

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A.B. 398

ASSEMBLY BILL NO. 398—ASSEMBLYMEN MCCLAIN, KOIVISTO, BUCKLEY, LESLIE, OHRENSCHALL, ANDERSON, ARBERRY, BACHE, BERMAN, CARPENTER, CHOWNING, CLABORN, COLLINS, DE BRAGA, FREEMAN, GIBBONS, GIUNCHIGLIANI, LEE, MANENDO, MORTENSON, NEIGHBORS, OCEGUERA, PARKS, PARNELL, PRICE, SMITH AND WILLIAMS

MARCH 16, 2001

JOINT SPONSOR: SENATOR TITUS

Referred to Concurrent Committees on Health and Human
Services and Ways and Means

SUMMARY—Directs department of human resources to include demonstration project in state plan for Medicaid that will provide access to discounted prescription drug benefits for certain low-income persons. (BDR 38-280)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 prescription drugs; directing the department of human resources to include a demonstration project in the state plan for Medicaid that will provide access to discounted prescription drug benefits for certain low-income persons; requiring the director to apply for all necessary waivers from federal law and regulation; creating a fund to carry out the demonstration project; 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 and 3 of this act.

3 **Sec. 2. 1. *The director shall include in the state plan for Medicaid***
4 ***a demonstration project or similar provision to expand Medicaid***
5 ***eligibility for prescription drugs in such a manner as to extend in***
6 ***accordance with subsection 2 the Medicaid payment and rebate structure***
7 ***to all persons:***

8 ***(a) Who are not otherwise covered by the state plan for Medicaid or***
9 ***other coverage for the cost of their prescription drugs; and***



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- 1 (b) Whose household income is not more than 200 percent of the
2 federally designated level signifying poverty.
- 3 2. The director shall include in the state plan for Medicaid a
4 requirement that the beneficiaries of this demonstration project would be
5 eligible to purchase prescription drugs listed on the Medicaid formulary
6 at a price that is equivalent to the Medicaid rate less the applicable state
7 subsidy. The beneficiary will pay the entire purchase price of the
8 prescription drug and is not entitled to any other Medicaid benefit. The
9 beneficiary is also responsible for paying any enrollment fee, premium,
10 deduction, charge for cost sharing and other similar charge as may be
11 required by the demonstration project. The provider will be paid a
12 dispensing fee by the department and be reimbursed by the department
13 for the amount of the state subsidy, within 7 days after the prescription
14 drug was provided to the beneficiary.
- 15 3. The department shall not charge a provider that provides
16 prescription drugs pursuant to this section for any administrative cost
17 that results from a transaction made pursuant to this section.
- 18 4. The department shall establish a computerized system for carrying
19 out the provisions of this section. The system must include, without
20 limitation, a method for:
- 21 (a) Providers to have immediate access to Medicaid rates;
22 (b) Providers to submit claims through the system; and
23 (c) Processing claims submitted by providers.
- 24 5. The director shall:
- 25 (a) Apply for all waivers of federal law or regulation which are
26 necessary to carry out the provisions of this section, including, without
27 limitation, requirements regarding comparability, limits on income and
28 standards for eligibility;
- 29 (b) If a waiver is denied or altered, take all appropriate steps to comply
30 with the directives of the Federal Government; and
- 31 (c) Account separately for all manufacturers' rebates available to the
32 Medicaid program pursuant to the Omnibus Budget Reconciliation Act
33 of 1990, Public Law 101-508, that are attributable to this demonstration
34 project and pay the related state subsidies from that money.
- 35 6. As used in this section:
- 36 (a) "Household income" means:
- 37 (1) The income received by the beneficiary of the demonstration
38 project plus the income received by the beneficiary's spouse; or
39 (2) If the beneficiary is a child, the income received by the parent or
40 guardian of the child.
- 41 (b) "Medicaid rate" means the price for the prescription drug that
42 would regularly be paid to the provider by the department as set forth in
43 the state plan for Medicaid.
- 44 (c) "State subsidy" means an amount established annually by the
45 director that reflects the expected average return to the state from
46 manufacturers' rebates available to the Medicaid program pursuant to
47 the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508,
48 less the established dispensing fee for the providers.



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1 **Sec. 3.** *The discounted prescription drug benefit program fund is*
2 *hereby created as an agency fund, to be administered by the director. All*
3 *money collected or otherwise received by the department to carry out the*
4 *provisions of section 2 of this act must be deposited in the fund. The fund*
5 *is a continuing fund without reversion. Any interest and income earned*
6 *on the money in the fund must, after deducting any applicable charges,*
7 *be credited to the fund.*

8 **Sec. 4.** NRS 422.240 is hereby amended to read as follows:

9 422.240 1. Money to carry out the provisions of NRS 422.001 to
10 422.410, inclusive, *and sections 2 and 3 of this act*, and 422.580,
11 including, without limitation, any federal money allotted to the State of
12 Nevada pursuant to the program to provide temporary assistance for needy
13 families and the program for child care and development, must be provided
14 by appropriation by the legislature from the state general fund.

15 2. Disbursements for the purposes of NRS 422.001 to 422.410,
16 inclusive, *and sections 2 and 3 of this act*, and 422.580 must be made
17 upon claims duly filed, audited and allowed in the same manner as other
18 money in the state treasury is disbursed.

19 **Sec. 5.** NRS 422.245 is hereby amended to read as follows:

20 422.245 Any federal money allotted to the State of Nevada for public
21 assistance programs and other programs for which the welfare division or
22 the division of health care financing and policy is responsible and such
23 other money as may be received by the state for such purposes must,
24 except as otherwise provided in NRS 425.363 ~~§~~ *and section 3 of this act*,
25 be deposited in the appropriate accounts of the welfare division or the
26 division of health care financing and policy in the state general fund.

27 **Sec. 6.** NRS 232.320 is hereby amended to read as follows:

28 232.320 1. Except as otherwise provided in subsection 2, the
29 director:

30 (a) Shall appoint, with the consent of the governor, administrators of the
31 divisions of the department, who are respectively designated as follows:

- 32 (1) The administrator of the aging services division;
33 (2) The administrator of the health division;
34 (3) The state welfare administrator;
35 (4) The administrator of the division of child and family services; and
36 (5) The administrator of the division of health care financing and
37 policy.

38 (b) Shall administer, through the divisions of the department, the
39 provisions of chapters 210, 423, 424, 425, 427A, 432A to 442, inclusive,
40 446 to 450, inclusive, of NRS, NRS 127.220 to 127.310, inclusive, 422.001
41 to 422.410, inclusive, *and sections 2 and 3 of this act*, 422.580, 432.010 to
42 432.139, inclusive, 444.003 to 444.430, inclusive, and 445A.010 to
43 445A.055, inclusive, and all other provisions of law relating to the
44 functions of the divisions of the department, but is not responsible for the
45 clinical activities of the health division or the professional line activities of
46 the other divisions.

47 (c) Shall, after considering advice from agencies of local governments
48 and nonprofit organizations which provide social services, adopt a master
49 plan for the provision of human services in this state. The director shall



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1 revise the plan biennially and deliver a copy of the plan to the governor and
2 the legislature at the beginning of each regular session. The plan must:

3 (1) Identify and assess the plans and programs of the department for
4 the provision of human services, and any duplication of those services by
5 federal, state and local agencies;

6 (2) Set forth priorities for the provision of those services;

7 (3) Provide for communication and the coordination of those services
8 among nonprofit organizations, agencies of local government, the state and
9 the Federal Government;

10 (4) Identify the sources of funding for services provided by the
11 department and the allocation of that funding;

12 (5) Set forth sufficient information to assist the department in
13 providing those services and in the planning and budgeting for the future
14 provision of those services; and

15 (6) Contain any other information necessary for the department to
16 communicate effectively with the Federal Government concerning
17 demographic trends, formulas for the distribution of federal money and any
18 need for the modification of programs administered by the department.

19 (d) May, by regulation, require nonprofit organizations and state and
20 local governmental agencies to provide information to him regarding the
21 programs of those organizations and agencies, excluding detailed
22 information relating to their budgets and payrolls, which he deems
23 necessary for his performance of the duties imposed upon him pursuant to
24 this section.

25 (e) Has such other powers and duties as are provided by law.

26 2. The governor shall appoint the administrator of the division of
27 mental health and developmental services.

28 **Sec. 7.** The director of the department of human resources shall, on or
29 before October 1, 2001, submit a proposal for a demonstration project or
30 similar provision to expand Medicaid eligibility for prescription drugs in
31 accordance with section 2 of this act and request all necessary waivers of
32 federal law and regulation.

33 **Sec. 8.** This act becomes effective upon passage and approval and
34 expires by limitation on June 30, 2005.

