SENATE BILL NO. 370–COMMITTEE ON HUMAN RESOURCES AND FACILITIES

MARCH 11, 1999

Referred to Committee on Human Resources and Facilities

SUMMARY—Provides contingently for combination of Medicaid with private insurance. (BDR 38-1496)

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 assistance to the medically indigent; providing contingently for a combination of Medicaid with private insurance for long-term care; and providing other matters properly relating thereto.

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The administrator shall negotiate with private insurers, and seek assistance from private charitable foundations, to arrange for the availability at a reasonable cost of insurance to cover the cost of an initial period of long-term care for which the state is responsible pursuant to NRS 422.272 to pay the nonfederal portion.

2. The administrator shall negotiate with the appropriate federal authorities to obtain a waiver, if necessary, to permit the state to establish such a program and to permit the state to forego the recovery of benefits paid for long-term care described in subsection 1 from the estate of a patient whose insurance paid or would have paid for at least 2 years of that care.

Sec. 2. NRS 422.272 is hereby amended to read as follows:

422.272 1. The administrator shall include in the state plan for Medicaid a requirement that the state shall pay the nonfederal share of expenditures for the medical, administrative and ~~[transaction]~~ ***transactional*** costs ***, to the extent not covered by private insurance,*** of a person:

(a) Who is admitted to a hospital, facility for intermediate care or facility for skilled nursing for not less than 30 consecutive days;

(b) Who is covered by the state plan for Medicaid; and

(c) Whose net countable income per month is not more than $775 or 156 percent of the supplemental security income benefit rate established pursuant to 42 U.S.C. § 1382(b)(1), whichever is greater.

2. As used in this section:

(a) "Facility for intermediate care" has the meaning ascribed to it in NRS 449.0038.

(b) "Facility for skilled nursing" has the meaning ascribed to it in NRS 449.0039.

(c) "Hospital" has the meaning ascribed to it in NRS 449.012.

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, to the extent it is not prohibited by federal law and when circumstances allow:

(a) Recover benefits correctly paid for Medicaid from:

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

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

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

(1) Failed to report any required information to the welfare division which he knew at the time he signed the application; or

(2) Failed within the period allowed by the welfare division to report any required information to the welfare division which he obtained after he filed the application.

2. The welfare division shall not recover benefits pursuant to paragraph (a) of subsection 1 ~~[, except]~~ ***:***

(a) If the expenses of long-term care for the person who received the benefits were paid or would have been paid for at least 2 years under a policy of private insurance.

(b) Except from a person who is neither a surviving spouse nor a child, until after the death of the surviving spouse, if any, and only at a time when the person who received the benefits has no surviving child who is under 21 years of age or is blind or permanently and totally disabled.

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

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

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

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

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

(a) The death of the recipient of Medicaid;

(b) The death of the surviving spouse of the recipient of 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.

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

422.29355 1. The welfare division may, ***except*** to the extent ~~[not]~~ prohibited by federal law ~~[,]~~ ***or pursuant to NRS 422.2935,*** 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 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.

4. The state welfare administrator shall release a lien pursuant to this section:
(a) Upon notice by the recipient or his representative to the administrator that the recipient has been discharged from the medical institution and has returned home;
(b) If the lien was incorrectly determined; or
(c) Upon satisfaction of the welfare division's claim.

Sec. 5. 1. This section and section 1 of this act become effective on July 1, 1999.

2. Sections 2, 3 and 4 of this act become effective on the date that the state is permitted, through the negotiation required by section 1 of this act or through change in federal law, to forego the recovery of benefits as provided in those sections.

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