

28 or lengths of stay. The division shall deny any provider claim for services that fail to meet
29 criteria established by the division concerning medical necessity or appropriateness. The
30 division shall place its emphasis on high quality care to recipients in the most economical and
31 cost-effective manner possible, with regard to both publicly and privately provided services.

32 (2) The division shall implement and utilize cost-containment methods, where
33 possible, which may include, but are not limited to:

34 (a) prepayment and postpayment review systems to determine if utilization is
35 reasonable and necessary;

36 (b) preadmission certification of nonemergency admissions;

37 (c) mandatory outpatient, rather than inpatient, surgery in appropriate cases;

38 (d) second surgical opinions;

39 (e) procedures for encouraging the use of outpatient services;

40 (f) consistent with Sections 28-18-2.4 and 58-17a-605.1, a preferred drug program;

41 ~~[(f)]~~ (g) coordination of benefits; and

42 ~~[(g)]~~ (h) review and exclusion of providers who are not cost effective or who have
43 abused the Medicaid program, in accordance with the procedures and provisions of federal law
44 and regulation.

45 (3) The director of the division shall periodically assess the cost effectiveness and
46 health implications of the existing Medicaid program, and consider alternative approaches to
47 the provision of covered health and medical services through the Medicaid program, in order to
48 reduce unnecessary or unreasonable utilization.

49 Section 2. Section **26-18-2.4** is enacted to read:

50 **26-18-2.4. Medicaid Preferred Drug Program.**

51 (1) A preferred drug program developed by the department under Subsection 26-18-2.3

52 (2)(f) shall:

53 (a) be based on clinical and cost-related factors; and

54 (b) require prior approval before paying for a drug that is not included on the preferred
55 drug list, unless the department receives a rebate from the manufacturer of the nonpreferred
56 drug in an amount that is acceptable to the department.

57 (2) (a) The department shall develop the preferred drug program for fiscal year
58 2003-04, but may not implement the program unless:

59 (i) the department reports its progress on implementing the program, including any
60 proposed rules to the Legislative Executive Appropriations Committee during the 2003
61 interim; and

62 (ii) receives approval of the program from the Legislative Executive Appropriations
63 Committee.

64 (b) The department may use the preferred drug program developed and approved under
65 Subsection (2)(a) in subsequent fiscal years.

66 (3) The department shall report to the Legislative Health and Human Services Interim
67 Committee by August 30, 2003, and to the Legislative Health and Human Services
68 Appropriations Subcommittee during the 2004 General Session regarding the department's
69 implementation of the preferred drug program.

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

71 **26-18-3. Administration of Medicaid program by department -- Disciplinary**
72 **measures and sanctions -- Funds collected.**

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

76 (2) (a) The department shall [~~develop implementing policy~~] implement the Medicaid
77 program through administrative rules in conformity with this chapter, Title 63, Chapter 46a,
78 Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal
79 regulations.

80 (b) The department may not adopt policies or standards implementing the Medicaid
81 program under this chapter that do not comply with Title 63, Chapter 46a, Utah Administrative
82 Rulemaking Act.

83 (c) (i) The rules adopted under Subsection (2)(a) shall include in addition to other rules
84 necessary to implement the program, the standards used by the department for determining
85 eligibility for Medicaid services, the services and benefits to be covered by the Medicaid
86 program, and reimbursement rates for providers under the Medicaid program.

87 (ii) If the department implements emergency rules, or revises rules under Title 63,
88 Chapter 46a, Utah Administrative Rulemaking Act, that have the effect of modifying a benefit
89 or service, or reimbursement to a provider under the state Medicaid program, the department

90 shall, prior to adopting the revised or emergency rule, report to either the Legislative Executive
91 Appropriations Committee or the Legislative Health and Human Services Appropriations
92 Subcommittee and include in the report:

93 (A) the proposed change in services or reimbursement;

94 (B) the effect of an increase or decrease in services or benefits on individuals and
95 families;

96 (C) the degree to which any proposed cut may result in cost-shifting to more expensive
97 services in health or human service programs; and

98 (D) the effect of any proposed increase of benefits or reimbursement on current and
99 future appropriations from the Legislature to the department.

100 (iii) Any emergency or temporary rules adopted by the department under Subsection
101 (2)(c)(ii) are subject to review and reauthorization by the Legislature in accordance with
102 Section 63-46a-11.5.

103 (3) The department may, in its discretion, contract with the Department of Human
104 Services or other qualified agencies for services in connection with the administration of the
105 Medicaid program, including but not limited to the determination of the eligibility of
106 individuals for the program, recovery of overpayments, and enforcement of fraud and abuse
107 laws, consistent with Section 26-20-13, to the extent permitted by law and quality control
108 services.

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

112 (a) termination from the program; February 18, 2003

113 (b) recovery of claim reimbursements incorrectly paid; and

114 (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

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

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

121 vehicle designated by the applicant or recipient.
122 (b) Before Subsection (6)(a) may be applied:
123 (i) the federal government must:
124 (A) determine that Subsection (6)(a) may be implemented within the state's existing
125 public assistance-related waivers as of January 1, 1999;
126 (B) extend a waiver to the state permitting the implementation of Subsection (6)(a); or
127 (C) determine that the state's waivers that permit dual eligibility determinations for
128 cash assistance and Medicaid are no longer valid; and
129 (ii) the department must determine that Subsection (6)(a) can be implemented within
130 existing funding.

Legislative Review Note
as of 2-17-03 9:34 AM

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

Office of Legislative Research and General Counsel