

**MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Eighty-first Session
February 16, 2021**

The Senate Committee on Health and Human Services was called to order by Chair Julia Ratti at 4:00 p.m. on Tuesday, February 16, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Julia Ratti, Chair
Senator Pat Spearman, Vice Chair
Senator Dallas Harris
Senator Joseph P. Hardy
Senator Ben Kieckhefer

GUEST LEGISLATORS PRESENT:

Senator Joseph P. Hardy, Senatorial District No. 12
Senator James A. Settelmeyer, Senatorial District No. 17

STAFF MEMBERS PRESENT:

Megan Comlossy, Policy Analyst
Eric Robbins, Counsel
Vickie Polzien, Committee Secretary

OTHERS PRESENT:

Ted Nagel
Lisa Swearingen, Chief, Eligibility and Payments, Division of Welfare and Supportive Services, Department of Health and Human Services
Sarah K. Hawkins, Nevada Attorneys for Criminal Justice
Steven Cohen
Darin Balaam, Sheriff, Washoe County
Serena Evans, Nevada Coalition to End Domestic and Sexual Violence
Joanna Jacob, Clark County
Connie McMullen, Personal Care Association of Nevada
Eric Spratley, Executive Director, Nevada Sheriffs' and Chiefs' Association

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John Piro, Deputy Public Defender, Office of the Public Defender, Clark County

CHAIR RATTI:

I will entertain a motion to rescind the motion of amend and do pass Senate Concurrent Resolution (S.C.R.) 1, previously adopted on February 11.

SENATE CONCURRENT RESOLUTION 1: Urges employers in this State to provide personal protective equipment to employees to prevent the spread of COVID-19. (BDR R-189)

SENATOR SPEARMAN MOVED TO RESCIND THE PREVIOUS ACTION TAKEN ON S.C.R. 1.

SENATOR HARRIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR RATTI:

I will entertain a motion to adopt S.C.R. 1.

SENATOR HARRIS MOVED TO ADOPT S.C.R. 1.

SENATOR KIECKHEFER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR RATTI:

I will open the hearing on Senate Bill (S.B.) 93.

SENATE BILL 93: Revises provisions relating to Medicaid. (BDR 38-193)

SENATOR JAMES A. SETTELMAYER (Senatorial District No. 17):

Senate Bill No. 446 of the 80th Session was brought before us and passed out of committee but lost on the Senate Floor. This bill has two aspects. One is the concept of self-managed care, the other will be presented by Senator Hardy, dealing with Medicaid termination for those incarcerated.

This bill came about as I saw my friend Ted Nagel on the street, at night, in his wheelchair headed for the hospital. As I spoke with him, I found out he was unable to find individuals to care for him at his home at the rate made available to them. This bill would allow Mr. Nagel to be in charge of his own care, called self-managed care, as he has the wherewithal to do this. Self-managed care is not for everyone but for those who have the mental faculties to manage their own care, giving them the opportunity to have those resources available at a higher level.

This would give those individuals making \$10 an hour the ability to make up to the federal rate offering which is \$25 to \$27. The personal managed care concept, after being reduced as it is within federal law, would give them the ability to be paid, perhaps, \$17 to \$21. With that wage, you could find individuals in today's market willing to work, doing what is necessary to care for our disabled.

TED NAGEL:

I support S.B. 93. This bill is important to my physical well-being and human right to earn a living and enjoy life. During the last campaign cycle, many of the candidates across the levels of government made points about the Nation greatly lacking in personal caregivers. Several referred to it as a pandemic unto itself, most attributing it to low wages.

I was born with a physical disability called Arthrogryposis. Although I am not paralyzed and have full feeling, my physical abilities fit the description of someone who is paralyzed. I rely on the assistance of others to help me out of bed, bathe, groom, prepare meals, etc. Without any or all of these basic needs taken care of, I would remain in bed unable to do anything for myself.

With these needs met, I am able to function in society and operate my own business as a mobile DJ, entertaining for events such as weddings and funerals. I do marketing for several business which, until the pandemic, kept me busy. As I live in a rural area, it has been difficult to find caregivers willing to work for the meager pay offered through the Medicaid-funded personal care program. At best, they would earn \$10.50 an hour. For that amount of money, most people would rather work at a fast-food establishment than take care of someone's personal hygiene. The few caregivers who do it well do not last working for agencies making this wage when they could be making \$20 to \$25 an hour working under a private pay situation.

Due to my wife's own physical limitations, she is unable to provide the care I require. It became the practice of one care agency after another, as she lives in the home, to not send anyone out to provide care any time the agency had a scheduling issue. As a result, on June 3, 2018, I resigned myself to check into a long-term care facility until the issue was resolved. I expected this to be one, maybe two months. Two months turned into 4 months, then a year, and to my displeasure, I remained in the facility for 30 months.

I returned home on December 3, 2020, as the coronavirus hit the facility and ten residents were diagnosed in one week with Covid-19. We were afraid I would catch the virus and pass away. Until I can get back on the Medicaid program that once again will provide a caregiver, I am living at home under the care of my wife who still has her physical limitations to deal with.

To make things work, I stay in bed every other day to allow my wife to recuperate from helping me the day before. This is not a pleasant arrangement for either of us, but one that is necessary. This situation is not conducive to me returning to work, so we live solely on my monthly social security disability payments. It is interesting that spouses, or other immediate family members living in the home providing care, cannot be reimbursed through Medicaid. These family members may have given up their careers in order to take care of their family member.

I want you to understand there are several thousand disabled residents in Nevada with similar stories of difficulty finding caregivers due to low wages and lack of caregivers due to that low wage. As a member of the Nevada Disability Prevention Action Coalition, I want to represent those who, in the past or currently, suffer from lack of care.

Senate Bill 93, in part, provides an avenue for Nevada residents who have the cognitive ability to manage their own finances, to pay a reasonable salary from the State directly to caregivers for their services up to the federally mandated maximum. Until now, no one was able to subsidize their caregivers pay to make the job more palatable and keep reasonable caregivers employed without getting kicked off of the program. We need to move forward to a society that opens as many opportunities for independence as possible. It took many years for disabled folks to "come out of the disability closet." Many are trying to hold down a job and rely on caregivers to make it out their front door to go to work. Let us make that situation one less thing for them to worry about.

SENATOR SETTELMAYER:

The first section of S.B. 93 represents self-managed care. An individual such as Mr. Nagel contacts an agency that takes a portion of the fund, and hires a caregiver, which reduces the funds available for the caregiver to \$10 to \$12 an hour. Sadly, for the type of personal care Mr. Nagel and most individuals require, there are not many willing to work for that wage.

There have been discussions on what a minimum wage should be. Paying below that number for these types of services makes it difficult to find caregivers. This would allow Mr. Nagel to handle his own self-managed care and be reimbursed up to the federal fund amount to hire a caregiver. He would, in essence, become that person hired through the agency. This is not for everyone. There are those who do not have the wherewithal to do this such as Mr. Nagel does. Those that do should be given the opportunity to manage their own personal care and hire assistance accordingly, using up to the federal amount allowed to pay caregivers.

SENATOR KIECKHEFER:

This would allow an individual to supplement the caregiver's wages with his or her own resources?

SENATOR SETTELMAYER:

It would allow individuals, such as Mr. Nagel, to hire a caregiver and pay \$50 an hour if they have the resources to afford the difference between their income and the federal rate. Right now, they are forbidden by law from paying anything over the federal rate. This bill would allow them the opportunity to hire someone at a higher rate and make up the difference themselves.

SENATOR JOSEPH P. HARDY (Senatorial District No. 12):

Section 3 of S.B. 93 represents Medicaid being terminated when an individual is incarcerated. If it were to be suspended, it would be easier for the individual to get back on track rather than if it were terminated. When an individual is incarcerated, he or she loses Medicaid coverage because the State assumes charge of the care of the individual, paying for medical services. Tradition is that unless there is a waiver, the State terminates Medicaid and the individual has to reapply when released from prison.

One of the consistencies we find is it takes longer to have a new application for Medicaid completed than to reinstate if it has been suspended. When an

individual is released, that person is vulnerable, has medical issues, substance use disorders, a longer wait to get approval for Medicaid to be reinstated and is at risk for recidivism.

Section 3 of S.B. 93 allows the State to suspend Medicaid, thus reinstating it in effectiveness immediately upon release from prison. It is good for the prisoner and good for the State as we save money. It helps with the challenges of recidivism, getting individuals safely back into society receiving the care they need while eligible for Medicaid.

SENATOR KIECKHEFER:

The Division of Welfare and Supportive Services has a pilot program running in our State correctional facilities to ensure individuals are enrolled in Medicaid effective upon release from prison. What is the state of play for when individuals are in county jails awaiting adjudication? Are they in the same status as State inmates at this point, and would this bill also capture them?

SENATOR HARDY:

When in a halfway house, this waiver would be effective, so you would be eligible for Medicaid; however, I will defer to the experts to confirm this.

LISA SWEARINGEN (Chief, Eligibility and Payments, Division of Welfare and Supportive Services, Department of Health and Human Services):

We are running a pilot project with a couple of institutions in Las Vegas. We are working with enrolling these individuals as part of their prerelease package. We help the inmate fill out the application to assume a suspend status so we are notified as soon as he or she is released and their cases made eligible. That process takes from 24 to 48 hours to complete as we have to run through a batch process to the Medicaid agency. The inmate receives a Medicaid card upon release.

We do not have anything in place at this time in the county jails for suspending these individuals. We are looking at detention centers and recently signed a contract with the Public Consulting Group to obtain incarceration information to get a better idea on when individuals become incarcerated so we can quickly get them benefits once they are released.

We have a process in place with the Department of Corrections for applications submitted when individuals are incarcerated and leave the facility to go into the

hospital. If they are in the hospital over 24 hours, we are able to take those bills and process them as a prior medical request, paying those bills under Medicaid.

SENATOR KIECKHEFER:

The ability to create a suspended status would affect any Medicaid recipient, regardless of which level of custody in county jail or State custody?

MS. SWEARINGEN:

We built a process in our system to suspend these individuals. It shows they are suspended; however, it sends the ineligible version to Medicaid so there are no capitation fees being charged to the State. The system allows us to reverse that suspension and reinstate those cases. There would be no fiscal note attached.

SARAH K. HAWKINS (Nevada Attorneys for Criminal Justice):

I proposed an amendment to S.B. 93 ([Exhibit B](#)) that would have prohibited the termination of Medicaid benefits for incarcerated individuals. As written, it is discretionary. I have been made aware of a significant fiscal note attached to the amendment that imperils the bill, so I am withdrawing the amendment.

STEVEN COHEN:

I support S.B. 93.

DARIN BALAAM (Sheriff, Washoe County):

The Washoe County Sheriff's Office supports S.B. 93, particularly section 3. Suspending Medicaid for incarcerated individuals, as opposed to terminating, will improve continuity of care and outcomes for individuals we serve in our correction and detention facilities.

Several years ago, the Washoe County Sheriff's Office formed a partnership with the State, allowing us to help inmates incarcerated within the Washoe County Detention Facility apply for Medicaid before they are released. Our Detention Services Unit pulls a weekly report for inmates scheduled for release within ten days. Inmates who have indicated they would like services or are eligible for Medicaid are screened and provided with applications; they fill those out, and we forward them on to the State office.

About 6 to 15 Medicaid and/or Supplemental Nutrition Assistance Program (SNAP) applications a day are being sent from our office to the Division of Welfare and Supportive Services. This shows how many inmates in our

Detention Facility in Washoe County need Medicaid or SNAP. Because of our partnership with the State, we are able to notify these agencies two days prior to an inmate's release. At that point, applications are processed so by the time the inmate is released from our facility, Medicaid has been reinstated.

For the many we serve, the program and services they want or need require insurance. The Washoe County Sheriff's Office believes the responsibility is incumbent upon us to help inmates with services in an effort to reduce recidivism and get them on the road to recovery. The level of inmates requiring mental health service, whether for addiction or mental illness, continually increases. Providing Medicaid prior to release helps them keep continuity of care upon release. Once they are released and not able to have Medicaid reinstated, we have seen them turn to other types of illegal substances to medicate themselves. This bill will help ensure the neediest among us will receive services through Medicaid or SNAP.

Our Detention Services Unit works diligently to find services and beds for inmates prior to their release. This helps avoid delays in receiving Medicaid, therefore avoiding delays in receiving care to make an impact on outcomes and recidivism once released.

SERENA EVANS (Nevada Coalition to End Domestic and Sexual Violence):
The Nevada Coalition to End Domestic and Sexual Violence supports S.B. 93, particularly section 3. We know many victim survivors are incarcerated for a multitude of reasons, many of which are directly impacted because of their victimization. For many survivors previously incarcerated, we consistently hear they are not getting access to affordable health care. It is a challenge and can be a barrier for overcoming previous victimization. We are in support of any measures ensuring incarcerated individuals and victim survivors have access to affordable healthcare upon their release so they can get back on track without having the burden of reapplying for eligibility in the Medicaid program.

JOANNA JACOB (Clark County):
Clark County supports S.B. 93, particularly section 3. Last year, Clark County and our city colleagues took part in a working group on efforts to address homelessness through the passage of A.B. No. 73 of the 80th Session. We had numerous presentations from law enforcement and jails in southern Nevada that talked about factors driving recidivism which had to do with the concerns identified by Sheriff Balaam in Washoe County. Access to medication, support,

housing and linking people to a system of care as quickly as possible after discharge from a correctional setting is important, addressing those factors driving recidivism. We believe the suspension, as opposed to termination of Medicaid, will help link those eligible into a system of care we know our State has worked hard to develop. The Division of Welfare and Supportive Services has tried to partner with Clark County Detention Center to bring eligibility services into a detention center.

CONNIE McMULLEN (Personal Care Association of Nevada):

The Personal Care Association of Nevada stands neutral on S.B. 93. When the bill was initially presented, I thought most of what the bill sponsor wanted was already in law. We are happy that section 2 is being clarified and placed into law. Some of our members are concerned for vulnerable people being placed in a situation of unlicensed caregivers and the attendant oversight of those caregivers. The fact that Mr. Nagel, who is able to live in his community in a less-restrictive setting, was forced to go into a nursing home was unnecessary. We remain neutral but are not opposed.

ERIC SPRATLEY (Executive Director, Nevada Sheriffs' and Chiefs' Association):
Nevada Sheriffs' and Chiefs' Association supports S.B. 93.

Ms. HAWKINS:

We know there are fiscal benefits to S.B. 93 that promises to reduce recidivism. For my clients, once individuals are stabilized in custody on mental health medication, we are looking for continuity of care that keeps them on their medications, functioning well and being productive in the community with their families. Too often, I see where the interruption in eligibility benefits causes a lapse in a person taking and having access to medication. I am in support of S.B. 93.

JOHN PIRO (Deputy Public Defender, Office of the Public Defender, Clark County):

Offices of the Clark and Washoe County Public Defenders support S.B. 93. Section 3 is the most important for continuity of care. There is nothing worse than getting a mentally ill client in custody stabilized on the correct medications and then getting that person released without the proper medical coverage, increasing the risk of recidivism.

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CHAIR RATTI:

I will close the hearing on S.B. 93.

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CHAIR RATTI:

As there is no public comment, this meeting is adjourned at 4:56 p.m.

RESPECTFULLY SUBMITTED:

Vickie Polzien,
Committee Secretary

APPROVED BY:

Senator Julia Ratti, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 93	B	1	Sarah K. Hawkins / Nevada Attorneys for Criminal Justice	Proposed Amendment