

STATE REIMBURSEMENT FOR REQUIRED MEDICAL SERVICES ACT

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christopher N. Herrod

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Health Code to provide for state reimbursement of required medical services provided to an individual not lawfully present in the United States and to seek repayment of the money from the federal government.

Highlighted Provisions:

This bill:

- ▶ enacts the State Reimbursement for Required Medical Services Act, including:
 - defining terms;
 - establishing what costs can be reimbursed;
 - providing an application process to obtain reimbursement;
 - providing for rulemaking;
 - creating a restricted account;
 - outlining violations of the chapter;
 - providing for enforcement; and
 - requiring the creation of a plan to assert or litigate an obligation by the federal

government to repay the money reimbursed by the state.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 This bill takes effect on July 1, 2011.

29 **Utah Code Sections Affected:**

30 ENACTS:

31 **26-8c-101**, Utah Code Annotated 1953

32 **26-8c-102**, Utah Code Annotated 1953

33 **26-8c-201**, Utah Code Annotated 1953

34 **26-8c-202**, Utah Code Annotated 1953

35 **26-8c-203**, Utah Code Annotated 1953

36 **26-8c-204**, Utah Code Annotated 1953

37 **26-8c-301**, Utah Code Annotated 1953



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

40 Section 1. Section **26-8c-101** is enacted to read:

41 **CHAPTER 8c. STATE REIMBURSEMENT FOR REQUIRED**
42 **MEDICAL SERVICES ACT**
43 **Part 1. General Provisions**

44 **26-8c-101. Title.**

45 This chapter is known as the "State Reimbursement for Required Medical Services
46 Act."

47 Section 2. Section **26-8c-102** is enacted to read:

48 **26-8c-102. Definitions.**

49 As used in this chapter:

50 (1) "Lawfully present in the United States" is as defined in 8 C.F.R. Sec. 103.12.

51 (2) "Medical services provider" means a person who is licensed or certified to provide
52 a required medical service.

53 (3) (a) "Required medical service" means assistance for a health care item or service
54 that is:

55 (i) required to be provided by federal law to an individual not lawfully present in the
56 United States;

57 (ii) necessary for the treatment of an emergency medical condition, as defined in 42
58 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

59 (iii) not related to an organ transplant procedure.
60 (b) "Required medical service" includes the following that meet the conditions of

61 Subsection (3)(a):

62 (i) hospital services; and
63 (ii) ambulance or other emergency transportation.

64 (4) "Restricted account" means the Required Medical Services Restricted Account
65 created in Section 26-8c-203.

66 Section 3. Section **26-8c-201** is enacted to read:

67 **Part 2. Reimbursement Process**

68 **26-8c-201. Costs for which reimbursement may be made.**

69 (1) On and after July 1, 2011, the department shall reimburse a medical service
70 provider who applies for reimbursement in accordance with Section 26-8c-202 the costs
71 incurred by the medical service provider in providing required medical services in this state to
72 an individual who is not lawfully present in the United States.

73 (2) For purposes of this chapter, a cost is considered incurred by a medical service
74 provider in providing required medical services in this state to an individual who is not
75 lawfully present in the United States if the cost:

76 (a) directly relates to providing a required medical service to the individual;
77 (b) is not incurred for a health care item or service that is not required by federal law;
78 (c) is not reimbursed by a private or public source other than under this chapter after
79 reasonable efforts taken by the medical service provider; and

80 (d) but for providing the required medical service to the individual, would not be
81 incurred by the medical service provider.

82 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
83 department may define terms used to determine whether under Subsection (2) a cost is
84 considered incurred by the medical service provider in providing required medical services in
85 this state to an individual who is not lawfully present in the United States.

86 Section 4. Section **26-8c-202** is enacted to read:

87 **26-8c-202. Process to apply for reimbursement.**

88 (1) (a) To receive reimbursement from the department of a cost incurred by the medical
89 service provider in providing required medical services in this state to an individual who is not

90 lawfully present in the United States, the medical service provider shall:

91 (i) file an application for reimbursement with the department;

92 (ii) provide the supporting documentation required by the department; and

93 (iii) pay a fee determined by the department in accordance with Section 63J-1-504.

94 (b) A medical service provider may request in a single application reimbursement for
95 costs incurred by the medical service provider in providing required medical services in this
96 state to more than one individual who is not lawfully present in the United States.

97 (c) An application for reimbursement is considered complete when the requirements of
98 Subsection (1)(a) are met.

99 (2) (a) The department shall review a complete application and determine:

100 (i) if the medical service provider is eligible for reimbursement under Section
101 26-8a-201; and

102 (ii) when the medical service provider is eligible for reimbursement, the amount of the
103 reimbursement.

104 (b) The department may reimburse a medical service provider an amount less than the
105 amount requested by the medical service provider, if:

106 (i) the department determines that the medical service provider incurred less costs in
107 providing required medical services in this state to an individual who is not lawfully present in
108 the United States than requested by the medical service provider; or

109 (ii) there is an insufficient amount in the restricted account to reimburse the medical
110 service provider.

111 (3) (a) The department shall provide a medical service provider who files a complete
112 application written notice of a decision under Subsection (2).

113 (b) A medical service provider may appeal a decision made under Subsection (2) in
114 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

115 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
116 department may make rules related to:

117 (a) the information required in an application for reimbursement under this section; and

118 (b) the supporting documentation required under this section.

119 Section 5. Section **26-8c-203** is enacted to read:

120 **26-8c-203. Required Medical Services Restricted Account.**

121 (1) There is created a restricted account in the General Fund known as the Required
122 Medical Services Restricted Account.

123 (2) The restricted account shall consist of:

124 (a) money appropriated by the Legislature to the account;

125 (b) a fine collected under Section 26-8c-204; and

126 (c) money repaid by the federal government in accordance with Section 26-8c-301.

127 (3) The department shall administer the restricted account and shall use money
128 appropriated from the account to pay:

129 (a) a reimbursement allowed under this part; and

130 (b) the administrative costs incurred by the department under this part.

131 (4) (a) Subject to Subsection (4)(b), if the amount in the restricted account is
132 insufficient to pay a claim for reimbursement, the department shall pay outstanding claims for
133 reimbursement in the order that the medical service providers filed an application for
134 reimbursement under Section 26-8c-201.

135 (b) When sufficient money is deposited in the restricted account, the division shall:

136 (i) satisfy the unpaid claims for reimbursement in the order that the applications for
137 reimbursement are originally filed; and

138 (ii) pay with the claim accumulated interest at the rate of 8% per annum.

139 (5) The state is not liable, obligated, or responsible to guarantee the payment of claims
140 for reimbursement under this chapter if the money in the restricted account is insufficient to
141 pay the claims for reimbursement.

142 Section 6. Section **26-8c-204** is enacted to read:

143 **26-8c-204. Penalties for improper reimbursement.**

144 (1) A person may not apply for reimbursement of a cost if:

145 (a) the person is not a medical service provider; or

146 (b) the cost is not incurred by the person in providing required medical services in this
147 state to an individual who is not lawfully present in the United States.

148 (2) It is a violation of this chapter to provide false information to the department
149 regarding required medical services provided in this state.

150 (3) (a) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the
151 department may impose a fine not to exceed \$1,000 for each violation of this chapter.

152 (b) In addition to a fine under Subsection (3)(a), a violation of the chapter related to a
153 reimbursement may be enforced in accordance with Chapter 20, Utah False Claims Act, as if
154 the reimbursement were a medical benefit paid or payable to a provider under a program
155 administered by the state under Titles V and XIX of the federal Social Security Act.

156 Section 7. Section **26-8c-301** is enacted to read:

157 **Part 3. Repayment Obligations of Federal Government**

158 **26-8c-301. Department action to seek repayment.**

159 (1) As used in this section, "plan" means a document that presents the broad
160 framework for asserting or litigating any obligation the federal government has to repay the
161 department for the money reimbursed by the department under this chapter.

162 (2) (a) The department shall adopt a plan that provides for a good faith, cooperative
163 effort between the state and the attorney general to develop litigation strategy and provide for
164 the expenditure of resources.

165 (b) The department shall update the plan at least annually.

166 (c) The department shall report annually to the Health and Human Services Interim
167 Committee by no later than that committee's November interim meeting.

168 (3) After a plan is adopted under this section, the department and attorney general may
169 take action under the plan to negotiate or litigate for the repayment from the federal
170 government of the money reimbursed by the department under this chapter.

171 Section 8. **Effective date.**

172 This bill takes effect on July 1, 2011.

Legislative Review Note
as of 2-3-11 3:04 PM

Office of Legislative Research and General Counsel

REVISED FISCAL NOTE

H.B. 165

SHORT TITLE: **State Reimbursement for Required Medical Services Act**

SPONSOR: **Herrod, C.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill may cost the Department of Health as much as \$10,000 General Fund one-time in fiscal year 2011 for establishing administrative rules. The bill could cost the Department of Health \$281,000 ongoing from the newly established Required Medical Services Restricted Account beginning in fiscal year 2012 for personnel. The bill costs the Attorney General \$71,700 ongoing General Fund beginning in fiscal year 2012 for 0.5 FTE attorney with accompanying support staff.

To the extent that deposits to the Required Medical Services Restricted Account allow, the Department of Health (DOH) may reimburse medical service providers as much as \$26 million, according to DOH estimates. Unpaid claims would grow in value at a rate of 8% per year.

A fee on providers established in the bill may generate dedicated credits revenue. The amount of revenue will depend upon the fee level and the number of providers willing to participate.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue	\$0	\$0	\$0
Expenditure:			
General Fund	\$0	\$71,700	\$71,700
General Fund, One-Time	\$10,000	\$0	\$0
Restricted Funds	\$0	\$26,281,000	\$26,281,000
Total Expenditure	\$10,000	\$26,352,700	\$26,352,700
Net Impact, All Funds (Rev.-Exp.)	(\$10,000)	(\$26,352,700)	(\$26,352,700)
Net Impact, General/Education Funds	(\$10,000)	(\$71,700)	(\$71,700)

REVISED FISCAL NOTE

H.B. 165

SHORT TITLE: **State Reimbursement for Required Medical Services Act**

SPONSOR: **Herrod, C.**

2011 GENERAL SESSION, STATE OF UTAH

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

To the extent that deposits to the Required Medical Services Restricted Account allow, and to the extent that local governments provide emergency transportation services, they could receive reimbursement for those services. Total reimbursements for all emergency transportation providers could be as much as \$10 million.

To the extent that deposits to the Required Medical Services Restricted Account allow, Local health clinics may also receive reimbursement for services provided to individuals not lawfully present in the United States.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

To the extent that deposits to the Required Medical Services Restricted Account allow, medical service providers could receive reimbursement for services provided to individuals not lawfully present in the United States.

Medical service providers willing to pay a fee may receive increased reimbursement for medical services provided. Revenue from the fee will depend upon the fee amount and the number of providers willing to participate.