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MEETING NOTICE AND AGENDA

Name of Organization: Legislative Committee on Health Care
(Nevada Revised Statutes 439B.200)

Date and Time of Meeting: Monday, November 30, 1998
9:30 a.m.

Place of Meeting: Legislative Building
Room 4100
401 South Carson Street
Carson City, Nevada

Note: Some members of the committee may be attending the meeting, and other persons may observe the meeting and provide testimony, through a simultaneous video conference conducted at the following location:

Grant Sawyer State Office Building
Room 4412
555 East Washington Avenue
Las Vegas, Nevada

A G E N D A

1. Opening Remarks by the Chairman

Senator Raymond D. Rawson

*II. Approval of Minutes for the Committee's Meeting on September 11, 1998, in Las Vegas, Nevada

*III. Approval of Final Report of the "Study of Uninsured Persons in Nevada"

IV. Presentation of Report for the Subcommittee to Address Medicaid and Other Issues for Persons Who Are Aged or Disabled

V. Follow-up Report Concerning Issues from Meetings of the Subcommittee to Address Medicaid and Other Issues for Persons Who Are Aged or Disabled

Charlotte Crawford, Director, Nevada's Department of Human Resources (DHR)

Christopher Thompson, Administrator, Division of Health Care Financing and Policy, DHR

A. Feasibility of Establishing a Medicaid "Buy-In" Program

B. Feasibility of Changing the Eligibility Level of Medicaid to 250 Percent of the Federal Poverty Level

3. Results of Meeting Regarding Personal Care Attendants

4. Feasibility of Considering Assisted Living Facilities as Placements for Individuals Who Receive Medicaid Medical and Waiver Services

VI. Discussion of Proposals to Promote "Aging in Place" for Nevada's Elderly Citizens

John Busse, Executive Director, Home Health Care Association of Nevada

Mike Gerard, Director, Washoe Home Care

1. Implement a Model in Nevada that Parallels the Program for All Inclusive Care for the Elderly, Which is a Program Administered by the Health Care Financing Administration, United States Department of Health and Human Services

2. Evaluate the Adequacy of Payment Rates for Medicaid Home Health Services

3. Include Medical Social Services as a Medicaid Home Health Benefit

VII. Follow-Up Report Relating to Transportation for the Aged and Disabled (Paratransit) Issues from October 5, 1998, Subcommittee Meeting

VIII. Informational Presentation of "Quality Care Act of 1999"

Theresa Morrow, R.N., Co-Chair, Service Employees International Union, Health Care Oversight Committee

IX. Status Report Concerning Nevada Check-Up, the Children's Health Insurance Program in Nevada

Charlotte Crawford, Director, DHR

Christopher Thompson, Administrator, Division of Health Care Financing and Policy, DHR

*X. "Covering Kids" Status Report and Presentation and Discussion Concerning Outreach and Enrollment Issues for Nevada Check-Up

John Yacenda, M.P.H., Ph.D., Executive Director, Great Basin Primary Care Association

XI. Informational Presentation Concerning the Minority Health Initiative

Carla Freeman, Facilitator, Clark County Minority Health Steering Committee

XII. Update Regarding the Mandatory Medicaid Managed Care Program

XIII. Public Testimony

***XIV. WORK SESSION: Review and Discussion of Proposed Recommendations of the Legislative Committee on Health Care for the 1999 Legislative Session**

1. Long-Term Care Insurance

2. Tobacco Issues

1. Local Versus State Regulation of Smoking

2. Increase the Cigarette Tax

1. Issues Affecting Persons Who Are Aged or Disabled and the Medicaid Program

1. Evaluating Quality of Care and Satisfaction of Services in Medicaid

2. Personal Care Services

3. Increasing Access to Medicaid Waiver Services

4. Changing the Eligibility Level of Medicaid to 250 Percent of the Federal Poverty Level

5. Establishing a Medicaid "Buy-In" Program

6. Alternative Living Arrangements

7. Aging in Place Issues

NOTE: Recommendations under consideration by the committee are presented in the attached "Work Session Document," Legislative Committee on Health Care, November 30, 1998. A revised copy of this document may be provided at the meeting. Additional copies of this document may be obtained from Roxanne Duer, Research Division, Legislative Counsel Bureau, 684-6825, Capitol Complex, Carson City, Nevada.

XV. Adjournment

*Denotes items on which the committee may take action.

Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, Capitol Complex, Carson City, Nevada 89701-4747, or call Roxanne Duer, at 684-6825, as soon as possible.

Notice of this meeting was posted in the following Carson City, Nevada, locations: Blasdel Building, 209 East Musser Street; Capitol Press Corps, Basement, Capitol Building; Carson City Courthouse, 198 North Carson Street; Legislative Building, Room 1214, 401 South Carson Street;

and Nevada State Library, 100 Stewart Street. Notice of this meeting was faxed for posting to the following Las Vegas, Nevada, locations: Clark County Office, 500 South Grand Central Parkway; Grant Sawyer State Office Building, 555 East Washington Avenue.

WORK SESSION DOCUMENT

November 30, 1998

Legislative Committee on Health Care

(Nevada Revised Statutes 439B.200)

This Work Session Document was prepared by the staff of the Legislative Committee on Health Care. It contains a summary of major proposals that have been presented to the committee in public hearings and correspondence since August 3, 1998.

LONG-TERM CARE INSURANCE

The committee heard testimony that long-term care insurance policies will help to prevent individuals and families from losing assets and financial resources when they need long-term care. Further, Medicare does not pay for long-term care; Medicaid does, however, only for individuals who meet certain disability or income criteria.

It is recommended that:

1. A "one-time" appropriation be made to purchase a long-term care insurance product for state employees and retirees. Other political bodies may participate in the pool at their own expense subject to negotiations with the Committee on Benefits, Risk Management Division, Department of Administration.

The proposed language may be to:

Appropriate funds to the Committee on Benefits, Risk Management Division, Department of Administration, and amend *Nevada Revised Statutes 287.043*, "Committee on benefits: Powers and duties," for long-term care insurance coverage for current and retired state employees. Such coverage should include the benefits listed in the Attachment. Further, such coverage shall qualify as a long-term care insurance product that enables a consumer to benefit from the tax implications contained in the Health Insurance Portability and Accountability Act of 1996 (*Public Law 104-191*). This will be a one-time appropriation after which time the Committee on Benefits must establish the level of participation required by active and retired state employees, and employees of participating public agencies.

NOTE: Pursuant to Section 1 of NRS 287.043, group life, accident, health coverage, or any combination of these, may be provided for the benefit of "state officers and employees and other persons who participate in the state's program of group insurance." And, pursuant to Section 2 of NRS 287.043, the committee is authorized to **negotiate and contract** with the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other public agency of the State of Nevada "which is desirous of obtaining group insurance for its officers, employees and retired employees."

TOBACCO ISSUES

Representatives of the American Cancer Society made two recommendations for the committee. The first recommendation relates to the regulation of smoking in Nevada, and the second recommendation relates to the cigarette tax in the State.

Local Versus State Regulation of Smoking

Mr. Mark Savage testified that existing statutes prohibit local governments from imposing more stringent restrictions governing smoking than those provided in State law.

Therefore, it is recommended that the Legislature:

2. **Amend the current statute regarding state regulation of smoking to allow local municipalities to develop their own policies governing the sale of, marketing of, distribution of, and display of tobacco products.**

The proposed language might be to:

Amend *Nevada Revised Statutes* 202.249, "Smoking tobacco: Declaration of public policy; enforcement," to allow an agency, board, commission, or political subdivision of this state, including any agency, board, commission, or governing body of a local government to impose more stringent restrictions on the smoking, use, sale, distribution, marketing, display, or promotion of tobacco or products made from tobacco than are addressed by NRS 202.2491, "Smoking tobacco: Unlawful in certain public places; posting signs; designation of areas for smoking"; NRS 202.2492, "Smoking tobacco: Penalty; issuance of citations"; NRS 202.2493, "Cigarettes and smokeless products made from tobacco to be sold in unopened package only; sale and distribution of cigarettes and other products made from tobacco to minor prohibited; penalties"; and NRS 202.2494, "Cigarette vending machines unlawful in certain public areas; restrictions on coin-operated machines."

NOTE: Assembly Bill 313 of the 1997 Legislative Session sought to amend these statutes, however this measure failed to be adopted.

Increase the Cigarette Tax

The committee heard testimony that indicated health care costs related to tobacco use and smoking are a significant burden to society. Further, according to Mr. Savage, in recent elections, the per pack tax in the State of California was increased by 50 cents, and surrounding states have a per pack tax that is significantly higher than Nevada's cigarette tax. According to a representative in the Department of Taxation, when Arizona increased its cigarette tax, Nevada realized an increase in revenue in areas that share a border with Arizona. It is likely that Nevada will realize an increase in cigarette sales in areas that share a border with California due to that state's increase, if the current tax remains unchanged.

Discussion before the committee indicated that an increase in cigarette taxes generally results in a decrease in smoking. Therefore, it is likely that the State may realize a decrease in tax revenue, which would ultimately affect the State General Fund.

It is recommended that the Legislature:

3. **Amend the current statute to increase the existing cigarette tax by 50 cents per pack, which would equate to a tax of 42.5 mills per cigarette. The revenue will be used for substance abuse grants, supplemental funding for Nevada Check-Up, and grants to educate the public about the effects of tobacco use.**

If the committee supports this proposal, suggested language may be to:

Amend *Nevada Revised Statutes* 370.350, "Levy; amount; exemptions," to increase the tax on cigarettes to 42.5 mills per cigarette. Proceeds from the tax will be subject to budget considerations by the Legislature and will be used for: (1) grant funding for substance abuse treatment programs; (2) supplemental funding for the children's health insurance program; and (3) grant funding for organizations whose mission it is to educate the public about the effects of tobacco use. The Department of Employment, Training and Rehabilitation and the Department of Human Resources will administer the grant funds, and each department will adopt regulations governing the criteria for the use and dispersal of available funds. Not more than 10 percent of the proceeds may be used for administrative expenses by agencies that

administer the funds.

NOTE: The current tax on cigarettes is 17.5 mills per cigarette, which results in a tax of 35 cents on an average 20-cigarette pack. According to a representative in the Administrative Services Division of Nevada's Department of Taxation, at current levels, increasing the tax by 50 cents may result in \$86 million in revenue.

NOTE: In accordance with NRS 370.450, "Levy, rate and collection of tax; exemptions; retention of portion by dealer; penalty," a levy of 30 percent is assessed on the wholesale price of products made from tobacco.

The proposal above is a 143 percent increase from the existing cigarette tax. If a similar increase was applied to the wholesale price of products made from tobacco, it would result in the retailer paying more in taxes than the price of the product that was purchased.

ISSUES AFFECTING PERSONS WHO ARE AGED OR DISABLED AND THE MEDICAID PROGRAM

A subcommittee to address Medicaid and other issues for persons who are aged or disabled met three times and considered a number of issues. The items that warrant further consideration by the committee follow.

Evaluating Quality of Care and Satisfaction of Services in Medicaid

The subcommittee determined that there is a need to evaluate the treatment of persons who are aged or disabled and who receive services from the Medicaid program. Because these persons will not be required to enroll in a managed care program, and in some cases are prohibited from enrolling in a managed care program, their satisfaction with Medicaid services may not be evaluated.

Therefore, the subcommittee recommended that the Legislature:

4. Appropriate funds to the Legislative Committee on Health Care for a consultant to conduct a feasibility study to determine whether Nevada's Department of Human Resources could implement a cost-efficient evaluation of the quality of care it delivers to Medicaid recipients who are not in a managed care program. The study would: (1) assess methods that would produce regular evaluations of quality assurance; (2) consider available evaluation tools in both the public and private sectors to assess the satisfaction of services delivered in Medicaid to persons who are aged and/or disabled; (3) consider existing data requirements of health care providers, licensed health care facilities, and managed care organizations in the current delivery system; and (4) make recommendations that would improve the ability of the department to conduct regular evaluations. The consultant shall report his progress in both a verbal and written report at each meeting of the Legislative Committee on Health Care, and he shall complete his findings by June 1, 2000.

The following items may be considered as bill draft requests based on testimony presented during the November 30, 1998, meeting. Some of these recommendations would expand Medicaid eligibility to certain individuals who meet the criteria for these program options.

Personal Care Services

Personal care services are essential for a person who is disabled because they enable the person to remain at home and they allow him to remain self-sufficient. Although personal care services are a Medicaid benefit, individuals who would benefit from these services have had difficulty accessing them. The subcommittee has expressed its support for personal

care services.

Therefore, the health care committee may wish to ask the Legislature to:

5. Adopt a resolution that directs Nevada's Department of Human Resources to fully utilize personal care services for persons who receive Medicaid services, including the disabled. The resolution should: (1) stress the importance of providing services to a person in his home and in the community; (2) direct the department to develop a "client driven" approach to care for individuals who are disabled and using Medicaid services; (3) strongly encourage the department to promote personal care services for individuals as an alternative to hospitals and nursing homes, whenever feasible; (4) direct the department to develop solutions for the industrial insurance problem for individuals who act as personal care attendants; (5) encourage the department to develop contract penalties for individuals and agencies that provide personal care attendant services and who fail to uphold the terms of their contracts; (6) direct the department to equalize the care and payment rates provided by personal care attendants and other noncertified or nonlicensed personnel with that of certified nursing assistants, including homemakers, to encourage private sector provision of such home delivered services; (7) encourage the department to decrease its reliance on providing state supported staff to provide any type of home delivered service for individuals in the State; (8) direct the department to use the criteria established in *Nevada Revised Statutes* 629.091 to recognize when a person is capable of providing personal assistant services and prohibit the department from establishing more stringent qualifications for a person to perform such services; and (9) direct the department to submit a budget to the following session of the Nevada Legislature that supports personal care services. The department should report its progress quarterly in a written report to the chairman of the Legislative Committee on Health Care beginning September 1, 1999.

Increasing Access to Medicaid Waiver Services

Waiver services in the Medicaid program are those services that are not medical benefits. They include such items as case management, homemaker, personal care, and other things that prevent a person from being placed in a nursing home. The subcommittee heard testimony that indicated that most people on waiting lists for Medicaid waiver services have not been evaluated to determine whether they are in fact eligible for waiver services. Further, to qualify for the services from a waiver, an individual must have an income that is not more than 100 percent of the federal poverty level (FPL), if he is not in a long-term care facility. If he is in a long-term care facility, his income may be up to 300 percent of the FPL. Finally, the subcommittee heard testimony that some problems in the waiver programs are due to a limited number of case managers to process applicants, and some problems are due to the "system."

Therefore, the health care committee may wish to ask the Legislature to:

- 6. Adopt a resolution that directs Nevada's Department of Human Resources to increase access to its Medicaid waiver programs. The department should: (1) take efforts to eliminate waiting lists in waiver programs; (2) streamline the process of determining eligibility for waiver services; (3) increase flexibility in waiver programs; and (4) conduct regular evaluations to assess the satisfaction of clients who apply to waiver programs and who receive waiver services. The department should report its progress quarterly in a written report to the chairman of the Legislative Committee on Health Care beginning September 1, 1999.**

Changing the Eligibility Level of Medicaid to 250 Percent of the Federal Poverty Level

Testimony indicated that there is a gap in eligibility levels in Nevada for people who may be eligible for Medicaid and Medicare. If a person is eligible for Medicare due to his disability, he must wait two years before accessing Medicare benefits.

Therefore, the committee recommends that the Legislature:

- 7. Adopt a measure that would increase the income eligibility level for Medicaid applicants to 250 percent of the federal poverty level.**

Alternative Living Arrangements

The subcommittee determined a need to permit individuals who are eligible for Medicaid and Medicaid waiver services to be placed in assisted living facilities if this arrangement proves to be cost-effective for the Medicaid program. Such

facilities are likely to be licensed as residential facilities for groups and are regulated by the State of Nevada; however, if they are not, it may be necessary for the Bureau of Licensure and Certification, Health Division, DHR, to develop regulations to ensure that individuals who receive publicly funded assistance from programs administered by the department and live in these facilities are kept in a healthy, safe environment.

Therefore, the health care committee may wish to ask the Legislature to:

- 8. Adopt a resolution that directs the Department of Human Resources to permit an individual who is eligible for Medicaid and Medicaid waiver services to be placed in an assisted living facility when circumstances warrant such a placement. Further, the department should develop regulations to allow a facility that is not currently regulated in the State to participate as a Medicaid provider within the parameters of available options to do so as developed by the Health Care Financing Administration, United States Department of Health and Human Services.**

Establishing a Medicaid "Buy-In" Program

It appears that the eligibility requirements of Medicaid for persons who are disabled may serve as a disincentive for them to become employed because they may lose their Medicaid benefits if their income increases.

Therefore, the committee recommends that the Legislature:

- 9. Adopt a measure to establish a Medicaid buy-in program in Nevada as the program was presented by Mr. Charles Cook, Massachusetts Common Health.**

"Aging in Place" Issues

The committee received three recommendations in written correspondence from John Busse, Executive Director, Home Health Care Association of Nevada. Mr. Busse indicates a need for a comprehensive evaluation of home health services in the scope of Medicaid. The three items that will be considered here include: (1) promoting "aging in place" for persons who are elderly; (2) evaluating the adequacy of payment rates for Medicaid home health services; and (3) evaluating the feasibility of including medical social services as a Medicaid home health benefit.

Mr. Busse asserts that, although Medicaid waiver programs have demonstrated the ability to promote aging in place at a cost that is equal to or less than institutional care, these programs are limited in their scope. Whereas a federal program known as the Program for All Inclusive Care for the Elderly, or PACE, which is administered by the Health Care Financing Administration, U.S. Department of Health and Human Services, is a comprehensive model to promote aging in place. This program has tremendous individual benefit for persons who are elderly, but it is feasible only for areas that are largely metropolitan.

Further, home health services are an integral component of an individual's care plan to prevent him from being institutionalized. However, in Nevada, while the Medicaid benefit mirrors the same operational requirements as are required in the Medicare program, the reimbursement rate for these services is much less than the Medicare rate. This inequity may result in payments to home health care agencies that are less than the agency's cost for "fringe benefits of an employee."

Finally, Mr. Busse states:

Medicare and most commercial insurance products cover the cost of medical social work as part of their home health benefit. The cost is covered because of the recognition that addressing patient caregiver medical social work issues is cost-effective. Leaving these issues unaddressed results in higher cost associated with premature institutionalization.

Based on this discussion, it is recommended that the health care committee ask the Legislature to:

- 10. Adopt a resolution directing Nevada's Department of Human Resources to conduct a comprehensive evaluation of programs to promote aging in place for persons who are aged or disabled in Nevada. The evaluation should: (1) analyze the model that is the Program for All Inclusive Care of the Elderly and establish a system that incorporates its principles for care of the elderly in the State. This recommendation does not require the department to pursue the PACE demonstration program administered by the Health Care Financing Administration; (2) require the department to equalize the**

payment structure for home health services between the Medicaid and Medicare programs to decrease any disincentive to provide home health services to the Medicaid population; and (3) direct the department to include medical social work as a Medicaid benefit. The department should report its progress quarterly in a written report to the chairman of the Legislative Committee on Health Care beginning September 1, 1999.

ATTACHMENT

RECOMMENDATION NO. 1

The following benefits are recommended for inclusion in a long-term care insurance product:

- Adult day care;
- Alzheimer's disease and other organic brain disorders;
- Bed holds for individuals in nursing homes (subject to limitation);
- Care advisor coordination (subject to limitation);
- Consumer choice of waiting periods;
- Daily benefit amounts and policy maximums that are flexible;
- Durable medical equipment (subject to limitation);
- Home and community-based care that includes all levels of care;
- Hospice care (subject to limitation);
- Hospitalization not required to access benefits;
- Inflation protection;
- Informal care (subject to limitation);
- No waiting periods or exclusions for preexisting conditions;
- Nursing home coverage that includes all levels of care;
- Policies that are guaranteed renewable for life;
- Premiums that are waived under certain circumstances; and
- Respite care (subject to limitation).

Plan for Active Employees

For active employees, the plan will:

- Meet expenses up to \$100 per day for nursing home, assisted living, or home care with no policy lifetime maximum and an elimination period of 90 days; and
- Be guaranteed issue at standard rates for employees under age 65.

Plan for Retired Employees and Certain Active Employees

For retired employees between the ages of 65 and 85, the plan will:

- Meet expenses incurred for nursing home or assisted living for up to \$100 per day; for home care, the plan will pay up to \$60 per day;

- Have a policy lifetime maximum benefit of \$109,500 with an elimination period of 90 days; and
- For both active and retired employees 65 years of age and older or affiliated persons, be issued subject to underwriting approval at the appropriate rate class (preferred standard or two substandard classes).