

ASSEMBLY BILL NO. 495—COMMITTEE ON COMMERCE AND LABOR

MARCH 28, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning Fund for a Healthy Nevada and 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.

~

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; changing the portion of the money in the Fund for a Healthy Nevada that may be used to pay certain administrative costs incurred by the Department of Human Resources; making various changes concerning the allocation of the money in the Fund for a Healthy Nevada; requiring the Department to coordinate the provision of prescription drugs and pharmaceutical services by state programs that provide pharmaceutical or medical assistance to certain Medicare pharmaceutical benefits; repealing the requirement that the Department 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.*

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

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

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

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

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

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

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

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

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



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

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

5 ➡ The monetary amounts set forth in this subsection must be
6 adjusted for each fiscal year by adding to each amount the product
7 of the amount shown multiplied by the percentage increase in the
8 Consumer Price Index from December 2002 to the December
9 preceding the fiscal year for which the adjustment is calculated.

10 3. The subsidy granted pursuant to this section must not
11 exceed the annual cost of prescription drugs and pharmaceutical
12 services provided to the person with a disability.

13 4. A subsidy that is made available pursuant to subsection 1
14 must provide for:

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

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

21 5. The Department may waive the eligibility requirement set
22 forth in subsection 2 regarding household income upon written
23 request of the applicant or enrollee based on one or more of the
24 following circumstances:

25 (a) Illness;

26 (b) Disability; or

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

29 ➡ An applicant or enrollee who requests such a waiver shall
30 include with that request all medical and financial documents that
31 support his request.

32 6. If the Federal Government provides any coverage of
33 prescription drugs and pharmaceutical services for persons with
34 disabilities who are eligible for a subsidy pursuant to subsections 1
35 to 5, inclusive, the Department may, upon approval of the
36 Legislature, or the Interim Finance Committee if the Legislature
37 is not in session, change any program established pursuant to
38 sections 2 to 11, inclusive, of this act and otherwise provide
39 assistance with prescription drugs and pharmaceutical services for
40 persons with disabilities within the limits of the money available
41 for this purpose in the Fund for a Healthy Nevada.

42 7. The provisions of subsections 1 to 5, inclusive, do not apply
43 if the Department provides assistance with prescription drugs and
44 pharmaceutical services for persons with disabilities pursuant to
45 subsection 6.



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

4 2. *The request must be made under oath and filed in such*
5 *form and content, and accompanied by such proof, as the*
6 *Department may prescribe.*

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

9 4. *The Department shall determine which persons with*
10 *disabilities are eligible to receive a subsidy pursuant to section 6 of*
11 *this act and, if the Department has entered into a contract*
12 *pursuant to section 6 of this act to provide the subsidy, pay the*
13 *subsidy directly to the person or entity with whom the Department*
14 *has entered into the contract.*

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

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

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

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

28 **Sec. 10.** *Any subsidy granted pursuant to section 6 of this act*
29 *to a person with a disability who is not qualified for such a subsidy*
30 *may be revoked by the Department. If a subsidy is so revoked, the*
31 *person with a disability shall make restitution to the Department*
32 *for any subsidy he has improperly received, and the Department*
33 *shall take all proper actions to collect the amount of the subsidy as*
34 *a debt.*

35 **Sec. 11.** *No person may publish, disclose or use any personal*
36 *or confidential information contained in a request for a subsidy*
37 *submitted pursuant to section 7 of this act except for purposes*
38 *relating to the administration of sections 2 to 11, inclusive, of this*
39 *act.*

40 **Sec. 12.** NRS 439.620 is hereby amended to read as follows:

41 439.620 1. The Fund for a Healthy Nevada is hereby created
42 in the State Treasury. The State Treasurer shall deposit in the Fund:

43 (a) Fifty percent of all money received by this State pursuant to
44 any settlement entered into by the State of Nevada and a
45 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]~~ **2.025** percent of the money in the Fund,
39 as 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.]~~ **and 439.630;**

43 **(c) Not more than 1.5 percent of the money in the Fund, as**
44 **calculated pursuant to this subsection, each year to pay the costs**



incurred by the Department to administer the provisions of NRS 439.635 to 439.690, inclusive; and

(d) Not more than 0.125 percent of the money in the Fund, as calculated pursuant to this subsection, each year to pay the costs incurred by the Department to administer the provisions of sections 2 to 11, inclusive, of this act.

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

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

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

Sec. 13. NRS 439.630 is hereby amended to read as follows:

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

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

(1) Promote public health;

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

(3) Reduce or prevent the use of tobacco;

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

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

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

(c) Reserve not more than 30 percent of all revenues deposited in the Fund for a Healthy Nevada each year for direct expenditure by the Department to pay for prescription drugs and pharmaceutical services for senior citizens pursuant to NRS 439.635 to 439.690, inclusive. ~~[, and to fund in whole or in part any program established pursuant to NRS 422.274 or 422.2745.]~~ From the money reserved to



1 the Department pursuant to this paragraph, the Department may
2 subsidize all of the cost of policies of health insurance that provide
3 coverage to senior citizens for prescription drugs and
4 pharmaceutical services pursuant to NRS 439.635 to 439.690,
5 inclusive . ~~[, and fund in whole or in part any program established~~
6 ~~pursuant to NRS 422.274 or 422.2745.]~~ The Department shall
7 consider recommendations from the Task Force for the Fund for a
8 Healthy Nevada in carrying out the provisions of NRS 439.635 to
9 439.690, inclusive . ~~[, and administering any program established~~
10 ~~pursuant to NRS 422.274 or 422.2745.]~~ The Department shall
11 submit a quarterly report to the Governor, the Task Force for the
12 Fund for a Healthy Nevada and the Interim Finance Committee
13 regarding the general manner in which expenditures have been made
14 pursuant to this paragraph and the status of the program.

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

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

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

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

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

28 (e) Allocate, by contract or grant, for expenditure not more than
29 20 percent of all revenues deposited in the Fund for a Healthy
30 Nevada each year for programs that prevent, reduce or treat the use
31 of tobacco and the consequences of the use of tobacco.

32 (f) Allocate, by contract or grant, for expenditure not more than
33 10 percent of all revenues deposited in the Fund for a Healthy
34 Nevada each year for programs that improve health services for
35 children.

36 (g) Allocate, by contract or grant, for expenditure not more than
37 7.5 percent of all revenues deposited in the Fund for a Healthy
38 Nevada each year for programs that improve the health and well-
39 being of persons with disabilities. In making allocations pursuant to
40 this paragraph, the Task Force shall, to the extent practicable,
41 allocate the money evenly among the following three types of
42 programs:

43 (1) Programs that provide respite for persons caring for
44 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.~~ *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.



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~~
25 ~~established pursuant to NRS 422.274 or 422.2745.]~~ *subsidize any*
26 *portion of the cost of providing prescription drugs and*
27 *pharmaceutical services to persons with disabilities pursuant to*
28 *sections 2 to 11, inclusive, of this act.*

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

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

37 218.6827 1. Except as otherwise provided in subsections 2
38 and 3, the Interim Finance Committee may exercise the powers
39 conferred upon it by law only when the Legislature is not in regular
40 or special session.

41 2. During a regular session, the Interim Finance Committee
42 may also perform the duties imposed on it by subsection 5 of NRS
43 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2
44 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, NRS
45 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335,



paragraph (b) of subsection 4 of NRS 407.0762 ~~[]~~ and NRS 428.375, 439.620 ~~[and 439.630, subsection 1 of NRS 422.2745 and NRS]~~, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

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

4. If the Interim Finance Committee determines that a fundamental review of the base budget of a state agency is necessary, it shall, by resolution, notify the Legislative Commission of that finding for assignment of the review to a legislative committee for the fundamental review of the base budgets of state agencies established pursuant to NRS 218.5382.

Sec. 15. 1. The Department of Human Resources shall:

(a) Coordinate each state program that provides pharmaceutical or medical assistance to persons in this State with the Medicare Part D benefit so that each Medicare beneficiary who is eligible for or enrolled in such a state program maintains his present coverage for prescription drugs and pharmaceutical services to the extent allowed by federal law; and

(b) Coordinate each state program that provides pharmaceutical or medical assistance to persons in this State with the Medicare Part D benefit in a manner that:

(1) Maximizes coverage for prescription drugs and pharmaceutical services for persons in this State;

(2) Minimizes disruptions in the enrollment of persons in this State in state and federal programs that provide coverage for prescription drugs and pharmaceutical services;

(3) Minimizes disruptions in the eligibility of persons in this State for state and federal programs that provide coverage for prescription drugs and pharmaceutical services;

(4) Minimizes out-of-pocket expenses for prescription drugs and pharmaceutical services for Medicare beneficiaries in this State; and

(5) Maximizes federal funding for coverage of prescription drugs and pharmaceutical services for persons in this State.

2. The Department of Human Resources shall submit a plan for coordinating the state programs with the Medicare Part D benefit as required by subsection 1 to the Interim Finance Committee for approval before the Department coordinates those programs and benefits.



1 3. The Department of Human Resources may adopt such
2 regulations as may be required to carry out the provisions of this
3 section.

4 **Sec. 16.** NRS 422.274 and 422.2745 are hereby repealed.

5 **Sec. 17.** 1. This act becomes effective on July 1, 2005.

6 2. Section 15 of this act expires by limitation on July 1, 2007.

TEXT OF REPEALED SECTIONS

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.

