

HB0256S01 compared with HB0256

~~text~~ shows text that was in HB0256 but was deleted in HB0256S01.

inserted text shows text that was not in HB0256 but was inserted into HB0256S01.

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Representative James A. Dunnigan proposes the following substitute bill:

CHILDREN'S HEALTH INSURANCE AND MEDICAID ADMINISTRATIVE SIMPLIFICATION

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: James A. Dunnigan

Senate Sponsor: _____

LONG TITLE

General Description:

This bill ~~establishes a process for simplified enrollment and renewal of benefits for~~ modifies provisions relating to Medicaid and other children's health insurance programs.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to:
 - apply for grants to fund a simplified enrollment and renewal process for Medicaid, Utah Premium Partnership, and Primary Care Network Demonstration Project programs; and

HB0256S01 compared with HB0256

- if funding is available, establish a simplified enrollment and renewal process for the programs in which the eligibility worker may, if the applicant provides consent, confirm the adjusted gross income of the applicant from the State Tax Commission;
- ▶ allows the Department of Health or its designee to:
 - enter into agreements with financial institutions to develop and operate a data system to identify an applicant or enrollee's assets; and
 - pay a reasonable fee to a financial institution for services;
- ▶ requires the Division of Health Care Financing to:
 - bid out Medicaid dental benefits;
 - establish criteria for bidding out Medicaid dental benefits; and
 - rebid the Medicaid dental benefits at least once every five years;
- ▶ requires the Children's Health Insurance Plan to apply for grants to fund a simplified enrollment process;
- ▶ when funding is available, requires the Children's Health Insurance Plan to establish a simplified enrollment process in which the eligibility worker may, if the applicant provides consent, confirm the adjusted gross income of the applicant from the State Tax Commission; and
- ▶ requires the State Tax Commission to provide the Department of Health or its designee with access to an applicant's adjusted gross income.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2012.

Utah Code Sections Affected:

AMENDS:

7-1-1006, as last amended by Laws of Utah 2010, Chapter 65

26-40-105, as last amended by Laws of Utah 2010, Chapter 67

59-1-403, as last amended by Laws of Utah 2010, Chapters 6 and 67

ENACTS:

26-18-2.5, Utah Code Annotated 1953

HB0256S01 compared with HB0256

26-18-2.6, Utah Code Annotated 1953

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

Section 1. Section **7-1-1006** is amended to read:

7-1-1006. Inapplicable to certain official investigations.

(1) Sections 7-1-1002 and 7-1-1003 do not apply if an examination of a record is a part of an official investigation by:

- (a) local police;
- (b) a sheriff;
- (c) a peace officer;
- (d) a city attorney;
- (e) a county attorney;
- (f) a district attorney;
- (g) the attorney general;
- (h) the Department of Public Safety;
- (i) the Office of Recovery Services of the Department of Human Services;
- (j) the Insurance Department;
- (k) the Department of Commerce;
- (l) the Benefit Payment Control Unit or the Payment Error Prevention Unit of the

Department of Workforce Services;

(m) the state auditor; ~~[or]~~

(n) the State Tax Commission~~[-];~~ or

(o) the Department of Health or its designee, when undertaking an official investigation to determine whether an individual qualifies for certain assistance programs as provided in Section 26-18-2.5.

(2) Except for the Office of Recovery Services, if a governmental entity listed in Subsection (1) seeks a record, the entity shall obtain the record as follows:

(a) if the record is a nonprotected record, by request in writing that:

(i) certifies that an official investigation is being conducted; and

(ii) is signed by a representative of the governmental entity that is conducting the official investigation; or

HB0256S01 compared with HB0256

(b) if the record is a protected record, by obtaining:

(i) a subpoena authorized by statute;

(ii) other legal process:

(A) ordered by a court of competent jurisdiction; and

(B) served upon the financial institution; or

(iii) written permission from all account holders of the account referenced in the record

to be examined.

(3) If the Office of Recovery Services seeks a record, the Office of Recovery Services shall obtain the record pursuant to:

(a) Subsection 62A-11-104(1)(g);

(b) Section 62A-11-304.1;

(c) Section 62A-11-304.5; or

(d) Title IV, Part D of the Social Security Act as codified in 42 U.S.C. 651 et seq.

(4) A financial institution may not give notice to an account holder or person named or referenced within the record disclosed pursuant to Subsection (2)(a).

(5) In accordance with Section 7-1-1004, the governmental entity conducting the official investigation that obtains a record from a financial institution under this section shall reimburse the financial institution for costs reasonably and directly incurred by the financial institution.

Section 2. Section **26-18-2.5** is enacted to read:

26-18-2.5. Simplified enrollment and renewal process for Medicaid and other state medical programs -- Financial institutions.

(1) The department shall:

(a) apply for grants to make technology system improvements necessary to implement a simplified enrollment and renewal process for the Medicaid program, Utah Premium Partnership, and Primary Care Network Demonstration Project programs; and

(b) if funding is available, implement the simplified enrollment and renewal process in accordance with this section.

(2) The simplified enrollment and renewal process established in this section shall, in accordance with Section 59-1-403, provide an eligibility worker a process in which the eligibility worker:

HB0256S01 compared with HB0256

(a) verifies the applicant's or enrollee's identity;

(b) gets consent to obtain the applicant's adjusted gross income from the State Tax Commission from:

(i) the applicant or enrollee, if the applicant or enrollee filed a single tax return; or

(ii) both parties to a joint return, if the applicant filed a joint tax return; and

(c) obtains from the State Tax Commission, the adjusted gross income of the applicant or enrollee.

(3) (a) The department may enter into an agreement with a financial institution doing business in the state to develop and operate a data match system to identify an applicant or enrollee assets that:

(i) uses automated data exchanges to the maximum extent feasible; and

(ii) requires a financial institution each month to provide the name, record address, Social Security number, other taxpayer identification number, or other identifying information for each applicant or enrollee who maintains an account at the financial institution.

(b) The department may pay a reasonable fee to a financial institution for compliance with this Subsection (3), as provided in Section 7-1-1006.

(c) A financial institution may not be liable under any federal or state law to any person for any disclosure of information or action taken in good faith under this Subsection (3).

(d) The department may disclose a financial record obtained from a financial institution under this section only for the purpose of, and to the extent necessary in, verifying eligibility as provided in this section and Section 26-40-105.

Section 3. Section ~~{26-40-105}~~26-18-2.6 is ~~{amended}~~enacted to read:

26-18-2.6. Dental Benefits.

(1) (a) The division shall establish a competitive bid process to bid out Medicaid dental benefits under this chapter.

(b) The division may bid out the Medicaid dental benefits separately from other program benefits.

(2) The division shall use the following criteria to evaluate dental bids:

(a) ability to manage dental expenses;

(b) proven ability to handle dental insurance;

(c) efficiency of claim paying procedures;

HB0256S01 compared with HB0256

(d) provider contracting, discounts, and adequacy of network; and

(e) other criteria established by the department.

(3) The division shall request bids for the program's benefits:

(a) in 2011; and

(b) at least once every five years thereafter.

(4) The division's contract with dental plans for the program's benefits shall include risk sharing provisions in which the dental plan must accept 100% of the risk for any difference between the division's premium payments per client and actual dental expenditures.

(5) The division may not award contracts to:

(a) more than three responsive bidders under this section; or

(b) an insurer that does not have a current license in the state.

(6) (a) The division may cancel the request for proposals if:

(i) there are no responsive bidders; or

(ii) the division determines that accepting the bids would increase the program's costs.

(b) If the division cancels the request for proposals under Subsection (6)(a), the division shall report to the Health and Human Services Committee regarding the reasons for the decision.

(7) Title 63, Chapter 56, Utah Procurement Code, shall apply to this section.

Section 4. Section 26-40-105 is amended to read:

26-40-105. Eligibility.

(1) A child is eligible to enroll in the program if the child:

(a) is a bona fide Utah resident;

(b) is a citizen or legal resident of the United States;

(c) is under 19 years of age;

(d) does not have access to or coverage under other health insurance, including any coverage available through a parent or legal guardian's employer;

(e) is ineligible for Medicaid benefits;

(f) resides in a household whose gross family income, as defined by rule, is at or below 200% of the federal poverty level; and

(g) is not an inmate of a public institution or a patient in an institution for mental diseases.

HB0256S01 compared with HB0256

(2) A child who qualifies for enrollment in the program under Subsection (1) may not be denied enrollment due to a diagnosis or pre-existing condition.

(3) (a) The department shall determine eligibility and send notification of the eligibility decision within 30 days after receiving the application for coverage.

(b) If the department cannot reach a decision because the applicant fails to take a required action, or because there is an administrative or other emergency beyond the department's control, the department shall:

(i) document the reason for the delay in the applicant's case record; and

(ii) inform the applicant of the status of the application and time frame for completion.

(4) The department may not close enrollment in the program for a child who is eligible to enroll in the program under the provisions of Subsection (1).

(5) (a) The program shall:

(i) apply for grants to make technology system improvements necessary to implement a simplified enrollment and renewal process in accordance with this Subsection (5); and

(ii) if funding is available, implement the simplified enrollment and renewal process in accordance with this Subsection (5).

(b) The simplified enrollment and renewal process:

(i) shall, in accordance with Section 59-1-403, provide an eligibility worker a process in which the eligibility worker:

(A) verifies the applicant's identity;

(B) gets consent to obtain the applicant's adjusted gross income from the [~~Utah~~] State Tax Commission from:

(I) the applicant, if the applicant filed a single tax return; or

(II) both parties to a joint return, if the applicant filed a joint tax return; and

(C) obtains from the Utah State Tax Commission, the adjusted gross income of the applicant; and

(ii) may not change the eligibility requirements for the program.

Section ~~{4}~~5. Section **59-1-403** is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

HB0256S01 compared with HB0256

(i) a tax commissioner;
(ii) an agent, clerk, or other officer or employee of the commission; or
(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;
(ii) on behalf of the commission in any action or proceeding under:
(A) this title; or
(B) other law under which persons are required to file returns with the commission;
(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or
(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (1)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(2) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;
(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or
(iii) against whom the state has an unsatisfied money judgment.

(3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative

HB0256S01 compared with HB0256

Rulemaking Act, provide for a reciprocal exchange of information with:

- (i) the United States Internal Revenue Service; or
- (ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (1), the commission shall provide to the Solid and Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as requested by the executive secretary, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (1), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

- (i) Chapter 13, Part 2, Motor Fuel; or
- (ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

- (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the

HB0256S01 compared with HB0256

manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (1), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (1), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (1), the commission shall, at the request of a committee of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (1), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (1), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (3)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (1), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and Social Security number on resident returns filed

HB0256S01 compared with HB0256

under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) Notwithstanding Subsection (1), the commission shall at the request of a committee, commission, or task force of the Legislature provide to the committee, commission, or task force of the Legislature any information relating to a tax imposed under Chapter 9, Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

(o) (i) As used in this Subsection (3)(o), "office" means the:

(A) Office of the Legislative Fiscal Analyst; or

(B) Office of Legislative Research and General Counsel.

(ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii), the commission shall at the request of an office provide to the office all information:

(A) gained by the commission; and

(B) required to be attached to or included in returns filed with the commission.

(iii) (A) An office may not request and the commission may not provide to an office a person's:

(I) address;

(II) name;

(III) Social Security number; or

(IV) taxpayer identification number.

(B) The commission shall in all instances protect the privacy of a person as required by Subsection (3)(o)(iii)(A).

(iv) An office may provide information received from the commission in accordance with this Subsection (3)(o) only:

(A) as:

(I) a fiscal estimate;

(II) fiscal note information; or

(III) statistical information; and

(B) if the information is classified to prevent the identification of a particular return.

(v) (A) A person may not request information from an office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if that office received the

HB0256S01 compared with HB0256

information from the commission in accordance with this Subsection (3)(o).

(B) An office may not provide to a person that requests information in accordance with Subsection (3)(o)(v)(A) any information other than the information the office provides in accordance with Subsection (3)(o)(iv).

(p) Notwithstanding Subsection (1), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (3)(p)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(q) Notwithstanding Subsection (1), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(r) Notwithstanding Subsection (1), the commission shall provide to the Utah State 911 Committee the information requested by the Utah State 911 Committee under Subsection 53-10-602(3).

(s) Notwithstanding Subsection (1), the commission may provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return under Section 59-10-1313.

(t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the ~~[Children's Health Insurance Program]~~ Department of Health or its designee with the adjusted gross income of an individual if:

HB0256S01 compared with HB0256

(i) an eligibility worker with the [~~Children's Health Insurance Program~~] Department of Health or its designee requests the information from the [~~Utah~~] State Tax Commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of [~~Section~~] Sections 26-18-2.5 and 26-40-105.

(4) (a) [~~Reports~~] Each report and [~~returns~~] return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (4)(a) the commission may destroy a report or return.

(5) (a) Any person who violates this section is guilty of a class A misdemeanor.

(b) If the person described in Subsection (5)(a) is an officer or employee of the state, the person shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with Subsection (3)(o)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (5)(b); or

(B) disqualification from holding public office in accordance with Subsection (5)(b).

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section ~~5~~6. **Effective date.**

This bill takes effect on July 1, 2012.

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Legislative Review Note

~~as of 1-26-11 2:47 PM~~

~~Office of Legislative Research and General Counsel~~