

**Nursing Care Facility Program Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bridger Bolinder**

Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

This bill amends requirements related to nursing care facility program Medicaid certification.

**Highlighted Provisions:**

This bill:

- amends a permitted extension of the time period for certifying a nursing care facility program that was previously Medicaid certified under certain circumstances;
- provides that a previously-approved two-year extension may be extended to four years under certain circumstances; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**26B-3-311**, as last amended by Laws of Utah 2024, Chapter 312

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

Section 1. Section **26B-3-311** is amended to read:

**26B-3-311 . Authorization to renew, transfer, or increase Medicaid certified programs -- Reimbursement methodology.**

(1)(a) The division may renew Medicaid certification of a certified program if the program, without lapse in service to Medicaid recipients, has its nursing care facility program certified by the division at the same physical facility as long as the licensed

- 29 and certified bed capacity at the facility has not been expanded, unless the director  
30 has approved additional beds in accordance with Subsection (5).
- 31 (b) The division may renew Medicaid certification of a nursing care facility program  
32 that is not currently certified if:
- 33 (i) since the day on which the program last operated with Medicaid certification:
- 34 (A) the physical facility where the program operated has functioned solely and  
35 continuously as a nursing care facility; and
- 36 (B) the owner of the program has not, under this section or Section 26B-3-313,  
37 transferred to another nursing care facility program the license for any of the  
38 Medicaid beds in the program; and
- 39 (ii) except as provided in Subsection 26B-3-310(4), the number of beds granted  
40 renewed Medicaid certification does not exceed the number of beds certified at the  
41 time the program last operated with Medicaid certification, excluding a period of  
42 time where the program operated with temporary certification under Subsection  
43 26B-3-312(3).
- 44 (2)(a) The division may issue a Medicaid certification for a new nursing care facility  
45 program if a current owner of the Medicaid certified program transfers its ownership  
46 of the Medicaid certification to the new nursing care facility program and the new  
47 nursing care facility program meets all of the following conditions:
- 48 (i) the new nursing care facility program operates at the same physical facility as the  
49 previous Medicaid certified program;
- 50 (ii) the new nursing care facility program gives a written assurance to the director in  
51 accordance with Subsection (4);
- 52 (iii) the new nursing care facility program receives the Medicaid certification within  
53 one year of the date the previously certified program ceased to provide medical  
54 assistance to a Medicaid recipient; and
- 55 (iv) the licensed and certified bed capacity at the facility has not been expanded,  
56 unless the director has approved additional beds in accordance with Subsection (5).
- 57 (b) A nursing care facility program that receives Medicaid certification under the  
58 provisions of Subsection (2)(a) does not assume the Medicaid liabilities of the  
59 previous nursing care facility program if the new nursing care facility program:
- 60 (i) is not owned in whole or in part by the previous nursing care facility program; or  
61 (ii) is not a successor in interest of the previous nursing care facility program.
- 62 (3)(a) The division may issue a Medicaid certification to a nursing care facility program

63 that was previously a certified program but now resides in a new or renovated  
64 physical facility if the nursing care facility program meets all of the following:

65 [~~(a)~~] (i) the nursing care facility program met all applicable requirements for Medicaid  
66 certification at the time of closure;

67 [~~(b)~~] (ii) the new or renovated physical facility is in the same county or within a  
68 five-mile radius of the original physical facility;

69 [~~(c)~~] (iii) the time between which the certified program ceased to operate in the  
70 original facility and will begin to operate in the new physical facility is not more  
71 than three years, unless:

72 [~~(i)~~] (A) an emergency is declared by the president of the United States or the  
73 governor, affecting the building or renovation of the physical facility;

74 [~~(ii)~~] (B) the director approves an exception to the three-year requirement for any  
75 nursing care facility program within the three-year requirement;

76 [~~(iii)~~] (C) the provider submits documentation supporting a request for an  
77 extension to the director that demonstrates a need for an extension; and

78 [~~(iv)~~] (D) the exception does not extend for more than [~~two~~] four years beyond the  
79 three-year requirement;

80 [~~(d)~~] (iv) if Subsection [~~(3)(e)~~] (3)(a)(iii) applies, the certified program notifies the  
81 department within 90 days after ceasing operations in its original facility, of its  
82 intent to retain its Medicaid certification;

83 [~~(e)~~] (v) the provider gives written assurance to the director in accordance with  
84 Subsection (4) that no third party has a legitimate claim to operate a certified  
85 program at the previous physical facility; and

86 [~~(f)~~] (vi) the bed capacity in the physical facility has not been expanded unless the  
87 director has approved additional beds in accordance with Subsection (5).

88 (b) If the director approved an exception described in Subsection (3)(a)(iii) for two years  
89 beyond the three-year requirement before May 6, 2026, the director may extend the  
90 exception to four years beyond the three-year requirement, including after the  
91 original exception has expired, if the nursing care facility program for which the  
92 original exception was approved requests the extension within four years beyond the  
93 three-year requirement.

94 (4)(a) The entity requesting Medicaid certification under Subsections (2) and (3) shall  
95 give written assurances satisfactory to the director or the director's designee that:

96 (i) no third party has a legitimate claim to operate the certified program;

- 97 (ii) the requesting entity agrees to defend and indemnify the department against any  
98 claims by a third party who may assert a right to operate the certified program; and  
99 (iii) if a third party is found, by final agency action of the department after exhaustion  
100 of all administrative and judicial appeal rights, to be entitled to operate a certified  
101 program at the physical facility the certified program shall voluntarily comply  
102 with Subsection (4)(b).
- 103 (b) If a finding is made under the provisions of Subsection (4)(a)(iii):  
104 (i) the certified program shall immediately surrender its Medicaid certification and  
105 comply with division rules regarding billing for Medicaid and the provision of  
106 services to Medicaid patients; and  
107 (ii) the department shall transfer the surrendered Medicaid certification to the third  
108 party who prevailed under Subsection (4)(a)(iii).
- 109 (5)(a) The director may approve additional nursing care facility programs for Medicaid  
110 certification, or additional beds for Medicaid certification within an existing nursing  
111 care facility program, if a nursing care facility or other interested party requests  
112 Medicaid certification for a nursing care facility program or additional beds within an  
113 existing nursing care facility program, and the nursing care facility program or other  
114 interested party complies with this section.
- 115 (b) Except as provided under Subsection (5)(e), a nursing care facility or other interested  
116 party requesting Medicaid certification for a nursing care facility program or  
117 additional beds within an existing nursing care facility program under Subsection  
118 (5)(a) shall submit to the director:  
119 (i) proof of the following as reasonable evidence that bed capacity provided by  
120 Medicaid certified programs within the county or group of counties impacted by  
121 the requested additional Medicaid certification is insufficient:  
122 (A) nursing care facility occupancy levels for all existing and proposed facilities  
123 will be at least 90% for the next three years;  
124 (B) current nursing care facility occupancy is 90% or more; or  
125 (C) there is no other nursing care facility within a 35-mile radius of the nursing  
126 care facility requesting the additional certification; and  
127 (ii) an independent analysis demonstrating that at projected occupancy rates the  
128 nursing care facility's after-tax net income is sufficient for the facility to be  
129 financially viable.
- 130 (c) Any request for additional beds as part of a renovation project are limited to the

- 131 maximum number of beds allowed in Subsection (7).
- 132 (d) The director shall determine whether to issue additional Medicaid certification by  
133 considering:
- 134 (i) whether bed capacity provided by certified programs within the county or group of  
135 counties impacted by the requested additional Medicaid certification is  
136 insufficient, based on the information submitted to the director under Subsection  
137 (5)(b);
- 138 (ii) whether the county or group of counties impacted by the requested additional  
139 Medicaid certification is underserved by specialized or unique services that would  
140 be provided by the nursing care facility;
- 141 (iii) whether any Medicaid certified beds are subject to a claim by a previous certified  
142 program that may reopen under the provisions of Subsections (2) and (3);
- 143 (iv) how additional bed capacity should be added to the long-term care delivery  
144 system to best meet the needs of Medicaid recipients;
- 145 (v)(A) whether the existing certified programs within the county or group of  
146 counties have provided services of sufficient quality to merit at least a two-star  
147 rating in the Medicare Five-Star Quality Rating System over the previous  
148 three-year period; and
- 149 (B) information obtained under Subsection (9); and
- 150 (vi) subject to Subsection (5)(e), for a state-owned veterans nursing care facility,  
151 whether the facility has previously been approved for a Medicaid certified bed  
152 increase under this Subsection (5).
- 153 (e) For a state-owned veterans nursing care facility that has not previously been  
154 approved for a Medicaid certified bed increase under this Subsection (5):
- 155 (i) the facility is exempt from the requirements under Subsection (5)(b); and  
156 (ii) the director may approve, for that facility location only, up to five total Medicaid  
157 certified beds.
- 158 (6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3,  
159 Utah Administrative Rulemaking Act, to adjust the Medicaid nursing care facility  
160 property reimbursement methodology to:
- 161 (a) only pay that portion of the property component of rates, representing actual bed  
162 usage by Medicaid clients as a percentage of the greater of:
- 163 (i) actual occupancy; or  
164 (ii)(A) for a nursing care facility other than a facility described in Subsection

- 165 (6)(a)(ii)(B), 85% of total bed capacity; or  
166 (B) for a rural nursing care facility, 65% of total bed capacity; and  
167 (b) not allow for increases in reimbursement for property values without major  
168 renovation or replacement projects as defined by the department by rule.
- 169 (7)(a) Except as provided in Subsection 26B-3-310(3), if a nursing care facility does not  
170 seek Medicaid certification for a bed under Subsections (1) through (6), the  
171 department shall, notwithstanding Subsections 26B-3-312(3)(a) and (b), grant  
172 Medicaid certification for additional beds in an existing Medicaid certified nursing  
173 care facility that has 90 or fewer licensed beds, including Medicaid certified beds, in  
174 the facility if:
- 175 (i) the nursing care facility program was previously a certified program for all beds  
176 but now resides in a new facility or in a facility that underwent major renovations  
177 involving major structural changes, with 50% or greater facility square footage  
178 design changes, requiring review and approval by the department;
- 179 (ii) the nursing care facility meets the quality of care regulations issued by CMS; and  
180 (iii) the total number of additional beds in the facility granted Medicaid certification  
181 under this section does not exceed 10% of the number of licensed beds in the  
182 facility.
- 183 (b) The department may not revoke the Medicaid certification of a bed under this  
184 Subsection (7) as long as the provisions of Subsection (7)(a)(ii) are met.
- 185 (8)(a) If a nursing care facility or other interested party indicates in its request for  
186 additional Medicaid certification under Subsection (5)(a) that the facility will offer  
187 specialized or unique services, but the facility does not offer those services after  
188 receiving additional Medicaid certification, the director shall revoke the additional  
189 Medicaid certification.
- 190 (b) The nursing care facility program shall obtain Medicaid certification for any  
191 additional Medicaid beds approved under Subsection (5) or (7) within three years of  
192 the date of the director's approval, or the approval is void.
- 193 (9)(a) If the director makes an initial determination that quality standards under  
194 Subsection (5)(d)(v) have not been met in a rural county or group of rural counties  
195 over the previous three-year period, the director shall, before approving certification  
196 of additional Medicaid beds in the rural county or group of counties:
- 197 (i) notify the certified program that has not met the quality standards in Subsection  
198 (5)(d)(v) that the director intends to certify additional Medicaid beds under the

- 199                   provisions of Subsection (5)(d)(v); and
- 200                   (ii) consider additional information submitted to the director by the certified program
- 201                   in a rural county that has not met the quality standards under Subsection (5)(d)(v).
- 202                   (b) The notice under Subsection (9)(a) does not give the certified program that has not
- 203                   met the quality standards under Subsection (5)(d)(v), the right to legally challenge or
- 204                   appeal the director's decision to certify additional Medicaid beds under Subsection
- 205                   (5)(d)(v).

206                   Section 2. **Effective Date.**

207                   This bill takes effect on May 6, 2026.