

ASSEMBLY BILL NO. 56—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 15, 2010

Referred to Committee on Judiciary

SUMMARY—Grants subpoena power to the Attorney General, acting through the Medicaid Fraud Control Unit, to obtain certain documents, records or materials. (BDR 18-119)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 the Office of the Attorney General; authorizing the Attorney General, acting through the Medicaid Fraud Control Unit, to issue a subpoena to obtain certain documents, records or materials; authorizing the Attorney General to recover and retain certain costs and expenses that are incurred pursuant to an investigation or prosecution by the Unit; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Medicaid Fraud Control Unit within the Office of the Attorney General as the agency responsible for the investigation and prosecution of violations or offenses relating to the State Plan for Medicaid. (NRS 228.410) This bill authorizes the Attorney General, acting through the Medicaid Fraud Control Unit, to issue a subpoena to obtain certain documents, records or materials that are relevant to investigations or prosecutions by the Unit. Additionally, a person who willfully fails or refuses to comply with such a subpoena is guilty of a misdemeanor.

This bill also authorizes the Attorney General to take appropriate legal action to recover any reasonable costs or expenses that are incurred pursuant to an investigation or prosecution by the Unit. This bill further authorizes the Attorney General to retain a certain amount of the costs and expenses that are recovered, and requires the Attorney General to place any amount recovered in excess of that



14 which the Attorney General is authorized to retain in the State General Fund for the
15 State Plan for Medicaid.

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

1 **Section 1.** NRS 228.410 is hereby amended to read as follows:
2 228.410 1. The Attorney General has primary jurisdiction to
3 investigate and prosecute violations of NRS 422.540 to 422.570,
4 inclusive, and any fraud in the administration of the Plan or in the
5 provision of medical assistance pursuant to the Plan. The provisions
6 of this section notwithstanding, the Department of Health and
7 Human Services and the Division of Health Care Financing and
8 Policy of the Department of Health and Human Services shall
9 enforce the Plan and any regulations adopted pursuant thereto.

10 2. For this purpose, the Attorney General shall establish within
11 his or her office the Medicaid Fraud Control Unit. The Unit must
12 consist of a group of qualified persons, including, without
13 limitation, an attorney, an auditor and an investigator who, to the
14 extent practicable, have expertise in nursing, medicine and the
15 administration of medical facilities.

16 3. The Attorney General, acting through the Medicaid Fraud
17 Control Unit:

18 (a) Is the single state agency responsible for the investigation
19 and prosecution of violations of NRS 422.540 to 422.570, inclusive;

20 (b) *May conduct any investigation or prosecution authorized*
21 *pursuant to 42 U.S.C. § 1396b(q);*

22 (c) Shall review reports of abuse or criminal neglect of patients
23 in medical facilities which receive payments under the Plan and,
24 when appropriate, investigate and prosecute the persons responsible;

25 ~~(c)~~ (d) May review and investigate reports of misappropriation
26 of money from the personal resources of patients in medical
27 facilities that receive payments under the Plan and, when
28 appropriate, shall prosecute the persons responsible;

29 ~~(d)~~ (e) Shall cooperate with federal investigators and
30 prosecutors in coordinating state and federal investigations and
31 prosecutions involving fraud in the provision or administration of
32 medical assistance pursuant to the Plan, and provide those federal
33 officers with any information in his or her possession regarding such
34 an investigation or prosecution; and

35 ~~(e)~~ (f) Shall protect the privacy of patients and establish
36 procedures to prevent the misuse of information obtained in carrying
37 out the provisions of this section.

38 4. When acting pursuant to *this section or* NRS 228.175 , ~~for~~
39 ~~this section,~~ the Attorney General may commence an investigation



1 and file a criminal action without leave of court, and has exclusive
2 charge of the conduct of the prosecution.

3 5. *If the Attorney General has reasonable cause to believe*
4 *that a person is in possession, custody or control of any*
5 *documents, records or other materials relevant to an investigation*
6 *or prosecution conducted pursuant to this section, the Attorney*
7 *General, acting through the Medicaid Fraud Control Unit, may*
8 *issue a subpoena for the documents, records or materials. A*
9 *subpoena issued pursuant to this subsection must:*

10 (a) *Be served upon the person in the manner required by law;*

11 (b) *Describe the documents, records or materials to be*
12 *produced with sufficient definiteness so that the documents,*
13 *records or materials are reasonably identifiable;*

14 (c) *Be limited to documents, records or materials that are*
15 *relevant to an investigation or prosecution conducted pursuant to*
16 *this section;*

17 (d) *Specify a reasonable time within which the person must*
18 *produce the documents, records or materials; and*

19 (e) *Specify a place for the production of the documents,*
20 *records or materials.*

21 6. *The Attorney General may, by appropriate legal action,*
22 *recover any reasonable costs or expenses incurred in conducting*
23 *an investigation or prosecution pursuant to this section. The*
24 *Attorney General may retain the costs and expenses recovered*
25 *pursuant to this subsection up to an amount not exceeding, in the*
26 *aggregate, three times the amount of any money paid by this State*
27 *which matches federal grant money for the Medicaid Fraud*
28 *Control Unit. Costs and expenses recovered by the Attorney*
29 *General in excess of the amount retained by the Attorney General*
30 *must be deposited in the State General Fund for credit to the*
31 *appropriate account for the Plan.*

32 7. *Any person who willfully fails or refuses to comply with a*
33 *subpoena issued pursuant to subsection 5 is guilty of a*
34 *misdemeanor.*

35 8. As used in this section:

36 (a) "Medical facility" has the meaning ascribed to it in
37 NRS 449.0151.

38 (b) "Plan" means the State Plan for Medicaid established
39 pursuant to NRS 422.271.

40 **Sec. 2.** This act becomes effective on July 1, 2011.

