

ASSEMBLY BILL NO. 495—COMMITTEE ON COMMERCE AND LABOR

MARCH 28, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning provision of prescription drugs and pharmaceutical services by this State. (BDR 40-1031)

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

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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 health; establishing a program for the provision of prescription drugs and pharmaceutical services for certain persons with disabilities; making various changes concerning the allocation of the money in the Fund for a Healthy Nevada; repealing the requirement that the Department of Human Resources apply to the Federal Government to establish programs to extend coverage for prescription drugs and other related services for certain persons; 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 439 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Household income” has the meaning ascribed to it in NRS 427A.480.*

**Sec. 4.** *“Income” has the meaning ascribed to it in NRS 427A.485.*



1     **Sec. 5.** *The Department is responsible for the administration*  
2 *of the provisions of sections 2 to 11, inclusive, of this act and may:*

3     1. *Prescribe the content and form of a request for a subsidy*  
4 *required to be submitted pursuant to section 7 of this act.*

5     2. *Designate the proof that must be submitted with such a*  
6 *request.*

7     3. *Adopt regulations to protect the confidentiality of*  
8 *information supplied by a person with a disability requesting a*  
9 *subsidy pursuant to section 7 of this act.*

10    4. *Adopt such other regulations as may be required to carry*  
11 *out the provisions of sections 2 to 11, inclusive, of this act.*

12    **Sec. 6.** 1. *The Department may:*

13    (a) *Enter into contracts with private insurers who transact*  
14 *health insurance in this State to subsidize the cost of prescription*  
15 *drugs and pharmaceutical services for persons with disabilities by*  
16 *arranging for the availability, at a reasonable cost, of policies of*  
17 *health insurance that provide coverage to persons with disabilities*  
18 *for prescription drugs and pharmaceutical services; or*

19    (b) *Subsidize the cost of prescription drugs and*  
20 *pharmaceutical services for persons with disabilities in any other*  
21 *manner.*

22    2. *Within the limits of the money available for this purpose in*  
23 *the Fund for a Healthy Nevada, a person with a disability who is*  
24 *not eligible for Medicaid and who is eligible for a subsidy for the*  
25 *cost of prescription drugs and pharmaceutical services that is*  
26 *made available pursuant to subsection 1 is entitled to an annual*  
27 *grant from the Fund to subsidize the cost of prescription drugs*  
28 *and pharmaceutical services, if he has been domiciled in this State*  
29 *for at least 1 year immediately preceding the date of his*  
30 *application and:*

31    (a) *If the person with a disability is single, his income is not*  
32 *over \$21,500; or*

33    (b) *If the person with a disability is married, his household*  
34 *income is not over \$28,660.*

35    ↪ *The monetary amounts set forth in this subsection must be*  
36 *adjusted for each fiscal year by adding to each amount the product*  
37 *of the amount shown multiplied by the percentage increase in the*  
38 *Consumer Price Index from December 2002 to the December*  
39 *preceding the fiscal year for which the adjustment is calculated.*

40    3. *The subsidy granted pursuant to this section must not*  
41 *exceed the annual cost of prescription drugs and pharmaceutical*  
42 *services provided to the person with a disability.*

43    4. *A subsidy that is made available pursuant to subsection 1*  
44 *must provide for:*



1 (a) A copayment of not more than \$10 per prescription drug or  
2 pharmaceutical service that is generic as set forth in the formulary  
3 of the insurer or as set forth by the Department; and

4 (b) A copayment of not more than \$25 per prescription drug or  
5 pharmaceutical service that is preferred as set forth in the  
6 formulary of the insurer or as set forth by the Department.

7 5. The Department may waive the eligibility requirement set  
8 forth in subsection 2 regarding household income upon written  
9 request of the applicant or enrollee based on one or more of the  
10 following circumstances:

11 (a) Illness;

12 (b) Disability; or

13 (c) Extreme financial hardship, when considering the current  
14 financial circumstances of the applicant or enrollee.

15 ➔ An applicant or enrollee who requests such a waiver shall  
16 include with that request all medical and financial documents that  
17 support his request.

18 6. If the Federal Government provides any coverage of  
19 prescription drugs and pharmaceutical services for persons with  
20 disabilities who are eligible for a subsidy pursuant to subsections 1  
21 to 5, inclusive, the Department may, upon approval of the  
22 Legislature, or the Interim Finance Committee if the Legislature  
23 is not in session, change any program established pursuant to  
24 sections 2 to 11, inclusive, of this act and otherwise provide  
25 assistance with prescription drugs and pharmaceutical services for  
26 persons with disabilities within the limits of the money available  
27 for this purpose in the Fund for a Healthy Nevada.

28 7. The provisions of subsections 1 to 5, inclusive, do not apply  
29 if the Department provides assistance with prescription drugs and  
30 pharmaceutical services for persons with disabilities pursuant to  
31 subsection 6.

32 **Sec. 7. 1.** A person with a disability who wishes to receive a  
33 subsidy pursuant to section 6 of this act must file a request  
34 therefor with the Department.

35 2. The request must be made under oath and filed in such  
36 form and content, and accompanied by such proof, as the  
37 Department may prescribe.

38 3. The Department shall, within 45 days after receiving a  
39 request for a subsidy, examine the request and grant or deny it.

40 4. The Department shall determine which persons with  
41 disabilities are eligible to receive a subsidy pursuant to section 6 of  
42 this act and, if the Department has entered into a contract  
43 pursuant to section 6 of this act to provide the subsidy, pay the  
44 subsidy directly to the person or entity with whom the Department  
45 has entered into the contract.



1     **Sec. 8. 1. The Department shall deny any request for a**  
2     **subsidy received pursuant to section 7 of this act to which the**  
3     **person with a disability is not entitled.**

4     **2. The Department may deny in total any request which it**  
5     **finds to have been filed with fraudulent intent. If any such request**  
6     **has been paid and is afterward denied, the amount of the subsidy**  
7     **must be repaid by the person with a disability to the Department.**

8     **3. Any amounts received by the Department pursuant to this**  
9     **section must be deposited with the State Treasurer for credit to the**  
10    **Fund for a Healthy Nevada.**

11    **Sec. 9. Any person who is aggrieved by a decision of the**  
12    **Department denying a request for a subsidy submitted pursuant to**  
13    **section 7 of this act is entitled to judicial review thereof.**

14    **Sec. 10. Any subsidy granted pursuant to section 6 of this act**  
15    **to a person with a disability who is not qualified for such a subsidy**  
16    **may be revoked by the Department. If a subsidy is so revoked, the**  
17    **person with a disability shall make restitution to the Department**  
18    **for any subsidy he has improperly received, and the Department**  
19    **shall take all proper actions to collect the amount of the subsidy as**  
20    **a debt.**

21    **Sec. 11. No person may publish, disclose or use any personal**  
22    **or confidential information contained in a request for a subsidy**  
23    **submitted pursuant to section 7 of this act except for purposes**  
24    **relating to the administration of sections 2 to 11, inclusive, of this**  
25    **act.**

26    **Sec. 12. NRS 439.620 is hereby amended to read as follows:**  
27    **439.620 1. The Fund for a Healthy Nevada is hereby created**  
28    **in the State Treasury. The State Treasurer shall deposit in the Fund:**

29    (b) Fifty percent of all money received by this State pursuant to  
30    any settlement entered into by the State of Nevada and a  
31    manufacturer of tobacco products; and

32    (b) Fifty percent of all money recovered by this State from a  
33    judgment in a civil action against a manufacturer of tobacco  
34    products.

35    2. The State Treasurer shall administer the Fund. As  
36    administrator of the Fund, the State Treasurer:

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

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

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

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

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



1 (f) May perform any other duties necessary to administer the  
2 Fund.

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

7 4. Upon receiving a request from the State Treasurer or the  
8 Department for an allocation for administrative expenses from the  
9 Fund pursuant to this section, the Task Force for the Fund for a  
10 Healthy Nevada shall consider the request within 45 days after  
11 receipt of the request. If the Task Force approves the amount  
12 requested for allocation, the Task Force shall notify the State  
13 Treasurer of the allocation. If the Task Force does not approve the  
14 requested allocation within 45 days after receipt of the request, the  
15 State Treasurer or the Department, as applicable, may submit its  
16 request for allocation to the Interim Finance Committee. Except as  
17 otherwise limited by this subsection, the Interim Finance Committee  
18 may allocate all or part of the money so requested. The annual  
19 allocation for administrative expenses from the Fund, whether  
20 allocated by the Task Force or the Interim Finance Committee must  
21 not exceed:

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

25 (b) Not more than 3 percent of the money in the Fund, as  
26 calculated pursuant to this subsection, each year to pay the costs  
27 incurred by the Department, including, without limitation, the Aging  
28 Services Division of the Department, to carry out its duties set forth  
29 in NRS 439.625 to 439.690, inclusive ~~and~~ *and sections 2 to 11,*  
30 *inclusive, of this act.*

31 ➤ For the purposes of this subsection, the amount of money  
32 available for allocation to pay for the administrative costs must be  
33 calculated at the beginning of each fiscal year based on the total  
34 amount of money anticipated by the State Treasurer to be deposited  
35 in the Fund during that fiscal year.

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

38 6. All money that is deposited or paid into the Fund is hereby  
39 appropriated to the Department and, except as otherwise provided in  
40 paragraphs (c), (d) and (h) of subsection 1 of NRS 439.630, may  
41 only be expended pursuant to an allocation made by the Task Force  
42 for the Fund for a Healthy Nevada. Money expended from the Fund  
43 for a Healthy Nevada must not be used to supplant existing methods  
44 of funding that are available to public agencies.



1       **Sec. 13.** NRS 439.630 is hereby amended to read as follows:  
2       439.630 1. The Task Force for the Fund for a Healthy  
3 Nevada shall:

4       (a) Conduct public hearings to accept public testimony from a  
5 wide variety of sources and perspectives regarding existing or  
6 proposed programs that:

- 7           (1) Promote public health;  
8           (2) Improve health services for children, senior citizens and  
9 persons with disabilities;  
10          (3) Reduce or prevent the use of tobacco;  
11          (4) Reduce or prevent the abuse of and addiction to alcohol  
12 and drugs; and  
13          (5) Offer other general or specific information on health care  
14 in this State.

15       (b) Establish a process to evaluate the health and health needs of  
16 the residents of this State and a system to rank the health problems  
17 of the residents of this State, including, without limitation, the  
18 specific health problems that are endemic to urban and rural  
19 communities.

20       (c) Reserve not more than 30 percent of all revenues deposited  
21 in the Fund for a Healthy Nevada each year for direct expenditure  
22 by the Department to pay for prescription drugs and pharmaceutical  
23 services for senior citizens pursuant to NRS 439.635 to 439.690,  
24 inclusive, and ~~[to fund in whole or in part any program established~~  
25 ~~pursuant to NRS 422.274 or 422.2745.]~~ *persons with disabilities*  
26 *pursuant to sections 2 to 11, inclusive, of this act.* From the money  
27 reserved to the Department pursuant to this paragraph, the  
28 Department may subsidize all of the cost of policies of health  
29 insurance that provide coverage to senior citizens for prescription  
30 drugs and pharmaceutical services pursuant to NRS 439.635 to  
31 439.690, inclusive, and ~~[fund in whole or in part any program~~  
32 ~~established pursuant to NRS 422.274 or 422.2745.]~~ *may subsidize*  
33 *any portion of the cost of providing prescription drugs and*  
34 *pharmaceutical services to persons with disabilities pursuant to*  
35 *sections 2 to 11, inclusive, of this act.* The Department shall  
36 consider recommendations from the Task Force for the Fund for a  
37 Healthy Nevada in carrying out the provisions of NRS 439.635 to  
38 439.690, inclusive, and ~~[administering any program established~~  
39 ~~pursuant to NRS 422.274 or 422.2745.]~~ *sections 2 to 11, inclusive,*  
40 *of this act.* The Department shall submit a quarterly report to the  
41 Governor, the Task Force for the Fund for a Healthy Nevada and the  
42 Interim Finance Committee regarding the general manner in which  
43 expenditures have been made pursuant to this paragraph and the  
44 status of the program.



(d) Reserve not more than 30 percent of all revenues deposited in the Fund for a Healthy Nevada each year for allocation by the Aging Services Division of the Department in the form of grants for existing or new programs that assist senior citizens with independent living, including, without limitation, programs that provide:

(1) Respite care or relief of family caretakers;

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

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

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

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

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

(g) Allocate, by contract or grant, for expenditure not more than 7.5 percent of all revenues deposited in the Fund for a Healthy Nevada each year for programs that improve the health and well-being of persons with disabilities. In making allocations pursuant to this paragraph, the Task Force shall, to the extent practicable, allocate the money evenly among the following three types of programs:

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

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

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

(h) Reserve not more than 2.5 percent of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Department to ~~[fund in whole or in part any program established pursuant to NRS 422.2745.]~~ *subsidize any portion of the cost of providing prescription drugs and pharmaceutical services to persons with disabilities pursuant to sections 2 to 11, inclusive, of this act.* The Department shall consider recommendations from the Task Force for the Fund for a Healthy Nevada in ~~[administering any program established pursuant to NRS~~





~~422.2745.1~~ *carrying out the provisions of sections 2 to 11, inclusive, of this act.*

(i) Maximize expenditures through local, federal and private matching contributions.

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

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

(l) To make the allocations required by paragraphs (e), (f) and (g):

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

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

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

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

(m) Transmit a report of all findings, recommendations and expenditures to the Governor and each regular session of the Legislature.

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

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

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

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

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

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

(d) Award grants or other allocations;

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

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

5. The Aging Services Division of the Department shall submit each proposed grant which would be used to expand or augment an





1 existing state program to the Interim Finance Committee for  
2 approval before the grant is awarded. The request for approval must  
3 include a description of the proposed use of the money and the  
4 person or entity that would be authorized to expend the money. The  
5 Aging Services Division of the Department shall not expend or  
6 transfer any money allocated to the Aging Services Division  
7 pursuant to this section to subsidize any portion of the cost of  
8 policies of health insurance that provide coverage to senior citizens  
9 for prescription drugs and pharmaceutical services pursuant to NRS  
10 439.635 to 439.690, inclusive, or to ~~pay for any program~~  
11 ~~established pursuant to NRS 422.274 or 422.2745.~~ *subsidize any*  
12 *portion of the cost of providing prescription drugs and*  
13 *pharmaceutical services to persons with disabilities pursuant to*  
14 *sections 2 to 11, inclusive, of this act.*

15 6. The Department, on behalf of the Task Force, shall submit  
16 each allocation proposed pursuant to paragraph (e), (f) or (g) of  
17 subsection 1 which would be used to expand or augment an existing  
18 state program to the Interim Finance Committee for approval before  
19 the contract or grant is awarded. The request for approval must  
20 include a description of the proposed use of the money and the  
21 person or entity that would be authorized to expend the money.

22 **Sec. 14.** NRS 218.6827 is hereby amended to read as follows:

23 218.6827 1. Except as otherwise provided in subsections 2  
24 and 3, the Interim Finance Committee may exercise the powers  
25 conferred upon it by law only when the Legislature is not in regular  
26 or special session.

27 2. During a regular session, the Interim Finance Committee  
28 may also perform the duties imposed on it by subsection 5 of NRS  
29 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2  
30 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, NRS  
31 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335,  
32 paragraph (b) of subsection 4 of NRS 407.0762 ~~and~~ *and* NRS  
33 428.375, 439.620 ~~and 439.630, subsection 1 of NRS 422.2745 and~~  
34 ~~NRS~~ *, 439.630*, 445B.830 and 538.650. In performing those duties,  
35 the Senate Standing Committee on Finance and the Assembly  
36 Standing Committee on Ways and Means may meet separately and  
37 transmit the results of their respective votes to the Chairman of the  
38 Interim Finance Committee to determine the action of the Interim  
39 Finance Committee as a whole.

40 3. During a regular or special session, the Interim Finance  
41 Committee may exercise the powers and duties conferred upon it  
42 pursuant to the provisions of NRS 353.2705 to 353.2771, inclusive.

43 4. If the Interim Finance Committee determines that a  
44 fundamental review of the base budget of a state agency is  
45 necessary, it shall, by resolution, notify the Legislative Commission



1 of that finding for assignment of the review to a legislative  
2 committee for the fundamental review of the base budgets of state  
3 agencies established pursuant to NRS 218.5382.

4 **Sec. 15.** NRS 422.274 and 422.2745 are hereby repealed.

5 **Sec. 16.** This act becomes effective on July 1, 2005.

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## TEXT OF REPEALED SECTIONS

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### **422.274 Medicaid waiver to extend coverage for prescription drugs to certain older persons; limitation on administrative expenses; report.**

1. The Director shall apply to the Federal Government for a Medicaid waiver to extend coverage for prescription drugs and other related services to persons 65 years of age or older who are not eligible for pharmacy benefits pursuant to Medicaid and whose incomes are not more than 200 percent of the federally designated level signifying poverty.

2. The Director shall fully cooperate in good faith with the Federal Government during the application process to satisfy the requirements of the Federal Government for obtaining a Medicaid waiver pursuant to this section, including, without limitation:

(a) Providing any necessary information requested by the Federal Government in a timely manner;

(b) Responding promptly and thoroughly to any questions or concerns of the Federal Government concerning the application; and

(c) Working with the Federal Government to amend any necessary provisions of the application to satisfy the requirements for approval of the application.

3. The Director may:

(a) Administer a program established pursuant to this section through the Division of Health Care Financing and Policy; or

(b) Hire a pharmacy benefits manager by contract to administer a program established pursuant to this section.

4. Not more than 10 percent of the money received by the Department to implement a program established pursuant to this section may be used for administrative expenses or other indirect costs.

5. The Director shall submit a quarterly report concerning a program established pursuant to this section to the Interim Finance Committee and the Legislative Committee on Health Care.



**422.2745 Medicaid waiver to extend coverage for prescription drugs to certain persons with disabilities; limitation on administrative expenses; report.**

1. Except as otherwise provided in this subsection, the Director may apply to the Federal Government for a Medicaid waiver to extend coverage for prescription drugs and other related services to persons with disabilities who have been determined to be eligible for disability benefits from the federal social security system, who are not eligible for pharmacy benefits pursuant to Medicaid and whose incomes are not more than 200 percent of the federally designated level signifying poverty. The Director shall not apply for a waiver pursuant to this subsection unless the Director and the Interim Finance Committee have determined that sufficient funds are available in this State to implement the waiver.

2. If the Federal Government approves a Medicaid waiver which the Director applied for pursuant to subsection 1, the Director shall adopt regulations to implement the waiver and establish a program in accordance with the waiver, including, without limitation, regulations setting forth criteria of eligibility, the services covered by the program, the amount of any copayment for which a person who receives services pursuant to the program is responsible and any limitation on the number of persons who may receive services pursuant to the program.

3. The Director may:

(a) Administer a program established pursuant to this section through the Division of Health Care Financing and Policy; or

(b) Hire a pharmacy benefits manager by contract to administer a program established pursuant to this section.

4. Not more than 10 percent of the money received by the Department to implement a program established pursuant to this section may be used for administrative expenses or other indirect costs.

5. The Director shall submit a quarterly report concerning:

(a) The progress of the Director toward applying for a waiver pursuant to subsection 1 and establishing a program in accordance with such a waiver that has been approved by the Federal Government; and

(b) Any program established pursuant to this section,  
↳ to the Interim Finance Committee and the Legislative Committee on Health Care.



