

# HB0174S01 compared with HB0174

~~{deleted text}~~ shows text that was in HB0174 but was deleted in HB0174S01.

inserted text shows text that was not in HB0174 but was inserted into HB0174S01.

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Representative Wayne A. Harper proposes the following substitute bill:

## CONTRACTING FOR MEDICAID ELIGIBILITY

### DETERMINATION SERVICES

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill ~~{amends the Medicaid program to require}~~requires the Department of Health ~~{to issue a request for proposal for a private entity}~~and the Department of Workforce Services to ~~{determine}~~study the state's Medicaid eligibility ~~{on behalf of the state Medicaid program}~~determination system.

##### Highlighted Provisions:

This bill:

- ▶ requires the ~~{Department of Health to issue a request for proposal for the determination of Medicaid eligibility by August 15, 2012;~~

~~—————>~~establishes some requirements for the request for proposal;

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- requires reports} study of the state's eligibility determination system for Medicaid to determine whether consolidation of the system or privatization would create greater efficiencies; and
- ▶ requires a report of the study to the {Legislature before awarding a contract for determining Medicaid eligibility; and
- makes technical amendments} Legislature's Health and Human Services Interim Committee and the Social Services Appropriations Sub-committee prior to October 20, 2011.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

{AMENDS:

- ~~26-18-3~~, as last amended by Laws of Utah 2010, Chapters 149, 323, 340, and 391
- ~~26-18-15~~, as enacted by Laws of Utah 2008, Chapter 390
- ~~35A-1-102~~, as last amended by Laws of Utah 2002, Chapter 58

}ENACTS:

**26-18-3.3**, Utah Code Annotated 1953

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

Section 1. Section **26-18-3.3** is {amended to read:

— ~~26-18-3. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Studies -- Health opportunity accounts.~~

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

— (2) (a) ~~The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.~~

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

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

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

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

~~—— (3) (a) The department shall, in accordance with Subsection (3)(b), report to the Health and Human Services Appropriations Subcommittee when the department:~~

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

~~—— (ii) initiates a new Medicaid waiver;~~

~~—— (iii) initiates an amendment to an existing Medicaid waiver;~~

~~—— (iv) applies for an extension of an application for a waiver or an existing Medicaid waiver; or~~

~~—— (v) initiates a rate change that requires public notice under state or federal law.~~

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

~~—— (i) be submitted to the Health and Human Services Appropriations Subcommittee prior to the department implementing the proposed change; and~~

~~—— (ii) include:~~

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

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

~~—— (C) the proposed change in services or reimbursement, including a description of the effect of the change;~~

~~—— (D) the effect of an increase or decrease in services or benefits on individuals and families;~~

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

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

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

~~—— (II) the effect the proposed change may have on federal matching dollars received by~~

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~~the state Medicaid program;~~

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

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

~~—— (4) (a) The Department of Human Services shall report to the Legislative Health and Human Services Appropriations Subcommittee no later than December 31, 2010, in accordance with Subsection (4)(b):~~

~~—— (b) The report required by Subsection (4)(a) shall include:~~

~~—— (i) changes made by the division or the department beginning July 1, 2010, that effect the Medicaid program, a waiver under the Medicaid program, or an interpretation of Medicaid services or funding, that relate to care for children and youth in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services;~~

~~—— (ii) the history and impact of the changes under Subsection (4)(b)(i);~~

~~—— (iii) the Department of Human Service's plans for addressing the impact of the changes under Subsection (4)(b)(i); and~~

~~—— (iv) ways to consolidate administrative functions within the Department of Human Services, the Department of Health, the Division of Child and Family Services, and the Division of Juvenile Justice Services to more efficiently meet the needs of children and youth with mental health and substance disorder treatment needs.~~

~~—— (5) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.~~

~~—— (6) [The] Except as provided in Section 26-18-3.3, the department may, in its discretion, contract with the Department of Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including:~~

~~—— (a) the determination of the eligibility of individuals for the program;~~

~~—— (b) recovery of overpayments; and~~

~~—— (c) consistent with Section 26-20-13, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.~~

~~—— (7) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided~~

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~~that sanctions imposed administratively may not extend beyond:~~

~~—— (a) termination from the program;~~

~~—— (b) recovery of claim reimbursements incorrectly paid; and~~

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

~~—— (8) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.~~

~~—— (9) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department shall, if Subsection (9)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.~~

~~—— (b) Before Subsection (9)(a) may be applied:~~

~~—— (i) the federal government must:~~

~~—— (A) determine that Subsection (9)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;~~

~~—— (B) extend a waiver to the state permitting the implementation of Subsection (9)(a); or~~

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

~~—— (ii) the department must determine that Subsection (9)(a) can be implemented within existing funding.~~

~~—— (10) (a) For purposes of this Subsection (10):~~

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

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

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

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

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

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~~—— (11) The department shall conduct internal audits of the Medicaid program, in proportion to at least the level of funding it receives from Medicaid to conduct internal audits.~~

~~—— (12) In order to determine the feasibility of contracting for direct Medicaid providers for primary care services, the department shall:~~

~~—— (a) issue a request for information for direct contracting for primary services that shall provide that a provider shall exclusively serve all Medicaid clients:~~

~~—— (i) in a geographic area;~~

~~—— (ii) for a defined range of primary care services; and~~

~~—— (iii) for a predetermined total contracted amount; and~~

~~—— (b) by February 1, 2011, report to the Health and Human Services Appropriations Subcommittee on the response to the request for information under Subsection (12)(a):~~

~~—— (13) (a) By December 31, 2010, the department shall:~~

~~—— (i) determine the feasibility of implementing a three year patient-centered medical home demonstration project in an area of the state using existing budget funds; and~~

~~—— (ii) report the department's findings and recommendations under Subsection (13)(a)(i) to the Health and Human Services Appropriations Subcommittee.~~

~~—— (b) If the department determines that the medical home demonstration project described in Subsection (13)(a) is feasible, and the Health and Human Services Appropriations Subcommittee recommends that the demonstration project be implemented, the department shall:~~

~~—— (i) implement the demonstration project; and~~

~~—— (ii) by December 1, 2012, make recommendations to the Health and Human Services Appropriations Subcommittee regarding the:~~

~~—— (A) continuation of the demonstration project;~~

~~—— (B) expansion of the demonstration project to other areas of the state; and~~

~~—— (C) cost savings incurred by the implementation of the demonstration project.~~

~~—— (14) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.~~

~~—— (b) A health opportunity account established under Subsection (14)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.~~

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~~(c) Subsection (14)(a) is not intended to expand the coverage of the Medicaid program.~~

~~Section 2. Section 26-18-3.3 is } enacted to read:~~

~~26-18-3.3. } Privatization } Study of Privatization of eligibility determination.~~

~~(1) } On or before August 15, 2012, the } The department shall } issue a request for proposal } work with the Department of Workforce Services, the Department of Human Services, and the Privatization Policy Board created in Section 63I-4-201 to study the state's eligibility determination system for the state Medicaid program in accordance with this section } for the administration of the program to determine eligibility of individuals for the:~~

~~(a) }.~~

~~(2) (a) The study shall include the state's eligibility determination system for the following programs:~~

~~(i) the state Medicaid program;~~

~~(~~b~~)ii) the Utah Children's Health Insurance Program created under Chapter 40, Utah Children's Health Insurance Act;~~

~~(~~c~~)iii) the Primary Care Network } demonstration project}; and~~

~~(~~d~~)iv) the Utah Premium Partnership } demonstration project.~~

~~(2) The request for proposal shall:~~

~~(a) require a bidder to follow the state Medicaid plan eligibility guidelines adopted in the state plan and by the department under Subsection 26-18-3(2)(b); and~~

~~(b) prohibit the bidder from implementing a change to};~~

~~(b) The study shall include:~~

~~(i) the workflow and operations of the eligibility determination } unless the department and the entity under contract with the department meet the reporting requirements of Section 28-18-3 } systems for the programs described in Subsection (2)(a); and~~

~~(ii) efficiencies that may be obtained through:~~

~~(A) consolidation of the eligibility determination systems;~~

~~(B) privatization of the eligibility determination systems; and~~

~~(C) other technology or organizational solutions for the eligibility determination systems.~~

~~(3) The department};~~

~~(a) } the Department of Workforce Services, and the Privatization Polity Board shall.~~

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prior to ~~{making a determination under Subsection (3)(b)}~~ October 20, ~~{provide a}~~ 2011, report to the Legislature's ~~{Executive Appropriations}~~ Health and Human Services Interim Committee and to the Social Services Appropriations Subcommittee regarding ~~{~~

~~—— (i) } the {responses to} findings of the {requests for proposals;} study and {~~

~~—— (ii) } any recommendations and options regarding the advantages and disadvantages to the state in privatizing the eligibility determination system ~~{ versus contracting with a state agency for the eligibility determination system; and~~~~

~~—— (b) may:~~

~~—— (i) select the most responsive bidder to the request for proposals and privatize the eligibility determination system; or~~

~~—— (ii) determine that:~~

~~—— (A) the responses to the request for proposals are not responsive; and~~

~~—— (B) the state Medicaid program eligibility determination should be provided through a contract with a state agency under Subsection 26-18-3(6)}.~~

~~{~~ ~~—— Section 3. Section **26-18-15** is amended to read:~~

~~—— **26-18-15. Process to promote health insurance coverage for children.**~~

~~—— (1) The [Department of Workforce Services] entity under contract with the department to implement the eligibility system for the state program, the State Board of Education, and the department shall:~~

~~—— (a) collaborate with one another to develop a process to promote health insurance coverage for a child in school when:~~

~~—— (i) the child applies for free or reduced price school lunch;~~

~~—— (ii) a child enrolls in or registers in school; and~~

~~—— (iii) other appropriate school related opportunities;~~

~~—— (b) report to the Legislature on the development of the process under Subsection (1)(a) no later than November 19, 2008; and~~

~~—— (c) implement the process developed under Subsection (1)(a) no later than the 2009-10 school year.~~

~~—— (2) The Department of Workforce Services shall promote and facilitate the enrollment of children identified under Subsection (1)(a) without health insurance in the Utah Children's Health Insurance Program, the Medicaid program, or the Utah Premium Partnership for Health~~



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### ~~Insurance Program.~~

~~Section 4. Section 35A-1-102 is amended to read:~~

#### ~~35A-1-102. Definitions.~~

~~Unless otherwise specified, as used in this title:~~

~~(1) "Client" means an individual who the department has determined to be eligible for services or benefits under:~~

~~(a) Chapter 3, Employment Support Act; and~~

~~(b) Chapter 5, Training and Workforce Improvement Act.~~

~~(2) "Consortium of counties" means an organization composed of all the counties within a regional workforce services area designated under Section 35A-2-101:~~

~~(a) in which representatives of county government consisting of county commissioners, county council members, county executives, or county mayors jointly comply with this title in working with the executive director of the department regarding regional workforce services areas; and~~

~~(b) (i) that existed as of July 1, 1997; or~~

~~(ii) that is created on or after July 1, 1997, with the approval of the executive director.~~

~~(3) "Department" means the Department of Workforce Services created in Section 35A-1-103.~~

~~(4) "Employment assistance" means services or benefits provided by the department under:~~

~~(a) Chapter 3, Employment Support Act; and~~

~~(b) Chapter 5, Training and Workforce Improvement Act.~~

~~(5) "Employment center" is a location in a regional workforce services area where the services provided by a regional workforce services area under Section 35A-2-201 may be accessed by a client.~~

~~(6) "Employment counselor" means an individual responsible for developing an employment plan and coordinating the services and benefits under this title in accordance with Chapter 2, Regional Workforce Services Areas.~~

~~(7) "Employment plan" means a written agreement between the department and a client that describes:~~

~~(a) the relationship between the department and the client;~~

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- ~~—— (b) the obligations of the department and the client; and~~
- ~~—— (c) the result if an obligation is not fulfilled by the department or the client.~~
- ~~—— (8) "Executive director" means the executive director of the department appointed under Section 35A-1-201.~~
- ~~—— (9) "Public assistance" means:~~
  - ~~—— (a) services or benefits provided under Chapter 3, Employment Support Act;~~
  - ~~—— (b) if the department is under contract with the Department of Health pursuant to Section 26-18-3, medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;~~
  - ~~—— (c) foster care maintenance payments provided from the General Fund or under Title IV-E of the Social Security Act;~~
  - ~~—— (d) food stamps; and~~
  - ~~—— (e) any other public funds expended for the benefit of a person in need of financial, medical, food, housing, or related assistance.~~
- ~~—— (10) "Regional workforce services area" means a regional workforce services area established in accordance with Chapter 2, Regional Workforce Services Areas.~~
- ~~—— (11) "Stabilization" means addressing the basic living, family care, and social or psychological needs of the client so that the client may take advantage of training or employment opportunities provided under this title or through other agencies or institutions.~~

### Legislative Review Note

~~—— as of 2-2-11 2:49 PM~~

~~—— Office of Legislative Research and General Counsel}~~