

13 2. Except as otherwise provided in subsection 3, the money in the
14 intergovernmental transfer account must be transferred from that account to
15 the Medicaid budget account to the extent that money is available from the
16 Federal Government for proposed expenditures, including expenditures for
17 administrative costs. If the amount in the account exceeds the amount
18 authorized for expenditure by the division of health care financing and
19 policy for the purposes specified in NRS 422.387, the division of health
20 care financing and policy is authorized to expend the additional revenue in
21 accordance with the provisions of the state plan for Medicaid.

22 3. If enough money is available to support Medicaid, money in the
23 intergovernmental transfer account may be transferred to an account
24 established for the provision of health care services to uninsured children
25 ~~{who are under the age of 13 years}~~ pursuant to a federal program in which
26 at least 50 percent of the cost of such services is paid for by the Federal
27 Government, **including, without limitation, the children’s health**
28 **insurance program**, if enough money is available to continue to satisfy
29 existing obligations of the Medicaid program or to carry out the provisions
30 of NRS 439B.350 to 439B.360.

31 **Sec. 20.** NRS 422.410 is hereby amended to read as follows:

32 422.410 1. Unless a different penalty is provided pursuant to NRS
33 422.361 to 422.369, inclusive, or 422.450 to 422.590, inclusive, a person
34 who knowingly and designedly, by any false pretense, false or misleading
35 statement, impersonation or misrepresentation, obtains or attempts to obtain
36 monetary or any other public assistance **, or money, property, medical or**
37 **remedial care or any other service provided pursuant to the children’s**
38 **health insurance program**, having a value of \$100 or more, whether by
39 one act or a series of acts, with the intent to cheat, defraud or defeat the
40 purposes of this chapter is guilty of a category E felony and shall be
41 punished as provided in NRS 193.130. In addition to any other penalty, the
42 court shall order the person to pay restitution.

2. For the purposes of subsection 1, whenever a recipient of temporary assistance for needy families pursuant to the provisions of this chapter receives an overpayment of benefits for the third time and the overpayments have resulted from a false statement or representation by the recipient or from the failure of the recipient to notify the welfare division of a change in his circumstances which would affect the amount of assistance he receives, a rebuttable presumption arises that the payment was fraudulently received.

3. For the purposes of subsection 1, "public assistance" includes any money, property, medical or remedial care or any other service provided pursuant to a state plan.

Sec. 21. NRS 422.580 is hereby amended to read as follows:

422.580 1. A provider who receives payment to which he is not entitled by reason of a violation of NRS 422.540, 422.550, 422.560 or 422.570 is liable for:

(a) An amount equal to three times the amount unlawfully obtained;

(b) Not less than \$5,000 for each false claim, statement or representation;

(c) An amount equal to three times the total of the reasonable expenses incurred by the state in enforcing this section; and

(d) Payment of interest on the amount of the excess payment at the rate fixed pursuant to NRS 99.040 for the period from the date upon which payment was made to the date upon which repayment is made pursuant to the plan.

2. A criminal action need not be brought against the provider before civil liability attaches under this section.

3. A provider who unknowingly accepts a payment in excess of the amount to which he is entitled is liable for the repayment of the excess amount. It is a defense to any action brought pursuant to this subsection that the provider returned or attempted to return the amount which was in excess of that to which he was entitled within a reasonable time after receiving it.

4. The attorney general shall cause appropriate legal action to be taken on behalf of the state to enforce the provisions of this section.

5. Any penalty or repayment of money collected pursuant to this section is hereby appropriated to provide medical aid to the indigent through programs administered by the ~~welfare division~~ department.

Sec. 22. NRS 426A.060 is hereby amended to read as follows:

426A.060 1. The advisory committee on traumatic brain injuries, consisting of 11 members, is hereby created.

2. The director shall appoint to the committee:

(a) One member who is an employee of the rehabilitation division of the department.

(b) One member who is an employee of the ~~[welfare]~~ division *of health care financing and policy* of the department of human resources and participates in the administration of the state program providing Medicaid.

(c) One member who is a licensed insurer in this state.

(d) One member who represents the interests of educators in this state.

(e) One member who is a person professionally qualified in the field of psychiatric mental health.

(f) Two members who are employees of private providers of rehabilitative health care located in this state.

(g) One member who represents persons who operate community-based programs for head injuries in this state.

(h) One member who represents hospitals in this state.

(i) Two members who represent the recipients of health care in this state.

3. After the initial appointments, each member of the committee serves a term of 3 years.

4. The committee shall elect one of its members to serve as chairman.

5. Members of the committee serve without compensation and are not entitled to receive the per diem allowance or travel expenses provided for state officers and employees generally.

6. The committee may:

(a) Make recommendations to the director relating to the establishment and operation of any program for persons with traumatic brain injuries.

(b) Make recommendations to the director concerning proposed legislation relating to traumatic brain injuries.

(c) Collect information relating to traumatic brain injuries.

7. The committee shall prepare a report of its activities and recommendations each year and submit a copy to the:

(a) Director;

(b) Legislative committee on health care; and

(c) Legislative commission.

8. As used in this section:

(a) "Director" means the director of the department.

(b) "Person professionally qualified in the field of psychiatric mental health" has the meaning ascribed to it in NRS 433.209.

(c) "Provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 23. NRS 428.090 is hereby amended to read as follows:

428.090 1. When a nonresident or any other person who meets the uniform standards of eligibility prescribed by the board of county commissioners or by NRS 439B.310, if applicable, falls sick in the county, not having money or property to pay his board, nursing or medical aid, the board of county commissioners of the proper county shall, on complaint

1 being made, give or order to be given such assistance to the poor person as
2 is in accordance with the policies and standards established and approved
3 by the board of county commissioners and within the limits of money which
4 may be lawfully appropriated for this purpose pursuant to NRS 428.050,
5 428.285 and 450.425.

6 2. If the sick person dies, the board of county commissioners shall give
7 or order to be given to the person a decent burial or cremation.

8 3. Except as otherwise provided in NRS 422.382, the board of county
9 commissioners shall make such allowance for the person's board, nursing,
10 medical aid, burial or cremation as the board deems just and equitable, and
11 order it paid out of the county treasury.

12 4. The responsibility of the board of county commissioners to provide
13 medical aid or any other type of remedial aid under this section is relieved
14 to the extent provided in NRS 422.382 and to the extent of the amount of
15 money or the value of services provided by:

16 (a) The ~~Welfare division of the~~ department of human resources to or
17 for such persons for medical care or any type of remedial care under the
18 state plan for Medicaid; and

19 (b) The fund for hospital care to indigent persons under the provisions
20 of NRS 428.115 to 428.255, inclusive.

21 **Sec. 24.** NRS 228.410 is hereby amended to read as follows:

22 228.410 1. The attorney general has primary jurisdiction to
23 investigate and prosecute violations of NRS 422.540 to 422.570, inclusive,
24 and any fraud in the administration of the plan or in the provision of
25 medical assistance ~~to~~ **pursuant to the plan.** The provisions of this section
26 notwithstanding, the welfare division and the division of health care
27 financing and policy of the department of human resources shall enforce
28 the plan and any regulations adopted pursuant thereto.

29 2. For this purpose, the attorney general shall establish within his office
30 the Medicaid fraud control unit. The unit must consist of a group of
31 qualified persons, including, without limitation, an attorney, an auditor and
32 an investigator who, to the extent practicable, have expertise in nursing,
33 medicine and the administration of medical facilities.

34 3. The attorney general, acting through the Medicaid fraud control unit:

35 (a) Is the single state agency responsible for the investigation and
36 prosecution of violations of NRS 422.540 to 422.570, inclusive;

37 (b) Shall review reports of abuse or criminal neglect of patients in
38 medical facilities which receive payments under the plan and, when
39 appropriate, investigate and prosecute the persons responsible;

40 (c) May review and investigate reports of misappropriation of money
41 from the personal resources of patients in medical facilities that receive
42 payments under the plan and, when appropriate, shall prosecute the persons
43 responsible;

(d) Shall cooperate with federal investigators and prosecutors in coordinating state and federal investigations and prosecutions involving fraud in the provision or administration of medical assistance pursuant to the plan, and provide those federal officers with any information in his possession regarding such an investigation or prosecution; and

(e) Shall protect the privacy of patients and establish procedures to prevent the misuse of information obtained in carrying out the provisions of this section.

4. When acting pursuant to NRS 228.175 or this section, the attorney general may commence his investigation and file a criminal action without leave of court, and he has exclusive charge of the conduct of the prosecution.

5. As used in this section:

(a) "Medical facility" has the meaning ascribed to it in NRS 449.0151.

(b) "Plan" means the state plan for Medicaid established pursuant to NRS 422.271.

Sec. 25. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

"Children's health insurance program" has the meaning ascribed to it in section 2 of this act.

Sec. 26. NRS 232.365 is hereby amended to read as follows:

232.365 As used in NRS 232.365 to 232.373, inclusive, ***and section 25 of this act*** unless the context otherwise requires, the words and terms defined in NRS 232.367, 232.369 and 232.371 ***and section 25 of this act*** have the meanings ascribed to them in those sections.

Sec. 27. NRS 232.373 is hereby amended to read as follows:

232.373 The purposes of the division are:

1. To ensure that the Medicaid provided by this state ~~is~~ ***and the insurance provided pursuant to the children's health insurance program in this state are*** provided in the manner that is most efficient to this state.

2. To evaluate alternative methods of providing Medicaid ~~is~~ ***and providing insurance pursuant to the children's health insurance program.***

3. To review Medicaid ***, the children's health insurance program*** and other health programs of this state to determine the maximum amount of money that is available from the Federal Government for such programs.

4. To promote access to quality health care for all residents of this state.

5. To restrain the growth of the cost of health care in this state.

Sec. 28. NRS 274.270 is hereby amended to read as follows:

274.270 1. The governing body shall investigate the proposal made by a business pursuant to NRS 274.260, and if it finds that the business is qualified by financial responsibility and business experience to create and

1 preserve employment opportunities in the specially benefited zone and
2 improve the economic climate of the municipality and finds further that the
3 business did not relocate from a depressed area in this state or reduce
4 employment elsewhere in Nevada in order to expand in the specially
5 benefited zone, the governing body may, on behalf of the municipality,
6 enter into an agreement with the business, for a period of not more than 20
7 years, under which the business agrees in return for one or more of the
8 benefits authorized in this chapter and NRS 374.643 for qualified
9 businesses, as specified in the agreement, to establish, expand, renovate or
10 occupy a place of business within the specially benefited zone and hire new
11 employees at least 35 percent of whom at the time they are employed are at
12 least one of the following:

13 (a) Unemployed persons who have resided at least 6 months in the
14 municipality.

15 (b) Persons eligible for employment or job training under any federal
16 program for employment and training who have resided at least 6 months in
17 the municipality.

18 (c) Recipients of benefits under any state or county program of public
19 assistance, including , *without limitation*, temporary assistance for needy
20 families, ~~aid to the medically indigent~~ *Medicaid* and unemployment
21 compensation who have resided at least 6 months in the municipality.

22 (d) Persons with a physical or mental handicap who have resided at least
23 6 months in the state.

24 (e) Residents for at least 1 year of the area comprising the specially
25 benefited zone.

26 2. To determine whether a business is in compliance with an
27 agreement, the governing body:

28 (a) Shall each year require the business to file proof satisfactory to the
29 governing body of its compliance with the agreement.

30 (b) May conduct any necessary investigation into the affairs of the
31 business and may inspect at any reasonable hour its place of business
32 within the specially benefited zone.

33 If the governing body determines that the business is in compliance with
34 the agreement, it shall issue a certificate to that effect to the business. The
35 certificate expires 1 year after the date of its issuance.

36 3. The governing body shall file with the administrator, the department
37 of taxation and the employment security division of the department of
38 employment, training and rehabilitation a copy of each agreement, the
39 information submitted under paragraph (a) of subsection 2 and the current
40 certificate issued to the business under that subsection. The governing body
41 shall immediately notify the administrator, the department of taxation and
42 the employment security division of the department of employment,
43 training and rehabilitation whenever the business is no longer certified.

1 **Sec. 29.** Chapter 439B of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 *“Children’s health insurance program” has the meaning ascribed to it*
4 *in section 2 of this act.*

5 **Sec. 30.** NRS 439B.010 is hereby amended to read as follows:

6 439B.010 As used in this chapter, unless the context otherwise
7 requires, the words and terms defined in NRS 439B.030 to 439B.150,
8 inclusive, *and section 29 of this act* have the meanings ascribed to them in
9 those sections.

10 **Sec. 31.** NRS 439B.310 is hereby amended to read as follows:

11 439B.310 For the purposes of NRS 439B.300 to 439B.340, inclusive,
12 “indigent” means those persons:

- 13 1. Who are not covered by any policy of health insurance;
- 14 2. Who are ineligible for Medicare, Medicaid, *the children’s health*
15 *insurance program*, the benefits provided pursuant to NRS 428.115 to
16 428.255, inclusive, or any other federal or state program of public
17 assistance covering the provision of health care;
- 18 3. Who meet the limitations imposed by the county upon assets and
19 other resources or potential resources; and
- 20 4. Whose income is less than:
21 (a) For one person living without another member of a household, \$438.
22 (b) For two persons, \$588.
23 (c) For three or more persons, \$588 plus \$150 for each person in the
24 family in excess of two.

25 For the purposes of this subsection, “income” includes the entire income of
26 a household and the amount which the county projects a person or
27 household is able to earn. “Household” is limited to a person and his
28 spouse, parents, children, brothers and sisters residing with him.

29 **Sec. 32.** NRS 441A.220 is hereby amended to read as follows:

30 441A.220 All information of a personal nature about any person
31 provided by any other person reporting a case or suspected case of a
32 communicable disease, or by any person who has a communicable disease,
33 or as determined by investigation of the health authority, is confidential
34 medical information and must not be disclosed to any person under any
35 circumstances, including pursuant to any subpoena, search warrant or
36 discovery proceeding, except as follows:

- 37 1. For statistical purposes, provided that the identity of the person is
38 not discernible from the information disclosed.
- 39 2. In a prosecution for a violation of this chapter.
- 40 3. In a proceeding for an injunction brought pursuant to this chapter.
- 41 4. In reporting the actual or suspected abuse or neglect of a child or
42 elderly

person.

1 5. To any person who has a medical need to know the information for
2 his own protection or for the well-being of a patient or dependent person,
3 as determined by the health authority in accordance with regulations of the
4 board.

5 6. If the person who is the subject of the information consents in
6 writing to the disclosure.

7 7. Pursuant to subsection 2 of NRS 441A.320.

8 8. If the disclosure is made to ~~the welfare division of~~ the department
9 of human resources and the person about whom the disclosure is made has
10 been diagnosed as having acquired immunodeficiency syndrome or an
11 illness related to the human immunodeficiency virus and is a recipient of or
12 an applicant for Medicaid.

13 9. To a fireman, police officer or person providing emergency medical
14 services if the board has determined that the information relates to a
15 communicable disease significantly related to that occupation. The
16 information must be disclosed in the manner prescribed by the board.

17 10. If the disclosure is authorized or required by specific statute.

18 **Sec. 33.** NRS 632.072 is hereby amended to read as follows:

19 632.072 1. The advisory committee on nursing assistants, consisting
20 of 10 members appointed by the board, is hereby created.

21 2. The board shall appoint to the advisory committee:

22 (a) One representative of facilities for long-term care;

23 (b) One representative of medical facilities which provide acute care;

24 (c) One representative of agencies to provide nursing in the home;

25 (d) One representative of the health division of the department of human
26 resources;

27 (e) One representative of the ~~welfare~~ division *of health care financing*
28 *and policy* of the department of human resources;

29 (f) One representative of the aging services division of the department of
30 human resources;

31 (g) One representative of the American Association of Retired Persons
32 or a similar organization;

33 (h) A nursing assistant;

34 (i) A registered nurse; and

35 (j) A licensed practical nurse.

36 3. The advisory committee shall advise the board with regard to
37 matters relating to nursing assistants.

38 **Sec. 34.** NRS 689A.505 is hereby amended to read as follows:

39 689A.505 “Creditable coverage” means, with respect to a person,
40 health benefits or coverage provided pursuant to:

41 1. A group health plan;

42 2. A health benefit plan;

3. Part A or Part B of Title XVIII of the Social Security Act, also known as Medicare;

4. Title XIX of the Social Security Act, also known as Medicaid, other than coverage consisting solely of benefits under section 1928 of that Title;

5. Chapter 55 of Title 10, United States Code (Civilian Health and Medical Program of Uniformed Services (CHAMPUS));

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefit risk pool;

8. A health plan offered pursuant to chapter 89 of Title 5, United States Code (Federal Employees Health Benefits Program (FEHBP));

9. A public health plan as defined in ~~{federal regulations}~~ **45 C.F.R. § 146.113**, authorized by the Public Health Service Act, section 2701(c)(1)(I), as amended by Public Law 104-191 ~~{-or-}~~, **42 U.S.C. § 300gg(c)(1)(I)**;

10. A health benefit plan under section 5(e) of the Peace Corps Act , ~~{H}~~ **22 U.S.C. § 2504(e) {H-1}** ; or

11. *The children's health insurance program established pursuant to 42 U.S.C. §§ 1397aa to 1397jj, inclusive.*

Sec. 35. NRS 689B.380 is hereby amended to read as follows:

689B.380 “Creditable coverage” means health benefits or coverage provided to a person pursuant to:

1. A group health plan;

2. A health benefit plan;

3. Part A or Part B of Title XVIII of the Social Security Act, also known as Medicare;

4. Title XIX of the Social Security Act, also known as Medicaid, other than coverage consisting solely of benefits under section 1928 of that Title;

5. Chapter 55 of Title 10, United States Code (Civilian Health and Medical Program of Uniformed Services (CHAMPUS));

6. A medical care program of the Indian Health Service or of a tribal organization;

7. A state health benefit risk pool;

8. A health plan offered pursuant to chapter 89 of Title 5, United States Code (Federal Employees Health Benefits Program (FEHBP));

9. A public health plan as defined in ~~{federal regulations}~~ **45 C.F.R. § 146.113**, authorized by the Public Health Service Act, section 2701(c)(1)(I), as amended by Public Law 104-191 ~~{-or-}~~, **42 U.S.C. § 300gg(c)(1)(I)**;

10. A health benefit plan under section 5(e) of the Peace Corps Act , ~~{H}~~ **22 U.S.C. § 2504(e) {H-1}** ; or

11. *The children's health insurance program established pursuant to 42 U.S.C. §§ 1397aa to 1397jj, inclusive.*

Sec. 36. NRS 689C.053 is hereby amended to read as follows:

689C.053 "Creditable coverage" means health benefits or coverage provided to a person pursuant to:

1. A group health plan;
2. A health benefit plan;
3. Part A or Part B of Title XVIII of the Social Security Act, also known as Medicare;
4. Title XIX of the Social Security Act, also known as Medicaid, other than coverage consisting solely of benefits under section 1928 of that Title;
5. Chapter 55 of Title 10, United States Code (Civilian Health and Medical Program of Uniformed Services (CHAMPUS));
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefit risk pool;
8. A health plan offered pursuant to chapter 89 of Title 5, United States Code (Federal Employees Health Benefits Program (FEHBP));
9. A public health plan as defined in federal regulations authorized by the Public Health Service Act, section 2701(c)(1)(I), as amended by Public Law 104-191; ~~or~~
10. A health benefit plan under section 5(e) of the Peace Corps Act , ~~42 U.S.C. § 2504(e) ~~or~~~~ ; *or*
11. *The children's health insurance program established pursuant to 42 U.S.C. §§ 1397aa to 1397jj, inclusive.*

Sec. 37. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this Title, the provisions of this Title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this Title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.170 to 695C.200, inclusive, 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid *or insurance pursuant to the children's health insurance program* pursuant to a contract with the ~~welfare~~ division *of health care*

1 *financing and policy* of the department of human resources. This
2 subsection does not exempt a health maintenance organization from any
3 provision of this chapter for services provided pursuant to any other
4 contract.

5 **Sec. 38.** Section 89 of chapter 550, Statutes of Nevada 1997, at page
6 2644, is hereby amended to read as follows:

7 Sec. 89. 1. This section and sections 2 to 14.1, inclusive,
8 14.3 to 29, inclusive, 32 to 43, inclusive, 45, 47, 49 to 54, inclusive,
9 56, 57, 59, 63, 64, 67 to 71, inclusive, and 74 to 88, inclusive, of
10 this act become effective on July 1, 1997.

11 2. Sections 1, 30, 30.5, 44, 46, 48, 54.5, 58, 60, 61, 62, 65, 66,
12 72 and 73 of this act become effective at 12:01 a.m. on July 1,
13 1997.

14 3. Sections 31 and 55 of this act become effective at 12:02 a.m.
15 on July 1, 1997.

16 4. Section 14.2 of this act becomes effective on July 1, 1998.

17 5. Sections ~~1 to 14.4, inclusive, 15 to 30, inclusive, 31 to 54,~~
18 ~~inclusive, 55 to 80.3, inclusive, and 84 of this act, and subsection 1~~
19 ~~of section 81 of this act, expires] 78 and 79 of this act expire~~ by
20 limitation on June 30, 1999.

21 **Sec. 39.** This act becomes effective upon passage and approval.