

ASSEMBLY BILL NO. 450—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MARCH 25, 2013

Referred to Committee on Ways and Means

SUMMARY—Revises provisions relating to public welfare.
(BDR 38-1140)

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 welfare; transferring authority for the Children's Health Insurance Program from the Division of Health Care Financing and Policy in the Department of Health and Human Services to the Division of Welfare and Supportive Services in the Department; revising provisions relating to the electronic submission of applications for Medicaid and the Children's Health Insurance Program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Health Care Financing and Policy of the Department of Health and Human Services to administer the Children's Health Insurance Program, including determining the maximum amount of money that is available from the Federal Government for the Program. (Chapter 422 of NRS) **Sections 1-13** of this bill transfer the authority for the Children's Health Insurance Program from the Division of Health Care Financing and Policy in the Department of Health and Human Services to the Division of Welfare and Supportive Services in the Department.

Existing law requires the Department of Health and Human Services to establish and maintain a system which: (1) allows applicants for Medicaid and the Children's Health Insurance Program to submit applications electronically; and (2) requires certain agencies to use the system to forward applications to the Department. (NRS 422.2703) **Section 14** of this bill repeals that provision. **Section 7** of this bill instead requires: (1) the Division of Welfare and Supportive Services to establish and maintain the system; and (2) certain agencies to use the system to forward applications to the Division.



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

Section 1. NRS 422.061 is hereby amended to read as follows:

422.061 The purposes of the Division are:

1. To ensure that the Medicaid provided by this State ~~and the insurance provided pursuant to the Children's Health Insurance Program in this State are~~ **is** provided in the manner that is most efficient to this State.

2. To evaluate alternative methods of providing Medicaid . ~~and providing insurance pursuant to the Children's Health Insurance Program.~~

3. To review Medicaid ~~and the Children's Health Insurance Program~~ and other health programs of this State to determine the maximum amount of money that is available from the Federal Government for such programs.

4. To promote access to quality health care for all residents of this State.

5. To restrain the growth of the cost of health care in this State.

Sec. 2. NRS 422.2366 is hereby amended to read as follows:

422.2366 1. The Administrator or a designated representative may administer oaths and take testimony thereunder and issue subpoenas requiring the attendance of witnesses before the Division at a designated time and place and the production of books, papers and records relative to:

(a) Eligibility or continued eligibility to provide medical care, remedial care or other services pursuant to the State Plan for Medicaid ; ~~for the Children's Health Insurance Program;~~

(b) Verification of treatment and payments to a provider of medical care, remedial care or other services pursuant to the State Plan for Medicaid ; ~~for the Children's Health Insurance Program;~~ and

(c) Recovery of Medicaid benefits paid on behalf of a recipient of medical care, remedial care or other services pursuant to the State Plan for Medicaid . ~~for the Children's Health Insurance Program.~~

2. If a witness fails to appear or refuses to give testimony or to produce books, papers and records as required by the subpoena, the district court of the county in which the investigation is being conducted may compel the attendance of the witness, the giving of testimony and the production of books, papers and records as required by the subpoena.

Sec. 3. NRS 422.273 is hereby amended to read as follows:

422.273 1. For any Medicaid managed care program established in the State of Nevada, the Department shall contract only with a health maintenance organization that has:



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1 (a) Negotiated in good faith with a federally-qualified health
2 center to provide health care services for the health maintenance
3 organization;

4 (b) Negotiated in good faith with the University Medical Center
5 of Southern Nevada to provide inpatient and ambulatory services to
6 recipients of Medicaid; and

7 (c) Negotiated in good faith with the University of Nevada
8 School of Medicine to provide health care services to recipients of
9 Medicaid.

10 ➤ Nothing in this section shall be construed as exempting a
11 federally-qualified health center, the University Medical Center of
12 Southern Nevada or the University of Nevada School of Medicine
13 from the requirements for contracting with the health maintenance
14 organization.

15 2. During the development and implementation of any
16 Medicaid managed care program, the Department shall cooperate
17 with the University of Nevada School of Medicine by assisting in
18 the provision of an adequate and diverse group of patients upon
19 which the school may base its educational programs.

20 3. The University of Nevada School of Medicine may establish
21 a nonprofit organization to assist in any research necessary for the
22 development of a Medicaid managed care program, receive and
23 accept gifts, grants and donations to support such a program and
24 assist in establishing educational services about the program for
25 recipients of Medicaid.

26 4. For the purpose of contracting with a Medicaid managed
27 care program pursuant to this section, a health maintenance
28 organization is exempt from the provisions of NRS 695C.123.

29 5. The provisions of this section apply to any managed care
30 organization, including a health maintenance organization, that
31 provides health care services to recipients of Medicaid under the
32 State Plan for Medicaid *pursuant to a contract with the Division of*
33 *Health Care Financing and Policy* or the Children's Health
34 Insurance Program pursuant to a contract with the Division **H** *of*
35 *Welfare and Supportive Services of the Department*. Such a
36 managed care organization or health maintenance organization is
37 not required to establish a system for conducting external reviews of
38 adverse determinations in accordance with chapter 695B, 695C or
39 695G of NRS. This subsection does not exempt such a managed
40 care organization or health maintenance organization for services
41 provided pursuant to any other contract.

42 6. As used in this section, unless the context otherwise
43 requires:

44 (a) "Federally-qualified health center" has the meaning ascribed
45 to it in 42 U.S.C. § 1396d(l)(2)(B).



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(b) "Health maintenance organization" has the meaning ascribed to it in NRS 695C.030.

(c) "Managed care organization" has the meaning ascribed to it in NRS 695G.050.

Sec. 4. Chapter 422A of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 8, inclusive, of this act.

Sec. 5. *In administering the provisions of the Children's Health Insurance Program, the purposes of the Division are:*

1. To ensure that the insurance provided pursuant to the Children's Health Insurance Program in this State is provided in the manner that is most efficient to this State.

2. To evaluate alternative methods of providing insurance pursuant to the Children's Health Insurance Program.

3. To review the Children's Health Insurance Program of this State to determine the maximum amount of money that is available from the Federal Government for the Program.

Sec. 6. *The Division shall:*

1. Seek the assistance of and cooperate with Indian tribes, tribal organizations and organizations that collaborate with Indian tribes to identify Indian children who may be eligible to enroll in the Children's Health Insurance Program and facilitate the enrollment of such children in the Children's Health Insurance Program;

2. Upon determining that an Indian child is eligible for the Children's Health Insurance Program, immediately take any necessary action to enroll the child in the Children's Health Insurance Program; and

3. Contract with the Indian Health Service and tribal clinics that provide health care services to Indians to provide health care services to Indian children who are enrolled in the Children's Health Insurance Program.

Sec. 7. *1. The Division shall establish and maintain a system which allows an applicant for Medicaid or the Children's Health Insurance Program to submit the application electronically. The system must allow an applicant to submit an application through the Internet or another on-line service designated by the Division.*

2. An agency designated by the Director to receive applications or determine eligibility for Medicaid or the Children's Health Insurance Program shall use the system established pursuant to subsection 1 to forward to the applicable Division designated by the Director an application received by the agency.

3. An applicant for Medicaid or the Children's Health Insurance Program must not be required to submit an application



1 *electronically. If an applicant submits a written application to an*
2 *agency designated by the Director, the agency shall create an*
3 *electronic application on behalf of the applicant and use the*
4 *system established pursuant to subsection 1 to forward the*
5 *application to the applicable Division.*

6 **Sec. 8. 1.** *If the Division denies an application for the*
7 *Children's Health Insurance Program, the Division shall provide*
8 *written notice of the decision to the applicant. An applicant who*
9 *disagrees with the denial of the application may request a review*
10 *of the case and a hearing before an impartial hearing officer by*
11 *filing a written request within 30 days after the date of the notice*
12 *of the decision at the address specified in the notice.*

13 2. *The Division shall adopt regulations regarding the review*
14 *and hearing before an impartial hearing officer. The decision of*
15 *the hearing officer must be in writing.*

16 3. *The applicant may at any time within 30 days after the date*
17 *on which the written decision is mailed, petition the district court*
18 *of the judicial district in which the applicant resides to review the*
19 *decision. The district court shall review the decision on the record.*
20 *The decision and record must be certified as correct and filed with*
21 *the court by the Administrator.*

22 4. *The review by the court must be in accordance with*
23 *NRS 422A.300.*

24 **Sec. 9.** NRS 422A.180 is hereby amended to read as follows:

25 422A.180 1. The Administrator or a representative
26 designated by the Administrator may administer oaths and take
27 testimony thereunder and issue subpoenas requiring the attendance
28 of witnesses before the Division at a designated time and place and
29 the production of books, papers and records relative to eligibility or
30 continued eligibility for public assistance ~~H~~ *or the Children's*
31 *Health Insurance Program.*

32 2. The Director or a representative designated by the Director
33 may administer oaths and take testimony thereunder and issue
34 subpoenas requiring the attendance of witnesses before the
35 Department at a designated time and place and the production of
36 books, papers and records relative to ~~[verification]~~ :

37 (a) *Verification* of treatment and payments to a provider of
38 medical care, remedial care or other services pursuant to the State
39 Plan for Medicaid ~~H~~ *or the Children's Health Insurance Program;*
40 *and*

41 (b) *Recovery of Medicaid benefits paid on behalf of a recipient*
42 *of medical care, remedial care or other services pursuant to the*
43 *State Plan for Medicaid or the Children's Health Insurance*
44 *Program.*



3. If a witness fails to appear or refuses to give testimony or to produce books, papers and records as required by a subpoena issued pursuant to this section, the district court of the county in which the investigation is being conducted may compel the attendance of the witness, the giving of testimony and the production of books, papers and records as required by the subpoena.

Sec. 10. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.173, inclusive, 695C.1733 to 695C.200, inclusive, 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid *pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services* or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of ~~Health Care Financing and Policy~~ *Welfare and Supportive Services* of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 11. NRS 695C.128 is hereby amended to read as follows:

695C.128 Any contract or other agreement entered into or renewed by a health maintenance organization on or after October 1, 2001:

1. To provide health care services through managed care to recipients of Medicaid under the state plan for Medicaid; or



2. With the Division of ~~Health Care Financing and Policy~~ *Welfare and Supportive Services* of the Department of Health and Human Services to provide insurance pursuant to the Children's Health Insurance Program,

must require the health maintenance organization to pay interest to a provider of health care services on a claim that is not paid within the time provided in the contract or agreement at a rate of interest equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date on which the payment was due, plus 6 percent. The interest must be calculated from 30 days after the date on which the claim is approved until the date on which the claim is paid.

Sec. 12. NRS 695D.225 is hereby amended to read as follows:

695D.225 1. A contract between an organization for dental care and a dentist may be modified:

(a) At any time pursuant to a written agreement executed by both parties.

(b) Except as otherwise provided in this paragraph, by the organization for dental care upon giving to the dentist 45 days' written notice of the modification of the organization for dental care's schedule of payments, including any changes to the fee schedule applicable to the dentist's practice. If the dentist fails to object in writing to the modification within the 45-day period, the modification becomes effective at the end of that period. If the dentist objects in writing to the modification within the 45-day period, the modification must not become effective unless agreed to by both parties as described in paragraph (a).

2. If an organization for dental care contracts with a dentist, the organization for dental care shall:

(a) If requested by the dentist at the time the contract is made, submit to the dentist the schedule of payments applicable to the dentist; or

(b) If requested by the dentist at any other time, submit to the dentist the schedule of payments, including any changes to the fee schedule applicable to the dentist's practice, specified in paragraph (a) within 7 days after receiving the request.

3. The provisions of this section do not apply to an organization for dental care that provides services to recipients of Medicaid under the State Plan for Medicaid *pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services* or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of ~~Health Care Financing and Policy~~ *Welfare and Supportive Services* of the Department of Health and Human



Services. This subsection does not exempt an organization for dental care from any provision of this chapter for services provided pursuant to any other contract.

Sec. 13. NRS 695G.090 is hereby amended to read as follows:

695G.090 1. Except as otherwise provided in subsection 3, the provisions of this chapter apply to each organization and insurer that operates as a managed care organization and may include, without limitation, an insurer that issues a policy of health insurance, an insurer that issues a policy of individual or group health insurance, a carrier serving small employers, a fraternal benefit society, a hospital or medical service corporation and a health maintenance organization.

2. In addition to the provisions of this chapter, each managed care organization shall comply with:

(a) The provisions of chapter 686A of NRS, including all obligations and remedies set forth therein; and

(b) Any other applicable provision of this title.

3. The provisions of NRS 695G.164, 695G.1645, 695G.200 to 695G.230, inclusive, and 695G.430 do not apply to a managed care organization that provides health care services to recipients of Medicaid under the State Plan for Medicaid *pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services* or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of ~~Health Care Financing and Policy~~ *Welfare and Supportive Services* of the Department of Health and Human Services. This subsection does not exempt a managed care organization from any provision of this chapter for services provided pursuant to any other contract.

Sec. 14. NRS 422.288, 422.2703 and 422.3045 are hereby repealed.

Sec. 15. 1. Any administrative regulations adopted by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity remain in force until amended by the officer, agency or other entity to which the responsibility for the adoption of the regulations has been transferred.

2. Any contracts or other agreements entered into by an officer, agency or other entity whose name has been changed or whose responsibilities have been transferred pursuant to the provisions of this act to another officer, agency or other entity are binding upon the officer, agency or other entity to which the responsibility for the administration of the provision of the contract or other agreement has been transferred. Such contracts and other agreements may be



1 enforced by the officer, agency or other entity to which the
2 responsibility for the enforcement of the provisions of the contract
3 or other agreement has been transferred.

4 3. Any action taken by an officer, agency or other entity whose
5 name has been changed or whose responsibilities have been
6 transferred pursuant to the provisions of this act to another officer,
7 agency or other entity remains in effect as if taken by the officer,
8 agency or other entity to which the responsibility for the
9 enforcement of such actions has been transferred.

10 **Sec. 16.** This act becomes effective on July 1, 2013.

TEXT OF REPEALED SECTIONS

422.288 Enrollment of eligible Indian children in Children's Health Insurance Program: Duty of Department to seek assistance of and cooperate with Indian tribes; immediate action required; certain contracts for provision of services required. The Department shall:

1. Seek the assistance of and cooperate with Indian tribes, tribal organizations and organizations that collaborate with Indian tribes to identify Indian children who may be eligible to enroll in the Children's Health Insurance Program and facilitate the enrollment of such children in the Children's Health Insurance Program;

2. Upon determining that an Indian child is eligible for the Children's Health Insurance Program, immediately take any necessary action to enroll the child in the Children's Health Insurance Program; and

3. Contract with the Indian Health Service and tribal clinics that provide health care services to Indians to provide health care services to Indian children who are enrolled in the Children's Health Insurance Program.

422.2703 Department required to establish and maintain system for electronic submission of applications for Medicaid or Children's Health Insurance Program.

1. The Department shall establish and maintain a system which allows an applicant for Medicaid or the Children's Health Insurance Program to submit the application electronically. The system must allow an applicant to submit an application through the Internet or another on-line service designated by the Department.

2. An agency designated by the Director to receive applications or determine eligibility for Medicaid or the Children's Health Insurance Program shall use the system established pursuant to



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subsection 1 to forward to the Department all applications received by the agency.

3. An applicant for Medicaid or the Children's Health Insurance Program must not be required to submit an application electronically. If an applicant submits a written application to an agency designated by the Director, the agency shall create an electronic application on behalf of the applicant and use the system established pursuant to subsection 1 to forward the application to the Department.

422.3045 Denial of application for Children's Health Insurance Program: Notice; review of case and hearing; regulations; review by court.

1. If the Division denies an application for the Children's Health Insurance Program, the Division shall provide written notice of the decision to the applicant. An applicant who disagrees with the denial of the application may request a review of the case and a hearing before an impartial hearing officer by filing a written request within 30 days after the date of the notice of the decision at the address specified in the notice.

2. The Division shall adopt regulations regarding the review and hearing before an impartial hearing officer. The decision of the hearing officer must be in writing.

3. The applicant may at any time within 30 days after the date on which the written decision is mailed, petition the district court of the judicial district in which the applicant resides to review the decision. The district court shall review the decision on the record. The decision and record must be certified as correct and filed with the court by the Administrator.

4. The review by the court must be in accordance with NRS 422.279.

