

ASSEMBLY BILL NO. 389—COMMITTEE ON
HEALTH AND HUMAN SERVICES

MARCH 23, 2023

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing Medicaid.
(BDR 38-977)

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; requiring the State Plan for Medicaid to provide certain coverage for certain persons who are incarcerated; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Health and Human Services to develop and administer a State Plan for Medicaid. (NRS 422.063, 422.270) Existing law requires the Department to authorize a person who is incarcerated to apply for enrollment in Medicaid up to 6 months before the person is scheduled to be released from incarceration. Under existing law, such enrollment is effective immediately upon release. (NRS 422.27487) Existing federal law prohibits federal funding to provide coverage under Medicaid to incarcerated persons. (42 U.S.C. § 1396d(a)(31)(A)) Existing federal law authorizes a state to apply for a waiver of certain provisions of federal law governing Medicaid for the purpose of an experimental, pilot or demonstration project. (42 U.S.C. § 1315) **Section 1** of this bill requires the Director of the Department to apply for such a waiver for the purpose of including in the State Plan for Medicaid coverage of certain services for incarcerated youths and incarcerated persons with certain health conditions for not more than 90 days before the scheduled release of such persons. **Section 4** of this bill makes a conforming change to indicate that the provisions of **section 1** will be administered in the same manner as the provisions of existing law governing the State Plan for Medicaid. **Sections 2 and 3** of this bill make conforming changes to reflect the eligibility of certain incarcerated persons for Medicaid pursuant to **section 1**.



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 a new section to read as follows:

1. The Director shall include in the State Plan for Medicaid a requirement that, to the extent that federal financial participation is available, the State pay the nonfederal share of expenditures incurred for limited services for persons described in subsection 2 who are incarcerated, for not more than 90 days before the scheduled release of such persons. Such services must include, without limitation:

(a) Case management;

(b) Consultations with providers of physical and behavioral health care;

(c) Laboratory and radiology services;

(d) Prescription drugs, including, without limitation, medication-assisted treatment; and

(e) The services of a community health worker.

2. A person is eligible for the coverage described in subsection 1 if the person would otherwise be eligible for Medicaid if he or she were not incarcerated and:

(a) Is under 18 years of age;

(b) Has been diagnosed with:

(1) A mental illness;

(2) Substance use disorder;

(3) A chronic disease or other significant disease;

(4) An intellectual disability;

(5) A developmental disability;

(6) A traumatic brain injury; or

(7) Human immunodeficiency virus; or

(c) Is pregnant or not more than 12 weeks postpartum.

3. The Department shall apply to the Secretary of Health and Human Services for a waiver granted pursuant to 42 U.S.C. § 1315 that authorizes the Department to receive federal funding to include in the State Plan for Medicaid the coverage required by this section. The Department shall fully cooperate in good faith with the Federal Government during the application process to satisfy the requirements of the Federal Government for obtaining a waiver or amendment pursuant to this section.

4. As used in this section:

(a) "Chronic disease" means a health condition or disease which presents for a period of 3 months or more or is persistent, indefinite or incurable.



(b) "Community health worker" has the meaning ascribed to it in NRS 449.0027.

(c) "Developmental disability" has the meaning ascribed to it in NRS 433.069.

(d) "Intellectual disability" has the meaning ascribed to it in NRS 433.099.

(e) "Medication-assisted treatment" means treatment for an opioid use disorder using medication approved by the United States Food and Drug Administration for that purpose.

(f) "Mental illness" means any mental dysfunction leading to the impaired ability of a person to maintain himself or herself and to function effectively in his or her life situation without external support.

(g) "Traumatic brain injury" means a sudden shock or damage to the brain or its coverings which is not of a degenerative nature and produces an altered state of consciousness or temporarily or permanently impairs the mental, cognitive, behavioral or physical functioning of the brain. The term does not include:

(1) A cerebral vascular accident;

(2) An aneurism; or

(3) A congenital defect.

Sec. 2. NRS 422.27487 is hereby amended to read as follows:

422.27487 1. To the extent not prohibited by federal law, the Department shall:

(a) Suspend, rather than terminate, the eligibility for Medicaid of a person who is incarcerated for the amount of time authorized by regulation pursuant to subsection 2;

(b) Authorize a person who is incarcerated and was not eligible for Medicaid before being incarcerated or whose eligibility for Medicaid has been terminated to apply up to 6 months before his or her scheduled release for enrollment in Medicaid immediately upon release ~~to~~, *except where such a person is authorized to enroll earlier pursuant to section 1 of this act*; and

(c) Reinstate or institute, as applicable, eligibility for and coverage under Medicaid for a person described in paragraph (a) or (b) 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 may adopt any regulations necessary to carry out the provisions of this section, including, without limitation, regulations that prescribe the amount of time that the eligibility for Medicaid of a person may be suspended pursuant to paragraph (a) of subsection 1 before being terminated.



Sec. 3. NRS 209.511 is hereby amended to read as follows:

209.511 1. Before an offender is released from prison by expiration of his or her term of sentence, by pardon or parole, the Director may provide mediation services to the offender and the family members and friends of the offender who provide emotional, psychological and financial support to the offender.

2. As soon as practicable after an offender is authorized to apply for enrollment in Medicaid pursuant to NRS 422.27487 ~~§~~ *or section 1 of this act*, the Director shall complete the paperwork for the application if the offender may be eligible for Medicaid :

(a) Not more than 90 days before the scheduled release of the offender pursuant to section 1 of this act; or

(b) Immediately upon the scheduled release ~~§~~ of the offender pursuant to NRS 422.27487.

3. Not later than 3 months before an offender is projected to be released from prison by expiration of his or her term of sentence, by pardon or parole, the Director may, if space is available, provide an eligible offender with one or more evidence-based or promising practice reentry programs to obtain employment, including, without limitation, any programs which may provide bonding for an offender entering the workplace and any organizations which may provide employment or bonding assistance to such a person.

4. When an offender is released from prison by expiration of his or her term of sentence, by pardon or by parole, the Director:

(a) May furnish the offender with a sum of money not to exceed \$100, the amount to be based upon the offender's economic need as determined by the Director;

(b) Shall give the offender notice of the provisions of chapter 179C of NRS and NRS 202.357 and 202.360;

(c) Shall require the offender to sign an acknowledgment of the notice required in paragraph (b);

(d) Shall give the offender notice of the provisions of NRS 179.245 and the provisions of NRS 213.090, 213.155 or 213.157, as applicable;

(e) Shall provide the offender with a photo identification card issued by the Department and information and reasonable assistance relating to acquiring a valid driver's license or identification card to enable the offender to obtain employment, if the offender:

(1) Requests a photo identification card;

(2) Requests such information and assistance and is eligible to acquire a valid driver's license or identification card from the Department of Motor Vehicles; or

(3) Is not currently in possession of a photo identification card;



(f) Shall provide the offender with clothing suitable for reentering society;

(g) Shall provide the offender with the cost of transportation to his or her place of residence anywhere within the continental United States, or to the place of his or her conviction;

(h) If appropriate, shall release the offender to a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS;

(i) Shall require the offender to submit to at least one test for exposure to the human immunodeficiency virus;

(j) If the offender is eligible for Medicare, shall complete enrollment application paperwork for the offender; and

(k) If the offender was receiving a prescribed medication while in custody, shall ensure that the offender is provided with a 30-day supply of any such prescribed medication.

5. The Director shall not provide an offender with a photo identification card pursuant to paragraph (e) of subsection 4 unless the photo identification card clearly indicates whether the Director:

(a) Has verified the full legal name and age of the offender by obtaining an original or certified copy of the documents required by the Department of Motor Vehicles pursuant to NRS 483.290 or 483.860, as applicable, furnished as proof of the full legal name and age of an applicant for a driver's license or identification card; or

(b) Has not verified the full legal name and age of the offender pursuant to paragraph (a).

6. The costs authorized or required in paragraphs (a), (e), (f), (g), (i) and (k) of subsection 4 must be paid out of the appropriate account within the State General Fund for the use of the Department as other claims against the State are paid to the extent that the costs have not been paid in accordance with subsection 5 of NRS 209.221 and NRS 209.246.

7. The Director is encouraged to work with the Nevada Community Re-Entry Task Force established by the Governor pursuant to executive order, or its successor body, if any, to align statewide strategies for the reentry of offenders into the community and the implementation of those strategies.

8. As used in this section:

(a) "Eligible offender" means an offender who is:

(1) Determined to be eligible for reentry programming based on the Nevada Risk Assessment System instrument, or its successor risk assessment tool; and

(2) Enrolled in:

(I) Programming services under a reentry program at a correctional facility which has staff designated to provide the services; or



(II) A community-based program to assist offenders to reenter the community.

(b) "Facility for transitional living for released offenders" has the meaning ascribed to it in NRS 449.0055.

(c) "Photo identification card" means a document which includes the name, date of birth and a color picture of the offender.

(d) "Promising practice reentry program" means a reentry program that has strong quantitative and qualitative data showing positive outcomes, but does not have sufficient research or replication to support recognition as an evidence-based practice.

Sec. 4. 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 and Behavioral Health or the professional line activities of the other divisions.

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

(d) Shall, after considering advice from agencies of local governments and nonprofit organizations which provide social services, adopt a master plan for the provision of human services in this State. The Director shall revise the plan biennially and deliver a



copy of the plan to the Governor and the Legislature at the beginning of each regular session. The plan must:

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

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

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

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

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

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

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

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

2. Notwithstanding any other provision of law, the Director, or the Director's designee, is responsible for appointing and removing subordinate officers and employees of the Department.

Sec. 5. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 4, inclusive, of this act become effective:

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

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

