

Representative Rebecca D. Lockhart proposes the following substitute bill:

MEDICAID BENEFIT AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Rebecca D. Lockhart

This act modifies the Medicaid Assistance Act. The act authorizes the department to study a Medicaid drug program. The act establishes certain requirements for the Medicaid drug program and requires legislative oversight before a Medicaid drug program is implemented. The act clarifies that the department must implement the state Medicaid program through the administrative rule process. The act requires the department to submit a proposed administrative rule that would modify Medicaid benefits, services, or reimbursement methodologies to either the Legislative Executive Appropriations Committee or the Health and Human Services Appropriation Subcommittee before adopting the rule.

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

AMENDS:

26-18-2.3, as enacted by Chapter 21, Laws of Utah 1988

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

ENACTS:

26-18-2.4, Utah Code Annotated 1953

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

Section 1. Section **26-18-2.3** is amended to read:

26-18-2.3. Division responsibilities -- Emphasis -- Periodic assessment.

(1) In accordance with the requirements of Title XIX of the Social Security Act and applicable federal regulations, the division is responsible for the effective and impartial administration of this chapter in an efficient, economical manner. The division shall:



26 (a) establish, on a statewide basis, a program to safeguard against unnecessary or
27 inappropriate use of Medicaid services, excessive payments, and unnecessary or inappropriate
28 hospital admissions or lengths of stay~~[-The division shall];~~

29 (b) deny any provider claim for services that fail to meet criteria established by the
30 division concerning medical necessity or appropriateness~~[-The division shall];~~ and

31 (c) place its emphasis on high quality care to recipients in the most economical and
32 cost-effective manner possible, with regard to both publicly and privately provided services.

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

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

37 (b) preadmission certification of nonemergency admissions;

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

39 (d) second surgical opinions;

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

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

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

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

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

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

51 **26-18-2.4. Medicaid Drug Program.**

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

53 (2)(f):

54 (a) shall notwithstanding Subsection 26-18-2.3(1)(b), be based on clinical and
55 cost-related factors which include medical necessity as determined by a provider in accordance
56 with administrative rules established by the Drug Utilization Review Board; and

57 (b) may include therapeutic categories of drugs that may be exempted from the drug
58 program.

59 (2) (a) (i) The department shall study the Medicaid drug program for fiscal year
60 2003-04, but may not implement the program unless the department reports its findings and
61 recommendations, including any proposed rules to the Legislative Executive Appropriations
62 Committee and Legislative Management Committee at their August 2003 meeting, or if a
63 meeting is not held in August, at the September 2003 meeting, for their review and
64 recommendations.

65 (ii) The Legislative Executive Appropriations Committee and Management Committee
66 shall review the Medicaid drug program proposed by the department and may:

67 (A) recommend that the department implement the drug program;

68 (B) recommend that the department modify the drug program;

69 (C) recommend that the department terminate the drug program; or

70 (D) recommend to the governor that he call a special session of the Legislature to
71 review and approve the drug program.

72 (b) The department may use the Medicaid drug program developed and approved under
73 Subsection (2)(a) in subsequent fiscal years.

74 (3) The department shall report its findings and recommendations regarding the
75 Medicaid drug program to the Legislative Health and Human Services Interim Committee by
76 August 30, 2003, and to the Legislative Health and Human Services Appropriations
77 Subcommittee during the 2004 General Session.

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

79 **26-18-3. Administration of Medicaid program by department -- Disciplinary**
80 **measures and sanctions -- Funds collected.**

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

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

88 (b) (i) The rules adopted under Subsection (2)(a) shall include in addition to other rules
89 necessary to implement the program, the standards used by the department for determining
90 eligibility for Medicaid services, the services and benefits to be covered by the Medicaid
91 program, and reimbursement methodologies for providers under the Medicaid program.

92 (ii) If the department implements a change in the Medicaid State Plan, initiates a new
93 Medicaid waiver, submits an amendment to an existing Medicaid waiver, or initiates a rate
94 change requiring public notice under state or federal law, the department shall, prior to
95 adopting the change, report to either the Legislative Executive Appropriations Committee or
96 the Legislative Health and Human Services Appropriations Subcommittee and include in the
97 report:

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

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

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

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

105 (iii) Any rules adopted by the department under this Subsection (2) are subject to
106 review and reauthorization by the Legislature in accordance with Section 63-46a-11.5.

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

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

116 (a) termination from the program;

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

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

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

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

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

127 (i) the federal government must:

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

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

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

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