

**Representative Ronda Rudd Menlove** proposes the following substitute bill:

**ELECTRONIC PERSONAL MEDICAL RECORDS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ronda Rudd Menlove**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill facilitates the enrollment of Medicaid beneficiaries,

**H→** [~~Children~~] Children's **←H** Health Insurance **H→** Program **←H**  
enrollees, and **H→** [~~public~~] state **←H** employees **H→** and their dependents **←H** into the  
electronic exchange of clinical health records.

**Highlighted Provisions:**

This bill:

▶ amends the duties of the state Medicaid plan to enroll Medicaid beneficiaries in the  
electronic exchange of clinical health records unless the individual opts out;

▶ amends the duties of the Children's Health Insurance Program to enroll the members  
of the Children's Health Insurance Program in the electronic exchange of clinical  
health records unless the individual opts out; **H→** [~~and~~] **←H**

▶ amends the duties of the Public Employees Health Program to enroll

**H→** [~~members~~] state employees and their dependents **←H** in

the electronic exchange of clinical health records unless the individual opts out. **H→** and

▶ provides notice to individuals regarding the enrollment in the electronic exchange  
of clinical health records and the option to opt out of enrollment at any time; **←H**

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:



26 **26-18-3**, as last amended by Laws of Utah 2011, Chapters 151, 297, and 366  
 27 **26-40-103**, as last amended by Laws of Utah 2008, Chapters 62 and 382  
 28 **49-20-401**, as last amended by Laws of Utah 2008, Chapter 176

29

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 -- Reporting to the**  
 33 **Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility**  
 34 **standards -- Internal audits -- Studies -- Health opportunity accounts.**

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

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

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

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

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

46 (iii) reimbursement methodologies for providers under the Medicaid program~~[-]; and~~

47 (iv) a requirement that ~~H→~~ :

47a **(A) ←H a person receiving Medicaid services shall participate in the**  
 48 **electronic exchange of clinical health records established in accordance with Section 26-1-37**  
 49 **unless the individual opts out of participation H→ ;**

49a **(B) prior to enrollment in the electronic exchange of clinical health records the enrollee**  
 49b **shall receive notice of enrollment in the electronic exchange of clinical health records and the**  
 49c **right to opt out of participation at any time; and**

49d **(C) beginning July 1, 2012, S→ [each time] when ←S the program sends S→ [a written**  
 49e **document] enrollment or renewal information ←S to the**  
 49f **enrollee and S→ [each time] when ←S the enrollee logs onto the program's website, the**  
 49g **enrollee shall receive**  
 49h **notice of the right to opt out of the electronic exchange of clinical health records ←H .**

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

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

53 (ii) initiates a new Medicaid waiver;

181 Rulemaking Act regarding:

182 (i) eligibility requirements consistent with Subsection 26-18-3~~(8)~~(9);

183 (ii) program benefits;

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

185 (iv) cost-sharing requirements for enrollees, which may not:

186 (A) exceed the guidelines set forth in 42 U.S.C. Sec. 1397ee; or

187 (B) impose deductible, copayment, or coinsurance requirements on an enrollee for

188 well-child, well-baby, and immunizations; ~~and~~

189 (v) the administration of the program~~[-]; and~~

190 (vi) a requirement that ~~H→~~ :

190a (A) ~~←H→~~ enrollees in the program shall participate in the electronic

191 exchange of clinical health records established in accordance with Section 26-1-37 unless the

192 enrollee opts out of participation ~~H→~~ ;

192a (B) **prior to enrollment in the electronic exchange of clinical health records the enrollee**

192b **shall receive notice of the enrollment in the electronic exchange of clinical health records and**

192c **the right to opt out of participation at any time; and**

192d (C) **beginning July 1, 2012, S→ [each time] when ←S→ the program sends S→ [a written**

192e **document] enrollment or renewal information ←S→ to the**

192f **enrollee and S→ [each time] when ←S→ the enrollee logs onto the program's website, the**

192g **enrollee shall receive**

192h **notice of the right to opt out of the electronic exchange of clinical health records ←H→ .**

193 Section 3. Section 49-20-401 is amended to read:

194 **49-20-401. Program -- Powers and duties.**

195 (1) The program shall:

196 (a) act as a self-insurer of employee benefit plans and administer those plans;

197 (b) enter into contracts with private insurers or carriers to underwrite employee benefit

198 plans as considered appropriate by the program;

199 (c) indemnify employee benefit plans or purchase commercial reinsurance as

200 considered appropriate by the program;

201 (d) provide descriptions of all employee benefit plans under this chapter in cooperation

202 with covered employers;

203 (e) process claims for all employee benefit plans under this chapter or enter into

204 contracts, after competitive bids are taken, with other benefit administrators to provide for the

205 administration of the claims process;

206 (f) obtain an annual actuarial review of all health and dental benefit plans and a

207 periodic review of all other employee benefit plans;

208 (g) consult with the covered employers to evaluate employee benefit plans and develop

- 212 (i) maintain reserves sufficient to liquidate the unrevealed claims liability and other  
 213 liabilities of the employee benefit plans as certified by the program's consulting actuary;
- 214 (j) submit, in advance, its recommended benefit adjustments for state employees to:  
 215 (i) the Legislature; and  
 216 (ii) the executive director of the state Department of Human Resource Management;
- 217 (k) determine benefits and rates, upon approval of the board, for multiemployer risk  
 218 pools, retiree coverage, and conversion coverage;
- 219 (l) determine benefits and rates based on the total estimated costs and the employee  
 220 premium share established by the Legislature, upon approval of the board, for state employees;
- 221 (m) administer benefits and rates, upon ratification of the board, for single employer  
 222 risk pools;
- 223 (n) request proposals for provider networks or health and dental benefit plans  
 224 administered by third party carriers at least once every three years for the purposes of:  
 225 (i) stimulating competition for the benefit of covered individuals;  
 226 (ii) establishing better geographical distribution of medical care services; and  
 227 (iii) providing coverage for both active and retired covered individuals;
- 228 (o) offer proposals which meet the criteria specified in a request for proposals and  
 229 accepted by the program to active and retired state covered individuals and which may be  
 230 offered to active and retired covered individuals of other covered employers at the option of the  
 231 covered employer;
- 232 (p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for  
 233 the Department of Health if the program provides program benefits to children enrolled in the  
 234 Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's  
 235 Health Insurance Act;
- 236 (q) establish rules and procedures governing the admission of political subdivisions or  
 237 educational institutions and their employees to the program;
- 238 (r) contract directly with medical providers to provide services for covered individuals;  
 239 [~~and~~]
- 240 (s) take additional actions necessary or appropriate to carry out the purposes of this  
 241 chapter[-]; and
- 242 (t) ~~H→~~ **(i)** ~~←H~~ require H→ [a member] state employees and their dependents ←H  
 242a1 to participate in  
 242a the electronic exchange of clinical health records

243 in accordance with Section 26-1-37 unless the enrollee opts out of participation ~~H~~→ ; and  
243a **(ii) prior to enrolling the state employee, each time the state employee logs onto the**  
243b **program's website, and each time the enrollee receives written enrollment information from**  
243c **the program, provide notice to the enrollee of the enrollee's participation in the electronic**  
243d **exchange of clinical health records and the option to opt out of participation at any time.** ←~~H~~ .

244 (2) (a) Funds budgeted and expended shall accrue from rates paid by the covered  
245 employers and covered individuals.

246 (b) Administrative costs shall be approved by the board and reported to the governor  
247 and the Legislature.

248 (3) The Department of Human Resource Management shall include the benefit  
249 adjustments described in Subsection (1)(j) in the total compensation plan recommended to the  
250 governor required under Subsection 67-19-12(6)(a).