

ASSEMBLY BILL NO. 287—ASSEMBLYWOMAN SPIEGEL

MARCH 18, 2019

Referred to Committee on Health and Human Services

SUMMARY—Imposes certain requirements on the amount of pay an employer of practitioners of applied behavior analysis must provide to such practitioners from reimbursement received from Medicaid. (BDR 38-1078)

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; requiring an employer of practitioners of applied behavior analysis to increase the pay of such practitioners when the employer receives an increase in the amount of reimbursement received by Medicaid; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the State Plan for Medicaid establishes reimbursement rates  
2 for each type of service that is covered under the Plan. (See NRS 422.2704)  
3 **Section 1** of this bill requires any contract with Medicaid for the provision  
4 of applied behavior analysis services which includes an increase in the amount of  
5 reimbursement from the previous year to include a requirement that an employer of  
6 a behavior analyst, assistant behavior analyst, state certified behavior  
7 interventionist or registered behavior technician increase the pay of such  
8 practitioners in an amount that is equal to at least an amount that corresponds to the  
9 percentage of the Medicaid reimbursement rate that was paid to such practitioners  
10 before the increase. In addition, **section 1** specifies that such persons are entitled to  
11 the increase in pay and have a right to bring an action if the employer does not  
12 provide such an increase in pay. **Section 2** of this bill makes a conforming change.



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. *If the rate of reimbursement included in the State Plan for*  
4 *Medicaid for applied behavior analysis is increased for the next*  
5 *plan year, any employer of a person who provides such services*  
6 *that enters into a contract with Medicaid must agree to increase*  
7 *the amount paid to its employees who provide applied behavior*  
8 *analysis services. The amount of the increase must be equal to at*  
9 *least an amount that corresponds to the percentage of the*  
10 *Medicaid reimbursement rate that was paid to such employees*  
11 *before the increase.*

12       2. *An employee who provides applied behavior analysis*  
13 *services has a right to the increase in pay described in subsection 1*  
14 *and may bring an action in a court of competent jurisdiction if the*  
15 *employer fails to provide such an increase in pay to recover any*  
16 *amount to which the employee is entitled.*

17       3. *As used in this section:*

18       (a) *“Applied behavior analysis” means the provision of*  
19 *behavioral therapy by a behavior analyst, assistant behavior*  
20 *analyst, state certified behavior interventionist or registered*  
21 *behavior technician.*

22       (b) *“Assistant behavior analyst” has the meaning ascribed to it*  
23 *in NRS 437.005.*

24       (c) *“Behavior analyst” has the meaning ascribed to it in*  
25 *NRS 437.010.*

26       (d) *“Registered behavior technician” has the meaning*  
27 *ascribed to it in NRS 437.050.*

28       (e) *“State certified behavior interventionist” has the meaning*  
29 *ascribed to it in NRS 437.055.*

30       **Sec. 2.** NRS 232.320 is hereby amended to read as follows:

31       232.320 1. The Director:

32       (a) Shall appoint, with the consent of the Governor,  
33 administrators of the divisions of the Department, who are  
34 respectively designated as follows:

35       (1) The Administrator of the Aging and Disability Services  
36 Division;

37       (2) The Administrator of the Division of Welfare and  
38 Supportive Services;

39       (3) The Administrator of the Division of Child and Family  
40 Services;

41       (4) The Administrator of the Division of Health Care  
42 Financing and Policy; and



1 (5) The Administrator of the Division of Public and  
2 Behavioral Health.

3 (b) Shall administer, through the divisions of the Department,  
4 the provisions of chapters 63, 424, 425, 427A, 432A to 442,  
5 inclusive, 446 to 450, inclusive, 458A and 656A of NRS, NRS  
6 127.220 to 127.310, inclusive, 422.001 to 422.410, inclusive, *and*  
7 *section 1 of this act*, 422.580, 432.010 to 432.133, inclusive,  
8 432B.621 to 432B.626, inclusive, 444.002 to 444.430, inclusive,  
9 and 445A.010 to 445A.055, inclusive, and all other provisions of  
10 law relating to the functions of the divisions of the Department, but  
11 is not responsible for the clinical activities of the Division of Public  
12 and Behavioral Health or the professional line activities of the other  
13 divisions.

14 (c) Shall administer any state program for persons with  
15 developmental disabilities established pursuant to the  
16 Developmental Disabilities Assistance and Bill of Rights Act of  
17 2000, 42 U.S.C. §§ 15001 et seq.

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

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

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

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

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

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

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

41 (e) May, by regulation, require nonprofit organizations and state  
42 and local governmental agencies to provide information regarding  
43 the programs of those organizations and agencies, excluding  
44 detailed information relating to their budgets and payrolls, which the



1 Director deems necessary for the performance of the duties imposed  
2 upon him or her pursuant to this section.

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

4 2. Notwithstanding any other provision of law, the Director, or  
5 the Director's designee, is responsible for appointing and removing  
6 subordinate officers and employees of the Department, other than  
7 the State Public Defender of the Office of State Public Defender  
8 who is appointed pursuant to NRS 180.010.

9 **Sec. 3.** This act becomes effective on July 1, 2019.

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