

**ELIMINATE SPEND DOWN PROVISION FOR  
MEDICAID**

2003 GENERAL SESSION

STATE OF UTAH

**This act modifies the Medicaid spend down requirements. The act amends the Medical Assistance Act. The act defines terms and directs the Health Department to use 100% of the federal poverty level as the income standard when determining if the aged, blind, or disabled have spent down enough excess income to be eligible for Medicaid benefits.**

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

AMENDS:

**26-18-3**, as last amended by Chapter 316, Laws of Utah 2000

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

Section 1. Section **26-18-3** is amended to read:

**26-18-3. Administration of Medicaid program by department -- Disciplinary measures and sanctions -- Funds collected.**

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) The department shall develop implementing policy in conformity with this chapter, the requirements of Title XIX, and applicable federal regulations.

(3) The department may, in its discretion, contract with the Department of Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including but not limited to the determination of the eligibility of individuals for the program, recovery of overpayments, and enforcement of fraud and abuse laws, consistent with Section 26-20-13, to the extent permitted by law and quality control services.

(4) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(5) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as nonlapsing dedicated credits to be used by the division in accordance with the requirements of that section.

(6) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance [Program] Act, the department shall, if Subsection (6)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (6)(a) may be applied:

(i) the federal government must:

(A) determine that Subsection (6)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (6)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department must determine that Subsection (6)(a) can be implemented within existing funding.

(7) (a) For purposes of this Subsection (7):

(i) "aged, blind, or disabled" shall be defined by administrative rule; and

(ii) "spend down" means an amount of income in excess of the allowable income standard that must be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or disabled is eligible for a service or benefit under this chapter as a result of a spend down, the department shall use 100% of the federal poverty level as the allowable income standard for the spend down.

---

---

### **Legislative Review Note** **as of 10-21-02 12:50 PM**

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

**Office of Legislative Research and General Counsel**