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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

LONG TITLE

Committee Note:

The Medicaid Interim Committee recommended this bill.

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

H.B. 82



28 **26-40-103**, as last amended by Laws of Utah 2003, Chapter 16



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

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

32 **26-18-3. Administration of Medicaid program by department -- Disciplinary**
33 **measures and sanctions -- Funds collected.**

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

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

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

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

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

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

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

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

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

54 (ii) initiates a new Medicaid waiver;

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

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

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

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

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

61 (ii) shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

87 (a) the determination of the eligibility of individuals for the program[;];

88 (b) recovery of overpayments[;]; and

89 (c) consistent with Section 26-20-13, and to the extent permitted by law and quality

90 control services, enforcement of fraud and abuse laws[~~, consistent with Section 26-20-13, to~~
91 ~~the extent permitted by law and quality control services].~~

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

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

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

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

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

107 (i) the federal government must:

108 (A) determine that Subsection [(6)] (8)(a) may be implemented within the state's
109 existing public assistance-related waivers as of January 1, 1999;

110 (B) extend a waiver to the state permitting the implementation of Subsection [(6)]
111 (8)(a); or

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

114 (ii) the department must determine that Subsection [(6)] (8)(a) can be implemented
115 within existing funding.

116 [(7)] (9) (a) For purposes of this Subsection [(7)] (9):

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

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

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

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

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

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

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

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

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

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

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

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

146 **26-18-10. Utah Medical Assistance Program -- Policies and standards.**

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

151 (2) Persons in the custody of prisons, jails, halfway houses, and other nonmedical

152 government institutions are not eligible for services provided under this section.

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

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

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

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

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

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

168 **26-40-103. Creation and administration of the Utah Children's Health Insurance**
169 **Program.**

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

172 (a) this chapter; and

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

174 (2) The department shall:

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

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

180 (i) eligibility requirements consistent with Subsection 26-18-3~~(6)~~(8);

181 (ii) program benefits;

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

- 183 (iv) cost-sharing requirements for enrollees, which may not:
184 (A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or
185 (B) impose deductible, copayment, or coinsurance requirements on an enrollee for
186 well-child, well-baby, and immunizations; and
187 (v) the administration of the program.

Legislative Review Note
as of 12-12-07 1:20 PM

Office of Legislative Research and General Counsel

H.B. 82 - Notice of Changes to the State Medicaid Plan

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
