

PUBLIC ASSISTANCE ELIGIBILITY

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Millie M. Peterson

AN ACT RELATING TO WORKFORCE SERVICES; REQUIRING THAT ONE PASSENGER VEHICLE BE EXCLUDED FROM ELIGIBILITY DETERMINATIONS FOR PUBLIC ASSISTANCE; AND MAKING TECHNICAL AND CONFORMING AMENDMENTS.

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

AMENDS:

26-18-2, as last amended by Chapter 21, Laws of Utah 1988

26-18-3, as last amended by Chapter 183, Laws of Utah 1990

26-18-4, as last amended by Chapter 181, Laws of Utah 1987

26-18-10, as last amended by Chapter 21, Laws of Utah 1988

26-40-103, as enacted by Chapter 360, Laws of Utah 1998

35A-3-102, as enacted by Chapter 174, Laws of Utah 1997

35A-3-107, as renumbered and amended by Chapter 174, Laws of Utah 1997

35A-3-302, as enacted by Chapter 174, Laws of Utah 1997

35A-3-310, as enacted by Chapter 174, Laws of Utah 1997

35A-3-401, as renumbered and amended by Chapter 174, Laws of Utah 1997

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

Section 1. Section **26-18-2** is amended to read:

26-18-2. Definitions.

As used in this chapter:

(1) "Applicant" means any person who requests assistance under the medical programs of the state.

(2) "Division" means the Division of Health Care Financing within the department, established under Section 26-18-2.1.

(3) "Client" means a person who the department has determined to be eligible for assistance under the Medicaid program or the Utah Medical Assistance Program established under

Section 26-18-10.

(4) "Medicaid program" means the state program for medical assistance for persons who are eligible under the state plan adopted pursuant to Title XIX of the federal Social Security Act.

(5) "Medical or hospital assistance" means services furnished or payments made to or on behalf of recipients of medical or hospital assistance under state medical programs.

(6) (a) "Passenger vehicle" means a self-propelled, two-axle vehicle intended primarily for operation on highways and used by an applicant or recipient to meet basic transportation needs and has a fair market value below 40% of the applicable amount of the federal luxury passenger automobile tax established in 26 U.S.C. Sec. 4001 and adjusted annually for inflation.

(b) "Passenger vehicle" does not include:

(i) a commercial vehicle, as defined in Section 41-1a-102;

(ii) an off-highway vehicle, as defined in Section 41-1a-102; or

(iii) a motor home, as defined in Section 13-14-102.

~~[(6)]~~ (7) "Recipient" means a person who has received medical or hospital assistance under the Medicaid program or the Utah Medical Assistance Program established under Section 26-18-10.

Section 2. 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 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 39, Children's Health Insurance Program, 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.

Section 3. Section **26-18-4** is amended to read:

26-18-4. Department standards for eligibility under Medicaid -- Funds for abortions.

(1) The department may develop standards and administer policies relating to eligibility under the Medicaid program as long as they are consistent with Subsection 26-18-3(6). An applicant receiving Medicaid assistance may be limited to particular types of care or services or to payment of part or all costs of care determined to be medically necessary.

(2) The department shall not provide any funds for medical, hospital, or other medical expenditures or medical services to otherwise eligible persons where the purpose of the assistance is to perform an abortion, unless the life of the mother would be endangered if an abortion were not performed.

(3) Any employee of the department who authorizes payment for an abortion contrary to the provisions of this section is guilty of a class B misdemeanor and subject to forfeiture of office.

(4) Any person or organization that, under the guise of other medical treatment, provides an abortion under auspices of the Medicaid program is guilty of a third degree felony and subject to forfeiture of license to practice medicine or authority to provide medical services and treatment.

Section 4. Section **26-18-10** is amended to read:

26-18-10. Utah Medical Assistance Program -- Policies and standards.

(1) The division shall develop a medical assistance program, which shall be known as the Utah Medical Assistance Program, for low income persons who are not eligible under the state plan for Medicaid under Title XIX of the Social Security Act or Medicare under Title XVIII of that act.

(2) Persons in the custody of prisons, jails, halfway houses, and other nonmedical government institutions are not eligible for services provided under this section.

(3) The department shall develop standards and administer policies relating to eligibility requirements, consistent with Subsection 26-18-3(6), for participation in the program, and for payment of medical claims for eligible persons.

(4) The program shall be a payor of last resort. Before assistance is rendered the division shall investigate the availability of the resources of the spouse, father, mother, and adult children of the person making application.

(5) The department shall determine what medically necessary care or services are covered under the program, including duration of care, and method of payment, which may be partial or in full.

(6) The department shall not provide public assistance for medical, hospital, or other medical expenditures or medical services to otherwise eligible persons where the purpose of the assistance is for the performance of an abortion, unless the life of the mother would be endangered if an

abortion were not performed.

(7) The department may establish rules to carry out the provisions of this section.

Section 5. Section **26-40-103** is amended to read:

26-40-103. Creation and administration of the Utah Children's Health Insurance Program.

(1) There is created the Utah Children's Health Insurance Program to be administered by the department in accordance with the provisions of:

(a) this chapter; and

(b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397 et seq.

(2) The department shall:

(a) prepare and submit the state's children's health insurance plan before May 1, 1998, and any amendments to the federal Department of Health and Human Services in accordance with 42 U.S.C. Sec.1397ff; and

(b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act regarding:

(i) eligibility requirements consistent with Subsection 26-18-3(6);

(ii) program benefits;

(iii) the level of coverage for each program benefit;

(iv) cost-sharing requirements for enrollees, which may not:

(A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or

(B) impose deductible, copayment, or coinsurance requirements on an enrollee for well-child, well-baby, and immunizations;

(v) the administration of the program; and

(vi) the provider assessment, including:

(A) the factor for the assessment;

(B) the administration, collection, and enforcement of the assessment, including:

(I) auditing a provider's records; and

(II) imposing penalties for failure to pay the assessment as required; and

(C) reducing the amount of the assessment to the extent funds are deposited into the Hospital Provider Assessment Account created in Section 26-40-112 as a result of private contributions to the program.

(3) Before July 1, 2001, the Governor's Office of Planning and Budget shall study the effectiveness of the department's administration of the program and report any findings to:

- (a) the Health and Human Services Interim Committee of the Legislature;
- (b) the Health Policy Commission; and
- (c) the department.

Section 6. Section **35A-3-102** is amended to read:

35A-3-102. Definitions.

As used in this chapter:

- (1) "Applicant" means a person who requests assistance under this chapter.
- (2) "Average monthly number of families" means the average number of families who received cash assistance on a monthly basis during the previous federal fiscal year, starting from October 1, 1998 to September 30, 1999, and continuing each year thereafter.

(3) "Cash assistance" means a monthly dollar amount of cash a client is eligible to receive under Section 35A-3-302.

(4) "Child care services" means care of a child for a portion of the day that is less than 24 hours in a qualified setting, as defined by rule, by a responsible person who is not the child's parent or legal guardian.

(5) "Date of enrollment" means the date on which the applicant was approved as eligible for cash assistance.

(6) "Director" means the director of the division.

(7) "Diversion" means a single payment of cash assistance under Section 35A-3-303 to a client who is eligible for but does not require extended cash assistance under Part 3, Family Employment Program.

(8) "Division" means the Division of Employment Development.

(9) "Education or training" means:

- (a) basic remedial education;
- (b) adult education;
- (c) high school education;
- (d) education to obtain the equivalent of a high school diploma;
- (e) education to learn English as a second language;
- (f) applied technology training;
- (g) employment skills training; or
- (h) on-the-job training.

(10) "Full-time education or training" means training on a full-time basis as defined by the educational institution attended by the parent client.

(11) "General assistance" means financial assistance provided to a person who is not otherwise eligible for cash assistance under Part 3, Family Employment Program, because that person does not live in a family with a related dependent child.

(12) "Office of Recovery Services" means the state's Title IV-D child support enforcement agency organized within the Department of Human Services.

~~[(14)]~~ (13) "Parent client" means a person who enters into an employment plan with the division to qualify for cash assistance under Part 3, Family Employment Program.

~~[(13)]~~ (14) "Plan" or "state plan" means the state plan submitted to the Secretary of the United States Department of Health and Human Services to receive funding from the United States through the Temporary Assistance for Needy Families Block Grant.

(15) (a) "Passenger vehicle" means a self-propelled, two-axle vehicle intended primarily for operation on highways and used by an applicant or client to meet basic transportation needs and has a fair market value below 40% of the applicable amount of the federal luxury passenger automobile tax established in 26 U.S.C. Sec. 4001 and adjusted annually for inflation.

(b) "Passenger vehicle" does not include:

- (i) a commercial vehicle, as defined in Section 41-1a-102;
- (ii) an off-highway vehicle, as defined in Section 41-1a-102; or
- (iii) a motor home, as defined in Section 13-14-102.

~~[(15)]~~ (16) "Single minor parent" means a person under 18 years of age who is not married and has a minor child in his care and custody.

Section 7. Section **35A-3-107** is amended to read:

35A-3-107. Disclosure of income and property owned -- Eligibility standards.

(1) Applicants and clients shall execute forms provided by the division describing all:

~~[(1)]~~ (a) property owned;

~~[(2)]~~ (b) insurance owned by any member of the immediate family; and

~~[(3)]~~ (c) income available.

(2) (a) In determining whether an applicant or client is eligible for a service or benefit provided under this part, the division shall, if Subsection (2)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or client.

(b) Before Subsection (2)(a) may be applied:

(i) the federal government must:

(A) determine that Subsection (2)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend to the state a waiver that permits the implementation of Subsection (2)(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 (2)(a) can be implemented within existing funding.

Section 8. Section **35A-3-302** is amended to read:

35A-3-302. Eligibility requirements.

(1) The program of cash assistance provided under this part is known as the Family Employment Program.

(2) (a) The division shall submit a state plan to the Secretary of the United States Department of Health and Human Services to obtain federal funding under the Temporary Assistance for Needy Families Block Grant.

(b) The provisions of the state plan submitted under Subsection (2)(a) shall be consistent

with this part and federal law.

(c) If a discrepancy arises between a provision of the state plan and this part, this part supersedes the provision in the state plan.

(3) The services and supports under this part are for both one-parent and two-parent families.

(4) To be eligible for cash assistance under this part, a family shall:

(a) have at least one minor dependent child; or

(b) have a parent who is in the third trimester of a pregnancy.

(5) (a) In an appropriations act, the Legislature shall determine annually the maximum monthly dollar amount of cash assistance for families based on family size.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, and consistent with Section 35A-3-107, the department shall establish rules for eligibility and the amount of cash assistance a family is eligible to receive under this part, which shall be based on:

(i) family size;

(ii) family income;

(iii) the maximum monthly income established under Subsection (5)(a); and

(iv) other relevant factors.

(6) When determining the dollar amount of cash assistance to be provided under this chapter, the division shall disregard from earned income:

(a) \$100; and

(b) 50% of the remaining monthly income.

(7) Once eligibility has been established, the division shall disregard money on deposit in an Individual Development Account established under Section 35A-3-312 when determining subsequent eligibility.

(8) The department shall provide for an appeal of a determination of eligibility in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

Section 9. Section **35A-3-310** is amended to read:

35A-3-310. Child care services.

(1) A parent client may receive assistance for child care under this part for a minor child in

the care and custody of the parent client, unless the other parent in a two-parent family:

- (a) is capable of caring for the family's child;
- (b) is not employed; and
- (c) has not entered into an employment plan with the division.

(2) The division shall encourage a parent client to obtain child care at no cost from a parent, sibling, relative, or other suitable provider.

(3) Within appropriations from the Legislature and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, and Section 35A-3-107, the department may make rules governing eligibility for child care services for a minor child in the care and custody of a parent who does not or no longer receives cash assistance under this part.

Section 10. Section **35A-3-401** is amended to read:

35A-3-401. General assistance.

(1) (a) General Assistance may be provided to individuals who are not receiving cash assistance under Part 3, Family Employment Program, or Supplemental Security Income, and who are unemployable according to standards promulgated by the department.

(b) (i) General Assistance may be provided by payment in cash or in kind.

(ii) The office may provide an amount less than the existing payment level for an otherwise similarly situated client of cash assistance under Part 3, Family Employment Program.

(c) The office shall establish asset limitations for General Assistance clients consistent with Section 35A-3-107.

(d) (i) General Assistance may be granted to meet special nonrecurrent needs of an applicant for the federal Supplemental Security Income program, if the applicant agrees to reimburse the division for assistance advanced while awaiting the determination of eligibility by the Social Security Administration.

(ii) General Assistance payments may not be made to a current client of cash assistance or Supplemental Security Income.

(e)(i) General assistance may be used for the reasonable cost of burial for a client, if heirs or relatives are not financially able to assume this expense, and the county is determined not to be

liable for the expense under Section 17-5-250.

(ii) Notwithstanding Subsection (1)(e)(i), if the body of a person is unclaimed, Section 53B-17-301 applies.

(iii) The department shall fix the cost of a reasonable burial and conditions under which burial expenditures may be made.

(2) The division may cooperate with any governmental unit or agency, or any private nonprofit agency in establishing work projects to provide employment for employable persons.