

Amendment No. 356

Senate Amendment to Senate Bill No. 446	(BDR 38-974)
Proposed by: Senate Committee on Health and Human Services	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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.



SENATE BILL NO. 446—SENATORS SETTELMAYER, HARDY; GOICOECHEA, HAMMOND,
PICKARD AND SEEVERS GANSERT

MARCH 25, 2019

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to Medicaid. (BDR 38-974)

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 Medicaid; authorizing a recipient of Medicaid to receive reimbursements for personal care services; ~~and use other sources of money to pay for such services; authorizing a relative of a recipient of Medicaid to receive reimbursement for personal care services provided to the recipient under certain circumstances; requiring an agency to provide personal care services in the home to provide certain compensation to employees who provide personal care services; prohibiting the termination of~~ ***suspending*** eligibility for Medicaid of a person who is incarcerated ~~to~~ ***to the extent possible;*** providing for the sharing of information between certain governmental entities to facilitate the reinstatement of eligibility and coverage under Medicaid for a person who is released from incarceration; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Health and Human Services to administer Medicaid. (NRS 422.270) Existing law also requires Medicaid to cover certain home and community-based services for persons with physical disabilities, including supported personal care. (NRS 422.396) **Section 2** of this bill requires the Director of the Department to include in the State Plan for Medicaid authorization for a recipient of Medicaid to ~~to~~ directly receive reimbursements for personal care services provided by a personal care assistant or an agency to provide personal care services in the home and paid for by the recipient. ~~and (2) use other sources of money, including, without limitation, personal funds, to supplement reimbursements provided under Medicaid for personal care services. Section 2 also requires the State Plan for Medicaid to allow a relative of a recipient of Medicaid to receive reimbursement for personal care services covered by Medicaid if the relative is a personal care assistant who is providing services authorized by law. Section 2 requires an agency to provide personal care services in the home that enters into a contract with Medicaid to pay its employees who provide personal care services at least 75 percent of the reimbursements paid to the agency under Medicaid for personal care services.]~~

Section 3 of this bill provides that, to the extent possible: (1) the eligibility of a person for Medicaid must ~~not~~ be ***suspended, rather than*** terminated ~~because the~~ ***when a*** person is incarcerated; and (2) if a recipient of Medicaid is incarcerated, the person's eligibility for and

coverage under Medicaid must be reinstated ~~[immediately]~~ as soon as possible upon his or her release ~~[from incarceration]~~.

Existing law requires the Director of the Department of Corrections to receive, retain and release offenders sentenced to imprisonment in the state prison. (NRS 209.131) Existing law also provides that the sheriff is the custodian of the jail in his or her county and the prisoners therein. (NRS 211.030) **Sections 4 and 5** of this bill authorize the Director of the Department of Corrections and each county sheriff, respectively, to share information concerning the intake and release of prisoners with the Department of Health and Human Services for the purposes of suspending and reinstating eligibility for and coverage under Medicaid. If the Director of the Department of Corrections or a county sheriff fails to share information with the Department of Health and Human Services, **sections 4 and 5** authorize the Director or sheriff, as applicable, to submit to the Legislature a report describing the reasons for not sharing such information.

Section 6 of this bill makes a conforming change.

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 and 3 of this act.

Sec. 2. 1. *To the extent authorized by federal law, the Director shall include in the State Plan for Medicaid authorization for a recipient of Medicaid to ~~+~~*

~~*(a) Be deemed a provider of services for the purposes of allowing the recipient to receive reimbursements for personal care services covered by Medicaid and use that money to pay for services provided by a personal care assistant acting pursuant to NRS 629.091 or an agency to provide personal care services in the home ~~+~~*~~

~~*(b) Use other sources of money, including, without limitation, personal funds, to supplement reimbursements provided under Medicaid for personal care services ~~+~~*~~ using a self-directed model.

2. ~~*[The State Plan for Medicaid must not prohibit a relative of a recipient of Medicaid from receiving reimbursement for personal care services covered by Medicaid that are provided by the relative to the recipient if the relative is a personal care assistant acting pursuant to NRS 629.091 or an operator of an agency to provide personal care services in the home.*~~

~~*3. An agency to provide personal care services in the home that enters into a contract with Medicaid must agree to pay its employees who provide personal care services at least 75 percent of the reimbursements paid to the agency under Medicaid for personal care services.*~~

~~*4. As used in this section:*~~

~~*(a) "Agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.*~~

~~*(b) "Personal care services" means the services described in NRS 449.1935.*~~

Sec. 3. 1. ~~*[The Director shall include in the State Plan for Medicaid a requirement that, to]*~~ To the extent not prohibited by federal law ~~+~~, the Department shall:

~~*(a) [The] Suspend, rather than terminate, the eligibility for Medicaid of a person [for Medicaid must not be terminated because the person] who is incarcerated ~~+~~ for the amount of time authorized by regulation pursuant to subsection 4; and*~~

~~*(b) [If a recipient of Medicaid is incarcerated,] Reinstatement the person's eligibility for and coverage under Medicaid [must be reinstated immediately] as*~~

soon as possible upon his or her release from incarceration if the person otherwise meets the requirements to be eligible for Medicaid at that time.

2. The Department ~~shall establish a procedure to automatically suspend and reinstate eligibility for and coverage under Medicaid in accordance with the requirements established pursuant to subsection 1,~~ may adopt any regulations necessary to carry out the provisions of this section, including, without limitation, regulations that prescribe the amount of time that a person's eligibility for Medicaid may be suspended pursuant to this section before being terminated.

Sec. 4. Chapter 209 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director may:

(a) Share information concerning the intake and release of prisoners with the Department of Health and Human Services on a regular basis or in real time using electronic means for the purposes of suspending and reinstating prisoners' eligibility for and coverage under Medicaid pursuant to section 3 of this act; and

(b) Enter into an agreement with the Department of Health and Human Services to facilitate the sharing of information pursuant to paragraph (a).

2. On or before December 31 of any year during which the Director does not share information with the Department of Health and Human Services pursuant to paragraph (a) of subsection 1, the Director must submit a report describing the reasons for not sharing such information to the Director of the Legislative Counsel Bureau for transmittal to:

(a) In odd-numbered years, the Legislative Committee on Health Care.

(b) In even-numbered years, the next regular session of the Legislature.

Sec. 5. Chapter 211 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The sheriff of a county may:

(a) Share information concerning the intake and release of prisoners with the Department of Health and Human Services on a regular basis or in real time using electronic means for the purposes of suspending and reinstating prisoners' eligibility for and coverage under Medicaid pursuant to section 3 of this act; and

(b) Enter into an agreement with the Department of Health and Human Services to facilitate the sharing of information pursuant to paragraph (a).

2. On or before December 31 of any year during which the sheriff of a county does not share information with the Department of Health and Human Services pursuant to paragraph (a) of subsection 1, the sheriff must provide a report describing the reasons for not sharing such information to the Director of the Legislative Counsel Bureau for transmittal to:

(a) In odd-numbered years, the Legislative Committee on Health Care.

(b) In even-numbered years, the next regular session of the Legislature.

Sec. 6. NRS 232.320 is hereby amended to read as follows:

232.320 1. The Director:

(a) Shall appoint, with the consent of the Governor, administrators of the divisions of the Department, who are respectively designated as follows:

(1) The Administrator of the Aging and Disability Services Division;

(2) The Administrator of the Division of Welfare and Supportive Services;

(3) The Administrator of the Division of Child and Family Services;

(4) The Administrator of the Division of Health Care Financing and Policy; and

(5) The Administrator of the Division of Public and Behavioral Health.

(b) Shall administer, through the divisions of the Department, the provisions of chapters 63, 424, 425, 427A, 432A to 442, inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS 127.220 to 127.310, inclusive, 422.001 to 422.410,

1 inclusive, *and sections 2 and 3 of this act*, 422.580, 432.010 to 432.133, inclusive,
2 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to
3 445A.055, inclusive, and all other provisions of law relating to the functions of the
4 divisions of the Department, but is not responsible for the clinical activities of the
5 Division of Public and Behavioral Health or the professional line activities of the
6 other divisions.

7 (c) Shall administer any state program for persons with developmental
8 disabilities established pursuant to the Developmental Disabilities Assistance and
9 Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq.

10 (d) Shall, after considering advice from agencies of local governments and
11 nonprofit organizations which provide social services, adopt a master plan for the
12 provision of human services in this State. The Director shall revise the plan
13 biennially and deliver a copy of the plan to the Governor and the Legislature at the
14 beginning of each regular session. The plan must:

15 (1) Identify and assess the plans and programs of the Department for the
16 provision of human services, and any duplication of those services by federal, state
17 and local agencies;

18 (2) Set forth priorities for the provision of those services;

19 (3) Provide for communication and the coordination of those services
20 among nonprofit organizations, agencies of local government, the State and the
21 Federal Government;

22 (4) Identify the sources of funding for services provided by the Department
23 and the allocation of that funding;

24 (5) Set forth sufficient information to assist the Department in providing
25 those services and in the planning and budgeting for the future provision of those
26 services; and

27 (6) Contain any other information necessary for the Department to
28 communicate effectively with the Federal Government concerning demographic
29 trends, formulas for the distribution of federal money and any need for the
30 modification of programs administered by the Department.

31 (e) May, by regulation, require nonprofit organizations and state and local
32 governmental agencies to provide information regarding the programs of those
33 organizations and agencies, excluding detailed information relating to their budgets
34 and payrolls, which the Director deems necessary for the performance of the duties
35 imposed upon him or her pursuant to this section.

36 (f) Has such other powers and duties as are provided by law.

37 2. Notwithstanding any other provision of law, the Director, or the Director's
38 designee, is responsible for appointing and removing subordinate officers and
39 employees of the Department, other than the State Public Defender of the Office of
40 State Public Defender who is appointed pursuant to NRS 180.010.

41 **Sec. 7.** The provisions of subsection 1 of NRS 218D.380 do not apply to any
42 provision of this act which adds or revises a requirement to submit a report to the
43 Legislature.

44 **Sec. 8.** 1. This section and sections 1, 2 and 6 of this act [become]
45 become effective July 1, 2019.

46 2. Sections 3, 4, 5 and 7 of this act become effective:

47 (a) Upon passage and approval for the purpose of adopting any
48 regulations and performing any other preparatory administrative tasks that
49 are necessary to carry out the provisions of this act; and

50 (b) On January 1, 2021, for all other purposes.