

## Chapter 10 Family Health Services

### **26-10-1 Definitions.**

As used in this chapter:

- (1) "Maternal and child health services" means:
  - (a) the provision of educational, preventative, diagnostic, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward reducing infant mortality and improving the health of mothers and children provided, however, that nothing in this Subsection (1) shall be construed to allow any agency of the state to interfere with the rights of the parent of an unmarried minor in decisions about the providing of health information or services;
  - (b) the development, strengthening, and improvement of standards and techniques relating to the services and care;
  - (c) the training of personnel engaged in the provision, development, strengthening, or improvement of the services and care; and
  - (d) necessary administrative services connected with Subsections (1)(a), (b), and (c).
- (2) "Minor" means a person under the age of 18.
- (3) "Services to children with disabilities" means:
  - (a) the early location of children with a disability, provided that any program of prenatal diagnosis for the purpose of detecting the possible disease or disabilities of an unborn child will not be used for screening, but rather will be utilized only when there are medical or genetic indications that warrant diagnosis;
  - (b) the provision for children described in Subsection (3)(a), of preventive, diagnosis, and treatment services, including medical care, hospitalization, and other institutional care and aftercare, appliances, and facilitating services directed toward the diagnosis of the condition of those children or toward the restoration of the children to maximum physical and mental health;
  - (c) the development, strengthening, and improvement of standards and techniques relating to services and care described in this Subsection (3);
  - (d) the training of personnel engaged in the provision, development, strengthening, or improvement of services and care described in this Subsection (3); and
  - (e) necessary administrative services connected with Subsections (3)(a), (b), and (c).

Amended by Chapter 147, 2011 General Session

Amended by Chapter 366, 2011 General Session

Amended by Chapter 366, 2011 General Session, (Coordination Clause)

### **26-10-2 Maternal and child health provided by department.**

The department shall, as funding permits, provide for maternal and child health services and services for children with a disability if the individual needs the services and the individual cannot reasonably obtain the services from other sources.

Amended by Chapter 147, 2011 General Session

Amended by Chapter 366, 2011 General Session, (Coordination Clause)

Amended by Chapter 366, 2011 General Session

**26-10-3 Director of family health services programs.**

The executive director may appoint a director of family health services programs who shall be a board certified pediatrician or obstetrician with at least two years experience in public health programs.

Enacted by Chapter 126, 1981 General Session

**26-10-4 State plan for maternal and child health services.**

The department shall prepare and submit a state plan for maternal and child health services as required by Title II of the Public Health Services Act. The plan shall be the official state plan for the state and shall be used as the basis for administration of Title V programs within the state.

Enacted by Chapter 126, 1981 General Session

**26-10-5 Plan for school health services.**

The department shall establish a plan for school health services for pupils in elementary and secondary schools. The department shall cooperate with the State Board of Education and local health departments in developing such plan and shall coordinate activities between these agencies. The plan may provide for the delivery of health services by and through intermediate and local school districts and local health departments.

Amended by Chapter 144, 2016 General Session

**26-10-5.5 Child literacy -- Distribution of information kits.**

(1) The Legislature recognizes that effective child literacy programs can have a dramatic long-term impact on each child's ability to:

- (a) succeed in school;
- (b) successfully compete in a global society; and
- (c) become a productive, responsible citizen.

(2)

- (a) To help further this end, the department may make available to parents of new-born infants, as a resource, an information kit regarding child development, the development of emerging literacy skills, and activities which promote and enhance emerging literacy skills, including reading aloud to the child on a regular basis.
- (b) The department shall seek private funding to help support this program.

(3)

- (a) The department may seek assistance from the State Board of Education and local hospitals in making the information kit available to parents on a voluntary basis.
- (b) The department may also seek assistance from private entities in making the kits available to parents.

Amended by Chapter 144, 2016 General Session

**26-10-6 Testing of newborn infants.**

(1) Except in the case where parents object on the grounds that they are members of a specified, well-recognized religious organization whose teachings are contrary to the tests required by this section, a newborn infant shall be tested for:

- (a) phenylketonuria (PKU);

- (b) other heritable disorders which may result in an intellectual or physical disability or death and for which:
    - (i) a preventive measure or treatment is available; and
    - (ii) there exists a reliable laboratory diagnostic test method;
  - (c)
    - (i) an infant born in a hospital with 100 or more live births annually, hearing loss; and
    - (ii) an infant born in a setting other than a hospital with 100 or more live births annually, hearing loss; and
  - (d) critical congenital heart defects using pulse oximetry.
- (2) In accordance with Section 26-1-6, the department may charge fees for:
- (a) materials supplied by the department to conduct tests required under Subsection (1);
  - (b) tests required under Subsection (1) conducted by the department;
  - (c) laboratory analyses by the department of tests conducted under Subsection (1); and
  - (d) the administrative cost of follow-up contacts with the parents or guardians of tested infants.
- (3) Tests for hearing loss described in Subsection (1) shall be based on one or more methods approved by the Newborn Hearing Screening Committee, including:
- (a) auditory brainstem response;
  - (b) automated auditory brainstem response; and
  - (c) evoked otoacoustic emissions.
- (4) Results of tests for hearing loss described in Subsection (1) shall be reported to:
- (a) the department; and
  - (b) when results of tests for hearing loss under Subsection (1) suggest that additional diagnostic procedures or medical interventions are necessary:
    - (i) a parent or guardian of the infant;
    - (ii) an early intervention program administered by the department in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and
    - (iii) the Utah Schools for the Deaf and the Blind, created in Section 53E-8-201.
- (5)
- (a) There is established the Newborn Hearing Screening Committee.
  - (b) The committee shall advise the department on:
    - (i) the validity and cost of newborn infant hearing loss testing procedures; and
    - (ii) rules promulgated by the department to implement this section.
  - (c) The committee shall be composed of at least 11 members appointed by the executive director, including:
    - (i) one representative of the health insurance industry;
    - (ii) one pediatrician;
    - (iii) one family practitioner;
    - (iv) one ear, nose, and throat specialist nominated by the Utah Medical Association;
    - (v) two audiologists nominated by the Utah Speech-Language-Hearing Association;
    - (vi) one representative of hospital neonatal nurseries;
    - (vii) one representative of the Early Intervention Baby Watch Program administered by the department;
    - (viii) one public health nurse;
    - (ix) one consumer; and
    - (x) the executive director or the executive director's designee.
  - (d) Of the initial members of the committee, the executive director shall appoint as nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments shall be for four-year terms except:

- (i) for those members who have been appointed to complete an unexpired term; and
- (ii) as necessary to ensure that as nearly as possible the terms of half the appointments expire every two years.
- (e) A majority of the members constitute a quorum, and a vote of the majority of the members present constitutes an action of the committee.
- (f) The committee shall appoint a chairman from the committee's membership.
- (g) The committee shall meet at least quarterly.
- (h) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (i) Section 63A-3-106;
  - (ii) Section 63A-3-107; and
  - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (i) The department shall provide staff for the committee.
- (6) Before implementing the test required by Subsection (1)(d), the department shall conduct a pilot program for testing newborns for critical congenital heart defects using pulse oximetry. The pilot program shall include the development of:
  - (a) appropriate oxygen saturation levels that would indicate a need for further medical follow-up; and
  - (b) the best methods for implementing the pulse oximetry screening in newborn care units.

Amended by Chapter 415, 2018 General Session

**26-10-7 Dental health programs -- Appointment of director.**

The department shall establish and promote programs to protect and improve the dental health of the public. The executive director shall appoint a director of the dental health program who shall be a dentist licensed in the state with at least one year of training in an accredited school of public health or not less than two years of experience in public health dentistry.

Enacted by Chapter 126, 1981 General Session

**26-10-8 Request for proposal required for non-state supplied services.**

- (1) Funds provided to the department through Sections 51-9-201 and 59-14-204 to be used to provide services, shall be awarded to non-governmental entities based on a competitive process consistent with Title 63G, Chapter 6a, Utah Procurement Code.
- (2) Beginning July 1, 2010, and not more than every five years thereafter, the department shall issue requests for proposals for new or renewing contracts to award funding for programs under Subsection (1).

Amended by Chapter 347, 2012 General Session

**26-10-9 Immunizations -- Consent of minor to treatment.**

- (1) This section:
  - (a) is not intended to interfere with the integrity of the family or to minimize the rights of parents or children; and
  - (b) applies to a minor, who at the time care is sought is:
    - (i) married or has been married;
    - (ii) emancipated as provided for in Section 78A-6-805;
    - (iii) a parent with custody of a minor child; or

- (iv) pregnant.
- (2)
  - (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:
    - (i) vaccinations against epidemic infections and communicable diseases as defined in Section 26-6-2; and
    - (ii) examinations and vaccinations required to attend school as provided in Title 53G, Public Education System -- Local Administration.
  - (b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the vaccinations described in Subsections (2)(a)(i) and (ii), and the vaccine for human papillomavirus only if:
    - (i) the minor represents to the health care provider that the minor is an abandoned minor as defined in Section 76-5-109; and
    - (ii) the health care provider makes a notation in the minor's chart that the minor represented to the health care provider that the minor is an abandoned minor under Section 76-5-109.
  - (c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a minor.
- (3) The consent of the minor pursuant to this section:
  - (a) is not subject to later disaffirmance because of the minority of the person receiving the medical services;
  - (b) is not voidable because of minority at the time the medical services were provided;
  - (c) has the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as consent given by a person of full age and capacity; and
  - (d) does not require the consent of any other person or persons to authorize the medical services described in Subsections (2)(a) and (b).
- (4) A health care provider who provides medical services to a minor in accordance with the provisions of this section is not subject to civil or criminal liability for providing the services described in Subsections (2)(a) and (b) without obtaining the consent of another person prior to rendering the medical services.
- (5) This section does not remove the requirement for parental consent or notice when required by Section 76-7-304 or 76-7-304.5.
- (6) The parents, parent, or legal guardian of a minor who receives medical services pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless the parents, parent, or legal guardian consented to the medical services.

Amended by Chapter 415, 2018 General Session

Amended by Chapter 344, 2017 General Session

**26-10-10 Cytomegalovirus (CMV) public education and testing.**

- (1) As used in this section "CMV" means cytomegalovirus.
- (2) The department shall establish and conduct a public education program to inform pregnant women and women who may become pregnant regarding:
  - (a) the incidence of CMV;
  - (b) the transmission of CMV to pregnant women and women who may become pregnant;
  - (c) birth defects caused by congenital CMV;
  - (d) methods of diagnosing congenital CMV; and
  - (e) available preventative measures.
- (3) The department shall provide the information described in Subsection (2) to:
  - (a) child care programs licensed under Title 26, Chapter 39, Utah Child Care Licensing Act, and their employees;

- (b) a person described in Subsection 26-39-403(1)(c) and Subsections 26-39-403(2)(a), (b), (c), (e), and (f);
  - (c) a person serving as a school nurse under Section 53G-9-204;
  - (d) a person offering health education in a school district;
  - (e) health care providers offering care to pregnant women and infants; and
  - (f) religious, ecclesiastical, or denominational organizations offering children's programs as a part of worship services.
- (4) If a newborn infant fails the newborn hearing screening test(s) under Subsection 26-10-6(1), a medical practitioner shall:
- (a) test the newborn infant for CMV before the newborn is 21 days of age, unless a parent of the newborn infant objects; and
  - (b) provide to the parents of the newborn infant information regarding:
    - (i) birth defects caused by congenital CMV; and
    - (ii) available methods of treatment.
- (5) The department shall provide to the family and the medical practitioner, if known, information regarding the testing requirements under Subsection (4) when providing results indicating that an infant has failed the newborn hearing screening test(s) under Subsection 26-10-6(1).
- (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the provisions of this section.

Amended by Chapter 58, 2018 General Session

Amended by Chapter 281, 2018 General Session

Amended by Chapter 415, 2018 General Session

#### **26-10-11 Children's Hearing Aid Program.**

- (1) The department shall offer a program to provide hearing aids to children who qualify under this section.
- (2) The department shall provide hearing aids to a child who:
- (a) is younger than six years old;
  - (b) is a resident of Utah;
  - (c) has been diagnosed with hearing loss by:
    - (i) an audiologist with pediatric expertise; and
    - (ii) a physician;
  - (d) provides documentation from an audiologist with pediatric expertise certifying that the child needs hearing aids;
  - (e) has obtained medical clearance by a medical provider for hearing aid fitting;
  - (f) does not qualify to receive a contribution that equals the full cost of a hearing aid from the state's Medicaid program or the Utah Children's Health Insurance Program; and
  - (g) meets the financial need qualification criteria established by the department by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for participation in the program.
- (3)
- (a) There is established the Children's Hearing Aid Advisory Committee.
  - (b) The committee shall be composed of five members appointed by the executive director, and shall include:
    - (i) one audiologist with pediatric expertise;
    - (ii) one speech language pathologist;

- (iii) one teacher, certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf or a listening and spoken language therapist;
  - (iv) one ear, nose, and throat specialist; and
  - (v) one parent whose child:
    - (A) is six years old or older; and
    - (B) has hearing loss.
  - (c) A majority of the members constitutes a quorum.
  - (d) A vote of the majority of the members, with a quorum present, constitutes an action of the committee.
  - (e) The committee shall elect a chair from its members.
  - (f) The committee shall:
    - (i) meet at least quarterly;
    - (ii) recommend to the department medical criteria and procedures for selecting children who may qualify for assistance from the account; and
    - (iii) review rules developed by the department.
  - (g) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with Sections 63A-3-106 and 63A-3-107 and rules made by the Division of Finance, pursuant to Sections 63A-3-106 and 63A-3-107.
  - (h) The department shall provide staff to the committee.
- (4)
- (a) There is created within the General Fund a restricted account known as the "Children's Hearing Aid Program Restricted Account."
  - (b) The Children's Hearing Aid Program Restricted Account shall consist of:
    - (i) amounts appropriated to the account by the Legislature; and
    - (ii) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, or any other conveyance that may be made to the account from private sources.
  - (c) Upon appropriation, all actual and necessary operating expenses for the committee described in Subsection (3) shall be paid by the account.
  - (d) Upon appropriation, no more than 9% of the account money may be used for the department's expenses.
  - (e) If this account is repealed in accordance with Section 63I-1-226, any remaining assets in the account shall be deposited into the General Fund.
- (5) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish procedures for:
- (a) identifying the children who are financially eligible to receive services under the program; and
  - (b) reviewing and paying for services provided to a child under the program.
- (6) The department shall, before December 1 of each year, submit a report to the Health and Human Services Interim Committee that describes the operation and accomplishments of the program.

Amended by Chapter 415, 2018 General Session

**26-10-13 Reporting results of a test for hearing loss.**

- (1) As used in this section, "health care provider" means the same as that term is defined in Section 78B-3-403.
- (2) Except as provided in Subsection (3), a health care provider shall report results of a test for hearing loss to the Utah Schools for the Deaf and the Blind if:

- (a) the results suggest that additional diagnostic procedures or medical interventions are necessary; and
  - (b) the individual tested for hearing loss is under the age of 22.
- (3) A health care provider may not make the report of an individual's results described in Subsection (2) if the health care provider receives a request to not make the report from:
- (a) the individual, if the individual is not a minor; or
  - (b) the individual's parent or guardian, if the individual is a minor.

Enacted by Chapter 351, 2017 General Session