

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Seventh Session  
February 18, 2013**

The Committee on Health and Human Services was called to order by Chair Marilyn Dondero Loop at 1:31 p.m. on Monday, February 18, 2013, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [nelis.leg.state.nv.us/77th2013](http://nelis.leg.state.nv.us/77th2013). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Marilyn Dondero Loop, Chair  
Assemblywoman Ellen B. Spiegel, Vice Chair  
Assemblywoman Teresa Benitez-Thompson  
Assemblyman Wesley Duncan  
Assemblyman Andy Eisen  
Assemblywoman Michele Fiore  
Assemblyman John Hambrick  
Assemblyman Pat Hickey  
Assemblyman Joseph M. Hogan  
Assemblyman Andrew Martin  
Assemblyman James Oscarson  
Assemblywoman Peggy Pierce  
Assemblyman Michael Sprinkle

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Steven Brooks (excused)

**GUEST LEGISLATORS PRESENT:**

None



**STAFF MEMBERS PRESENT:**

Kirsten Bugenig, Committee Policy Analyst  
Risa Lang, Committee Counsel  
Terry Horgan, Committee Secretary  
Macy Young, Committee Assistant

**OTHERS PRESENT:**

Mike McMahon, Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services  
Michael J. Willden, Director, Department of Health and Human Services  
Laurie Squartsoff, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services  
Miki Allard, Staff Specialist, Division of Welfare and Supportive Services, Department of Health and Human Services  
Nicole Rourke, representing the Clark County School District  
Marlene Lockhard, representing the Nevada Women's Lobby  
Elisa Cafferata, President & CEO, Nevada Advocates for Planned Parenthood Affiliates  
Jon Sasser, representing Washoe Legal Services and the Legal Aid Center of Southern Nevada

**Chair Dondero Loop:**

[Roll was called. Committee rules and protocol were explained.] Before we begin with our presentation and bill hearing today, we have two bill draft request (BDR) introductions for Committee action. Please note that voting in favor of introducing a BDR does not imply a commitment to support the measure later. This action just allows the BDR to become a bill and be referred to the Committee for possible hearings.

The first BDR, number 505, was requested by the Legislative Committee on Health Care. The measure revises provisions concerning persons legally responsible for the psychiatric care of a child who is in the custody of an agency which provides child welfare services. I will entertain a motion on introduction of BDR 38-505.

**BDR 38-505**—Revises provisions concerning persons legally responsible for the psychiatric care of a child who is in the custody of an agency which provides child welfare services. (Later introduced as [Assembly Bill 149](#).)

ASSEMBLYMAN SPRINKLE MOVED FOR COMMITTEE  
INTRODUCTION OF BDR 38-505.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT FOR THE VOTE.)

Our second BDR is number 117. It was requested by the Legislative Committee on Senior Citizens, Veterans, and Adults with Special Needs. This measure requires facilities for skilled nursing to conduct assessments of certain patients. Do I have a motion to introduce BDR 40-117?

**BDR 40-117**—Requires facilities for skilled nursing to conduct assessments of certain patients. (Later introduced as [Assembly Bill 148](#).)

ASSEMBLYWOMAN SPIEGEL MOVED FOR COMMITTEE INTRODUCTION OF BDR 40-117.

ASSEMBLYMAN OSCARSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN BROOKS WAS ABSENT FOR THE VOTE.)

We will now begin hearing a presentation on the Division of Welfare and Supportive Services which will give us background information that will be useful in our bill hearing today.

**Mike McMahon, Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services:**

I assume you all have my presentation ([Exhibit C](#)) available to you, so I will start by reminding you that the mission of the Division of Welfare and Supportive Services is to provide timely access to quality services enabling Nevada families, the disabled, and the elderly to achieve their highest level of self-sufficiency. As you can see from the organization chart on page 1, the Division of Welfare and Supportive Services falls under the umbrella of the Department of Health and Human Services.

If you turn to page 2 ([Exhibit C](#)), the Division of Welfare and Supportive Services has two primary functional areas. The first functional area is program and field operations; the second is administrative services. [Mr. McMahon read the bulleted points contained within those areas from page 2.] The statewide collection and disbursement unit under administrative services is actually our Child Support Enforcement Program. The Division really serves a unit role within the Department. Through our eligibility function we provide a gateway to a plethora of services through the State and, in particular, through the

Department. Services offered through the Department typically comprise the bulk of the safety net that exists within the State of Nevada.

Some of the documents presented here are tools for you to use as you go through the legislative session. The information on page 4 ([Exhibit C](#)) is the first tool. It is really an opportunity to acquaint you with some of the acronyms that are used within the Division. This also will serve as a guide to assist you in better understanding the basic programs and services that are offered through the Welfare Division. These programs I will be mentioning are also the activities that are funded through our budget.

The first item at the top of page 4 ([Exhibit C](#)) deals with Temporary Assistance to Needy Families, or what we refer to as the TANF program. The purpose of the program is to provide temporary financial assistance and self-sufficiency assistance to support the care of dependent children in their homes or in the homes of relatives.

The second item is the Supplemental Nutrition Assistance Program (SNAP). This replaces the old food stamp program. The purpose of the program is to raise the nutritional level among low-income households whose limited food purchasing power may contribute to hunger or malnutrition among household members.

The third item is Medicaid. The purpose of the program is to ensure that necessary medical services are available for eligible individuals. The three Medicaid programs are related to the aged, blind and disabled; TANF; and the Children's Health Insurance Program (CHIP), which serves pregnant women and children under the age of 19.

The purpose of the Child Care and Development Fund is to assist low-income families, families receiving temporary public assistance, and those transitioning from public assistance, to obtain child care so they can work.

The purpose of the Energy Assistance Program is to assist eligible low-income households maintain essential heating and cooling in their homes during the winter and summer seasons by providing an annual assistance.

The last of the programs is on page 5 ([Exhibit C](#)) and is the Child Support Enforcement Program. The purpose of this program is to promote the well-being of children to strengthen families and reduce the demand on public treasuries by securing financial and medical support for legally responsible parents.

To give you a sense of the number of people served, the Temporary Assistance to Needy Families program is currently serving over 29,000 participants—the equivalent of about 11,000 families—to the tune of about \$43 million in cash assistance benefits for fiscal year (FY) 2013. The Supplemental and Nutritional Assistance Program, our food program, is currently serving over 360,000 participants; the equivalent of 170,000 families. The nature of the benefit is in the range of \$538 million that will be disbursed through the course of FY 2013. In FY 2011 less than half a billion dollars was expended, yet that expenditure had an economic impact to the State of just under one billion dollars. Medicaid currently services over 300,000 eligible participants.

Under the category of child care, we are currently serving approximately 5,200 children. Our data on child care is a snapshot in time, so this snapshot was approximately three weeks ago. Of those children, approximately 1,600 are being served under the New Employees of Nevada (NEON) program; 2,300 are at-risk children; 26 children are being served through the discretionary program, and a combination of about 1,200 children are being served through either the wraparound or contracted slots that are available through the various community-based not-for-profits. Approximately 2,100 children are currently on the at-risk waiting list, and we will be paying out about \$28 million to various community-based child care providers.

We anticipate serving approximately 32,000 participants in the energy assistance program in the next biennium. We anticipate receiving approximately \$11.2 million from the federal Low Income Home Energy Assistance program and an additional \$9 million from the Universal Energy Charge to be able to fund those programs.

Pages 5 and 6 ([Exhibit C](#)) give you an overview in terms of the way our budget is laid out and, more importantly, gives you a perspective in terms of how we fit into the overall strategy for state government. The Governor has stated that these are four strategic priorities involved in the *Executive Budget* for this year. We fit into the "educated and healthy citizenry" category. Within that category are two primary core functions for the Welfare Division: health services and human services.

Under the first core function, we have an objective to address affordable health care. Under that is an activity related to Medicaid eligibility and then the performance measures that follow. One specific performance measure for Medicaid is that 75 percent of the eligible population will be participating in the program.

Underneath the core function for human services we have two primary objectives: self-sufficiency and hunger. Under self-sufficiency are activities such as TANF. Approximately 50 percent of TANF cases will have federally approved work activities. Under the objective for child care, we are looking at performance measures where 50 percent of the NEON clients will be involved in work-related activities. Under the third activity, child support enforcement, we have a 93 percent establishment of paternity through the program.

Turning to the energy assistance part of the program on page 6 ([Exhibit C](#)), 95 percent of the applications will be processed within 60 days. The other objective in that core category is the Supplemental Nutrition Assistance Program, the food program. What we are looking for is the percentage of SNAP applications processed within federal guidelines. The Division of Welfare and Supportive Services has been involved in the conversations regarding formulation of the food and security plan. We will continue to be involved in dialogue concerning reorganization of the feeding programs as they are needed within the state.

We have two primary division goals I would like to share with you. The first would make public assistance available to those most in need through an efficient and responsive system while ensuring program integrity and reducing fraud. The second is to enhance the eligibility-determination process through technological improvements and process reengineering to improve efficiency, client access, and deliver the highest quality of customer service to the clients we serve.

The Welfare Division is really driven by two primary factors: caseload growth and the Affordable Care Act (ACA). The next several pages take you through the data points and their charts for our three primary services which are TANF, SNAP, and Medicaid. We look at and monitor these charts on a consistent basis because they help determine the level of need we have for the service.

On page 7 ([Exhibit C](#)) are the TANF cash projections; the data points for this projection are on page 8. The Temporary Assistance for Needy Families program is the only program we operate that is currently showing a decrease in utilization. The chart on page 7 shows a projected decrease in the program. There are distinct changes within the client base, the client mix, that we are dealing with in the program. It is no longer just a mom and two children as the typical program had been based on. We also have much more stringent requirements involved with the program that contribute to some of the decrease in utilization of the program.

Page 9 ([Exhibit C](#)) is the SNAP projection and page 10 is the analytical data in support of that projection. The orange bar in the center of the page represents the recession years 2007-2009. Moving to the right is a green line that shows a very aggressive, steady progression in the increased utilization of the SNAP program. Legislature-approved projections are the red line. We are still under the approved projections for the current year, but if you look at the very bottom of the page, there is a timeline. On the right portion of the page you will see "January 2015" and "July 2014." Look at January 2014 and follow that line up to intersect with the black projection line. That projection line shows a steady increase in the utilization of the SNAP program until we get to January 2014. At that time, utilization rises quite radically. That symbolizes the beginning of the Affordable Care Act. Once we get into the ACA effective 2014, we expect a substantial increase in the growth rate in the cases for SNAP.

Page 11 ([Exhibit C](#)) is the Medicaid graph and page 12 is the analytical data. Actual caseload is the green line; the black line is projected caseloads and shows a steady and progressive increase in the utilization of the Medicaid program. Again, looking at the dates at the bottom of the page, in October 2013, the Silver State Health Insurance Exchange begins its open enrollment. At that point, we will begin receiving more people coming through the program requesting assistance. We are projecting an approximately 68,000-caseload increase for just the mandatory Affordable Care Act recipients. Very shortly after is January 2014, at which time the optional program of up to 138 percent of the federal poverty level (FPL) begins. We expect to have an increase of approximately 78,000 caseloads with the addition of that optional group.

**Assemblywoman Spiegel:**

Why do you see the implementation of the Affordable Care Act leading to an increase in SNAP?

**Mike McMahon:**

Through the Affordable Care Act, most people will be able to research and explore health care options electronically from the comfort of their homes. The whole design of the ACA is to make things seamless so people have easier access to information. As they go through the process of researching health care options, they will also have the opportunity to apply for the SNAP program and other programs that they might not have known they would potentially be eligible for.



**Assemblyman Eisen:**

Looking at the data in the graphs you showed for TANF and SNAP, you noted there is a gap between what was projected and what has actually occurred. While I recognize we will be getting into a completely different ballgame with the implementation of the ACA and the effects that implementation will have that you just explained, do you have a sense of what was different about reality versus how those projections were built? Could we avoid making that mistake again?

**Mike McMahon:**

I do not know that there were any mistakes made. We have gone through quite a transition during the past several years. The State has been addressing economic issues such as the downturn in the economy, home foreclosures, and those sorts of things. The downturn gave us a different variable in terms of being able to predict the actual utilizations of the programs.

**Assemblyman Eisen:**

My apology. I did not mean to imply that there were mistakes made in the Department, but obviously, the model did not reflect what really happened. Do you have a sense concerning what was different versus what had been assumed in making those projections so we could feel more comfortable about the projections being made now?

**Michael J. Willden, Director, Department of Health and Human Services:**

These projections are done by the statistics office in the Director's office. In our forecasting model, we experimented with variables. Sometimes we do just a linear projection; sometimes we use a multiple-progression analysis. In these programs, we used to use unemployment as a variable. As the unemployment rate bounced around, that tilted the forecast of our proposal. Over time, we have seen that the unemployment rate is not really the variable that affects these caseloads. It is the employment variable. As many of you are aware, the unemployment rate is dropping, but our employment rate is only rising slowly, so we are lowering our forecast model because the employment rate is projected to be slower than what we projected during the last legislative session.

**Mike McMahon:**

Again, caseload growth is one of the primary factors. The second factor we look at is the Affordable Care Act, which is mentioned on page 13 ([Exhibit C](#)). This page introduces you to some of the oversights for the Patient Protection and Affordable Care Act of 2010. Essentially, what the Affordable Care Act does is expand access to health insurance through improvements in Medicaid, the establishment of affordable insurance exchanges, and coordination among



Medicaid, the Children's Health Insurance Program, and the health insurance exchanges.

When we speak about the Children's Health Insurance Program (CHIP), in Nevada it actually represents a program called Nevada Check Up. They are one and the same in Nevada. The Exchange begins effective October 2013. Starting January 1, 2014, all eligibility for Medicaid, CHIP, and those individuals who are seeking advance payments of premium tax credits for the purchase of private coverage through the Exchange will be determined using methodologies based on a modified adjusted gross income. Essentially, what is happening is the eligibility data being used will become standardized for eligibility determinations among all the programs—Medicaid, Nevada Check Up, or the Exchange.

The other point about the Affordable Care Act I would like to leave with you is that this will allow us to do real-time eligibility determinations for most applicants. This will allow for prompt enrollment of individuals in the insurance affordability programs for which they qualify. This speaks to one of the initiatives that is involved with the Welfare Division which is development of the eligibility engine for the Affordable Care Act.

An additional point is that the federal government will pay 100 percent of the medical costs for the newly eligible population for the first three years. Newly eligible are described as being childless adults, so it is a new category of services that will be brought in with the expansion of eligibility up to the 138 percent of poverty level.

**Assemblyman Hickey:**

You just made the point that newly eligible will be budgeted and paid for 100 percent by the federal government. Is the increase in the expansion of services for those already enrolled in Medicaid reflected in the expansion of Medicaid in the Governor's budget?

**Chair Dondero Loop:**

Let us be really careful. We are a policy committee, not a money committee, so please let us keep our questions to policy matters.

**Assemblyman Hickey:**

Can you just relate my question to the policy?

**Mike McMahon:**

From a policy perspective, the Affordable Care Act is one of the driving factors within the Welfare Division. Because it is a driver, it is one of the key elements that would be reflected in our budget.

As a final point on page 13 ([Exhibit C](#)), I would like to draw to your attention the fact that the Affordable Care Act and the initiatives we have discussed, such as the eligibility engine, really do support a "no wrong door" approach as far as being able to access services for any of the population with the State of Nevada.

On page 14 ([Exhibit C](#)) is one of the second tools I wanted to leave with you. As you get further into the session and begin looking at budgets, you are going to see that there are three different entities in the State that are intimately involved in the Affordable Care Act. The first is the Welfare Division. What we have attempted to do is put together a very high-level diagram to help you understand which entity is doing what and which is responsible for what. Starting at the left side of the chart is the Division of Health Care Financing and Policy. They operate a Medicaid management information system (MMIS) and under the ACA that system is being upgraded and enhanced. Under the Division of Welfare and Supportive Services, there is the Nevada Operations of Multi-Automated Data (NOMAD) system. We also have ACCESS Nevada which the Legislature directed that we create, an online electronic application process. The big factor that is coming onboard with the advent of the ACA is the eligibility engine. That is the technological advancement that allows us to be able to automate the eligibility determinations for Medicaid and CHIP recipients.

The third portion of the functional diagram, on the right side, refers to the Silver State Health Insurance Exchange. They are involved in the development in what is called the business operating system (BOS). As you are involved in looking at budgets, hopefully this chart can provide some guidance to you and help you keep things separated as far as who is doing what and who is responsible for the delivery of what products.

At the beginning of this legislative session, all of you were provided with a fact book updated for 2012. This is a very detailed explanation of all the programs and services available through the Welfare Division. It is a great resource if you have constituents with questions. You can research some of the history in terms of the programs and utilization numbers involved in those programs. Also, Welfare Division staff are available to answer questions you might have.

**Chair Dondero Loop:**

Are there questions from the Committee?

**Assemblyman Oscarson:**

I have looked through that manual and it is very informative. There is a lot of great information in it and I appreciate you providing it for us. Did you say that when people go to the Silver State Health Insurance Exchange, if they are eligible for other programs, they will be redirected to you?

**Mike McMahon:**

Through the Exchange and through ACCESS Nevada, the online application system people have for the Welfare Division right now, both entities will feed into the eligibility engine. The eligibility engine is what allows us to program that technology to scan for eligibility for a multitude of programs. Initially, the programs we are targeting are Medicaid and Nevada Check Up.

**Assemblyman Oscarson:**

But this is the entrance to you being able to screen those through the Silver State Health Insurance Exchange?

**Mike McMahon:**

Yes, sir.

**Chair Dondero Loop:**

Are there any additional questions from the Committee? [There were none.]

We will now open the hearing on Assembly Bill 8. This bill makes various changes to provisions governing public welfare.

**Assembly Bill 8: Makes various changes to provisions governing public welfare.  
(BDR 38-315)**

**Mike McMahon, Administrator, Division of Welfare and Supportive Services,  
Department of Health and Human Services:**

This bill is a housekeeping measure to clarify and simplify the language that has been involved in the revision of Chapters 422 and 422A of the *Nevada Revised Statutes* (NRS). Chapter 422 deals with health care finance and policy, or Medicaid; Chapter 422A deals with welfare and supportive services. These changes are being made to more appropriately reflect the responsibilities for each division and to update outdated language.

In the late 1990s, the Division of Health Care Financing and Policy was created. At that time, it was created from the State Welfare Division. When the two divisions were made into two separate entities, the initial language used in the creation of the new chapters was meant to define roles and responsibilities and general intent. As a result, the language was very general in nature. As time

has passed, this language has become more duplicative and unclear as far as anyone wishing to access services and look at the regulations. It was unclear as far as what Welfare did versus what Medicaid was doing. The responsibilities and roles of the two divisions have evolved and become more refined over time. Assembly Bill 8 is an attempt to clarify the responsibilities for each division in their respective chapters of NRS and make sure the chapters reflect those responsibilities.

Examples of changes involved in the bill include complete deletion from the Division of Health Care Financing and Policy of any references to Food Stamp Assistance, Low-Income Home Energy Assistance, State Supplementary Assistance, the Supplemental Security Income program, or the Temporary Assistance for Needy Families program. References to any of those programs have been deleted from NRS Chapter 422 and they now exclusively reside within the Division of Welfare and Supportive Services under NRS Chapter 422A. There is also a lot of old language in the chapters. Under Chapter 422 you will see reference to the Food Stamp Assistance program. We have not referred to food stamps in a number of years, so it should be replaced with references to the Supplemental Nutritional Assistance Program, or SNAP.

The revised language clarifies that the Division of Health Care Financing and Policy administers all functions of the Medicaid program and the Children's Health Insurance Program for the State, other than eligibility determinations. Further, it removes the application requirement from the Division of Health Care Financing and Policy—as the Welfare and Supportive Services Division is the one that performs those functions. Medicaid is the payer of services, but the Welfare Division is responsible for running the eligibility determinations through the system which gets people eligible for the programs and services available through the State. All we are doing in the regulations is clarifying that role. They are responsible for paying for services; we are responsible for verifying eligibility so people may access those programs.

The revised language in NRS Chapter 422 adds a provision from NRS Chapter 232 that directs the Department to post on the Internet and submit a report to the Director of the Legislative Counsel Bureau concerning Medicaid and Nevada Check Up fees for service and rates for reimbursement.

The language in NRS Chapter 422 makes permanent the authorization in existing law that the Department of Health and Human Services may contract with a common motor carrier or a broker to provide nonemergency transportation to a Nevada Check Up recipient. This already exists but will be made permanent within Chapter 422.

The language in NRS Chapter 422 regarding family planning services and prenatal care for pregnant women who are indigent is being eliminated at the Division of Health Care Financing and Policy as the Division itself does not provide medical services. The Division is a payer of medical services for those persons enrolled in Medicaid and Nevada Check Up. Medicaid will continue making referrals to all these programs and services as they normally do; this will simply clean up the language and distinguish the fact that Medicaid is a payer of medical services. Medicaid is not a medical service provider, and that distinction is not clear within the current language.

The language in NRS Chapter 422A regarding immunization of dependent children, assistance to children at school, and assistance with academic performance is eliminated as those activities are conducted by the Health Division under NRS Chapter 439 and by the boards of trustees of school districts under NRS Chapter 392. These items will still remain risk factors in the development of personal responsibility plans within the Welfare Division. As a person comes in, we use personal responsibility plans as a way of identifying any risk factors or impediments that would prohibit a family from becoming more self-sufficient. We are going to continue that, but the statutory requirement is really duplicative in the law. The statutory requirement for those services exists either in the Health Division or within the boards of trustees of the school districts, so eliminating the reference in our chapter clarifies the regulations.

The revised language in NRS Chapter 422A also eliminates the State Board of Welfare and Supportive Services. Originally this board was established as a policy board and later it became an advisory board. With the advent of block grants and the standardization that has occurred over the years, the role of the board is no longer necessary, so we are asking that it be eliminated.

I would also like to draw the Committee's attention to the fact that we have submitted a proposed amendment ([Exhibit D](#)). The Division would like A.B. 8 to be amended to strike the repeal of NRS 422A.350 so the provisions concerning domestic violence would be retained as currently written. The provision was deleted in error. The Division has no intent to discontinue services to the victims of domestic violence. Those programs are solid within our state plan and they are solid within our policies and procedures. Upon review of the language, we felt it was important to keep that provision within the law.

In summary, we support this bill as it clearly describes the roles and responsibilities of the Division of Health Care Financing and Policy and the Division of Welfare and Supportive Services under the Department of Health and Human Services. By providing a clear depiction of the roles and responsibilities,

this will enhance the public's access to the appropriate services. Further, this bill makes permanent the existing law that allows the Department to be able to contract for nonemergency transportation services for Nevada Check Up recipients. We can take you through the bill. The first 15 sections relate to NRS Chapter 422 and sections 15 through 30 relate to NRS Chapter 422A.

**Chair Dondero Loop:**

One thing we would like is to have a written copy of your testimony. Is that possible?

**Mike McMahon:**

Yes, Madam Chair.

**Chair Dondero Loop:**

Thank you. Does anyone have any questions?

**Assemblyman Hambrick:**

I have questions concerning sections 3 and 21; however, I am not sure if this is an appropriate time.

**Chair Dondero Loop:**

I believe we need to ask Mr. McMahon to take us through the bill.

**Mike McMahon:**

As I indicated, sections 1 through 15 are related to NRS Chapter 422, which is the Division of Health Care Financing and Policy. I will ask Ms. Squartsoff to take us through those.

**Laurie Squartsoff, Administrator, Division of Health Care Financing and Policy,  
Department of Health and Human Services:**

As we begin with section 1 of A.B. 8, on NRS Chapter 422, we are looking at a change in the regulations of the program. [Ms. Squartsoff read section 1, subsections 1, 2, and 3; section 2; section 3, subsections 1(a) and 1(b); section 4, subsection 1; section 5; and section 6, subsections 1, 2, 3, 4, and 5 of the bill.]

**Assemblyman Eisen:**

I want to be certain I understand what the bulk of this bill is about. It seems there is a tremendous amount of redundancy between Chapter 422 and Chapter 422A. Most of what is in this bill is an attempt to separate the language so NRS Chapter 422 applies solely to Medicaid and NRS Chapter 422A applies to the other programs within the Division. Is that accurate?

**Laurie Squartsoff:**

Yes.

**Assemblyman Eisen:**

I would like to focus on the items in the bill that are changes over and above the separation of the two chapters. When you come to those changes, could you pause there and point those out specifically because those are the items that go beyond housekeeping.

**Laurie Squartsoff:**

[Ms. Squartsoff read section 7, subsections 1, 2, and 3 from the bill.]

**Assemblywoman Benitez-Thompson:**

Is what the word "benefit" means for you folks already defined in statute?

**Laurie Squartsoff:**

"Benefits" in the context of this bill are the services that are available for Nevada Medicaid recipients. I will have to do some research for you to find the specific citation for the definition of them.

**Chair Dondero Loop:**

Are there any other questions at this point? [There were none.]

**Laurie Squartsoff:**

[Ms. Squartsoff read section 8, subsection 6; section 9, subsection 2; section 10, subsection 1; section 11, subsections 1, and 1 (c), subsections 2, 3, and 4; and section 12, subsection 3 from the bill.] At this point, I will answer any questions and then pass further questions on NRS Chapter 422A to Mr. McMahon.

**Chair Dondero Loop:**

Are there any questions at this point?

**Assemblyman Hambrick:**

I have questions about sections 21 and 3, but they are very basic questions so I will wait until the presentation is over.

**Mike McMahon:**

Sections 13 and 14 add the definition of Health Division into NRS Chapter 422A. The new language in sections 15 and 16 comes from NRS Chapter 422 and is being moved to NRS Chapter 422A. The strikeouts you see in NRS Chapter 422 are because we are transferring that language into NRS Chapter 422A for clarification. Sections 15 and 16 talk about recoupment



of payments, and that language is being moved out of NRS 422.29304 and being inserted into NRS Chapter 422A.

Section 16, subsection 5 says, "as used in this section 'public assistance' does not include Medicaid." This is a clarification. In NRS Chapter 422, a lot of public assistance terms are being stricken and being replaced by a specific reference to Medicaid being in the Division of Health Care Financing and Policy. Public assistance lies within the Division of Welfare and Supportive Services for clarification.

Sections 17, 18, and 19 are language updates. For instance, we do not make reference to food stamps anymore; we refer to the Supplemental Nutritional Assistance Program. Nor do we use food stamp coupons now; we use electronic benefit transfer cards, so we are enhancing that language.

Section 20 also includes a language update. We are striking the term "alien" and replacing it with more conventional language dealing with a person who is "not a citizen or a national of the United States."

In section 21 we are striking language that is rather restrictive for the Director as far as being able to make a replacement to the Administrator position, and so subsection 2 has been replaced. The purpose for this language change is to allow the Director more flexibility in the selection of an administrator, so appointment to that position will not be dependent exclusively on college degrees. This change allows him to factor in experience with health and human services in an individual's background.

Section 22 strikes reference to the state welfare board; section 23 is another language modification eliminating the words "food stamp" and replacing them with "supplemental nutrition." Section 23, subsection 7 is specific language relating to the Program for the Enforcement of Child Support that has been transferred out of NRS 422.270.

Section 24 is another language update replacing the antiquated term "alien" with a "person who is not a citizen or national of the United States."

Section 25 is where we are asking for the domestic violence language to remain intact within the statute as it is currently written.

Section 26 lists eligibility requirements; section 27 concerns repayment of benefits. It is still in NRS 422.29304 and relates back to the eligibility requirements specified there for Medicaid. Section 28 concludes the bill other than the striking of antiquated language in sections 28, 29, and 30.

Again, most of the language is being moved out of NRS Chapter 422 and into NRS Chapter 422A.

**Chair Dondero Loop:**

I am confused about why the language being removed in section 30 is in the amendment when in the bill it does not appear that way. The language in A.B. 8, section 30 is not crossed out, amended, or altered in any way, yet the proposed amendment is for section 30.

**Miki Allard, Staff Specialist, Division of Welfare and Supportive Services,  
Department of Health and Human Services:**

Section 30 contains a list of all the statutes being repealed. We wanted to strike NRS 422A.350 from that list.

**Assemblyman Hambrick:**

I will be voting in favor of this bill if it comes to a work session, but I am concerned about the lowering of standards in section 21. I understand it is most likely for recruiting, but at a time when we are striving to improve education, we are now sending a signal that we might accept less than the absolute best candidates for these positions. If you tell me it is purely for recruiting purposes I have to give it to you, because we need people in these positions. However, it is a sad state of affairs when we cannot recruit the very best and have to lower our standards. Are we in such a corner now that we have to reduce the standards for our new hires in this area?

**Mike Willden:**

I am the one who makes this appointment, so I am probably in a position to answer. This concerns the qualifications for the Welfare Administrator, and I want to give you a recent example. We make every effort to hire a degreed individual, but recently we appointed Diane Comeaux as Welfare Administrator. At that time she did not have a college degree per this regulation, but we felt at that time what the Welfare Division needed was someone with a strong fiscal background. Ms. Comeaux had spent 25 or 30 years in the State's budgeting system, so we felt it was appropriate to appoint her to that position to help with the Welfare Division's budgeting and fiscal policy.

We were only able to make an acting appointment in her case because she did not meet the qualifications in the NRS. So we would like the flexibility to find the best candidate and not just someone with a degree for cases when there is a specific need within the Department or within a division. In Ms. Comeaux's case, she served as a key leader in several divisions within the Department: second in command in Medicaid; first in command in Child and Family Services; and first in command at the Welfare Division. We are asking for the ability to

have some flexibility; but we intend, whenever possible, to appoint someone with a college degree.

**Assemblyman Sprinkle:**

I would like to go back to section 30. I understand that the provision was deleted in error and that the Division has no intent to discontinue services to victims of domestic violence. So now, is section 30 stating that you will no longer be funding these statutes and the services provided? As an example, low income home energy assistance. Will that no longer be funded? When you say the language will be repealed, what exactly does that mean?

**Mike McMahon:**

These are notes from the Legislative Counsel Bureau as far as depicting the statutes being impacted, but there is no intent to stop providing services for low income home energy assistance. Any reference to low income home energy assistance under NRS Chapter 422 would merely be transferred to NRS Chapter 422A.

**Assemblyman Sprinkle:**

I want to be absolutely clear that you are not talking about not funding these services anymore, that this is just the simple cleanup language you were referring to at the very beginning of your testimony, and that it will fall somewhere else within statute. I want to be absolutely clear about that.

**Mike Willden:**

I would like to walk through section 30, which might be of some help. We absolutely do not intend to stop providing any services. The first statute listed in section 30 is NRS 232.354 which is the statute in the Director's office statute that transfers into NRS Chapter 422 in the Medicaid statutes. It is being deleted in the Director's Office statutes and is being reinserted into the health care financing statutes. The next several statutes—NRS 422.042 through NRS 422.29308—are the duplicative statutes, the Medicaid statutes, that we are saying are not needed in NRS Chapter 422 so they are being inserted into the NRS Chapter 422A statutes.

The next block—NRS 422A.010 through NRS 422A.135—are the statutes that eliminate the Welfare Board. *Nevada Revised Statutes* 422A.310 is the statute regarding family planning; NRS 422A.315 deals with care to pregnant women; and NRS 422A.350 is the domestic violence statute that we do not want to repeal. *Nevada Revised Statutes* 422A.355 is the immunization statute we are requesting to repeal. *Nevada Revised Statutes* 422A.360 is the school attendance statute we are asking to repeal, and NRS 422A.370, dealing with expedited services, we are asking to repeal. Each of those statutes is a little

different. Moving statutes from one place to the other is the first block, then comes the statute dealing with repeal of the Welfare Board. Finally comes mention of the various statutes we want repealed with the exception of NRS 422A.350 which we do not want repealed. It is a little confusing, but does that make more sense? I can provide a copy of the statutes that are being repealed. As bill drafters draft these, they usually do not show the repealed statutes, just the lead lines of the statutes being repealed.

**Assemblyman Sprinkle:**

The confusion for me was in the amendment ([Exhibit D](#)) where it says that "the Division has no intent to discontinue services to victims of Domestic Violence." What I just heard you say was from NRS 422A.310 through NRS 422A.370—those services will be discontinued except for the domestic violence statute. Is that correct? You broke those up into three different blocks, but the last block—NRS 422A.310 through NRS 422A.370, except for the domestic violence one—those will be repealed. Those services will no longer be funded or provided.

**Mike Willden:**

It is correct that they will be repealed; they are not necessarily services in each case, but they are functions of the Division.

**Assemblyman Sprinkle:**

Specific functions of the Division?

**Mike Willden:**

Correct.

**Assemblyman Hickey:**

This is a policy question for Mr. Willden. As you know, the welfare reform President Clinton and Congress passed in 1996 was referred to as the Personal Responsibility and Work Opportunity Reconciliation Act. In a general sense, how are we doing with that mission of transitioning from welfare to work? There are a number of new members on this Committee, including myself, and I am just curious.

**Mike Willden:**

The chart from Mr. McMahon's presentation ([Exhibit C](#)) that has the Temporary Assistance to Needy Families (TANF) graph on page 7 shows how well we are doing. If you look at the left side of that chart, we did very well. You will see we dropped to about 16,000 TANF recipients following the welfare reform initial initiatives. That low was hit around January 2000. You will see a spike upwards following the 9/11 period and the recession around it. We added lots

of TANF recipients. If you remember, there were massive layoffs on the Strip in Las Vegas. Visitor volume went down and we added significant numbers to the TANF rolls which peaked at about 35,000 recipients.

After that, we worked our way back down until January 2007 when we were down around 16,000 recipients. Then what happened? The great recession we have all been talking about over the last four or five years hit. Because of that, we have increased to 32,000-plus recipients. We are now just coming out of the great recession and getting people back to work. We are beginning to wiggle back down, and I believe that black line Mr. McMahon talked about will continue to drop. We hope we are engaging our recipients and getting them back to work.

We do have federal work requirements. There is an expectation from the federal government that we get 50 percent of our families engaged in meaningful work activities. If it is a two-person household, the expectation is for 90 percent to be engaged in work activities, and we try hard every day to accomplish that. I think we have been successful when the economy has allowed us to be successful. To be successful, there have to be jobs available.

**Assemblywoman Benitez-Thompson:**

I have a question about section 15 where language about liability for any monies incorrectly paid due to information given is being added on the Medicaid application. Is that not currently anywhere on that application? Is there any warning or anything like that?

**Mike Willden:**

In section 15 is the Welfare Division statute on recovery; section 11 is the Medicaid section on recovery. Let me explain how it works. In Medicaid, there are incorrectly paid benefits and correctly paid benefits. In Medicaid, there is a liability for all benefits paid against what we call the estate recovery. We go after the estate of someone who has been a Medicaid recipient, and we recover assistance paid on behalf of the State of Nevada and the federal government unless there is a surviving spouse or dependent children. Whether that assistance is correctly paid or incorrectly paid, we try to recover what Medicaid paid out for the taxpayers.

In the welfare statutes in section 16 you will see reference to incorrectly paid benefits, what we call an overpayment, on line 29. I believe that is the intent here, but, again, the Welfare Division recovers the overpayments and fraudulent payments, and the estate-recovery function is in the Medicaid statutes. Welfare deals with overpayment, fraud, and incorrectly-paid benefits and Medicaid runs

the estate recovery program for correctly paid-out benefits that we are going to recover on the taxpayers' behalf.

**Assemblywoman Benitez-Thompson:**

In the recovery process, when the State goes after the recipients for either correctly paid or incorrectly paid benefits, what is the process down the line? Does your Department pursue and collect those monies or do they go to the State Controller? Or do they go to the State Controller and then back to you?

**Mike Willden:**

It starts with us, and we work with the Office of the Attorney General on the estate recovery program. We file liens against the estate and go through the court process to get that money recovered. In the Welfare Division's world, when people owe us benefits, it again starts with us. We try to collect those benefits—we send dunning letters and make lots of recovery attempts. However, there is a process in state law that when there are uncollectable debts, we turn them over to the State Controller's office for collection. It is probably not very often that the Controller's Office would make a recovery if we have been unable to make a recovery.

**Chair Dondero Loop:**

*Nevada Revised Statutes* 422A.310 and 422A.315 refer to planning services and prenatal care for pregnant women. I believe you said those were somewhere else but I cannot match them. Could you clarify where those are, because right now it appears to me that they have been repealed?

**Mike Willden:**

Those are in section 30 in the bill on line 24.

**Chair Dondero Loop:**

In the proposed amendment, I think you said you are repealing everything except NRS 422A.350, which means all those other statute numbers would be repealed. Are we taking out that care? I need some direction.

**Mike Willden:**

We have asked to repeal NRS 422A.310 and NRS 422A.315 which deal with family planning services, birth control, and prenatal care for pregnant women. They would not continue as part of the statutes going forward. The list on line 24 in section 30 also suggests we wanted to repeal NRS 422A.350 which deals with domestic violence, but we are here today saying that we do not want to repeal the domestic violence section.

**Assemblyman Eisen:**

I am trying to understand the repealed sections. You are trying to repeal sections that are redundant, so you are proposing taking things out of NRS Chapter 422A that exist in NRS Chapter 422 and vice versa. Is that correct?

**Mike Willden:**

That is correct.

**Assemblyman Eisen:**

All right, but with these two sections in particular—NRS 422A.310 and NRS 422A.315—the parallel provisions in NRS Chapter 422 are sections 422.284 and 422.287, which are also marked for deletion. That means the language is being removed from both chapters, so where are they? For many of the other statutes, the language is being taken out of one chapter but being left in the other chapter. But for those two subjects, the language seems to be removed from both chapters.

**Mike Willden:**

That is correct. It is being recommended that it be taken out of both chapters. Language in NRS 422A.315 has the Welfare Division conducting family planning services. The Welfare Division does not conduct family planning services. Through our eligibility process, our social workers, and our employment training staff, we identify these issues and we primarily refer to other agencies. We do not provide family planning services. So, since we do not provide the service, eliminate the reference to it. I understand there are people who believe we should still identify and refer, and we still believe we should identify and refer, but we do not provide family planning services.

**Assemblyman Eisen:**

Several of us want to know where that service will still be codified in the statutes. We want to know that the service will be made available, that the access will be provided whether directly coming from the Division or not. The current language in NRS 422A.310 says, "As a part of the health and welfare programs of the State, the Division may: 1. Conduct a family planning service, or contract for the provision of a family planning service, in any county in the State." It does not say that you have to do it, it says that you can contract. The persistent question here is if that language is removed from NRS Chapter 422A and from NRS Chapter 422, where is it left in statute?

**Mike Willden:**

Even though we are saying we still will identify and refer, if it is the Committee's pleasure, I would say leave it in NRS 422A.310 in the



welfare chapters. They are the people who identify, dispense information, distribute literature, and those kinds of things. So if there is a desire to leave it, I would leave it in NRS Chapter 422A and not in NRS Chapter 422.

The Health Division has these programs. I do not know the statute, but the Health Division has an entire bureau relating to maternal and child health. The Health Division is the Department's lead agency with regard to family planning services—not the Welfare Division and not the Medicaid Division.

**Assemblyman Eisen:**

Can you please bring that information to us about where that authority and responsibility would rest for these two subjects, both family planning and the provision of prenatal care to pregnant women? Both seem to be in the same kind of situation, so we would like some clarity about who would remain responsible for the provision of that information. That is all these statutes are about. It does not say specifically that they have to provide those services; it is provision of or direction to information about those services.

**Mike Willden:**

We will provide that information.

**Assemblyman Oscarson:**

We talked fairly extensively about section 15 and that you could go after the estate or the spouse regarding benefits that had been paid. I also notice in section 16, subsection 4, that the "Director or person designated by the Director may, to the extent that it is not prohibited by federal law, determine the amount, settle, . . . ." So that is really an appeal process for those people in one sense of the word for you or your designee to be able to look at those and see if there were inappropriate actions taken or not. Is that correct?

**Mike Willden:**

Yes, I believe so. May I put one other thing on the record?

**Chair Dondero Loop:**

You may.

**Mike Willden:**

There was discussion earlier about services and benefits in the Medicaid section, in section 7. I have received several emails related to this, so I just want it put on record that there is no devious attempt by the Department or any of my Divisions to mean anything other than that the words "public assistance and services" is being replaced by "benefits" here. What the Committee should understand is that recipients of Medicaid and other programs have appeal rights

when we deny, delay, or terminate public assistance, and they still would have appeal rights. Also, in the Medicaid program we can terminate or deny certain services. For instance, a person might be getting a personal care attendant for four hours, but we are going to reduce it to two hours. That person still would have appeal rights whether we use the term "services," "benefits," or "assistance."

**Assemblywoman Benitez-Thompson:**

For the record, I would never think you folks are doing anything over there besides just being wonderful angels, because I believe that is what you folks do. In section 12, public assistance is defined as being money or any type of benefit that is awarded as part of a state plan. If we are going to refer to "benefits" so much, maybe we should have a definition of a benefit as being something that is driven by an eligibility machine. People are awarded benefits, but if we are going to take out references to public assistance, and public assistance seems to tell us what a benefit is, maybe we should just put those two together. That is what I was thinking.

**Mike Willden:**

We can work on that.

**Chair Dondero Loop:**

Thank you for your testimony. At this time we will hear testimony in support of A.B. 8. [There was none.] Do we have opposition to this bill?

**Nicole Rourke, representing the Clark County School District:**

I am here simply to state that we support retention of the provision in NRS 422A.360 which is in support of school attendance. That is not to say that we oppose the bill, but we support that section which is proposed for repeal.

**Chair Dondero Loop:**

Will you be submitting an amendment with that?

**Nicole Rourke:**

We can do so, yes.

**Chair Dondero Loop:**

Is there anyone else in opposition? [There was no one.] Is anyone neutral?

**Marlene Lockhard, representing the Nevada Women's Lobby:**

We, too, were concerned with the repeals stated in section 30 and could not track where they would be placed elsewhere in statute. From the testimony

provided and the amendment Mr. Willden has offered clarifying that these services, or items if you do not want to call them services, are going to be somewhere else in statute, we have that assurance now.

**Elisa Cafferata, President & CEO, Nevada Advocates for Planned Parenthood Affiliates:**

We appreciate your working through the tangle of where these services ended up. In particular, we have seen family planning services under attack in other states, so we want to be sure it gets on the legislative record that it is the intent to continue to pay for and make sure these services are available to the women and families in Nevada who need them.

**Jon Sasser, representing Washoe Legal Services and the Legal Aid Center of Southern Nevada:**

I agree with what the two previous witnesses said. I have also been in communication with Mr. Willden and Mr. McMahon around some of these same issues and am satisfied with this expression of legislative intent or the new language—however you are going to do it in terms of services—so I have no concerns about the bill at this time.

**Chair Dondero Loop:**

Is there anyone else who wishes to testify on A.B. 8? Seeing none, I will close the hearing on A.B. 8. Is there any public comment? [There was none.] Are there any comments from the Committee at this time? [There were none.] All right, this meeting is adjourned [at 3:04 p.m.].

[[Exhibit E](#), [Exhibit F](#), and [Exhibit G](#) were provided after the meeting.]

RESPECTFULLY SUBMITTED:

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Terry Horgan  
Committee Secretary

APPROVED BY:

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Assemblywoman Marilyn Dondero Loop, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Health and Human Services

**Date:** February 18, 2013

**Time of Meeting:** 1:31 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
	C	Mike McMahon, Administrator, Div. of Welfare & Supportive Services, DHHS	Presentation
A.B. 8	D	Mike McMahon	Proposed amendment
A.B. 8	E	Mike McMahon	Written testimony
A.B. 8	F	Health Division, Dept. of Health and Human Services	Summary of Roles Related to Immunizations, Prenatal Care & Family Planning
A.B. 8	G	Nicole Rourke, rep. the Clark County School District	Proposed amendment