

Nursing Care Facility Program Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bridger Bolinder

Senate Sponsor:

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

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 and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) The division may renew Medicaid certification of a nursing care facility program that is not currently certified if:

(i) since the day on which the program last operated with Medicaid certification:

(A) the physical facility where the program operated has functioned solely and continuously as a nursing care facility; and

(B) the owner of the program has not, under this section or Section 26B-3-313, transferred to another nursing care facility program the license for any of the Medicaid beds in the program; and

(ii) except as provided in Subsection 26B-3-310(4), the number of beds granted renewed Medicaid certification does not exceed the number of beds certified at the time the program last operated with Medicaid certification, excluding a period of time where the program operated with temporary certification under Subsection 26B-3-312(3).

(2)(a) The division may issue a Medicaid certification for a new nursing care facility program if a current owner of the Medicaid certified program transfers its ownership of the Medicaid certification to the new nursing care facility program and the new nursing care facility program meets all of the following conditions:

(i) the new nursing care facility program operates at the same physical facility as the previous Medicaid certified program;

(ii) the new nursing care facility program gives a written assurance to the director in accordance with Subsection (4);

(iii) the new nursing care facility program receives the Medicaid certification within one year of the date the previously certified program ceased to provide medical assistance to a Medicaid recipient; and

(iv) the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) A nursing care facility program that receives Medicaid certification under the provisions of Subsection (2)(a) does not assume the Medicaid liabilities of the previous nursing care facility program if the new nursing care facility program:

(i) is not owned in whole or in part by the previous nursing care facility program; or

(ii) is not a successor in interest of the previous nursing care facility program.

(3)(a) The division may issue a Medicaid certification to a nursing care facility program that was previously a certified program but now resides in a new or renovated 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

(iii) if a third party is found, by final agency action of the department after exhaustion of all administrative and judicial appeal rights, to be entitled to operate a certified program at the physical facility the certified program shall voluntarily comply with Subsection (4)(b).

(b) If a finding is made under the provisions of Subsection (4)(a)(iii):

(i) the certified program shall immediately surrender its Medicaid certification and comply with division rules regarding billing for Medicaid and the provision of services to Medicaid patients; and

(ii) the department shall transfer the surrendered Medicaid certification to the third party who prevailed under Subsection (4)(a)(iii).

(5)(a) The director may approve additional nursing care facility programs for Medicaid certification, or additional beds for Medicaid certification within an existing nursing care facility program, if a nursing care facility or other interested party requests Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program, and the nursing care facility program or other interested party complies with this section.

(b) Except as provided under Subsection (5)(e), a nursing care facility or other interested party requesting Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program under Subsection (5)(a) shall submit to the director:

(i) proof of the following as reasonable evidence that bed capacity provided by Medicaid certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient:

(A) nursing care facility occupancy levels for all existing and proposed facilities will be at least 90% for the next three years;

(B) current nursing care facility occupancy is 90% or more; or

(C) there is no other nursing care facility within a 35-mile radius of the nursing care facility requesting the additional certification; and

(ii) an independent analysis demonstrating that at projected occupancy rates the nursing care facility's after-tax net income is sufficient for the facility to be financially viable.

(c) Any request for additional beds as part of a renovation project are limited to the maximum number of beds allowed in Subsection (7).

(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

(b) not allow for increases in reimbursement for property values without major renovation or replacement projects as defined by the department by rule.

(7)(a) Except as provided in Subsection 26B-3-310(3), if a nursing care facility does not seek Medicaid certification for a bed under Subsections (1) through (6), the department shall, notwithstanding Subsections 26B-3-312(3)(a) and (b), grant Medicaid certification for additional beds in an existing Medicaid certified nursing care facility that has 90 or fewer licensed beds, including Medicaid certified beds, in the facility if:

(i) the nursing care facility program was previously a certified program for all beds but now resides in a new facility or in a facility that underwent major renovations involving major structural changes, with 50% or greater facility square footage design changes, requiring review and approval by the department;

(ii) the nursing care facility meets the quality of care regulations issued by CMS; and

(iii) the total number of additional beds in the facility granted Medicaid certification under this section does not exceed 10% of the number of licensed beds in the facility.

(b) The department may not revoke the Medicaid certification of a bed under this Subsection (7) as long as the provisions of Subsection (7)(a)(ii) are met.

(8)(a) If a nursing care facility or other interested party indicates in its request for additional Medicaid certification under Subsection (5)(a) that the facility will offer specialized or unique services, but the facility does not offer those services after receiving additional Medicaid certification, the director shall revoke the additional Medicaid certification.

(b) The nursing care facility program shall obtain Medicaid certification for any additional Medicaid beds approved under Subsection (5) or (7) within three years of the date of the director's approval, or the approval is void.

(9)(a) If the director makes an initial determination that quality standards under Subsection (5)(d)(v) have not been met in a rural county or group of rural counties over the previous three-year period, the director shall, before approving certification of additional Medicaid beds in the rural county or group of counties:

(i) notify the certified program that has not met the quality standards in Subsection (5)(d)(v) that the director intends to certify additional Medicaid beds under the provisions of Subsection (5)(d)(v); and

(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.