

MEDICAID CHOICE CERTIFICATE

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Raymond W. Short

AN ACT RELATING TO HEALTH; REQUIRING A MEDICAID APPLICANT FOR NURSING CARE TO OBTAIN A MEDICAID CHOICE CERTIFICATE AS PART OF THE PREADMISSION ASSESSMENT FOR THE PURPOSE OF INFORMING THE APPLICANT OF THE STATE'S MEDICAID CHOICE WAIVER AND THE AVAILABILITY OF HOME AND COMMUNITY-BASED SERVICES; REQUIRING A LONG-TERM PAMPHLET BE GIVEN TO A PERSON WHO INQUIRES ABOUT ADMISSION INTO A NURSING CARE FACILITY; ESTABLISHING DUTIES; MAKING CONFORMING AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

62A-3-104, as last amended by Chapter 254, Laws of Utah 1998

62A-3-104.1, as last amended by Chapter 254, Laws of Utah 1998

ENACTS:

26-18-12, Utah Code Annotated 1953

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

Section 1. Section **26-18-12** is enacted to read:

26-18-12. Medicaid Choice Certificate.

(1) As used in this section:

h (a) **"APPLICANT" MEANS A PERSON WHO :**

(i) APPLIES FOR ADMISSION TO A NURSING CARE FACILITY; AND

(ii) IS EITHER A MEDICAID RECIPIENT OR A MEDICAID APPLICANT. h

h ~~(a)~~ (b) h "Area agency" is as defined in Section 62A-3-101.

h ~~(b)~~ (c) h "Division of Aging and Adult Services" means the Division of Aging and Adult Services within the Department of Human Services.

h ~~(c)~~ (d) h "Long-term care pamphlet" means a pamphlet prepared by the division and the Division

of Aging and Adult Services that provides information about services available to aged and

28 high-risk adults through the division, the Division of Aging and Adult Services, ~~h~~ **[and]** ~~h~~ area
 28a agencies ~~h~~ , **AND OTHER PUBLIC AGENCIES** ~~h~~ .

29 ~~h~~ **[(t)] (e)** ~~h~~ "Medicaid choice certificate" means a certificate signed by an area agency on a
 29a form

30 prepared by the division and the Division of Aging and Adult Services indicating that the Medicaid
 31 applicant, or person acting on the applicant's behalf:

32 (i) was not interested in the applicant being evaluated or in receiving information in
 33 connection with the state's Medicaid choice waiver; or

34 (ii) was interested and received:

35 (A) an evaluation of the applicant ~~h~~ **[from which]** **BY** ~~h~~ the area agency ~~h~~ **[determined]** **TO**
 35a **DETERMINE** ~~h~~ the services, if

36 any, that would be available ~~h~~ ,**WITHIN APPROPRIATIONS,** ~~h~~ to and appropriate for the applicant; and

37 (B) information regarding the state's Medicaid choice waiver and the services available to
 38 the applicant through the Division of Aging and Adult Services, the area agency, and other

38a ~~h~~ **PUBLIC** ~~h~~

39 agencies.

40 (e) "Preadmission assessment" means the assessment the department requires a nursing
 41 care facility to conduct before seeking authorization to admit a Medicaid applicant.

42 (f) "Resident" means a Medicaid recipient who resides in a nursing care facility.

43 (2) (a) The Division of Aging and Adult Services shall distribute long-term care pamphlets
 44 to each nursing care facility in the state that accepts Medicaid applicants.

45 (b) A nursing care facility that accepts Medicaid applicants shall:

46 (i) give a long-term care pamphlet to each person who, for the purpose of inquiring into
 47 the admission process for himself or another, visits the facility or requests written materials from
 48 the facility; and

49 (ii) contact the Division of Aging and Adult Services to request long-term care pamphlets
 50 when more are needed.

51 (3) (a) The Medicaid choice certificate is a required component of the preadmission
 52 assessment and is subject to the same transmittal requirements.

53 (b) (i) If a Medicaid applicant has a Medicaid choice certificate at the time of admission,
 54 the nursing home shall transmit the certificate to the department with the other information
 55 required as part of the preadmission assessment.

56 (ii) If a Medicaid applicant does not have a Medicaid choice certificate when admission
 57 is sought, the nursing care facility shall:

58 (A) communicate that fact to the local area agency within seven ~~h~~ **CALENDAR** ~~h~~ days of the
 58a applicant

59 seeking admission; and

60 (B) upon request, permit the local area agency to enter the nursing care facility to meet
 61 with the applicant, or person acting on behalf of the applicant, to satisfy the requirements of the
 62 Medicaid choice certificate.

63 (c) For a Medicaid applicant who did not have a Medicaid choice certificate at the time
 64 of admission, a nursing care facility may proceed with the preadmission assessment upon:

65 (i) the completion of the Medicaid choice certificate **BY THE LOCAL AREA AGENCY** ; or

66 (ii) the failure of the **LOCAL** area agency to complete the requirements of the Medicaid
 66a choice
 67 certificate within **seven** **10 WORKING** days of receiving notice under Subsection (3)(b)(ii)(A),
 67a which failure must
 68 be noted on the transmittal application.

69 (d) **After** **EXCEPT AS PROVIDED IN SUBSECTION (5), AFTER** June 30, 1999, a new
 69a Medicaid choice certificate must be obtained whenever a
 70 person, who has discontinued his status as a Medicaid resident, reapplies for Medicaid payment
 71 for care at a nursing care facility.

72 (4) **(a)** A nursing care facility that:

73 ~~**(a)**~~ **(i)** complies with Subsection (3), including Subsection (3)(c)(ii), is eligible to
 73a receive

74 Medicaid reimbursement for care provided to the applicant from the time of admission; and

75 ~~**(b)**~~ **(ii)** fails to comply with Subsection (3) is only eligible to receive Medicaid
 75a reimbursement

76 for care to the applicant that occurred after the nursing home facility transmitted a completed
 77 Medicaid choice certificate to the department on behalf of the applicant.

77a **(b) A NURSING CARE FACILITY MAY APPLY AVAILABLE GRACE DAYS, AS DEFINED BY**
 77b **RULE, TO MITIGATE THE EFFECT OF SUBSECTION (4)(a)(ii).**

78 (5) (a) Nothing in this section may be construed as requiring a Medicaid resident to obtain
 79 a Medicaid choice certificate to remain eligible for Medicaid if the resident:

80 (i) was receiving care on June 30, 1999; **or**

81 (ii) is transferred between **health** **NURSING** care facilities ~~**[, as defined in Section**~~
 81a ~~**26-21-2;**~~ and the

82 transfer does not result in the resident needing to reapply for Medicaid ; **OR**

82a **(iii) RETURNS TO THE SAME NURSING CARE FACILITY WITHIN THREE CONSECUTIVE WORKING DAYS**
 82b **OF HAVING BEEN DISCHARGED FROM THE NURSING CARE FACILITY FOR ADMISSION INTO A HOSPITAL**

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83 (b) Notwithstanding Subsection (5)(a), a person is subject to the requirements of
84 Subsection (3) if that person:

85 (i) applies for Medicaid payment for care at a nursing care facility after June 30, 1999; or

86 (ii) discontinues his status as a Medicaid resident after June 30, 1999, and then reappplies
87 for Medicaid payment for care at a nursing care facility.

88 Section 2. Section **62A-3-104** is amended to read:

89 **62A-3-104. Authority of division.**

90 (1) The division is the sole state agency, as defined by the Older Americans Act of 1965,
91 42 U.S.C. 3001 et seq., to serve as an effective and visible advocate for the aging and adult
92 population of this state, to develop and administer a state plan under the policy direction of the
93 board, and to take primary responsibility for state activities relating to provisions of the Older
94 Americans Act of 1965, as amended.

95 (2) (a) The division has authority to designate planning and service areas for the state, and
96 to designate an area agency on aging within each planning and service area to design and
97 implement a comprehensive and coordinated system of services and programs for the aged within
98 appropriations from the Legislature.

99 (b) Designation as an area agency on aging may be withdrawn:

100 (i) upon request of the area agency on aging; or

101 (ii) upon noncompliance with the provisions of the Older Americans Act of 1965, 42
102 U.S.C. 3001 et seq., the federal regulations enacted under that act, the provisions of this chapter,
103 or the rules, policies, or procedures established by the division.

104 (3) (a) The division has the authority to designate planning and service areas for the state
105 and to designate an area agency on high risk adults within each planning and service area in
106 accordance with Subsection (3)(b) to design and implement a comprehensive and coordinated
107 system of case management and programs for high risk adults within appropriations from the
108 Legislature.

109 (b) Before October 1, 1998, the division shall designate as the area agency on high risk
110 adults in a planning and service area:

111 (i) the area agency on aging that operates within the same geographic area if that agency
112 has requested, before July 1, 1998, to expand its current contract with the division to include the
113 responsibility of:

114 (A) being the area agency on high risk adults; or

115 (B) operating the area agency on high risk adults through joint cooperation with one or
116 more existing area agencies on aging without reducing geographical coverage in any service area;
117 or

118 (ii) a public or private nonprofit agency or office if the area agency on aging that operates
119 within the same geographic area has not made a request in accordance with Subsection (3)(b).

120 (c) Area agencies on high risk adults shall be in operation before July 1, 1999. The

121 division's efforts to establish area agencies on high risk adults shall start with counties with a
122 population of more than 150,000 people.

123 (d) Designation as an area agency on high risk adults may be withdrawn:

124 (i) upon request by the area agency; or

125 (ii) upon noncompliance with state or federal laws, or rules, policies, or procedures
126 established by the division.

127 (4) The division has authority to receive and distribute state and federal funds for the
128 division's programs and services to the aging and adult populations of the state.

129 (5) The division has authority to establish, either directly or by contract, programs of
130 advocacy, monitoring, evaluation, technical assistance, and public education to enhance the quality
131 of life for aging and adult citizens of the state.

132 (6) In accordance with the rules of the division and Title 63, Chapter 56, Utah Procurement
133 Code, the division may:

134 (a) contract with the governing body of an area agency to provide a comprehensive
135 program of services; and

136 (b) contract with public and private entities for special services.

137 (7) The division has authority to provide for collection, compilation, and dissemination
138 of information, statistics, and reports relating to issues facing aging and adult citizens.

139 (8) The division has authority to prepare and submit reports regarding the operation and
140 administration of the division to the department, the Legislature, and the governor, as requested.

141 (9) The division shall:

142 (a) implement and enforce policies established by the board governing all aspects of the
143 division's programs for aging and adult persons in the state;

144 (b) monitor and evaluate programs provided by or under contract with the division, area
145 agencies, and any entity that receives funds from an area agency to ensure compliance with all
146 applicable state and federal statutes, policies, and procedures;

147 (c) examine expenditures of public funds;

148 (d) withhold funds from programs based on contract noncompliance;

149 (e) review and approve plans of area agencies in order to ensure compliance with division
150 policies and to ensure a statewide comprehensive program;

151 (f) promote and establish cooperative relationships with state and federal agencies, social

152 and health agencies, education and research organizations, and other related groups in order to
153 further programs for aging and adult persons, and prevent duplication of services;

154 (g) advocate for the aging and adult populations; and

155 (h) promote and conduct research on the problems and needs of aging and adult persons,
156 and submit recommendations for changes in policies, programs, and funding to the governor and
157 the Legislature.

158 (10) As provided for in Section 26-18-12, the division shall:

159 (a) prepare the Medicaid choice certificate and long-term pamphlet in conjunction with
160 the Division of Health Care Financing within the Department of Health; and

161 (b) distribute long-term pamphlets to nursing care facilities that accept Medicaid
162 applicants.

163 Section 3. Section **62A-3-104.1** is amended to read:

164 **62A-3-104.1. Powers and duties of area agencies.**

165 (1) An area agency that provides services to the aged, high risk adults, or both shall within
166 its respective jurisdiction:

167 (a) advocate by monitoring, evaluating, and providing input on all policies, programs,
168 hearings, and levies that affect those persons;

169 (b) design and implement a comprehensive and coordinated system of services within a
170 designated planning and service area;

171 (c) conduct periodic reviews and evaluations of needs and services;

172 (d) prepare and submit to the division plans for funding and service delivery for services
173 within the designated planning and service area;

174 (e) establish, either directly or by contract, programs licensed under Chapter 2 of this title;

175 (f) appoint an area director, prescribe his duties, and provide adequate and qualified staff
176 to carry out the area plan described in Subsection (1)(d);

177 (g) establish rules not contrary to policies of the board and rules of the division, regulating
178 local services and facilities;

179 (h) operate other services and programs funded by sources other than those administered
180 by the division;

181 (i) establish mechanisms to provide direct citizen input, including an area agency advisory
182 council with a majority of members who are eligible for services from the area agency;

183 (j) establish fee schedules; ~~and~~

184 (k) satisfy the requirements of the Medicaid choice certificate, as set forth in Section

185 26-18-12, within ~~h~~ **TEN WORKING** ~~h~~ days of receiving notification of a Medicaid applicant

185a from a nursing care

186 facility; and

187 ~~(k)~~ (l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal
188 Cooperation Act, and with the requirements and procedures of Title 51, Chapter 2.

189 (2) Before disbursing any public funds, an area agency shall require that all entities
190 receiving any public funds agree in writing that:

191 (a) the division may examine the entity's program and financial records; and

192 (b) the auditor of the local area agency may examine and audit the entity's program and
193 financial records, if requested by the local area agency.

194 (3) Local area agencies may receive property, grants, gifts, supplies, materials, including
195 any benefit derived therefrom, and contributions for the purpose of providing services pursuant to
196 this part. If those gifts are conditioned upon their use for a specified service or program, they shall
197 be so used.

198 (4) (a) Area agencies shall award all public funds in compliance with the requirements of
199 Title 63, Chapter 56, Utah Procurement Code, or with a county procurement ordinance that
200 requires similar procurement procedures.

201 (b) If all initial bids on a project are rejected, the area agency shall publish a new invitation
202 to bid. If no satisfactory bid is received by the area agency when the bids received from the second
203 invitation are opened, the area agency may execute a contract without requiring competitive
204 bidding.

205 (c) An area agency need not comply with the procurement provisions of this section when
206 it disburses public funds to other governmental entities. For purposes of this Subsection (4)(c),
207 "governmental entity" means any political subdivision or institution of higher education of the
208 state.

209 (d) Contracts awarded by an area agency shall be for a fixed amount and limited period.
210 Contracts may be modified due to changes in available funding for the same contract purpose
211 without competition.

212 (5) Local area agencies shall comply with all applicable state and federal statutes, policies,
213 audit requirements, and any directives resulting from those audits.

214 Section 4. **Effective date.**
215 This act takes effect on July 1, 1999.

Legislative Review Note
as of 12-3-98 7:45 AM

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

Office of Legislative Research and General Counsel

Committee Note

The Health and Human Services Interim Committee recommended this bill.