

ASSEMBLY BILL NO. 248—ASSEMBLYWOMAN BUCKLEY

MARCH 21, 2005

Referred to Committee on Health and Human Services

SUMMARY—Makes various changes concerning assisted living facilities. (BDR 40-814)

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

~

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

AN ACT relating to public health; requiring a portion of the money in the Fund for a Healthy Nevada to be used to provide certain services to certain senior citizens who reside in certain assisted living facilities; requiring the Housing Division of the Department of Business and Industry to certify certain assisted living facilities for the purpose of providing services pursuant to the home and community-based services waiver authorized by the Federal Government; requiring the Department of Human Resources to apply to the Secretary of Health and Human Services to amend its waiver to provide certain home and community-based services in certain assisted living facilities; 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.** NRS 439.620 is hereby amended to read as follows:
2 439.620 1. The Fund for a Healthy Nevada is hereby created
3 in the State Treasury. The State Treasurer shall deposit in the Fund:
4 (a) Fifty percent of all money received by this State pursuant to
5 any settlement entered into by the State of Nevada and a
6 manufacturer of tobacco products; and



1 (b) Fifty percent of all money recovered by this State from a
2 judgment in a civil action against a manufacturer of tobacco
3 products.

4 2. The State Treasurer shall administer the Fund. As
5 administrator of the Fund, the State Treasurer:

6 (a) Shall maintain the financial records of the Fund;

7 (b) Shall invest the money in the Fund as the money in other
8 state funds is invested;

9 (c) Shall manage any account associated with the Fund;

10 (d) Shall maintain any instruments that evidence investments
11 made with the money in the Fund;

12 (e) May contract with vendors for any good or service that is
13 necessary to carry out the provisions of this section; and

14 (f) May perform any other duties necessary to administer the
15 Fund.

16 3. The interest and income earned on the money in the Fund
17 must, after deducting any applicable charges, be credited to the
18 Fund. All claims against the Fund must be paid as other claims
19 against the State are paid.

20 4. Upon receiving a request from the State Treasurer or the
21 Department for an allocation for administrative expenses from the
22 Fund pursuant to this section, the Task Force for the Fund for a
23 Healthy Nevada shall consider the request within 45 days after
24 receipt of the request. If the Task Force approves the amount
25 requested for allocation, the Task Force shall notify the State
26 Treasurer of the allocation. If the Task Force does not approve the
27 requested allocation within 45 days after receipt of the request, the
28 State Treasurer or the Department, as applicable, may submit its
29 request for allocation to the Interim Finance Committee. Except as
30 otherwise limited by this subsection, the Interim Finance Committee
31 may allocate all or part of the money so requested. The annual
32 allocation for administrative expenses from the Fund, whether
33 allocated by the Task Force or the Interim Finance Committee must
34 not exceed:

35 (a) Not more than 2 percent of the money in the Fund, as
36 calculated pursuant to this subsection, each year to pay the costs
37 incurred by the State Treasurer to administer the Fund; and

38 (b) Not more than 3 percent of the money in the Fund, as
39 calculated pursuant to this subsection, each year to pay the costs
40 incurred by the Department, including, without limitation, the Aging
41 Services Division of the Department, to carry out its duties set forth
42 in NRS 439.625 to 439.690, inclusive.

43 ➤ For the purposes of this subsection, the amount of money
44 available for allocation to pay for the administrative costs must be
45 calculated at the beginning of each fiscal year based on the total



1 amount of money anticipated by the State Treasurer to be deposited
2 in the Fund during that fiscal year.

3 5. The money in the Fund remains in the Fund and does not
4 revert to the State General Fund at the end of any fiscal year.

5 6. All money that is deposited or paid into the Fund is hereby
6 appropriated to the Department and, except as otherwise provided in
7 paragraphs (c), (d), ~~(e)~~ and ~~(h)~~ (i) of subsection 1 of NRS
8 439.630, may only be expended pursuant to an allocation made by
9 the Task Force for the Fund for a Healthy Nevada. Money expended
10 from the Fund for a Healthy Nevada must not be used to supplant
11 existing methods of funding that are available to public agencies.

12 **Sec. 2.** NRS 439.630 is hereby amended to read as follows:

13 439.630 1. The Task Force for the Fund for a Healthy
14 Nevada shall:

15 (a) Conduct public hearings to accept public testimony from a
16 wide variety of sources and perspectives regarding existing or
17 proposed programs that:

18 (1) Promote public health;

19 (2) Improve health services for children, senior citizens and
20 persons with disabilities;

21 (3) Reduce or prevent the use of tobacco;

22 (4) Reduce or prevent the abuse of and addiction to alcohol
23 and drugs; and

24 (5) Offer other general or specific information on health care
25 in this State.

26 (b) Establish a process to evaluate the health and health needs of
27 the residents of this State and a system to rank the health problems
28 of the residents of this State, including, without limitation, the
29 specific health problems that are endemic to urban and rural
30 communities.

31 (c) Reserve not more than 30 percent of all revenues deposited
32 in the Fund for a Healthy Nevada each year for direct expenditure
33 by the Department to pay for prescription drugs and pharmaceutical
34 services for senior citizens pursuant to NRS 439.635 to 439.690,
35 inclusive, and to fund in whole or in part any program established
36 pursuant to NRS 422.274 or 422.2745. From the money reserved to
37 the Department pursuant to this paragraph, the Department may
38 subsidize all of the cost of policies of health insurance that provide
39 coverage to senior citizens for prescription drugs and
40 pharmaceutical services pursuant to NRS 439.635 to 439.690,
41 inclusive, and fund in whole or in part any program established
42 pursuant to NRS 422.274 or 422.2745. The Department shall
43 consider recommendations from the Task Force for the Fund for a
44 Healthy Nevada in carrying out the provisions of NRS 439.635 to
45 439.690, inclusive, and administering any program established



1 pursuant to NRS 422.274 or 422.2745. The Department shall submit
2 a quarterly report to the Governor, the Task Force for the Fund for a
3 Healthy Nevada and the Interim Finance Committee regarding the
4 general manner in which expenditures have been made pursuant to
5 this paragraph and the status of the program.

6 (d) Reserve not more than 30 percent *minus \$50,000* of all
7 revenues deposited in the Fund for a Healthy Nevada each year for
8 allocation by the Aging Services Division of the Department in the
9 form of grants for existing or new programs that assist senior
10 citizens with independent living, including, without limitation,
11 programs that provide:

12 (1) Respite care or relief of family caretakers;

13 (2) Transportation to new or existing services to assist senior
14 citizens in living independently; and

15 (3) Care in the home which allows senior citizens to remain
16 at home instead of in institutional care.

17 ➤ The Aging Services Division of the Department shall consider
18 recommendations from the Task Force for the Fund for a Healthy
19 Nevada concerning the independent living needs of senior citizens.

20 (e) *Reserve not more than \$50,000 of all revenues deposited in*
21 *the Fund for a Healthy Nevada each year for allocation by the*
22 *Director to:*

23 (1) *Provide guaranteed funding to finance assisted living*
24 *facilities that satisfy the criteria for certification set forth in*
25 *section 3 of this act; and*

26 (2) *Fund assisted living facilities that satisfy the criteria for*
27 *certification set forth in section 3 of this act and assisted living*
28 *supportive services that are provided pursuant to the provisions of*
29 *the home and community-based services waiver which are*
30 *amended pursuant to section 4 of this act.*

31 ➤ *The Director shall develop policies and procedures for*
32 *allocating money which is reserved pursuant to this paragraph.*

33 (f) Allocate, by contract or grant, for expenditure not more than
34 20 percent of all revenues deposited in the Fund for a Healthy
35 Nevada each year for programs that prevent, reduce or treat the use
36 of tobacco and the consequences of the use of tobacco.

37 ~~[(f)]~~ (g) Allocate, by contract or grant, for expenditure not more
38 than 10 percent of all revenues deposited in the Fund for a Healthy
39 Nevada each year for programs that improve health services for
40 children.

41 ~~[(g)]~~ (h) Allocate, by contract or grant, for expenditure not more
42 than 7.5 percent of all revenues deposited in the Fund for a Healthy
43 Nevada each year for programs that improve the health and well-
44 being of persons with disabilities. In making allocations pursuant to
45 this paragraph, the Task Force shall, to the extent practicable,



1 allocate the money evenly among the following three types of
2 programs:

3 (1) Programs that provide respite for persons caring for
4 persons with disabilities;

5 (2) Programs that provide positive behavioral supports to
6 persons with disabilities; and

7 (3) Programs that assist persons with disabilities to live
8 safely and independently in their communities outside of an
9 institutional setting.

10 ~~[(h)]~~ (i) Reserve not more than 2.5 percent of all revenues
11 deposited in the Fund for a Healthy Nevada each year for direct
12 expenditure by the Department to fund in whole or in part any
13 program established pursuant to NRS 422.2745. The Department
14 shall consider recommendations from the Task Force for the Fund
15 for a Healthy Nevada in administering any program established
16 pursuant to NRS 422.2745.

17 ~~[(i)]~~ (j) Maximize expenditures through local, federal and
18 private matching contributions.

19 ~~[(j)]~~ (k) Ensure that any money expended from the Fund for a
20 Healthy Nevada will not be used to supplant existing methods of
21 funding that are available to public agencies.

22 ~~[(k)]~~ (l) Develop policies and procedures for the administration
23 and distribution of contracts, grants and other expenditures to state
24 agencies, political subdivisions of this State, nonprofit
25 organizations, universities and community colleges. A condition of
26 any such contract or grant must be that not more than 8 percent of
27 the contract or grant may be used for administrative expenses or
28 other indirect costs. The procedures must require at least one
29 competitive round of requests for proposals per biennium.

30 ~~[(l)]~~ (m) To make the allocations required by paragraphs ~~[(e), (f)]~~
31 ~~and (g)]~~ (f), (g) and (h):

32 (1) Prioritize and quantify the needs for these programs;

33 (2) Develop, solicit and accept applications for allocations;

34 (3) Conduct annual evaluations of programs to which
35 allocations have been awarded; and

36 (4) Submit annual reports concerning the programs to the
37 Governor and the Interim Finance Committee.

38 ~~[(m)]~~ (n) Transmit a report of all findings, recommendations and
39 expenditures to the Governor and each regular session of the
40 Legislature.

41 2. The Task Force may take such other actions as are necessary
42 to carry out its duties.

43 3. The Department shall take all actions necessary to ensure
44 that all allocations for expenditures made by the Task Force are
45 carried out as directed by the Task Force.



1 4. To make the allocations required by paragraph (d) of
2 subsection 1, the Aging Services Division of the Department shall:

3 (a) Prioritize and quantify the needs of senior citizens for these
4 programs;

5 (b) Develop, solicit and accept grant applications for allocations;

6 (c) As appropriate, expand or augment existing state programs
7 for senior citizens upon approval of the Interim Finance Committee;

8 (d) Award grants or other allocations;

9 (e) Conduct annual evaluations of programs to which grants or
10 other allocations have been awarded; and

11 (f) Submit annual reports concerning the grant program to the
12 Governor and the Interim Finance Committee.

13 5. The Aging Services Division of the Department shall submit
14 each proposed grant which would be used to expand or augment an
15 existing state program to the Interim Finance Committee for
16 approval before the grant is awarded. The request for approval must
17 include a description of the proposed use of the money and the
18 person or entity that would be authorized to expend the money. The
19 Aging Services Division of the Department shall not expend or
20 transfer any money allocated to the Aging Services Division
21 pursuant to this section to subsidize any portion of the cost of
22 policies of health insurance that provide coverage to senior citizens
23 for prescription drugs and pharmaceutical services pursuant to NRS
24 439.635 to 439.690, inclusive, or to pay for any program established
25 pursuant to NRS 422.274 or 422.2745.

26 6. The Department, on behalf of the Task Force, shall submit
27 each allocation proposed pursuant to paragraph ~~[(e), (f) or (g)]~~ (f),
28 (g) or (h) of subsection 1 which would be used to expand or
29 augment an existing state program to the Interim Finance
30 Committee for approval before the contract or grant is awarded. The
31 request for approval must include a description of the proposed use
32 of the money and the person or entity that would be authorized to
33 expend the money.

34 **Sec. 3.** Chapter 319 of NRS is hereby amended by adding
35 thereto a new section to read as follows:

36 *1. The Division shall certify an assisted living facility for the*
37 *purpose of providing services pursuant to the provisions of the*
38 *home and community-based services waiver which are amended*
39 *pursuant to section 4 of this act if the facility:*

40 *(a) Provides assisted living supportive services to senior*
41 *citizens of low or moderate income;*

42 *(b) Provides or arranges for the provision of case management*
43 *services for its residents;*

44 *(c) Guarantees affordable housing for a period of at least 15*
45 *years after the facility is certified;*



1 (d) Is financed through tax credits relating to low-income
2 housing or other public funds; and

3 (e) Satisfies any other requirements set forth by the Division in
4 any regulations adopted by the Division.

5 2. The Division shall adopt regulations concerning the
6 certification of assisted living facilities pursuant to this section.

7 3. As used in this section:

8 (a) "Assisted living facility" has the meaning ascribed to it in
9 paragraph (a) of subsection 3 of section 4 of this act.

10 (b) "Assisted living supportive services" has the meaning
11 ascribed to it in paragraph (b) of subsection 3 of section 4 of this
12 act.

13 **Sec. 4.** Chapter 422 of NRS is hereby amended by adding
14 thereto a new section to read as follows:

15 1. The Department shall apply to the Secretary of Health and
16 Human Services to amend its home and community-based services
17 waiver granted pursuant to 42 U.S.C. § 1396n. The waiver must be
18 amended, in addition to providing coverage for any home and
19 community-based services which the waiver covers on the effective
20 date of this act, to authorize the Department to include as medical
21 assistance under Medicaid the funding of assisted living
22 supportive services for senior citizens who reside in assisted living
23 facilities which are certified by the Housing Division of the
24 Department of Business and Industry pursuant to section 3 of this
25 act.

26 2. The Department shall:

27 (a) Cooperate with the Federal Government in amending the
28 waiver pursuant to this section;

29 (b) If the Federal Government approves the amendments to
30 the waiver, adopt regulations necessary to carry out the provisions
31 of this section, including, without limitation, the criteria to be used
32 in determining eligibility for the assisted living supportive services
33 funded pursuant to subsection 1; and

34 (c) Implement the amendments to the waiver only to the extent
35 that the amendments are approved by the Federal Government.

36 3. As used in this section:

37 (a) "Assisted living facility" means a residential facility for
38 groups that:

39 (1) Satisfies the requirements set forth in subsection 7 of
40 NRS 449.037; and

41 (2) Has staff at the facility available 24 hours a day, 7 days
42 a week, to provide scheduled assisted living supportive services
43 and assisted living supportive services that are required in an
44 emergency in a manner that promotes maximum dignity and
45 independence of residents of the facility.



1 (b) *“Assisted living supportive services” means services which*
2 *are provided at an assisted living facility to residents of the*
3 *assisted living facility, including, without limitation:*

- 4 (1) *Personal care services;*
5 (2) *Homemaker services;*
6 (3) *Chore services;*
7 (4) *Attendant care;*
8 (5) *Companion services;*
9 (6) *Medication oversight;*
10 (7) *Therapeutic, social and recreational programming; and*
11 (8) *Services which ensure that the residents of the facility*
12 *are safe, secure and adequately supervised.*

13 **Sec. 5.** NRS 422.240 is hereby amended to read as follows:

14 422.240 1. Money to carry out the provisions of NRS
15 422.001 to 422.410, inclusive, and 422.580, *and section 4 of this*
16 *act*, including, without limitation, any federal money allotted to the
17 State of Nevada pursuant to the program to provide Temporary
18 Assistance for Needy Families and the Program for Child Care and
19 Development, must, except as otherwise provided in NRS 422.3755
20 to 422.379, inclusive, and 439.630, be provided by appropriation by
21 the Legislature from the State General Fund.

22 2. Disbursements for the purposes of NRS 422.001 to 422.410,
23 inclusive, and 422.580 *and section 4 of this act* must, except as
24 otherwise provided in NRS 422.3755 to 422.379, inclusive, and
25 439.630, be made upon claims duly filed and allowed in the same
26 manner as other money in the State Treasury is disbursed.

27 **Sec. 6.** This act becomes effective upon passage and approval.

