

LCB File No. R069-00

NOTICE OF INTENT TO ACT UPON A REGULATION

NOTICE OF PUBLIC HEARING

of the

NEVADA STATE DEPARTMENT OF HUMAN RESOURCES

The Nevada State Department of Human Resources will conduct a public hearing on June 19, 2001, beginning at 10:00 a.m. on the Senior Rx program regulations at the following locations:

1. State of Nevada Legislative Counsel Bureau, at 401 South Carson Street, Room 2135, Carson City, 89701, and
2. Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Room 4412.

The sites will be connected through video conferencing. The public is invited to attend at either location. Public comment is welcome.

Reasonable efforts will be made to assist and accommodate physically handicapped persons attending the meeting. Please call Jane Smedes at 775-684-4001 in advance so that arrangements may be made.

AGENDA

(Action may be taken on those items denoted "Action Items.")

1. Call to Order and roll call. (Action Item)
2. Report by the Senior Rx task force. (Discussion only)
3. Public comments and discussion. (Discussion only)
4. Adoption of Regulations. (Action Item)
5. Adjournment. (Action Item)

This notice and agenda has been posted on or before 9:00 a.m. on June 14, 2001 in accordance with NRS 241.020 at the following locations:

Director's Office of DHR, 505 E. King Street, Main Lobby and the Room 600, Carson City, Nevada.

Nevada State Library, 100 Stewart Street, Carson City, Nevada.

Washoe County Library, 301 S. Center Street, Reno, Nevada.

Grant Sawyer State Office Building, 555 E. Washington Avenue, Room 1001, Las Vegas, Nevada.

Clark County Public Library, 833 Las Vegas Blvd., Las Vegas, Nevada.

NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS

OF THE DEPARTMENT OF HUMAN RESOURCES

The Nevada Department of Human Resources, State of Nevada (the "Department") will hold a public hearing at 9:00 a.m. on January 19, 2001, at the Department of Transportation, 1263 South Stewart, Room 314, Carson City and tele-conferenced to the Department of Transportation, 123 East Washington Avenue, Building B, Training Room, Las Vegas. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Nevada Revised Statutes 439.635 – 439.690.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulations and/or amendments is to establish regulations as required by statute and which set forth the nature and requirements of formal and informal procedures of the Department regarding the Senior Rx program
2. The entire text of the regulations of the Senior Rx program of the Nevada Department of Human Resources which is proposed to be adopted by the Department is attached hereto as Attachment "A."
3. The proposed regulations are expected to have both an immediate and long-term beneficial health and economic impact on low-income Nevada seniors, by subsidizing an insurance product for them which provides coverage for prescription drugs and pharmaceutical services. The immediate estimated economic effect would be a maximum allowable subsidy of \$40 per month per enrollee, totaling about \$4.5 million in state fiscal year 2001. The immediate and long-term economic health impact cannot be specifically estimated but the program aims to improve the health and well being of the program's enrollees, thereby improving the general quality of life for all Nevada's citizens
4. The estimated cost to the agency for enforcement of these regulations pursuant to statute is capped by 2 percent of the estimated available amount each fiscal year: for state fiscal year 2000, approximately \$35,840; and, for state fiscal year 2001, approximately \$191,460.

Persons wishing to comment upon the proposed action of the Department of Human Resources may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Department of Human Resources, 505 E. King Street, Room 600, Carson City, Nevada 89701. Written submissions must be received by the Department of Human Resources on or before January 5, 2001. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Department of Human Resources may proceed immediately to act upon any written submissions.

Reasonable efforts will be made to assist and accommodate physically handicapped persons attending the meeting. Please call Jane Smedes at 775-684-4001 by January 6, 2000 so that arrangements may be made.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation will be available at the main branch of the public library in each county for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative

Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Director's Office of DHR, 505 E. King Street, Main Lobby and Room 600, Carson City, Nevada.

Grant Sawyer State Office Building, 555 E. Washington Avenue, Room 1001, Las Vegas, Nevada.

Nevada State Library, 100 Stewart Street, Carson City, Nevada.

Clark County Public Library, 833 Las Vegas Blvd., Las Vegas, Nevada.

Washoe County Library, 301 S. Center Street, Reno, Nevada.

Division for Aging Services, 340 N. 11th Street, #203, Las Vegas, Nevada.

Division for Aging Services, 445 Apple Street, #104, Reno, Nevada.

Division for Aging Services, 850 Elm Street, Elko, Nevada.

Division for Aging Services, 3416 Goni Road, #132, Carson City, Nevada.

At the main branch of the public libraries in all counties not mentioned above.

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS

THIS MEETING HAS BEEN CANCELLED AND WILL BE RESCHEDULED AT A LATER DATE

The Nevada State Department Of Human Resources, 505 E. King Street, Room 600, Carson City, Nevada, 89701, 775-684-4000, is proposing the Adoption of regulations pertaining to Chapter 439 of the Nevada Administrative Code ("NAC") as needed to implement the Senior Rx program, codified in Nevada Revised Statutes 439.635 through 439.690. A workshop has been set for 10:00 a.m., May 2, 2000, at the following locations:

1. State of Nevada Legislative Counsel Bureau, at 401 South Carson Street, Room 2135, Carson City, and
2. Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4412

ABC, Las Vegas.

The sites will be connected through video conferencing.

The purpose of the workshop is to solicit comments from interested persons on the following general topics pertaining to the Senior Rx program that may be addressed in the proposed regulations:

1. Application;
2. Open Enrollment Period
3. Notice of Decision on Eligibility;
4. Applicant Hearing Rights on Eligibility;
5. Disenrollment;
6. Relief on Appeal;
7. Enrollee Cooperation;
8. Collections;
9. Confidentiality and Release of Records.

Reasonable efforts will be made to assist and accommodate physically handicapped persons attending the meeting. Please call Diane Nassir at 775-684-4005 by April 28, 2000 so that arrangements may be made.

A copy of all materials relating to the proposal may be obtained at the workshop or by contacting Diane Nassir at Nevada State Department of Human Resources, 505 E. King Street, Room 600, Carson City, Nevada, 89701, 775-684-400. A reasonable fee may be charged.

This Notice of Workshop to Solicit Comments on Proposed Regulation has been sent to all persons on the agency's mailing list for administrative regulations. It has been posted at the following locations:

Director's Office of DHR, 505 E. King Street, Main Lobby and Room 600, Carson City, Nevada.

Grant Sawyer State Office Building, 555 E. Washington Avenue, Room 1001, Las Vegas, Nevada.

Nevada State Library, 100 Stewart Street, Carson City, Nevada.

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At the main branch of the public libraries in all counties not mentioned above.

Date: April 17, 2000

LCB File No. R069-00

NOTICE OF INTENT TO ACT UPON A REGULATION

NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS OF THE
DEPARTMENT OF HUMAN RESOURCES

**THIS MEETING HAS BEEN CANCELLED AND WILL BE
RESCHEDULED AT A LATER DATE**

The Nevada Department of Human Resources, State of Nevada (the "Department") will hold a public hearing at 10:00 a.m. on June 19, 2000, at the Legislative Counsel Bureau 401 South Carson Street, Room 2135, Carson City and video conferenced to the Grant Sawyer State Building, 555 East Washington Avenue, Room 4412, Las Vegas. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Nevada Revised Statutes 439.635 – 439.690.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulations and/or amendments is to establish regulations as required by statute and which set forth the nature and requirements of formal and informal procedures of the Department regarding the Senior Rx program.
2. The entire text of the regulations of the Senior Rx program of the Nevada Department of Human Resources which is proposed to be adopted by the Department is attached hereto as Attachment "A."
3. The proposed regulations are expected to have both an immediate and long term beneficial health and economic impact on low-income Nevada seniors, by subsidizing an insurance product for them which provides coverage for prescription drugs and pharmaceutical services. The immediate estimated economic effect would be a maximum allowable subsidy of \$40 per month per enrollee, totaling about \$4.5 million in state fiscal year 2001. The immediate and long-term economic health impact cannot be specifically estimated but the program aims to improve the health and well-being of the program's enrollees, thereby improving the general quality of life for all Nevada's citizens.
4. The estimated cost to the agency for enforcement of these regulations pursuant to statute is capped by 2 percent of the estimated available amount each fiscal year: for state fiscal year 2000, approximately \$35,840; and, for state fiscal year 2001, approximately \$191,460.

Persons wishing to comment upon the proposed action of the Department of Human Resources may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Department of Human Resources, 505 E. King Street, Room 600, Carson City, Nevada 89701. Written submissions must be received by the Department of

Human Resources on or before June 5, 2000. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Department of Human Resources may proceed immediately to act upon any written submissions.

Reasonable efforts will be made to assist and accommodate physically handicapped persons attending the meeting. Please call Jane Smedes at 775-684-4001 by June 6, 2000 so that arrangements may be made.

A copy of this notice and the regulation to be Adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation will be available at the main branch of the public library in each county for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

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PROPOSED REGULATION OF THE DEPARTMENT OF HUMAN RESOURCES

Draft Regulations for the Nevada Senior Pharmacy Program (Subsidy)

Authority for Adoption: NRS 439.655

Sec. 1. Definitions

1. Applicant: an individual who has purchased or will purchase a Program Insurance policy from the Contractor, and who applies to participate in the Program to receive a state subsidy payable to Contractor, toward the cost of such policy.

2. Contractor: a Nevada-licensed private insurance company who was awarded by the State of Nevada, the contract to offer, market, and provide Program Insurance.

3. Department: for purposes of these regulations, sections---- through ----, it means the Department of Human Resources of the State of Nevada (DHR).

4. Enrollee: an individual who has purchased a policy of pharmacy insurance from the Contractor, and has applied for and been determined by the department to meet all eligibility requirements under the Program to have a portion of the payment of his or her Program Insurance premium subsidized by the department.

5. Household: as defined in NRS 361.817

6. Household Income: as defined in NRS 439.640, which refers to NRS 361.820

7. Income: as defined in NRS 439.645, which refers to NRS 361.823.

8. Program: throughout these regulations, refers to the Nevada Senior Pharmacy Program (“Senior Rx”) adopted pursuant to Nevada Revised Statutes 439.635 -.690 as now enacted or as may be amended in the future.

9. Program Insurance: that insurance product provided by the Contractor pursuant to contract with the department, to offer, market and provide insurance coverage to senior citizens for prescription drugs and pharmaceutical services.

10. Senior Citizen: defined in NRS 439.650.

11. Subsidy: amount which the department may pay toward an enrollee's Senior Rx insurance premium; the maximum percentage payable is determined by NRS 439.665(2) so long as the department's payments are within the limits of the money available for this purpose in the Fund for a Healthy Nevada and does not exceed \$480 per enrollee per year.

Sec. 2 Application:

1. Contents. Application shall be made on the department form, and sworn to under oath.

Applicants shall provide all requested documentation.

2. Date received: Application is deemed received only when the department has received all information and documentation it has requested from the applicant.

3. Open enrollment period: the department will accept Applications only during the "Open Enrollment period" which will be determined by the department, for each year for which there are monies available for this purpose in the Fund for a Healthy Nevada.

Sec. _____. Requirements for Eligibility of Applicants:

1. be at least sixty-two years of age as of August 1 of the year in which application is made,

2. be a Nevada resident for at least one year preceding August 1 of the year in which application is made,

3. have a household income below limits set forth in the Program,

4. not be currently Medicaid-eligible,

Sec. 3 Department's Decisions on Application.

The department must timely mail its Notice of Decision on Applications to applicants within the time period set forth in the Program from the date that application is deemed received. The department will screen Applicants to ensure the Applicants meet the eligibility criteria set forth by law. If the Application is granted, the Notice of Decision must set forth the amount of subsidy that the department will pay to the Contractor on behalf of the Applicant; the department will timely send this information to the Contractor. The department shall mail Notice of Decision to those applicants who the department determines do not meet eligibility criteria set forth by law. The department will then sort applications by household income. The department will rank applicants from lowest to highest in household income and not by income tier group. Applicants with the lowest income will receive priority. In the event of a tie between applicants of the same household income, the individual whose application was received earliest to the department will receive priority.

Determinations

The department will mail out the Notice of Decision regarding eligibility. The department will award eligibility for the subsidy to the maximum number of eligible applicants for the available funds. For those applicants for whom there are insufficient funds to award a subsidy, the department's Notice of Decision will state:

(1) denial of current ability to participate in the subsidy due to lack of available funds (2) that the applicant has been placed on the Program waiting list in the order of priority as described above,

(3) the applicant's hearing rights and (4) the department's hearing procedures. For those applicants awarded eligibility, the Notice of Decision of eligibility will notify the applicant of the amount of the subsidy, and Program Insurance must be purchased within 60 days from the

date of the notice. If an applicant fails to purchase the insurance within 60 days of notification of their eligibility, the department will mail the applicant a final notice of intent to terminate subsidy eligibility.

This notice will advise that unless:

- (1) the applicant requests a hearing,
- (2) the applicant proves to the department that he or she has purchased the insurance prior to the hearing, and
- (3) can establish good cause for not purchasing the program insurance prior to the end of the 60 days of notification

the applicant will no longer be eligible for the subsidy.

If no hearing is timely requested, or the applicant fails to purchase insurance prior to the hearing or fails to show good cause for not purchasing the insurance prior to the end of the 60 days of notification, then the department will mail notice to the applicant that she is no longer eligible to participate in the Program, is not eligible for the waiting list, and must reapply during the next open enrollment period if future eligibility is sought.

If the applicant's eligibility terminates, that results in an open slot in the program, which the department may fill with the next ranking applicant on the waiting list.

If there is sufficient trust fund monies, and if there is a position open in the program at any time during the operation of the program, as determined by the department, then the department **may** send Notice of Decision awarding eligibility to an applicant on the waiting list in rank order.

Sec ____ Applicants' Rights

1. to receive information on the program's eligibility requirements and required documentation.

2. to receive timely processing of their application, and
3. to receive notice from the department on the department's actions, and opportunity for review of those actions by a hearing.

Sec. ____ Hearing Process

1. Conduct of the Hearings
 - a. Requests for hearing shall be made in writing and must be timely mailed to the department.
 - b. The department will schedule a hearing within 45 days of receipt of the request for hearing.
 - c. Hearings may be conducted in person or over the telephone, at the department's election.
 - d. Prior to the hearing, the hearing officer may request copies of any evidence or exhibits to be presented during the hearing. This does not preclude additional information from being presented during the hearing or if requested by the hearing officer, after the hearing.
 - e. All hearings will be recorded by the hearing officer. This is the official recording of the hearing.
 - f. The hearing officer's decision shall be in writing, and comply with program policy, procedure, and law and be based exclusively on evidence introduced at the hearing.
 - g. The hearing officer's decision shall be mailed within 30 days from the date of hearing, via certified mail to the individual and to his attorney or other representative.
2. Hearing record:
 - a. The department maintains the hearing record. It consists of all papers and requests filed in the proceeding, the recording of testimony and exhibits, or an official report containing the

substance of what happened at the hearing, all exhibits received or considered, and the hearing officer's decision. This case record as established by the Hearing Officer constitutes the exclusive record of the hearing. The hearing record shall be retained for three (3) years from the date the decision was rendered, or until pending court action, if any, is resolved, whichever is later.

Individuals may request from the department a copy of their own hearing tape recording for a nominal fee that covers the cost of the tape and shipping and handling.

If either party files a petition for judicial review of the hearing officer's decision, then Program pays the cost of preparing the transcript of the hearing tape.

b. Hearing officers are individuals designated by the department director who did not participate in the determination which is being appealed.

3. Denial of a hearing request:

A hearing shall be denied when :

a. the sole issue is one of State law or budget which requires an automatic adjustment that applies to a class of applicants or enrollees.

b. the sole issue is regarding a coverage determination made by the insurer, or

c. the request is not received by the department within the time limits set in the Notice.

4. Dismissal of a hearing request

The individual requesting a hearing may withdraw his or her request at any time before the hearing by submitting to the department a signed and dated request. The hearing officer will dismiss the hearing on receipt of the request for dismissal.

Sec. ____ Redetermination.

The department shall review Enrollees' eligibility annually. The department may review more

often as needed.

Sec. ____ Disenrollment

1. Voluntary:

An enrollee may voluntarily disenroll in the subsidy at any time by notifying the Contractor and the department in writing and requesting that the subsidy be discontinued on his or her behalf.

2. Involuntary:

Disenrollment is effective after the date the appeal period expires.

A. Failure to timely pay the premium:

After providing notice and opportunity for a hearing, the department may disenroll an enrollee from the subsidy. The department will notify enrollees who failed to timely pay the premium that the Contractor may terminate coverage as provided in its insurance contract with the enrollee, whether the enrollee requests a department's hearing or not.

B. No longer meets eligibility requirements:

The decision to disenroll must be based on reliable information the department receives which provides reason to believe that the enrollee no longer meets eligibility requirements, including but not limited to:

- a. has failed to timely pay the enrollee's premiums,
- b. has been determined to be Medicaid eligible,
- c. has household income in excess of the Program's limits, or
- d. knowingly provided incorrect information in the Program application and failed to timely

correct the information.

Sec. ____ Relief on Appeal.

In the event the hearing officer decides for the applicant, the department will subsidize back to

the appeal if the applicant had purchased the insurance as of that date. If the applicant has not purchased the insurance, the department will subsidize prospectively only, upon receipt of an invoice from the Contractor.

Sec. ____ Cooperation

Enrollees are obliged to timely provide DHR with updated information pertinent to eligibility as it becomes reasonably available to the enrollee. Applicants and enrollees shall cooperate with DHR in securing any information necessary to determine the applicant's eligibility or continued eligibility for the Program. If the applicant or enrollee fails to cooperate, DHR will deny the application, or disenroll the enrollee. Information pertinent to eligibility includes, without limitation: address, name, household income and marital status, and Medicaid or SSI eligibility. DHR may act on information it receives, from any reliable source, in determining at any time during enrollment whether the enrollee is still eligible. If the DHR finds that the enrollee no longer meets Program eligibility criteria, then it shall issue a Notice of Disenrollment to the enrollee. The Notice of Disenrollment shall provide the reason for the disenrollment from the subsidy, the process for requesting a hearing to review the decision, and the telephone numbers of Nevada Legal Services and the Senior Law Project. The department advise the individual that if he or she wishes to continue the insurance coverage he or she is legally responsible for the timely payment of the entire premium.

Sec. ____ Collections.

The department may pursue its collection remedies provided by law, including but not limited to those set forth in NRS Chapter 353C, to recoup subsidy monies paid out in error: (1) for which the Contractor was not entitled, (2) for which the enrollee applied with fraudulent intent, or (3) for which the enrollee was not qualified for and improperly received the benefit. The department

must deposit collections of subsidy monies paid in error with the state treasurer for credit to the Fund for a Healthy Nevada. The department may “set-off” amounts owed by the debtor to the state against any amounts the state may owe the debtor.

Sec. ____ Confidentiality and Release of Records

1. Applicants’ and Enrollees’ records are confidential, and may only be released to:

(a) An individual who is authorized by the applicant or enrollee or his legal representative pursuant to a signed written authorization to release information.

(b) An individual who is authorized pursuant to an order of a court of competent jurisdiction.

(c) an employee of the department, or the contractor as needed to administer the Program or other publicly-subsidized program.