

1                                   **REVENUE FOR RESTRUCTURING MEDICAID**

2   **SPEND DOWN**

3   2002 GENERAL SESSION

4   STATE OF UTAH

5   **Sponsor: Trisha S. Beck**

6   **This act modifies the Medicaid spend down requirements and creates a funding mechanism**  
7   **for the spend down modification. The act amends the Medical Assistance Act. The act**  
8   **defines terms and directs the Health Department to use 100% of the federal poverty level as**  
9   **the income standard when determining if the aged, blind, or disabled have spent down**  
10 **enough excess income to be eligible for Medicaid benefits. The act increases the beer tax and**  
11 **creates a restricted account dedicated to the funding of Medicaid spend down.**

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

13 AMENDS:

14           **26-18-3**, as last amended by Chapter 316, Laws of Utah 2000

15           **59-15-101**, as last amended by Chapters 30 and 66, Laws of Utah 1992

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

17           Section 1. Section **26-18-3** is amended to read:

18           **26-18-3. Administration of Medicaid program by department -- Disciplinary**  
19 **measures and sanctions -- Funds collected.**

20           (1) The department shall be the single state agency responsible for the administration of  
21 the Medicaid program in connection with the United States Department of Health and Human  
22 Services pursuant to Title XIX of the Social Security Act.

23           (2) The department shall develop implementing policy in conformity with this chapter, the  
24 requirements of Title XIX, and applicable federal regulations.

25           (3) The department may, in its discretion, contract with the Department of Human Services  
26 or other qualified agencies for services in connection with the administration of the Medicaid  
27 program, including but not limited to the determination of the eligibility of individuals for the



28 program, recovery of overpayments, and enforcement of fraud and abuse laws, consistent with  
29 Section 26-20-13, to the extent permitted by law and quality control services.

30 (4) The department shall provide, by rule, disciplinary measures and sanctions for  
31 Medicaid providers who fail to comply with the rules and procedures of the program, provided that  
32 sanctions imposed administratively may not extend beyond:

- 33 (a) termination from the program;
- 34 (b) recovery of claim reimbursements incorrectly paid; and
- 35 (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

36 (5) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of  
37 the federal Social Security Act shall be deposited in the General Fund as nonlapsing dedicated  
38 credits to be used by the division in accordance with the requirements of that section.

39 (6) (a) In determining whether an applicant or recipient is eligible for a service or benefit  
40 under this part or Chapter 40, Utah Children's Health Insurance [Program] Act, the department  
41 shall, if Subsection (6)(b) is satisfied, exclude from consideration one passenger vehicle designated  
42 by the applicant or recipient.

43 (b) Before Subsection (6)(a) may be applied:

44 (i) the federal government must:

45 (A) determine that Subsection (6)(a) may be implemented within the state's existing public  
46 assistance-related waivers as of January 1, 1999;

47 (B) extend a waiver to the state permitting the implementation of Subsection (6)(a); or

48 (C) determine that the state's waivers that permit dual eligibility determinations for cash  
49 assistance and Medicaid are no longer valid; and

50 (ii) the department must determine that Subsection (6)(a) can be implemented within  
51 existing funding.

52 (7) (a) For purposes of this Subsection (7):

53 (i) "aged, blind, or disabled" shall be defined by administrative rule; and

54 (ii) "spend down" means an amount of income in excess of the allowable income standard  
55 that must be paid in cash to the department or incurred through the medical services not paid by  
56 Medicaid.

57 (b) In determining whether an applicant or recipient who is aged, blind, or disabled is  
58 eligible for a service or benefit under this chapter as a result of a spend down, the department shall

59 use 100% of the federal poverty level as the income standard for the spend down.

60 Section 2. Section **59-15-101** is amended to read:

61 **59-15-101. Tax basis -- Rate.**

62 (1) A tax is imposed at the rate of [~~\$\$\$~~] \$12 per 31-gallon barrel on all beer, as defined  
63 in Section 32A-1-105, which is imported or manufactured for sale, use, or distribution in this state.  
64 This tax is imposed at a proportionate rate for any other quantity or for the fractional parts of a  
65 barrel and may not be imposed more than once on the same beer.

66 (2) A tax may not be levied or imposed on beer sold to the United States and its agencies,  
67 nor shall any tax be imposed on beer manufactured or imported for sale, use, or distribution outside  
68 the state and exported from the state.

69 (3) (a) There is created within the General Fund a restricted account known as the  
70 "Medicaid Spend Down Restricted Account."

71 (b) Beginning July 1, 2002 the revenues generated by the \$1 per barrel increase in the beer  
72 tax enacted during the 2002 Annual General Session shall be annually deposited into the account.

73 (c) The Department of Health shall expend the funds in the account for the purposes  
74 described in Subsection 26-18-3(7).

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**Legislative Review Note**  
**as of 1-10-02 8:22 AM**

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

**Office of Legislative Research and General Counsel**