

ASSEMBLY BILL NO. 53—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the investigation and prosecution of certain crimes relating to the Medicaid program. (BDR 38-379)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; increasing the penalty for certain crimes relating to the Medicaid program; revising provisions concerning the statute of limitations for the commencement of civil and criminal actions relating to the Medicaid program; authorizing the Attorney General to use certain documents, records or materials obtained by a subpoena in certain actions relating to the Medicaid program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law imposes penalties on a person who commits certain crimes
2 relating to the Medicaid program. (NRS 422.540, 422.560) Existing law also sets
3 forth the statute of limitations for the commencement of an action relating to the
4 Medicaid program. (NRS 422.590) **Sections 1 and 2** of this bill increase the
5 penalty imposed on a person committing certain criminal acts relating to
6 the Medicaid program to: (1) a category B felony if the value obtained through the
7 criminal act is equal to or greater than \$3,500; and (2) a category C felony if the
8 value obtained through the criminal act is more than \$650 but less than \$3,500.
9 **Sections 3-6** of this bill provide that any criminal action relating to the Medicaid
10 program must be commenced within 4 years after the commission of the offense or,
11 if the offense is committed in a secret manner, within 4 years after discovery of the
12 offense. **Section 3** also changes the statute of limitations on a civil action related to
13 the Medicaid program from 4 to 6 years.



14 Existing law authorizes the Attorney General, acting through the chief
15 executive of the Medicaid Fraud Control Unit, to issue a subpoena for documents,
16 records or materials relating to an investigation or prosecution of a violation or
17 offense relating to the State Plan for Medicaid, and to use such documents, records
18 or materials as evidence in a civil action brought by the Medicaid Fraud Control
19 Unit. (NRS 228.411) **Section 7** of this bill authorizes the Attorney General to use
20 any documents, records or materials produced pursuant to a subpoena as evidence
21 in any action brought by the Medicaid Fraud Control Unit.

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

1 **Section 1.** NRS 422.540 is hereby amended to read as follows:
2 422.540 1. A person, with the intent to defraud, commits an
3 offense if with respect to the Plan the person:
4 (a) Makes a claim or causes it to be made, knowing the claim to
5 be false, in whole or in part, by commission or omission;
6 (b) Makes or causes to be made a statement or representation for
7 use in obtaining or seeking to obtain authorization to provide
8 specific goods or services, knowing the statement or representation
9 to be false, in whole or in part, by commission or omission;
10 (c) Makes or causes to be made a statement or representation for
11 use by another in obtaining goods or services pursuant to the Plan,
12 knowing the statement or representation to be false, in whole or in
13 part, by commission or omission; or
14 (d) Makes or causes to be made a statement or representation for
15 use in qualifying as a provider, knowing the statement or
16 representation to be false, in whole or in part, by commission or
17 omission.
18 2. A person who commits an offense described in subsection 1
19 shall be punished for a:
20 (a) *Category B felony, as provided in NRS 193.130, if the*
21 *amount of the claim or the value of the goods or services obtained*
22 *or sought to be obtained was greater than or equal to \$3,500.*
23 (b) Category ~~D~~ C felony, as provided in NRS 193.130, if the
24 amount of the claim or the value of the goods or services obtained or
25 sought to be obtained was greater than or equal to \$650 ~~f~~
26 ~~—(b) but less than \$3,500.~~
27 (c) Misdemeanor if the amount of the claim or the value of the
28 goods or services obtained or sought to be obtained was less than
29 \$650.
30 ↪ Amounts involved in separate violations of this section
31 committed pursuant to a scheme or continuing course of conduct
32 may be aggregated in determining the punishment.



1 3. In addition to any other penalty for a violation of the
2 commission of an offense described in subsection 1, the court shall
3 order the person to pay restitution.

4 **Sec. 2.** NRS 422.560 is hereby amended to read as follows:

5 422.560 1. Except as otherwise provided in subsection 2, a
6 person shall not:

7 (a) While acting on behalf of a provider, purchase or lease
8 goods, services, materials or supplies for which payment may be
9 made, in whole or in part, pursuant to the Plan, and solicit or accept
10 anything of additional value in return for or in connection with the
11 purchase or lease;

12 (b) Sell or lease to or for the use of a provider goods, services,
13 materials or supplies for which payment may be made, in whole or
14 in part, pursuant to the Plan, and offer, transfer or pay anything of
15 additional value in connection with or in return for the sale or lease;
16 or

17 (c) Refer a person to a provider for goods or services for which
18 payment may be made, in whole or in part, pursuant to the Plan, and
19 solicit or accept anything of value in connection with the referral.

20 2. Paragraphs (a) and (b) of subsection 1 do not apply if the
21 additional value transferred is:

22 (a) A refund or discount made in the ordinary course of
23 business;

24 (b) Reflected by the books and records of the person transferring
25 or receiving it; and

26 (c) Reflected in the billings submitted to the Plan.

27 3. A person shall not, while acting on behalf of a provider
28 providing goods or services to a recipient pursuant to the Plan,
29 charge, solicit, accept or receive anything of additional value in
30 addition to the amount legally payable pursuant to the Plan in
31 connection with the provision of the goods or services.

32 4. A person who violates this section, if the value of the thing
33 or any combination of things unlawfully solicited, accepted, offered,
34 transferred, paid, charged or received:

35 (a) Is less than \$650, is guilty of a gross misdemeanor.

36 (b) Is \$650 or more ~~†~~ *but less than \$3,500*, is guilty of a
37 category ~~H†~~ C felony and shall be punished as provided in
38 NRS 193.130.

39 *(c) Is \$3,500 or more, is guilty of a category B felony and shall*
40 *be punished as provided in NRS 193.130.*

41 **Sec. 3.** NRS 422.590 is hereby amended to read as follows:

42 422.590 ~~†Ann†~~

43 1. A *civil* action brought pursuant to NRS 422.540 to 422.580,
44 inclusive, must be commenced within ~~†4†~~ 6 years, but the cause of
45 action in such a case shall be deemed to accrue upon the discovery



1 by the aggrieved party of the facts constituting a violation of NRS
2 422.540 to 422.580, inclusive.

3 **2. For any violation of NRS 422.540 to 422.580, inclusive,**
4 **that is punishable as a misdemeanor or gross misdemeanor, an**
5 **indictment must be found, or an information or complaint filed,**
6 **within 4 years after the commission of the offense.**

7 **Sec. 4.** NRS 171.085 is hereby amended to read as follows:

8 171.085 Except as otherwise provided in NRS 171.080,
9 171.083, 171.084 and 171.095, an indictment for:

10 1. Theft, robbery, burglary, forgery, arson, sex trafficking, a
11 violation of NRS 90.570, **a violation of NRS 422.540 to 422.580,**
12 **inclusive, that is punishable as a felony,** a violation punishable
13 pursuant to paragraph (c) of subsection 3 of NRS 598.0999 or a
14 violation of NRS 205.377 must be found, or an information or
15 complaint filed, within 4 years after the commission of the offense.

16 2. Sexual assault must be found, or an information or
17 complaint filed, within 20 years after the commission of the offense.

18 3. Any felony other than the felonies listed in subsections 1 and
19 2 must be found, or an information or complaint filed, within 3
20 years after the commission of the offense.

21 **Sec. 5.** NRS 171.090 is hereby amended to read as follows:

22 171.090 Except as otherwise provided in NRS 171.095,
23 202.885, **422.590** and 624.800, an indictment for:

24 1. A gross misdemeanor must be found, or an information or
25 complaint filed, within 2 years after the commission of the offense.

26 2. Any other misdemeanor must be found, or an information or
27 complaint filed, within 1 year after the commission of the offense.

28 **Sec. 6.** NRS 171.095 is hereby amended to read as follows:

29 171.095 1. Except as otherwise provided in subsection 2 and
30 NRS 171.083 and 171.084:

31 (a) If a felony, gross misdemeanor or misdemeanor is committed
32 in a secret manner, an indictment for the offense must be found, or
33 an information or complaint filed, within the periods of limitation
34 prescribed in NRS 171.085, 171.090, **422.590** and 624.800 after the
35 discovery of the offense, unless a longer period is allowed by
36 paragraph (b) or (c) or the provisions of NRS 202.885.

37 (b) An indictment must be found, or an information or
38 complaint filed, for any offense constituting sexual abuse of a child
39 as defined in NRS 432B.100 or sex trafficking of a child as defined
40 in NRS 201.300, before the victim is:

41 (1) Thirty-six years old if the victim discovers or reasonably
42 should have discovered that he or she was a victim of the sexual
43 abuse or sex trafficking by the date on which the victim reaches that
44 age; or



1 (2) Forty-three years old if the victim does not discover and
2 reasonably should not have discovered that he or she was a victim of
3 the sexual abuse or sex trafficking by the date on which the victim
4 reaches 36 years of age.

5 (c) If a felony is committed pursuant to NRS 205.461 to
6 205.4657, inclusive, against a victim who is less than 18 years of
7 age at the time of the commission of the offense, an indictment for
8 the offense must be found, or an information or complaint filed,
9 within 4 years after the victim discovers or reasonably should have
10 discovered the offense.

11 2. If any indictment found, or an information or complaint
12 filed, within the time prescribed in subsection 1 is defective so that
13 no judgment can be given thereon, another prosecution may be
14 instituted for the same offense within 6 months after the first is
15 abandoned.

16 **Sec. 7.** NRS 228.411 is hereby amended to read as follows:

17 228.411 1. In carrying out the duties and responsibilities
18 under NRS 228.410, the Attorney General, acting through the chief
19 executive of the Medicaid Fraud Control Unit or his or her designee,
20 may issue a subpoena for documents, records or materials.

21 2. The Attorney General may use any documents, records or
22 materials produced pursuant to a subpoena issued under this section
23 in the course of ~~fa-civil~~ *an* action brought pursuant to
24 NRS 228.410.

25 3. Any person who willfully fails or refuses to comply with a
26 subpoena issued pursuant to this section is guilty of a misdemeanor.

27 4. A subpoena issued pursuant to this section must include a
28 copy of the provisions of subsections 1, 2 and 3.

29 **Sec. 8.** This act becomes effective on July 1, 2017.

