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**NOTICE OF CHANGES TO THE STATE**  
**MEDICAID PLAN**  
2008 GENERAL SESSION  
STATE OF UTAH

**Chief Sponsor: Merlynn T. Newbold**  
Senate Sponsor: Allen M. Christensen

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**LONG TITLE**

**General Description:**

This bill amends the Department of Health's reporting requirements to the Legislature when the department makes a change to the state Medicaid plan.

**Highlighted Provisions:**

This bill:

- ▶ clarifies the content of the Department of Health's notice to the Legislature when the department makes a change to the state Medicaid plan; and
- ▶ makes technical and clarifying changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 26-18-3**, as last amended by Laws of Utah 2006, Chapter 116
- 26-18-4**, as last amended by Laws of Utah 1999, Chapter 61
- 26-18-10**, as last amended by Laws of Utah 1999, Chapter 61
- 26-40-103**, as last amended by Laws of Utah 2003, Chapter 16

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

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

30           **26-18-3. Administration of Medicaid program by department -- Reporting to the**  
31 **Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility**  
32 **standards.**

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

36           (2) (a) The department shall implement the Medicaid program through administrative  
37 rules in conformity with this chapter, Title 63, Chapter 46a, Utah Administrative Rulemaking  
38 Act, the requirements of Title XIX, and applicable federal regulations.

39           (b) ~~(f)~~ The rules adopted under Subsection (2)(a) shall include, in addition to other  
40 rules necessary to implement the program~~;~~:

41           (i) the standards used by the department for determining eligibility for Medicaid  
42 services~~;~~;

43           (ii) the services and benefits to be covered by the Medicaid program~~;~~; and

44           (iii) reimbursement methodologies for providers under the Medicaid program.

45           ~~[(ii) If the department implements a change in the Medicaid State Plan, initiates a new~~  
46 ~~Medicaid waiver, initiates an amendment to an existing Medicaid waiver, or initiates a rate~~  
47 ~~change requiring public notice under state or federal law, the department shall, prior to adopting~~  
48 ~~the change,]~~

49           (3) (a) The department shall, in accordance with Subsection (3)(b), report to either the  
50 Legislative Executive Appropriations Committee or the Legislative Health and Human Services  
51 Appropriations Subcommittee ~~[and include in the report;]~~ when the department:

52           (i) implements a change in the Medicaid State Plan;

53           (ii) initiates a new Medicaid waiver;

54           (iii) initiates an amendment to an existing Medicaid waiver; or

55           (iv) initiates a rate change that requires public notice under state or federal law.

56           (b) The report required by Subsection (3)(a) shall:

57           (i) be submitted to the Legislature's Executive Appropriations Committee or the

58 legislative Health and Human Services Appropriations Subcommittee prior to the department  
59 implementing the proposed change; and

60 (ii) shall include:

61 (A) a description of the department's current practice or policy that the department is  
62 proposing to change;

63 (B) an explanation of why the department is proposing the change;

64 ~~[(A)]~~ (C) the proposed change in services or reimbursement, including a description of  
65 the effect of the change;

66 ~~[(B)]~~ (D) the effect of an increase or decrease in services or benefits on individuals and  
67 families;

68 ~~[(C)]~~ (E) the degree to which any proposed cut may result in cost-shifting to more  
69 expensive services in health or human service programs; and

70 ~~[(D)]~~ the effect of any proposed increase of benefits or reimbursement on current and  
71 future appropriations from the Legislature to the department.]

72 (F) the fiscal impact of the proposed change, including:

73 (I) the effect of the proposed change on current or future appropriations from the  
74 Legislature to the department;

75 (II) the effect the proposed change may have on federal matching dollars received by  
76 the state Medicaid program;

77 (III) any cost shifting or cost savings within the department's budget that may result  
78 from the proposed change; and

79 (IV) identification of the funds that will be used for the proposed change, including any  
80 transfer of funds within the department's budget.

81 ~~[(iii)]~~ (4) Any rules adopted by the department under [this] Subsection (2) are subject to  
82 review and reauthorization by the Legislature in accordance with Section 63-46a-11.5.

83 ~~[(3)]~~ (5) The department may, in its discretion, contract with the Department of Human  
84 Services or other qualified agencies for services in connection with the administration of the  
85 Medicaid program, including [but not limited to];

86           (a) the determination of the eligibility of individuals for the program[;];  
 87           (b) recovery of overpayments[;]; and  
 88           (c) consistent with Section 26-20-13, and to the extent permitted by law and quality  
 89 control services, enforcement of fraud and abuse laws[; consistent with Section 26-20-13, to the  
 90 extent permitted by law and quality control services].

91           ~~[(4)]~~ (6) The department shall provide, by rule, disciplinary measures and sanctions for  
 92 Medicaid providers who fail to comply with the rules and procedures of the program, provided  
 93 that sanctions imposed administratively may not extend beyond:

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

97           ~~[(5)]~~ (7) Funds collected as a result of a sanction imposed under Section 1919 of Title  
 98 XIX of the federal Social Security Act shall be deposited in the General Fund as nonlapsing  
 99 dedicated credits to be used by the division in accordance with the requirements of ~~[that~~  
 100 ~~section]~~ Section 1919 of Title XIX of the federal Social Security Act.

101           ~~[(6)]~~ (8) (a) In determining whether an applicant or recipient is eligible for a service or  
 102 benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department  
 103 shall, if Subsection ~~[(6)]~~ (8)(b) is satisfied, exclude from consideration one passenger vehicle  
 104 designated by the applicant or recipient.

105           (b) Before Subsection ~~[(6)]~~ (8)(a) may be applied:

- 106           (i) the federal government must:
  - 107           (A) determine that Subsection ~~[(6)]~~ (8)(a) may be implemented within the state's
  - 108 existing public assistance-related waivers as of January 1, 1999;
  - 109           (B) extend a waiver to the state permitting the implementation of Subsection ~~[(6)]~~
  - 110 ~~(8)~~(a); or
  - 111           (C) determine that the state's waivers that permit dual eligibility determinations for cash
  - 112 assistance and Medicaid are no longer valid; and
  - 113           (ii) the department must determine that Subsection ~~[(6)]~~ (8)(a) can be implemented

114 within existing funding.

115 [~~(7)~~] (9) (a) For purposes of this Subsection [~~(7)~~] (9):

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

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

120 (b) In determining whether an applicant or recipient who is aged, blind, or disabled is  
121 eligible for a service or benefit under this chapter, the department shall use 100% of the federal  
122 poverty level as:

123 (i) the allowable income standard for eligibility for services or benefits; and

124 (ii) the allowable income standard for eligibility as a result of spend down.

125 Section 2. Section **26-18-4** is amended to read:

126 **26-18-4. Department standards for eligibility under Medicaid -- Funds for**  
127 **abortions.**

128 (1) The department may develop standards and administer policies relating to eligibility  
129 under the Medicaid program as long as they are consistent with Subsection 26-18-3~~(6)~~(8). An  
130 applicant receiving Medicaid assistance may be limited to particular types of care or services or  
131 to payment of part or all costs of care determined to be medically necessary.

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

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

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

142 and treatment.

143 Section 3. Section **26-18-10** is amended to read:

144 **26-18-10. Utah Medical Assistance Program -- Policies and standards.**

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

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

151 (3) The department shall develop standards and administer policies relating to eligibility  
152 requirements, consistent with Subsection 26-18-3~~(6)~~(8), for participation in the program, and  
153 for payment of medical claims for eligible persons.

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

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

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

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

165 Section 4. Section **26-40-103** is amended to read:

166 **26-40-103. Creation and administration of the Utah Children's Health Insurance**  
167 **Program.**

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

- 170           (a) this chapter; and
- 171           (b) the State Children's Health Insurance Program, 42 U.S.C. Sec. 1397aa et seq.
- 172           (2) The department shall:
- 173           (a) prepare and submit the state's children's health insurance plan before May 1, 1998,
- 174 and any amendments to the federal Department of Health and Human Services in accordance
- 175 with 42 U.S.C. Sec. 1397ff; and
- 176           (b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative
- 177 Rulemaking Act regarding:
- 178           (i) eligibility requirements consistent with Subsection 26-18-3~~(6)~~(8);
- 179           (ii) program benefits;
- 180           (iii) the level of coverage for each program benefit;
- 181           (iv) cost-sharing requirements for enrollees, which may not:
- 182           (A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or
- 183           (B) impose deductible, copayment, or coinsurance requirements on an enrollee for
- 184 well-child, well-baby, and immunizations; and
- 185           (v) the administration of the program.