

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, unless the context otherwise requires, "administrator"  
24 means the administrator of the division of health care financing and policy.

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

26 422.2366 **1.** The administrator or his designated representative may  
27 administer oaths and take testimony thereunder and issue subpoenas  
28 requiring the attendance of witnesses before the division of health care  
29 financing and policy at a designated time and place and the production of  
30 books, papers and records relative to:

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

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

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

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

- 1 (b) One member who is an employee of the ~~Welfare~~ division *of health*  
2 *care financing and policy* of the department of human resources and  
3 participates in the administration of the state program providing Medicaid.
- 4 (c) One member who is a licensed insurer in this state.
- 5 (d) One member who represents the interests of educators in this state.
- 6 (e) One member who is a person professionally qualified in the field of  
7 psychiatric mental health.
- 8 (f) Two members who are employees of private providers of  
9 rehabilitative health care located in this state.
- 10 (g) One member who represents persons who operate community-based  
11 programs for head injuries in this state.
- 12 (h) One member who represents hospitals in this state.
- 13 (i) Two members who represent the recipients of health care in this  
14 state.
- 15 3. After the initial appointments, each member of the committee serves  
16 a term of 3 years.
- 17 4. The committee shall elect one of its members to serve as chairman.
- 18 5. Members of the committee serve without compensation and are not  
19 entitled to receive the per diem allowance or travel expenses provided for  
20 state officers and employees generally ~~and~~, *except that members of the*  
21 *committee may receive any per diem allowance and travel expenses that*  
22 *may be authorized by the committee if the payment of the per diem*  
23 *allowance and travel expenses:*
  - 24 (a) *Is made from money received by the committee from a source*  
25 *other than the State of Nevada; and*
  - 26 (b) *Is not inconsistent with any condition attached to the acceptance*  
27 *of that money.*
- 28 6. The committee may:
  - 29 (a) Make recommendations to the administrator relating to the  
30 establishment and operation of any program for persons with traumatic  
31 brain injuries.
  - 32 (b) Make recommendations to the administrator concerning proposed  
33 legislation relating to traumatic brain injuries.
  - 34 (c) Collect information relating to traumatic brain injuries.
  - 35 (d) *Apply for grants.*
  - 36 (e) *Accept and expend any money made available to the committee by*  
37 *gift, grant, donation or bequest.*
- 38 7. The committee shall prepare a report of its activities and  
39 recommendations each year and submit a copy to the:
  - 40 (a) Director of the department;
  - 41 (b) Administrator;
  - 42 (c) Legislative committee on health care; and
  - 43 (d) Legislative commission.

8. As used in this section:

(a) "Administrator" means the administrator of the rehabilitation division 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 being made, give or order to be given such assistance to the poor person as is in accordance with the policies and standards established and approved by the board of county commissioners and within the limits of money which may be lawfully appropriated for this purpose pursuant to NRS 428.050, 428.285 and 450.425.

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

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

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

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

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

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

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

2. For this purpose, the attorney general shall establish within his office the Medicaid fraud control unit. The unit must consist of a group of

1 qualified persons, including, without limitation, an attorney, an auditor and  
2 an investigator who, to the extent practicable, have expertise in nursing,  
3 medicine and the administration of medical facilities.

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

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

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

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

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

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

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

26 5. As used in this section:

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

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

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

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

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

35 232.365 As used in NRS 232.365 to 232.373, inclusive, *and section 25*  
36 *of this act* unless the context otherwise requires, the words and terms  
37 defined in NRS 232.367, 232.369 and 232.371 *and section 25 of this act*  
38 have the meanings ascribed to them in those sections.

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

40 232.373 The purposes of the division are:

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

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

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

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

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

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

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

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

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

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

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

7 3. The governing body shall file with the administrator, the department  
8 of taxation and the employment security division of the department of  
9 employment, training and rehabilitation a copy of each agreement, the  
10 information submitted under paragraph (a) of subsection 2 and the current  
11 certificate issued to the business under that subsection. The governing body  
12 shall immediately notify the administrator, the department of taxation and  
13 the employment security division of the department of employment,  
14 training and rehabilitation whenever the business is no longer certified.

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

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

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

20 439B.010 As used in this chapter, unless the context otherwise  
21 requires, the words and terms defined in NRS 439B.030 to 439B.150,  
22 inclusive, *and section 29 of this act* have the meanings ascribed to them in  
23 those sections.

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

25 439B.310 For the purposes of NRS 439B.300 to 439B.340, inclusive,  
26 “indigent” means those persons:

27 1. Who are not covered by any policy of health insurance;

28 2. Who are ineligible for Medicare, Medicaid, *the children’s health*  
29 *insurance program*, the benefits provided pursuant to NRS 428.115 to  
30 428.255, inclusive, or any other federal or state program of public  
31 assistance covering the provision of health care;

32 3. Who meet the limitations imposed by the county upon assets and  
33 other resources or potential resources; and

34 4. Whose income is less than:

35 (a) For one person living without another member of a household, \$438.

36 (b) For two persons, \$588.

37 (c) For three or more persons, \$588 plus \$150 for each person in the  
38 family in excess of two.

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

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

2     441A.220 All information of a personal nature about any person  
3 provided by any other person reporting a case or suspected case of a  
4 communicable disease, or by any person who has a communicable disease,  
5 or as determined by investigation of the health authority, is confidential  
6 medical information and must not be disclosed to any person under any  
7 circumstances, including pursuant to any subpoena, search warrant or  
8 discovery proceeding, except as follows:

9     1. For statistical purposes, provided that the identity of the person is  
10 not discernible from the information disclosed.

11    2. In a prosecution for a violation of this chapter.

12    3. In a proceeding for an injunction brought pursuant to this chapter.

13    4. In reporting the actual or suspected abuse or neglect of a child or  
14 elderly person.

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

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

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

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

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

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

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

33     632.072 1. The advisory committee on nursing assistants, consisting  
34 of 10 members appointed by the board, is hereby created.

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

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

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

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

39     (d) One representative of the health division of the department of human  
40 resources;

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

1 (f) One representative of the aging services division of the department of  
2 human resources;

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

5 (h) A nursing assistant;

6 (i) A registered nurse; and

7 (j) A licensed practical nurse.

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

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

11 689A.505 "Creditable coverage" means, with respect to a person,  
12 health benefits or coverage provided pursuant to:

13 1. A group health plan;

14 2. A health benefit plan;

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

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

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

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

23 7. A state health benefit risk pool;

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

26 9. A public health plan as defined in ~~federal regulations~~ **45 C.F.R. §**  
27 **146.113**, authorized by the Public Health Service Act, section  
28 2701(c)(1)(I), as amended by Public Law 104-191 ~~§ 101~~, **42 U.S.C. §**  
29 **300gg(c)(1)(I)**;

30 10. A health benefit plan under section 5(e) of the Peace Corps Act ,  
31 ~~42 U.S.C. § 2504(e) § 1~~ ; or

32 **11. The children's health insurance program established pursuant to**  
33 **42 U.S.C. §§ 1397aa to 1397jj, inclusive.**

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

35 689B.380 "Creditable coverage" means health benefits or coverage  
36 provided to a person pursuant to:

37 1. A group health plan;

38 2. A health benefit plan;

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

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

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

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

5 7. A state health benefit risk pool;

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

8 9. A public health plan as defined in ~~federal regulations~~ **45 C.F.R. §**  
9 **146.113**, authorized by the Public Health Service Act, section  
10 2701(c)(1)(I), as amended by Public Law 104-191 ~~;~~ **or**, **42 U.S.C. §**  
11 **300gg(c)(1)(I)**;

12 10. A health benefit plan under section 5(e) of the Peace Corps Act ,  
13 ~~42 U.S.C. § 2504(e) ;~~ **or**

14 **11. The children's health insurance program established pursuant to**  
15 **42 U.S.C. §§ 1397aa to 1397jj, inclusive.**

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

17 689C.053 "Creditable coverage" means health benefits or coverage  
18 provided to a person pursuant to:

19 1. A group health plan;

20 2. A health benefit plan;

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

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

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

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

29 7. A state health benefit risk pool;

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

32 9. A public health plan as defined in federal regulations authorized by  
33 the Public Health Service Act, section 2701(c)(1)(I), as amended by Public  
34 Law 104-191; ~~or~~

35 10. A health benefit plan under section 5(e) of the Peace Corps Act ,  
36 ~~42 U.S.C. § 2504(e) ;~~ **or**

37 **11. The children's health insurance program established pursuant to**  
38 **42 U.S.C. §§ 1397aa to 1397jj, inclusive.**

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

40 695C.050 1. Except as otherwise provided in this chapter or in

41 specific provisions of this Title, the provisions of this Title are not

42 applicable to any health maintenance organization granted a certificate of

43 authority under this chapter. This provision does not apply to an insurer

1 licensed and regulated pursuant to this Title except with respect to its  
2 activities as a health maintenance organization authorized and regulated  
3 pursuant to this chapter.

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

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

11 4. The provisions of NRS 695C.110, 695C.170 to 695C.200, inclusive,  
12 695C.250 and 695C.265 do not apply to a health maintenance organization  
13 that provides health care services through managed care to recipients of  
14 Medicaid *or insurance pursuant to the children's health insurance*  
15 *program* pursuant to a contract with the ~~{welfare}~~ division *of health care*  
16 *financing and policy* of the department of human resources. This  
17 subsection does not exempt a health maintenance organization from any  
18 provision of this chapter for services provided pursuant to any other  
19 contract.

20 **Sec. 38.** Section 2 of chapter 442, Statutes of Nevada 1997, at page  
21 1559, is hereby amended to read as follows:

22 **Sec. 2.** 1. On or before October 1, ~~{1999,}~~ *2001*, except as  
23 otherwise provided in subsection 3, in carrying out its duties  
24 regarding the administration of Medicaid, the welfare division of  
25 the department of human resources may enter into a contract for the  
26 provision of pharmaceutical services through managed care to  
27 recipients of Medicaid if the welfare division and the legislative  
28 committee on health care determine that such a contract:

- 29 (a) Is cost effective;  
30 (b) Is the most convenient method of providing pharmaceutical  
31 services to the recipients of Medicaid; and  
32 (c) Includes access to pharmacies licensed in this state to the  
33 maximum extent possible.

34 2. If the welfare division enters into a contract pursuant to  
35 subsection 1, except for any limitations on coverage provided  
36 pursuant to 42 U.S.C. § 1396r-8(d)(2) or (6), the contract must  
37 provide for reimbursement for the dispensing of a drug to a  
38 recipient of Medicaid, without requiring any prior or retroactive  
39 approval, if the drug:

- 40 (a) Has been approved or designated as safe and effective by the  
41 Food and Drug Administration; and

(b) Is prescribed by a physician who determines that the drug is appropriate for the diagnosis or treatment of the recipient of Medicaid.

3. The provisions of this section do not apply to a contract that provides services only to recipients who are eligible to receive benefits pursuant to:

(a) The program established to provide temporary assistance for needy families pursuant to Title IV of the Social Security Act, 42 U.S.C. §§ 601 et seq, and other provisions of that act relating to temporary assistance for needy families; or

(b) The child health assurance program established pursuant to 42 U.S.C. § 1396a(a)(10)(A)(i)(IV), (VI) or (VII).

**Sec. 39.** Section 89 of chapter 550, Statutes of Nevada 1997, at page 2644, is hereby amended to read as follows:

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

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

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

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

5. *Section 14.1 of this act expires by limitation on June 30, 1998.*

6. ~~Sections 1 to 14.4, inclusive, 15 to 30, inclusive, 31 to 54, inclusive, 55 to 80.3, inclusive, and 84 of this act, and subsection 1 of section 81 of this act, expires~~ *78 and 79 of this act expire* by limitation on June 30, 1999.

**Sec. 40.** Section 3 of Assembly Bill No. 249 of this session is hereby amended to read as follows:

**Sec. 3.** NRS 422.2935 is hereby amended to read as follows:

422.2935 1. Except as otherwise provided in this section ~~the welfare division shall,~~ and to the extent it is not prohibited by federal law and when circumstances allow ~~the~~

~~-(a) Recover,~~ *the welfare division shall recover* benefits correctly paid for Medicaid from:

~~1(a)~~ *(a)* The undivided estate of the person who received those benefits; and

~~2(b)~~ *(b)* Any recipient of money or property from the undivided estate of the person who received those benefits.

1       ~~[(b) Recover from the recipient of Medicaid or the person who~~  
2       ~~signed the application for Medicaid on behalf of the recipient an~~  
3       ~~amount not to exceed the benefits incorrectly paid to the recipient if~~  
4       ~~the person who signed the application:~~

5       ~~—(1) Failed to report any required information to the welfare~~  
6       ~~division which he knew at the time he signed the application; or~~  
7       ~~—(2) Failed within the period allowed by the welfare division to~~  
8       ~~report any required information to the welfare division which he~~  
9       ~~obtained after he filed the application.]~~

10       2. The welfare division shall not recover benefits pursuant to  
11       ~~[paragraph (a) of]~~ subsection 1, except from a person who is neither  
12       a surviving spouse nor a child, until after the death of the surviving  
13       spouse, if any, and only at a time when the person who received the  
14       benefits has no surviving child who is under 21 years of age or is  
15       blind or permanently and totally disabled.

16       3. Except as otherwise provided by federal law, if a transfer of  
17       real or personal property by a recipient of Medicaid is made for less  
18       than fair market value, the welfare division may pursue any remedy  
19       available pursuant to chapter 112 of NRS with respect to the  
20       transfer.

21       4. The amount of Medicaid paid to or on behalf of a person is a  
22       claim against the estate in any probate proceeding only at a time  
23       when there is no surviving spouse or surviving child who is under  
24       21 years of age or is blind or permanently and totally disabled.

25       5. The state welfare administrator may elect not to file a claim  
26       against the estate of a recipient of Medicaid or his spouse if he  
27       determines that the filing of the claim will cause an undue hardship  
28       for the spouse or other survivors of the recipient. The administrator  
29       shall adopt regulations defining the circumstances that constitute an  
30       undue hardship.

31       6. Any recovery of money obtained pursuant to this section  
32       must be applied first to the cost of recovering the money. Any  
33       remaining money must be divided among the Federal Government,  
34       the department and the county in the proportion that the amount of  
35       assistance each contributed to the recipient bears to the total amount  
36       of the assistance contributed.

37       7. ~~[An action to recover money owed to the department as a~~  
38       ~~result of the payment of benefits for Medicaid must be commenced~~  
39       ~~within 6 months after the cause of action accrues. A cause of action~~  
40       ~~accrues after all of the following events have occurred:~~

41       ~~—(a) The death of the recipient of Medicaid;~~  
42       ~~—(b) The death of the surviving spouse of the recipient of~~  
43       ~~Medicaid;~~

~~—(c) The death of all children of the recipient of Medicaid who are blind or permanently and totally disabled as determined in accordance with 42 U.S.C. § 1382c; and~~  
~~—(d) The arrival of all other children of the recipient of Medicaid at the age of 21 years.]~~ *Any recovery by the welfare division from the undivided estate of a recipient pursuant to this section must be paid in cash to the extent of:*  
*(a) The amount of Medicaid paid to or on behalf of the recipient after October 1, 1993; or*  
*(b) The value of the remaining assets in the undivided estate, whichever is less.*

**Sec. 41.** Section 4 of Assembly Bill No. 249 of this session is hereby amended to read as follows:

**Sec. 4.** NRS 422.29355 is hereby amended to read as follows:

422.29355 1. The welfare division may, to the extent not prohibited by federal law, petition for the imposition of a lien pursuant to the provisions of NRS 108.850 against real or personal property of a recipient of Medicaid as follows:

(a) The welfare division may obtain a lien against a recipient's property, both real or personal, before or after his death in the amount of assistance paid or to be paid on his behalf if the court determines that assistance was incorrectly paid for the recipient.

(b) The welfare division may seek a lien against the real property of a recipient at any age before his death in the amount of assistance paid or to be paid for him if he is an inpatient in a nursing facility, intermediate care facility for the mentally retarded or other medical institution and the welfare division determines, after notice and opportunity for a hearing in accordance with its regulations, that he cannot reasonably be expected to be discharged and return home.

2. No lien may be placed on a recipient's home *pursuant to paragraph (b) of subsection 1* for assistance correctly paid if:

(a) His spouse;

(b) His child who is under 21 years of age or blind or permanently and totally disabled as determined in accordance with 42 U.S.C. § 1382c; or

(c) His brother or sister who is an owner or part owner of the home and who was residing in the home for at least 1 year immediately before the date the recipient was admitted to the medical institution, is lawfully residing in the home.

3. Upon the death of a recipient the welfare division may seek a lien upon his undivided estate as defined in NRS 422.054.

1       4. The state welfare administrator shall release a lien pursuant  
2 to this section:

3       (a) Upon notice by the recipient or his representative to the  
4 administrator that the recipient has been discharged from the  
5 medical institution and has returned home;

6       (b) If the lien was incorrectly determined; or

7       (c) Upon satisfaction of the claim of the welfare division.

8       **Sec. 42.** Assembly Bill No. 305 of this session is hereby amended by  
9 deleting sec. 33 and adding:

10       **Sec. 33.** (Deleted by amendment.)

11       **Sec. 43.** Assembly Bill No. 305 of this session is hereby amended by  
12 deleting sec. 37 and adding:

13       **Sec. 37.** (Deleted by amendment.)

14       **Sec. 44.** Section 45 of Assembly Bill No. 305 of this session is hereby  
15 amended to read as follows:

16       **Sec. 45.** ~~[1.—This section and sections 1 to 32, inclusive, 34,~~  
17 ~~35, 36, 38 to 44, inclusive, and 46 of this act become]~~ **This act**  
18 **becomes** effective upon passage and approval.

19       ~~[2.—Sections 33 and 37 of this act become effective at 12:01~~  
20 ~~a.m. on July 1, 1999.~~

21       ~~—3.—Sections 32 and 36 of this act expire by limitation on July 1,~~  
22 ~~1999.]~~

23       **Sec. 45.** Section 2 of Assembly Bill No. 483 of this session is hereby  
24 amended to read as follows:

25       **Sec. 2.** NRS 441A.220 is hereby amended to read as follows:

26       441A.220 All information of a personal nature about any  
27 person provided by any other person reporting a case or suspected  
28 case of a communicable disease, or by any person who has a  
29 communicable disease, or as determined by investigation of the  
30 health authority, is confidential medical information and must not  
31 be disclosed to any person under any circumstances, including  
32 pursuant to any subpoena, search warrant or discovery proceeding,  
33 except as follows:

34       1. For statistical purposes, provided that the identity of the  
35 person is not discernible from the information disclosed.

36       2. In a prosecution for a violation of this chapter.

37       3. In a proceeding for an injunction brought pursuant to this  
38 chapter.

39       4. In reporting the actual or suspected abuse or neglect of a  
40 child or elderly person.

41       5. To any person who has a medical need to know the  
42 information for his own protection or for the well-being of a patient

1 or dependent person, as determined by the health authority in  
2 accordance with regulations of the board.

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

5 7. Pursuant to subsection 2 of NRS 441A.320 ~~or~~ *or section 3*  
6 *of this act.*

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

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

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

19 **Sec. 46.** Section 1 of Assembly Bill No. 649 of this session is hereby  
20 amended to read as follows:

21 **Section 1.** NRS 200.5093 is hereby amended to read as  
22 follows:

23 200.5093 1. A person required to make a report pursuant to  
24 this section shall make the report immediately, but in no event later  
25 than 24 hours after there is reason to believe that an older person  
26 has been abused, neglected, exploited or isolated. The report must  
27 be made to:

28 (a) The local office of the aging services division of the  
29 department of human resources;

30 (b) A police department or sheriff's office;

31 (c) The county's office for protective services, if one exists in  
32 the county where the suspected action occurred; or

33 (d) A toll-free telephone service designated by the aging services  
34 division of the department of human resources.

35 If the report of abuse, neglect, exploitation or isolation of an older  
36 person involves an act or omission of the aging services division,  
37 another division of the department of human resources or a law  
38 enforcement agency, the report must be made to an agency other  
39 than the one alleged to have committed the act or omission. Each  
40 agency, after reducing the report to writing, shall forward a copy of  
41 the report to the aging services division of the department of human  
42 resources.

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician's assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this state, who examines, attends or treats an older person who appears to have been abused, neglected, exploited or isolated.

(c) A coroner.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the department of human resources.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(k) Every social worker.

1 (l) Any person who owns or is employed by a funeral home or  
2 mortuary.

3 3. A report may be filed by any other person.

4 4. A person required to make a report pursuant to this section  
5 who has reasonable cause to believe that an older person has died as  
6 a result of abuse, neglect or isolation shall report this belief to the  
7 appropriate medical examiner or coroner, who shall investigate the  
8 cause of death of the older person and submit to the appropriate  
9 local law enforcement agencies, the appropriate prosecuting  
10 attorney and the aging services division of the department of human  
11 resources his written findings. The written findings must include the  
12 information required pursuant to the provisions of NRS 200.5094,  
13 when possible.

14 5. A division, office or department which receives a report  
15 pursuant to this section shall cause the investigation of the report to  
16 commence within 3 working days. A copy of the final report of the  
17 investigation conducted by a division, office or department, other  
18 than the aging services division of the department of human  
19 resources, must be forwarded to the aging services division within  
20 90 days after the completion of the report.

21 6. If the investigation of the report results in the belief that the  
22 older person is abused, neglected, exploited or isolated, the *aging*  
23 *services division of the* department of human resources or the  
24 county's office for protective services may provide protective  
25 services to the older person if he is able and willing to accept them.

26 7. A person who knowingly and willfully violates any of the  
27 provisions of this section is guilty of a misdemeanor.

28 **Sec. 47.** Section 2 of Assembly Bill No. 649 of this session is hereby  
29 amended to read as follows:

30 **Sec. 2.** NRS 200.50984 is hereby amended to read as follows:

31 200.50984 1. Notwithstanding any other statute to the  
32 contrary, the *local office of the aging services division of the*  
33 department of human resources and a county's office for protective  
34 services, if one exists in the county where a violation is alleged to  
35 have occurred, may for the purpose of investigating an alleged  
36 violation of NRS 200.5091 to 200.50995, inclusive, inspect all  
37 records pertaining to the older person on whose behalf the  
38 investigation is being conducted, including, but not limited to, that  
39 person's medical and financial records.

40 2. Except as otherwise provided in this subsection, if a guardian  
41 has not been appointed for the older person, the ~~department of~~  
42 ~~human resources~~ *aging services division* or the county's office for  
43 protective services shall obtain the consent of the older person

1 before inspecting those records. If the ~~{department of human~~  
2 ~~resources}~~ *aging services division* or the county's office for  
3 protective services determines that the older person is unable to  
4 consent to the inspection, the inspection may be conducted without  
5 his consent. Except as otherwise provided in this subsection, if a  
6 guardian has been appointed for the older person, the ~~{department~~  
7 ~~of human resources}~~ *aging services division* or the county's office  
8 for protective services shall obtain the consent of the guardian  
9 before inspecting those records. If the ~~{department of human~~  
10 ~~resources}~~ *aging services division* or the county's office for  
11 protective services has reason to believe that the guardian is  
12 abusing, neglecting, exploiting or isolating the older person, the  
13 inspection may be conducted without the consent of the guardian,  
14 except that if the records to be inspected are in the personal  
15 possession of the guardian, the inspection must be approved by a  
16 court of competent jurisdiction.

17 **Sec. 48.** Section 3 of Assembly Bill No. 649 of this session is hereby  
18 amended to read as follows:

19 **Sec. 3.** NRS 200.50986 is hereby amended to read as follows:

20 200.50986 The *local office of the aging services division of*  
21 *the* department of human resources or the county's office for  
22 protective services may petition a court in accordance with NRS  
23 159.185 or 159.1905 for the removal of the guardian of an older  
24 person, or the termination or modification of that guardianship, if,  
25 based on its investigation, the ~~{department of human resources}~~  
26 *aging services division* or the county's office of protective services  
27 has reason to believe that the guardian is abusing, neglecting,  
28 exploiting or isolating the older person in violation of NRS  
29 200.5095 to 200.50995, inclusive.

30 **Sec. 49.** Section 4 of Assembly Bill No. 649 of this session is hereby  
31 amended to read as follows:

32 **Sec. 4.** This act becomes effective on July 1, 1999.

33 **Sec. 50.** Section 1 of Senate Bill No. 398 of this session is hereby  
34 amended to read as follows:

35 **Section 1.** NRS 422.245 is hereby amended to read as follows:

36 422.245 Any federal money allotted to the State of Nevada for  
37 public assistance programs and other programs for which the  
38 welfare division or the division of health care financing and policy  
39 is responsible and such other money as may be received by the state  
40 for such purposes must , *except as otherwise provided in section 2*  
41 *of this act*, be deposited in the appropriate accounts of the welfare  
42 division or the division of health care financing and policy in the  
43 state general fund.

1       **Sec. 51.** Section 4 of Senate Bill No. 398 of this session is  
2 hereby amended to read as follows:

3       **Sec. 4.** This act becomes effective on July 1, 1999.

4       **Sec. 52.** This act becomes effective upon passage and approval.

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