

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 eligibility for Medicaid of a person who is incarcerated; 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: (1) 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



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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 terminated because the 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 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.

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 the extent not prohibited by federal law:

(a) The eligibility of a person for Medicaid must not be terminated because the person is incarcerated; and

(b) If a recipient of Medicaid is incarcerated, the person's eligibility for and coverage under Medicaid must be reinstated immediately 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.

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, inclusive, *and sections 2 and 3 of this act*, 422.580, 432.010 to 432.133, inclusive, 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive,



1 and 445A.010 to 445A.055, inclusive, and all other provisions of
2 law relating to the functions of the divisions of the Department, but
3 is not responsible for the clinical activities of the Division of Public
4 and Behavioral Health or the professional line activities of the other
5 divisions.

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

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

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

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

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

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

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

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

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

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

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



- 1 **Sec. 7.** The provisions of subsection 1 of NRS 218D.380 do
2 not apply to any provision of this act which adds or revises a
3 requirement to submit a report to the Legislature.
4 **Sec. 8.** This act becomes effective July 1, 2019.

