

ASSEMBLY BILL NO. 208—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON SENIOR
CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS)

FEBRUARY 21, 2023

Referred to Committee on Health and Human Services

SUMMARY—Establishes a program to provide structured family caregiving to certain recipients of Medicaid. (BDR 38-297)

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; establishing a program to provide structured family caregiving to certain recipients of Medicaid; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law authorizes a state to apply for a waiver that allows the state to receive financial contributions from the Federal Government toward the cost of providing certain home and community-based services for recipients of Medicaid who are elderly or disabled. (42 U.S.C. § 1396n(c)) Existing law requires the Department of Health and Human Services to apply for such a waiver covering certain home and community-based services for recipients of Medicaid with physical disabilities. (NRS 422.396)

Section 1 of this bill requires the Department to apply to the United States Secretary of Health and Human Services to amend the home and community-based services waiver to include structured family caregiving for recipients of Medicaid suffering from dementia. **Section 1** requires that the Department include in its application to amend the waiver: (1) an authorization for the recipient of Medicaid to choose his or her caregiver and the residence where the recipient will receive the structured family caregiving; and (2) a requirement that the caregiver be or become an employee of an agency to provide personal care services in the home or an intermediary service organization and receive a daily stipend through that employer. **Section 1** also requires a caregiver to receive certain training. **Section 2** of this bill makes a conforming change to indicate that **section 1** will be



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19 administered in the same manner as other provisions of existing law governing the
20 State Plan for Medicaid.

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

1 **Section 1.** Chapter 422 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 **1. The Department shall apply to the Secretary of Health and**
4 **Human Services to amend the home and community-based**
5 **services waiver granted pursuant to 42 U.S.C. § 1396n(c). The**
6 **waiver must be amended to authorize the Department to include**
7 **structured family caregiving for persons suffering from dementia**
8 **as medical assistance under Medicaid.**

9 **2. The amendment must:**

10 **(a) Authorize a recipient of Medicaid suffering from dementia**
11 **to choose any:**

12 **(1) Person, including, without limitation, a spouse or a**
13 **person who is legally responsible for the recipient, to serve as his**
14 **or her caregiver; and**

15 **(2) Appropriate residence in which to receive structured**
16 **family caregiving;**

17 **(b) Require the caregiver chosen by a recipient of Medicaid**
18 **pursuant to paragraph (a) to be or become an employee of an**
19 **agency to provide personal care services in the home or an**
20 **intermediary service organization;**

21 **(c) Establish a per diem rate to be paid to an agency to provide**
22 **personal care services in the home or an intermediary service**
23 **organization that employs a caregiver pursuant to paragraph (b);**

24 **(d) Require an agency to provide personal care services in the**
25 **home or intermediary service organization that employs a**
26 **caregiver pursuant to paragraph (b) to provide to the caregiver a**
27 **daily stipend that is at least 65 percent of the per diem rate paid to**
28 **the agency to provide personal care services in the home or**
29 **intermediary service organization; and**

30 **(e) Require a caregiver chosen by a recipient of Medicaid**
31 **pursuant to paragraph (a) to complete any training the Aging and**
32 **Disability Services Division of the Department determines to be**
33 **necessary for the caregiver to provide adequate care to the**
34 **recipient.**

35 **3. The Department shall:**

36 **(a) Cooperate with the Federal Government in amending the**
37 **waiver pursuant to this section;**

38 **(b) If the Federal Government approves the amendment to the**
39 **waiver, adopt regulations necessary to carry out the provisions of**



this section, including, without limitation, the criteria to be used in determining eligibility for a recipient of Medicaid suffering from dementia to receive structured family caregiving pursuant to this section; and

(c) Implement the amendments to the waiver only to the extent that the amendments are approved by the Federal Government.

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) "Intermediary service organization" has the meaning ascribed to it in NRS 449.4304.

(c) "Structured family caregiving" means the provision of services to a person who resides in the same residence as the caregiver on a full-time basis. The services provided may include, without limitation:

(1) Case management services;

(2) Personal care services;

(3) Personal assistance;

(4) Homemaker services; and

(5) Health-related services, including, without limitation, home health aide services.

Sec. 2. 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 section 1 of this act**, 422.580, 432.010 to 432.133, inclusive, 432B.6201 to 432B.626, inclusive, 444.002 to 444.430, inclusive, and 445A.010 to 445A.055, inclusive, and all other provisions of law relating to the functions of the divisions of the Department, but is not responsible for the clinical activities of the Division of Public



1 and Behavioral Health or the professional line activities of the other
2 divisions.

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

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

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

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

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

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

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

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

30 (e) May, by regulation, require nonprofit organizations and state
31 and local governmental agencies to provide information regarding
32 the programs of those organizations and agencies, excluding
33 detailed information relating to their budgets and payrolls, which the
34 Director deems necessary for the performance of the duties imposed
35 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
38 the Director's designee, is responsible for appointing and removing
39 subordinate officers and employees of the Department.

40 **Sec. 3.** 1. This section becomes effective upon passage and
41 approval.

42 2. Sections 1 and 2 of this act become effective:

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



1 (b) On January 1, 2024, for all other purposes.

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