

Representative James A. Dunnigan proposes the following substitute bill:

CHILDREN'S HEALTH INSURANCE AND MEDICAID

ADMINISTRATIVE SIMPLIFICATION

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: Daniel R. Liljenquist

LONG TITLE

General Description:

This bill modifies provisions relating to Medicaid and other children's health insurance programs.

Highlighted Provisions:

This bill:

▸ requires the Department of Health to:

• apply for grants to fund a simplified enrollment and renewal process for Medicaid, Utah Premium Partnership, and Primary Care Network Demonstration Project programs; and

• if funding is available, establish a simplified enrollment and renewal process for the programs in which the eligibility worker may, if the applicant provides consent, confirm the adjusted gross income of the applicant from the State Tax Commission;

▸ allows the Department of Health or its designee to:

• enter into agreements with financial institutions to develop and operate a data system to identify an applicant or enrollee's assets; and

• pay a reasonable fee to a financial institution for services;



- 26 ▶ requires the Division of Health Care Financing to:
- 27 • bid out Medicaid dental benefits;
- 28 • establish criteria for bidding out Medicaid dental benefits; and
- 29 • rebid the Medicaid dental benefits at least once every five years;
- 30 ▶ requires the Children's Health Insurance Plan to apply for grants to fund a simplified
- 31 enrollment process;
- 32 ▶ when funding is available, requires the Children's Health Insurance Plan to establish
- 33 a simplified enrollment process in which the eligibility worker may, if the applicant
- 34 provides consent, confirm the adjusted gross income of the applicant from the State
- 35 Tax Commission; and
- 36 ▶ requires the State Tax Commission to provide the Department of Health or its
- 37 designee with access to an applicant's adjusted gross income.

38 **Money Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 This bill takes effect on July 1, 2012.

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **7-1-1006**, as last amended by Laws of Utah 2010, Chapter 65

45 **26-40-105**, as last amended by Laws of Utah 2010, Chapter 67

46 **59-1-403**, as last amended by Laws of Utah 2010, Chapters 6 and 67

47 ENACTS:

48 **26-18-2.5**, Utah Code Annotated 1953

49 **26-18-2.6**, Utah Code Annotated 1953



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

52 Section 1. Section **7-1-1006** is amended to read:

53 **7-1-1006. Inapplicable to certain official investigations.**

54 (1) Sections 7-1-1002 and 7-1-1003 do not apply if an examination of a record is a part

55 of an official investigation by:

56 (a) local police;

- 57 (b) a sheriff;
- 58 (c) a peace officer;
- 59 (d) a city attorney;
- 60 (e) a county attorney;
- 61 (f) a district attorney;
- 62 (g) the attorney general;
- 63 (h) the Department of Public Safety;
- 64 (i) the Office of Recovery Services of the Department of Human Services;
- 65 (j) the Insurance Department;
- 66 (k) the Department of Commerce;
- 67 (l) the Benefit Payment Control Unit or the Payment Error Prevention Unit of the
- 68 Department of Workforce Services;
- 69 (m) the state auditor; [or]
- 70 (n) the State Tax Commission[-]; or
- 71 (o) the Department of Health or its designee, when undertaking an official
- 72 investigation to determine whether an individual qualifies for certain assistance programs as
- 73 provided in Section 26-18-2.5.
- 74 (2) Except for the Office of Recovery Services, if a governmental entity listed in
- 75 Subsection (1) seeks a record, the entity shall obtain the record as follows:
- 76 (a) if the record is a nonprotected record, by request in writing that:
- 77 (i) certifies that an official investigation is being conducted; and
- 78 (ii) is signed by a representative of the governmental entity that is conducting the
- 79 official investigation; or
- 80 (b) if the record is a protected record, by obtaining:
- 81 (i) a subpoena authorized by statute;
- 82 (ii) other legal process:
- 83 (A) ordered by a court of competent jurisdiction; and
- 84 (B) served upon the financial institution; or
- 85 (iii) written permission from all account holders of the account referenced in the record
- 86 to be examined.
- 87 (3) If the Office of Recovery Services seeks a record, the Office of Recovery Services

88 shall obtain the record pursuant to:

89 (a) Subsection 62A-11-104(1)(g);

90 (b) Section 62A-11-304.1;

91 (c) Section 62A-11-304.5; or

92 (d) Title IV, Part D of the Social Security Act as codified in 42 U.S.C. 651 et seq.

93 (4) A financial institution may not give notice to an account holder or person named or
94 referenced within the record disclosed pursuant to Subsection (2)(a).

95 (5) In accordance with Section 7-1-1004, the governmental entity conducting the
96 official investigation that obtains a record from a financial institution under this section shall
97 reimburse the financial institution for costs reasonably and directly incurred by the financial
98 institution.

99 Section 2. Section **26-18-2.5** is enacted to read:

100 **26-18-2.5. Simplified enrollment and renewal process for Medicaid and other**
101 **state medical programs -- Financial institutions.**

102 (1) The department shall:

103 (a) apply for grants to make technology system improvements necessary to implement
104 a simplified enrollment and renewal process for the Medicaid program, Utah Premium
105 Partnership, and Primary Care Network Demonstration Project programs; and

106 (b) if funding is available, implement the simplified enrollment and renewal process in
107 accordance with this section.

108 (2) The simplified enrollment and renewal process established in this section shall, in
109 accordance with Section 59-1-403, provide an eligibility worker a process in which the
110 eligibility worker:

111 (a) verifies the applicant's or enrollee's identity;

112 (b) gets consent to obtain the applicant's adjusted gross income from the State Tax
113 Commission from:

114 (i) the applicant or enrollee, if the applicant or enrollee filed a single tax return; or

115 (ii) both parties to a joint return, if the applicant filed a joint tax return; and

116 (c) obtains from the State Tax Commission, the adjusted gross income of the applicant
117 or enrollee.

118 (3) (a) The department may enter into an agreement with a financial institution doing

119 business in the state to develop and operate a data match system to identify an applicant or
120 enrollee assets that:

121 (i) uses automated data exchanges to the maximum extent feasible; and
122 (ii) requires a financial institution each month to provide the name, record address,
123 Social Security number, other taxpayer identification number, or other identifying information
124 for each applicant or enrollee who maintains an account at the financial institution.

125 (b) The department may pay a reasonable fee to a financial institution for compliance
126 with this Subsection (3), as provided in Section 7-1-1006.

127 (c) A financial institution may not be liable under any federal or state law to any person
128 for any disclosure of information or action taken in good faith under this Subsection (3).

129 (d) The department may disclose a financial record obtained from a financial institution
130 under this section only for the purpose of, and to the extent necessary in, verifying eligibility as
131 provided in this section and Section 26-40-105.

132 Section 3. Section **26-18-2.6** is enacted to read:

133 **26-18-2.6. Dental Benefits.**

134 (1) (a) The division shall establish a competitive bid process to bid out Medicaid dental
135 benefits under this chapter.

136 (b) The division may bid out the Medicaid dental benefits separately from other
137 program benefits.

138 (2) The division shall use the following criteria to evaluate dental bids:

139 (a) ability to manage dental expenses;

140 (b) proven ability to handle dental insurance;

141 (c) efficiency of claim paying procedures;

142 (d) provider contracting, discounts, and adequacy of network; and

143 (e) other criteria established by the department.

144 (3) The division shall request bids for the program's benefits:

145 (a) in 2011; and

146 (b) at least once every five years thereafter.

147 (4) The division's contract with dental plans for the program's benefits shall include
148 risk sharing provisions in which the dental plan must accept 100% of the risk for any difference
149 between the division's premium payments per client and actual dental expenditures.

- 150 (5) The division may not award contracts to:
151 (a) more than three responsive bidders under this section; or
152 (b) an insurer that does not have a current license in the state.
153 (6) (a) The division may cancel the request for proposals if:
154 (i) there are no responsive bidders; or
155 (ii) the division determines that accepting the bids would increase the program's costs.
156 (b) If the division cancels the request for proposals under Subsection (6)(a), the
157 division shall report to the Health and Human Services Committee regarding the reasons for
158 the decision.
159 (7) Title 63, Chapter 56, Utah Procurement Code, shall apply to this section.
160 Section 4. Section **26-40-105** is amended to read:
161 **26-40-105. Eligibility.**
162 (1) A child is eligible to enroll in the program if the child:
163 (a) is a bona fide Utah resident;
164 (b) is a citizen or legal resident of the United States;
165 (c) is under 19 years of age;
166 (d) does not have access to or coverage under other health insurance, including any
167 coverage available through a parent or legal guardian's employer;
168 (e) is ineligible for Medicaid benefits;
169 (f) resides in a household whose gross family income, as defined by rule, is at or below
170 200% of the federal poverty level; and
171 (g) is not an inmate of a public institution or a patient in an institution for mental
172 diseases.
173 (2) A child who qualifies for enrollment in the program under Subsection (1) may not
174 be denied enrollment due to a diagnosis or pre-existing condition.
175 (3) (a) The department shall determine eligibility and send notification of the eligibility
176 decision within 30 days after receiving the application for coverage.
177 (b) If the department cannot reach a decision because the applicant fails to take a
178 required action, or because there is an administrative or other emergency beyond the
179 department's control, the department shall:
180 (i) document the reason for the delay in the applicant's case record; and

181 (ii) inform the applicant of the status of the application and time frame for completion.

182 (4) The department may not close enrollment in the program for a child who is eligible
183 to enroll in the program under the provisions of Subsection (1).

184 (5) (a) The program shall:

185 (i) apply for grants to make technology system improvements necessary to implement a
186 simplified enrollment and renewal process in accordance with this Subsection (5); and

187 (ii) if funding is available, implement the simplified enrollment and renewal process in
188 accordance with this Subsection (5).

189 (b) The simplified enrollment and renewal process:

190 (i) shall, in accordance with Section 59-1-403, provide an eligibility worker a process
191 in which the eligibility worker:

192 (A) verifies the applicant's identity;

193 (B) gets consent to obtain the applicant's adjusted gross income from the [~~Utah~~] State
194 Tax Commission from:

195 (I) the applicant, if the applicant filed a single tax return; or

196 (II) both parties to a joint return, if the applicant filed a joint tax return; and

197 (C) obtains from the Utah State Tax Commission, the adjusted gross income of the
198 applicant; and

199 (ii) may not change the eligibility requirements for the program.

200 Section 5. Section **59-1-403** is amended to read:

201 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

202 (1) (a) Any of the following may not divulge or make known in any manner any
203 information gained by that person from any return filed with the commission:

204 (i) a tax commissioner;

205 (ii) an agent, clerk, or other officer or employee of the commission; or

206 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
207 town.

208 (b) An official charged with the custody of a return filed with the commission is not
209 required to produce the return or evidence of anything contained in the return in any action or
210 proceeding in any court, except:

211 (i) in accordance with judicial order;

212 (ii) on behalf of the commission in any action or proceeding under:
213 (A) this title; or
214 (B) other law under which persons are required to file returns with the commission;
215 (iii) on behalf of the commission in any action or proceeding to which the commission
216 is a party; or
217 (iv) on behalf of any party to any action or proceeding under this title if the report or
218 facts shown by the return are directly involved in the action or proceeding.
219 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
220 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
221 pertinent to the action or proceeding.
222 (2) This section does not prohibit:
223 (a) a person or that person's duly authorized representative from receiving a copy of
224 any return or report filed in connection with that person's own tax;
225 (b) the publication of statistics as long as the statistics are classified to prevent the
226 identification of particular reports or returns; and
227 (c) the inspection by the attorney general or other legal representative of the state of the
228 report or return of any taxpayer:
229 (i) who brings action to set aside or review a tax based on the report or return;
230 (ii) against whom an action or proceeding is contemplated or has been instituted under
231 this title; or
232 (iii) against whom the state has an unsatisfied money judgment.
233 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
234 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
235 Rulemaking Act, provide for a reciprocal exchange of information with:
236 (i) the United States Internal Revenue Service; or
237 (ii) the revenue service of any other state.
238 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
239 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
240 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
241 other written statements with the federal government, any other state, any of the political
242 subdivisions of another state, or any political subdivision of this state, except as limited by

243 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
244 government grant substantially similar privileges to this state.

245 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
246 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
247 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
248 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
249 due.

250 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
251 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as
252 requested by the executive secretary, any records, returns, or other information filed with the
253 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5
254 regarding the environmental assurance program participation fee.

255 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
256 provide that person sales and purchase volume data reported to the commission on a report,
257 return, or other information filed with the commission under:

258 (i) Chapter 13, Part 2, Motor Fuel; or

259 (ii) Chapter 13, Part 4, Aviation Fuel.

260 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
261 as defined in Section 59-22-202, the commission shall report to the manufacturer:

262 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
263 manufacturer and reported to the commission for the previous calendar year under Section
264 59-14-407; and

265 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
266 manufacturer for which a tax refund was granted during the previous calendar year under
267 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

268 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
269 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
270 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

271 (h) Notwithstanding Subsection (1), the commission may:

272 (i) provide to the Division of Consumer Protection within the Department of
273 Commerce and the attorney general data:

274 (A) reported to the commission under Section 59-14-212; or

275 (B) related to a violation under Section 59-14-211; and

276 (ii) upon request provide to any person data reported to the commission under
277 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

278 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
279 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning
280 and Budget, provide to the committee or office the total amount of revenues collected by the
281 commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period
282 specified by the committee or office.

283 (j) Notwithstanding Subsection (1), the commission shall make the directory required
284 by Section 59-14-603 available for public inspection.

285 (k) Notwithstanding Subsection (1), the commission may share information with
286 federal, state, or local agencies as provided in Subsection 59-14-606(3).

287 (l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of
288 Recovery Services within the Department of Human Services any relevant information
289 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
290 who has become obligated to the Office of Recovery Services.

291 (ii) The information described in Subsection (3)(l)(i) may be provided by the Office of
292 Recovery Services to any other state's child support collection agency involved in enforcing
293 that support obligation.

294 (m) (i) Notwithstanding Subsection (1), upon request from the state court
295 administrator, the commission shall provide to the state court administrator, the name, address,
296 telephone number, county of residence, and Social Security number on resident returns filed
297 under Chapter 10, Individual Income Tax Act.

298 (ii) The state court administrator may use the information described in Subsection
299 (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

300 (n) Notwithstanding Subsection (1), the commission shall at the request of a
301 committee, commission, or task force of the Legislature provide to the committee, commission,
302 or task force of the Legislature any information relating to a tax imposed under Chapter 9,
303 Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

304 (o) (i) As used in this Subsection (3)(o), "office" means the:

- 305 (A) Office of the Legislative Fiscal Analyst; or
306 (B) Office of Legislative Research and General Counsel.
- 307 (ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii),
308 the commission shall at the request of an office provide to the office all information:
- 309 (A) gained by the commission; and
310 (B) required to be attached to or included in returns filed with the commission.
- 311 (iii) (A) An office may not request and the commission may not provide to an office a
312 person's:
- 313 (I) address;
314 (II) name;
315 (III) Social Security number; or
316 (IV) taxpayer identification number.
- 317 (B) The commission shall in all instances protect the privacy of a person as required by
318 Subsection (3)(o)(iii)(A).
- 319 (iv) An office may provide information received from the commission in accordance
320 with this Subsection (3)(o) only:
- 321 (A) as:
- 322 (I) a fiscal estimate;
323 (II) fiscal note information; or
324 (III) statistical information; and
- 325 (B) if the information is classified to prevent the identification of a particular return.
- 326 (v) (A) A person may not request information from an office under Title 63G, Chapter
327 2, Government Records Access and Management Act, or this section, if that office received the
328 information from the commission in accordance with this Subsection (3)(o).
- 329 (B) An office may not provide to a person that requests information in accordance with
330 Subsection (3)(o)(v)(A) any information other than the information the office provides in
331 accordance with Subsection (3)(o)(iv).
- 332 (p) Notwithstanding Subsection (1), the commission may provide to the governing
333 board of the agreement or a taxing official of another state, the District of Columbia, the United
334 States, or a territory of the United States:
- 335 (i) the following relating to an agreement sales and use tax:

- 336 (A) information contained in a return filed with the commission;
- 337 (B) information contained in a report filed with the commission;
- 338 (C) a schedule related to Subsection (3)(p)(i)(A) or (B); or
- 339 (D) a document filed with the commission; or
- 340 (ii) a report of an audit or investigation made with respect to an agreement sales and
- 341 use tax.

342 (q) Notwithstanding Subsection (1), the commission may provide information
343 concerning a taxpayer's state income tax return or state income tax withholding information to
344 the Driver License Division if the Driver License Division:

- 345 (i) requests the information; and
- 346 (ii) provides the commission with a signed release form from the taxpayer allowing the
347 Driver License Division access to the information.

348 (r) Notwithstanding Subsection (1), the commission shall provide to the Utah State 911
349 Committee the information requested by the Utah State 911 Committee under Subsection
350 53-10-602(3).

351 (s) Notwithstanding Subsection (1), the commission may provide to the Utah
352 Educational Savings Plan information related to a resident or nonresident individual's
353 contribution to a Utah Educational Savings Plan account as designated on the resident or
354 nonresident's individual income tax return under Section 59-10-1313.

355 (t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under
356 Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the
357 [Children's Health Insurance Program] Department of Health or its designee with the adjusted
358 gross income of an individual if:

- 359 (i) an eligibility worker with the [Children's Health Insurance Program] Department of
360 Health or its designee requests the information from the [Utah] State Tax Commission; and
- 361 (ii) the eligibility worker has complied with the identity verification and consent
362 provisions of [Section] Sections 26-18-2.5 and 26-40-105.

363 (4) (a) [Reports] Each report and [returns] return shall be preserved for at least three
364 years.

365 (b) After the three-year period provided in Subsection (4)(a) the commission may
366 destroy a report or return.

367 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

368 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
369 the person shall be dismissed from office and be disqualified from holding public office in this
370 state for a period of five years thereafter.

371 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
372 accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with
373 Subsection (3)(o)(v):

374 (i) is not guilty of a class A misdemeanor; and

375 (ii) is not subject to:

376 (A) dismissal from office in accordance with Subsection (5)(b); or

377 (B) disqualification from holding public office in accordance with Subsection (5)(b).

378 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

379 Section 6. **Effective date.**

380 This bill takes effect on July 1, 2012.