Amendment No. 284

Senate Amendment to Senate Bill No. 366 (BDR 38-927)
Proposed by: Senate Committee on Health and Human Services
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted ☐	Lost ☐		Adopted ☐	Lost ☐	
Concurred In ☐	Not ☐		Concurred In ☐	Not ☐	
Receded ☐	Not ☐		Receded ☐	Not ☐	

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

CSL/RBL Date: 4/19/2017

S.B. No. 366—Revises provisions relating to Medicaid and the release of health insurance claims data under certain conditions. (BDR 38-927)

SENATE BILL NO. 366–SENATOR CANCELA

MARCH 20, 2017

Referred to Committee on Health and Human Services

SUMMARY—~~[Revises provisions]~~ **Makes various changes** relating to Medicaid**.** ~~[and the release of health insurance claims data under certain conditions.]~~ (BDR 38-927)

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

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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 health care; requiring the preparation of a report relating to Medicaid recipients and access to employer-based health insurance; ~~[requiring the preparation of a report relating to Medicaid financing and eligibility;]~~ creating the Advisory Committee on Medicaid Innovation; ~~[requiring certain insurers to provide certain health insurance claims data to the Public Employees' Benefits Program, the Division of Health Care Financing and Policy of the Department of Health and Human Services and certain other group purchasers of health insurance;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill requires the Director of the Department of Health and Human Services to prepare a semiannual report which discloses certain employers in this State that have 50 or more employees who are enrolled in Medicaid and whether or not the employees have access to an employer-based health care plan. **Section 2** ~~[further]~~ **also** requires the Director to post this report on the Internet website of the Department and to provide it to the Governor and the Legislature. **Section 2 further requires that this report must not contain any individually identifiable health information and must comply with certain privacy provisions of federal law.**

~~[Section 3 of this bill requires the Director to prepare an annual report on certain topics relating to Medicaid financing and eligibility trends over the preceding 5 fiscal years, including the amounts of federal and state money used to provide Medicaid services, the amount of spending on Medicaid services on a per enrollee basis and the estimated number of persons who are eligible for Medicaid in this State. Section 3 additionally requires the Director to post the report on the Internet website of the Department and to provide it to the Governor and the Legislature.]~~

Section 4 of this bill creates the Advisory Committee on Medicaid Innovation within the Division of Health Care Financing and Policy of the Department. **Section 5** requires the Advisory Committee to provide certain recommendations to the Director, including, without limitation, public and private prescription purchasing coalitions, encouraging access to ~~[employer-based]~~ health insurance and, finally, any waivers the State may apply for from the Federal Government relating to Medicaid. **Section 4** authorizes the Director to appoint as

many members to the Advisory Committee as he or she deems necessary or appropriate and requires the voting members of the Advisory Committee to be officers or employees of the Executive Branch of State Government. **Section 4** also authorizes the Director to appoint others to serve on the Advisory Committee as nonvoting members. Finally, **section 4** requires the members of the Advisory Committee to serve 2-year terms without additional compensation.

~~[**Section 6** of this bill requires an insurer which provides health insurance coverage pursuant to a contract with the Public Employees' Benefits Program to provide either: (1) all claims data relating to the enrollees of such coverage to the Board of the Program once every 3 months; or (2) sufficient data for the Board to calculate the cost of providing certain medical services through the insurer, including, without limitation, data relating to patient demographics, drug prescriptions, office visits with a provider of health care, inpatient services, outpatient services and certain other data required for an insurer to comply with certain sections of the Patient Protection and Affordable Care Act (Public Law 111-148, as amended). **Section 6** also requires this data to: (1) be free of any personally identifiable information; (2) comply with all other federal and state laws concerning privacy; and (3) be easily accessible. **Section 8** of this bill provides that data which is released to the Board pursuant to **section 6** is not a public record.~~

~~**Section 9** of this bill requires the same data to be provided by a health maintenance organization, including, without limitation, a health maintenance organization which offers a Medicaid managed care program, to certain group purchasers of health insurance. **Section 9** defines "group purchaser" as either: (1) the Division of Health Care Financing and Policy of the Department relating to a Medicaid managed care program; or (2) certain large employers or multiple employer trusts.]~~

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. ***1. On or before January 1 and July 1 of each year, the Director shall prepare, in consultation with the Director of the Department of Business and Industry, a report which includes, without limitation:***

(a) The name, street address of the office of the registered agent and the principal place of business of an employer in this State that employs 50 or more persons who are enrolled in Medicaid and whether the employer offers health benefits to its employees;

(b) The total number of persons enrolled in Medicaid who are employed by such an employer;

(c) The number of persons enrolled in Medicaid who are married to or the dependent of an employee of such an employer; and

(d) The cost of providing coverage through Medicaid to the persons described in paragraphs (b) and (c).

2. The report prepared pursuant to subsection 1 must not contain any individually identifiable health information and must comply with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended.

3. The Director shall post the report required pursuant to subsection 1 on the Internet website of the Department and submit the report to:

(a) The Governor; and

(b) The Director of the Legislative Counsel Bureau for transmittal to the Legislature.

~~[3.]~~ 4. The report required pursuant to this section must not include any personally identifiable information of a person whose information is included in the report.

5. As used in this section, "individually identifiable health information" has the meaning ascribed to it in 45 C.F.R. § 160.103.

Sec. 3. ~~[1. On or before January 1 of each year, the Director shall prepare a report concerning the immediately preceding fiscal year that includes:~~

~~(a) The total amount of federal money that was used to carry out the State Plan for Medicaid and any change in the amount that has occurred during the immediately preceding 5 fiscal years;~~

~~(b) The total amount of nonfederal money that was used to carry out the State Plan for Medicaid for the immediately preceding fiscal year and any change in the amount that has occurred during the immediately preceding 5 fiscal years;~~

~~(c) The average amount of money expended by the State Plan for Medicaid per recipient and any change in the amount that has occurred during the immediately preceding 5 fiscal years; and~~

~~(d) The estimated number of persons who were eligible to enroll in Medicaid in this State and any change in the amount that has occurred during the immediately preceding 5 fiscal years.~~

~~2. The Director shall post the report required pursuant to subsection 1 on the Internet website of the Department and submit the report to:~~

~~(a) The Governor; and~~

~~(b) The Director of the Legislative Counsel Bureau for transmittal to the Legislature.]~~ (Deleted by amendment.)

Sec. 4. 1. The Advisory Committee on Medicaid Innovation is hereby created in the Division. The Director shall appoint the members to serve on the Advisory Committee.

2. The Director shall appoint officers and employees of the Executive Branch of State Government to serve as voting members of the Advisory Committee and may appoint such other persons as the Director deems necessary or appropriate to serve as nonvoting members.

3. The Director shall appoint each member to serve for a term of 2 years.

4. At its first meeting and annually thereafter, the Advisory Committee shall elect a Chair from among its voting members.

5. Members of the Advisory Committee serve without any additional compensation.

6. A member of the Advisory Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation so that he or she may prepare for and attend meetings of the Advisory Committee and perform any work necessary to carry out the duties of the Advisory Committee in the most timely manner practicable. A State agency or political subdivision of this State shall not require an officer or employee who is a member of the Advisory Committee to:

(a) Make up the time the member is absent from work to carry out his or her duties as a member of the Advisory Committee; or

(b) Take annual leave or compensatory time for the absence.

Sec. 5. 1. The Advisory Committee on Medicaid Innovation created by section 4 of this act shall study:

(a) The manner in which to create or expand public or private prescription purchasing coalitions.

(b) The manner in which to encourage access to employer-based health insurance plans, including, without limitation:

(1) Coordinating coverage provided by the State Plan for Medicaid and private health insurance which may be provided by an employer to a person eligible for Medicaid; and

(2) Providing assistance to a person who is eligible for Medicaid to allow the person to purchase private health insurance.

(c) Opportunities to apply to the Secretary of the United States Department of Health and Human Services for certain waivers pursuant to 42 U.S.C. §§ 1315 and 18052.

2. At least once each year, the Advisory Committee shall make such recommendations to the Director as it deems appropriate relating to opportunities to improve Medicaid or to increase access to [private] health insurance.

Sec. 6. ~~[Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~***1. Except as otherwise provided in subsection 3, if the Board files a written request with an insurer that provides a plan of health insurance pursuant to a contract with the Program, the insurer, not more frequently than once every 3 months, must provide to the Board in a timely manner:***~~

~~***(a) All claims data relating to insureds covered by the plan of health insurance; or***~~

~~***(b) Sufficient data relating to the insureds of the plan of health insurance for the Board to calculate the cost effectiveness of benefits provided by the insurer, including, without limitation:***~~

~~***(1) Data required for the Board to calculate the actual cost of obtaining medical services through the insurer by medical service and disease category;***~~

~~***(2) Such data relating to patients, including, without limitation, patient demographics, prescriptions, office visits with a provider of health care, inpatient services, outpatient services as used by the insurer to make calculations which are required to comply with the risk adjustment, reinsurance and risk corridor requirements of 42 U.S.C. §§ 18061, 18062 and 18063; and***~~

~~***(3) Such data as used to establish an experience rating for the group of insureds, including, without limitation, coding relating to diagnostics and procedures, the total cost charged to any person for each drug, device or service made available by a plan of health insurance and all reimbursements made to a provider of health care for such drugs, devices or services.***~~

~~***2. An insurer must provide the data required by subsection 1 in an aggregated form which complies with federal and state law.***~~

~~***3. Before providing any data pursuant to subsection 1, an insurer shall ensure that a professional statistician examines the data to confirm that the data cannot be used to identify and does not provide a reasonable basis upon which to identify a person whose information is included in the report. If the professional statistician is not able to make such a confirmation, the data must not be provided by the insurer to the Board until such confirmation is obtained.***~~

~~***4. An insurer must provide the data required by subsection 1 in a format which is easily searchable electronically or on a secure Internet website.]***~~ **(Deleted by amendment.)**

Sec. 7. ~~[NRS 287.0402 is hereby amended to read as follows:~~

~~287.0402 As used in NRS 287.0402 to 287.049, inclusive, ***and section 6 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 287.0404 to 287.04064, inclusive, have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 8. ~~[NRS 287.0438 is hereby amended to read as follows:~~

~~287.0438 Except for the files of individual members and former members, the correspondence, files, minutes, audio recordings, transcripts and books of the~~

~~Program are, except as otherwise provided in NRS 241.035 [,] *and section 6 of this act,* public records. A copy of the minutes or audio recordings must be made available to a member of the public upon request at no charge pursuant to NRS 241.035.]~~ **(Deleted by amendment.)**

Sec. 9. ~~[Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. Except as otherwise provided in subsection 3, if a group purchaser files a written request with a health maintenance organization, the health maintenance organization, not more frequently than once every 3 months, must provide to the group purchaser in a timely manner:*~~

~~*(a) All claims data relating to the enrollees of a health care plan provided by the organization pursuant to a contract with the group purchaser; or*~~

~~*(b) Sufficient data relating to the enrollees of the health care plan for the group purchaser to calculate the cost effectiveness of benefits provided by the health maintenance organization, including, without limitation:*~~

~~*(1) Data required for the group purchaser to calculate the actual cost of obtaining medical services through the health maintenance organization by medical service and disease category;*~~

~~*(2) Such data relating to patients, including, without limitation, patient demographics, prescriptions, office visits with a provider of health care, inpatient services, outpatient services as used by the health maintenance organization to make calculations which are required to comply with the risk adjustment, reinsurance and risk corridor requirements of 42 U.S.C. §§ 18061, 18062 and 18063; and*~~

~~*(3) Such data as used to establish an experience rating for the group of enrollees, including, without limitation, coding relating to diagnostics and procedures, the total cost charged to any person for each drug, device or service made available by a health care plan and all reimbursements made to a provider of health care for such drugs, devices or services.*~~

~~*2. A health maintenance organization must provide the data required by subsection 1 in an aggregated form which complies with federal and state law.*~~

~~*3. Before providing any data pursuant to subsection 1, a health maintenance organization shall ensure that a professional statistician examines the data to confirm that the data cannot be used to identify and does not provide a reasonable basis upon which to identify a person whose information is included in the report. If the professional statistician is not able to make such a confirmation, the data must not be provided by the health maintenance organization to the group purchaser until such confirmation is obtained.*~~

~~*4. A health maintenance organization must provide the data required by subsection 1 in a format which is easily searchable electronically or on a secure Internet website.*~~

~~*5. A group purchaser must have policies and procedures in place which are compliant with federal law and the laws of this State to ensure the privacy and security of the data made available to the group purchaser pursuant to subsection 1.*~~

~~*6. As used in this section, "group purchaser" means:*~~

~~*(a) The Division of Health Care Financing and Policy of the Department of Health and Human Services relating to a Medicaid managed care program offered pursuant to NRS 422.273;*~~

~~*(b) An employer with not less than 1,000 employees total and not less than 300 employees who are enrolled in a health care plan which is offered by the health maintenance organization; or*~~

~~*(c) A group of employers which cumulatively employ at least 500 employees and which has formed a trust for the purpose of funding health benefits for at least 300 employees who are enrolled in a health care plan which is offered by the health maintenance organization.*~~] **(Deleted by amendment.)**

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, 695C.1703, 695C.1705, 695C.1709 to 695C.173, inclusive, 695C.1733, 695C.17335, 695C.1734, 695C.1735 to 695C.1755, inclusive, 695C.176 to 695C.200, inclusive, 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 or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy 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, 695C.1708, 695C.1731, 695C.17345 and 695C.1757 *and section 9 of this act* apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.~~] **(Deleted by amendment.)**

Sec. 11. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 12. This act becomes effective on July 1, 2017.