

1 **INSURANCE COVERAGE FOR UNIQUE**
2 **MEDICAL SERVICES**

3 2003 GENERAL SESSION

4 STATE OF UTAH

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9 **This act modifies the Health Code. The act identifies unique health care services. The act**
10 **requires hospitals who provide those unique services to offer the unique service to all**
11 **patients at an established price. The act requires that the fee paid by a health care**
12 **insurer affiliated with the hospital, including discounts, must be offered to all patients**
13 **including subscribers of any health insurance or health maintenance organizations. The**
14 **act provides for the method of establishing the price for a unique service. The act**
15 **provides for enforcement of the requirements through the Department of Health. The act**
16 **provides for penalties for violations of the act. The act exempts hospitals in counties of**
17 **the first class. The act has a purpose statement. The act has an effective date.**

18 This act affects sections of Utah Code Annotated 1953 as follows:

19 ENACTS:

20 **26-21-2.2**, Utah Code Annotated 1953

21 This act enacts uncodified material.

22 *Be it enacted by the Legislature of the state of Utah:*

23 Section 1. Section **26-21-2.2** is enacted to read:

24 **26-21-2.2. Patient access to unique services.**

25 (1) For purposes of this section:

26 (a) "affiliated health care insurer" means a health maintenance organization as defined
27 in Section 31A-8-101 or an insurer offering health care insurance as defined in Section



28 31A-1-301 that is under the same or substantially the same ownership or control as a hospital;

29 (b) "discount" means:

30 (i) any fee reduction given to an affiliated health care insurer that is based on the
31 volume of participating consumers;

32 (ii) any rebates;

33 (iii) half backs;

34 (iv) internal transfers; or

35 (v) any other mechanism that has the effect in whole or in part, of reducing the actual
36 fee paid to or ultimately received by a hospital for a service in comparison to the price charged
37 for the same service to one or more nonaffiliated insurers;

38 (c) "hospital" means a general acute hospital or specialty hospital licensed under this
39 chapter;

40 (d) "patient" means any natural person who, as a result of a diagnosis, illness, or injury,
41 needs treatment of a unique service from a hospital;

42 (e) "service area" means the geographic area from which a hospital derives 80% of its
43 total patient admissions; and

44 (f) "unique service" means the following services which are available only at a single
45 hospital within that hospital's service area:

46 (i) newborn intensive care unit level III neonatology services;

47 (ii) cardiothoracic services including thoracic surgery, vascular surgeries, and
48 electrophysiology;

49 (iii) pediatric intensive care services;

50 (iv) oncology services;

51 (v) high-risk obstetrical services;

52 (vi) neuro surgery; and

53 (vii) pediatric neonatal intermediate care.

54 (2) (a) Each hospital that offers a unique service shall:

55 (i) offer the unique service to all patients, including subscribers of any health care
56 insurance as defined in Section 31A-1-301 authorized to be sold in the state, or a health
57 maintenance organization;

58 (ii) for any patient who is not a recipient of the state Medicaid program, offer the

59 unique service at the universal rate established in accordance with Subsection (3); and

60 (iii) offer any discount in compliance with Subsection (2)(b).

61 (b) (i) If a hospital offers a discount for a unique service to an affiliated health care
62 insurer, the hospital shall offer the same discount on the same basis to any patient or health
63 care insurer.

64 (ii) Subsection (2)(b)(i) does not apply to a patient who is a recipient of the state
65 Medicaid program.

66 (3) (a) Each hospital offering a unique service shall establish a universal rate for the
67 service in accordance with this Subsection (3).

68 (b) Hospitals shall establish a universal rate by adopting the state Medicaid program's
69 reimbursement rate for that service plus 10%.

70 (4) Hospitals performing a unique service in a county of the first class as defined in
71 Section 17-50-501 are exempt from this section.

72 (5) The department may:

73 (a) adopt rules as necessary to implement this section; and

74 (b) audit a hospital that is subject to this section to determine compliance, and if
75 necessary take disciplinary action.

76 (6) A hospital subject to this section shall:

77 (a) annually certify to the department that the hospital has complied with this section;
78 and

79 (b) provide timely and accurate information on the price of a service upon the request
80 of the department or an insurer.

81 (7) In addition to the penalty in Section 26-21-16, a hospital that knowingly or with
82 conscious disregard violates this section may be subject to:

83 (a) a private right of action for damages;

84 (b) contractual damages that are otherwise available;

85 (c) other civil remedies that are not based on this chapter, including Title 13, Chapter
86 5, Unfair Practices Act and Title 76, Chapter 10, Part 9, Trade and Commerce; and

87 (d) other criminal penalties that are not based on this chapter.

88 **Section 2. Purpose statement.**

89 The purpose of this legislation is to:

- 90 (1) provide improved access to health care services for Utah citizens who reside in
- 91 geographic areas of the state in which only one hospital offers a unique health care service;
- 92 (2) permit and encourage fair and effective competition between health care insurers;
- 93 (3) prevent monopolistic practices; and
- 94 (4) continue to assure that organizations offering health benefit plans within this state
- 95 are financially and administratively sound and able to deliver benefits as promised.

96 Section 3. **Effective date.**

97 If approved by two-thirds of all the members elected to each house, this act takes effect
98 upon approval by the governor, or the day following the constitutional time limit of Utah
99 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
100 the date of veto override.

Legislative Review Note
as of 1-27-03 8:37 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

This bill affects hospitals and the prices they are allowed to charge for specific procedures. The bill authorizes the Department of Health to enforce the provisions. Assuming that the Department adopts the necessary rules and audits only as necessary, the costs could be absorbed within existing budgets.

Individual and Business Impact

Hospitals would be affected in being limited in their charging for certain procedures. Patients undergoing these procedures would likely benefit from paying the fees at the discounted rates.

Office of the Legislative Fiscal Analyst