

1                   **MEDICAID MANAGEMENT OF EMERGENCY DEPARTMENT**  
2   **UTILIZATION**

3   2015 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Michael S. Kennedy**

6   Senate Sponsor: Brian E. Shiozawa

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8                   **LONG TITLE**

9                   **Committee Note:**

10                   The Health and Human Services Interim Committee recommended this bill.

11                   **General Description:**

12                   This bill amends the Medical Assistance Act related to Medicaid Accountable Care  
13 Organizations and Medicaid recipient emergency department utilization.

14                   **Highlighted Provisions:**

15                   This bill:

- 16                   ▶ defines terms;
- 17                   ▶ prohibits a Medicaid Accountable Care Organization from imposing differential  
18 payments for professional services rendered in an emergency department;
- 19                   ▶ requires the Department of Health, before July 1, 2015, to convene a group of  
20 stakeholders to discuss ways to create and support increased access to primary and  
21 urgent care services for Medicaid recipients; and
- 22                   ▶ makes technical amendments.

23                   **Money Appropriated in this Bill:**

24                   None

25                   **Other Special Clauses:**

26                   None

27                   **Utah Code Sections Affected:**



28 AMENDS:

29 **26-18-408**, as enacted by Laws of Utah 2013, Chapter 103



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

32 Section 1. Section **26-18-408** is amended to read:

33 **26-18-408. Incentives to appropriately use emergency department services.**

34 (1) (a) This section applies to the Medicaid program and to the Utah Children's Health  
35 Insurance Program created in Chapter 40, Utah Children's Health Insurance Act.

36 (b) For purposes of this section:

37 (i) "Accountable care organization" means a Medicaid or Children's Health Insurance  
38 Program administrator that contracts with the Medicaid program or the Children's Health  
39 Insurance Program to deliver health care through an accountable care plan.

40 (ii) "Accountable care plan" means a risk based delivery service model authorized by  
41 Section **26-18-405** and administered by an accountable care organization.

42 (iii) "Nonemergent care":

43 (A) means use of the emergency ~~[room]~~ department to receive health care that is  
44 nonemergent as defined by the department by administrative rule adopted in accordance with  
45 Title 63G, Chapter 3, Utah Administrative Rulemaking Act and the Emergency Medical  
46 Treatment and Active Labor Act; and

47 (B) does not mean the medical services provided to a recipient required by the  
48 Emergency Medical Treatment and Active Labor Act, including services to conduct a medical  
49 screening examination to determine if the recipient has an emergent or nonemergent condition.

50 (iv) "Professional compensation" means payment made for services rendered to a  
51 Medicaid recipient by an individual licensed to provide health care services.

52 (v) "Super-utilizer" means a Medicaid recipient who has been identified by the  
53 recipient's accountable care organization as a person who uses the emergency department  
54 excessively, as defined by the accountable care organization.

55 (2) (a) An accountable care organization may, in accordance with ~~[Subsection (2)(b)]~~  
56 Subsections (2)(b) and (c):

57 (i) audit emergency ~~[room]~~ department services provided to a recipient enrolled in the  
58 accountable care plan to determine if nonemergent care was provided to the recipient; and

59 (ii) establish differential payment for emergent and nonemergent care provided in an  
60 emergency [~~room~~] department.

61 (b) (i) The [~~audits and~~] differential payments under [~~Subsections (2)(a) and (b) apply to~~  
62 ~~services provided to a recipient on or after July 1, 2015~~] Subsection (2)(a)(ii) do not apply to  
63 professional compensation for services rendered in an emergency department.

64 (ii) Except in cases of suspected fraud, waste, and abuse, an accountable care  
65 organization's audit of payment under [~~Subsections (2)(a) and (b)~~] Subsection (2)(a)(i) is  
66 limited to the 18-month period of time after the date on which the medical services were  
67 provided to the recipient. If fraud, waste, or abuse is alleged, the accountable care  
68 organization's audit of payment under [~~Subsections (2)(a) and (b)~~] Subsection (2)(a)(i) is  
69 limited to three years after the date on which the medical services were provided to the  
70 recipient.

71 (c) The audits and differential payments under Subsections (2)(a) and (b) apply to  
72 services provided to a recipient on or after July 1, 2015.

73 (3) An accountable care organization shall:

74 (a) use the savings under Subsection (2) to maintain and improve access to primary  
75 care and urgent care services for all of the recipients enrolled in the accountable care plan;  
76 [~~and~~]

77 (b) provide viable alternatives for increasing primary care provider reimbursement  
78 rates to incentivize after hours primary care access for recipients; and

79 [~~(b)~~] (c) report to the department on how the accountable care organization complied  
80 with this Subsection (3)[~~(a)~~].

81 (4) [~~(a)~~] The department shall[;]:

82 (a) through administrative rule adopted by the department, develop quality  
83 measurements that evaluate an accountable care organization's delivery of:

84 (i) appropriate emergency [~~room~~] department services to recipients enrolled in the  
85 accountable care plan;

86 (ii) expanded primary care and urgent care for recipients enrolled in the accountable  
87 care plan, with consideration of the accountable care organization's:

88 [~~(A) emergency room diversion plans;~~]

89 (A) delivery of primary care, urgent care, and after hours care through means other than

90 the emergency department;

91 (B) recipient access to primary care providers and community health centers including  
92 evening and weekend access; and

93 (C) other innovations for expanding access to primary care; and

94 (iii) quality of care for the accountable care plan members[-];

95 [~~(b) The department shall:~~]

96 [(~~+~~) (b) compare the quality measures developed under Subsection (4)(a) for each  
97 accountable care organization[;] and [(~~+~~)] share the data and quality measures developed under  
98 Subsection (4)(a) with the Health Data Committee created in Chapter 33a, Utah Health Data  
99 Authority Act[-];

100 [~~(c) The Health Data Committee may publish data in accordance with Chapter 33a,  
101 Utah Health Data Authority Act which compares the quality measures for the accountable care  
102 plans.]~~

103 [(~~5~~) (c) [~~The department shall~~] apply for a Medicaid waiver and a Children's Health  
104 Insurance Program waiver with the Centers for Medicare and Medicaid Services within the  
105 United States Department of Health and Human Services, to:

106 [(~~a~~) (i) allow the program to charge recipients who are enrolled in an accountable care  
107 plan a higher copayment for emergency [~~room~~] department services; and

108 [(~~b~~) (ii) develop, by administrative rule, an algorithm to determine assignment of new,  
109 unassigned recipients to specific accountable care plans based on the plan's performance in  
110 relation to the quality measures developed pursuant to Subsection (4)(a)[-]; and

111 (d) before July 1, 2015, convene representatives from the accountable care  
112 organizations, pre-paid mental health plans, an organization representing hospitals, an  
113 organization representing physicians, and a county mental health and substance abuse authority  
114 to discuss alternatives to emergency department care, including:

115 (i) creating increased access to primary care services;

116 (ii) alternative care settings for super-utilizers and individuals with behavioral health or  
117 substance abuse issues;

118 (iii) primary care medical and health homes that can be created and supported through  
119 enhanced federal match rates, a state plan amendment for integrated care models, or other  
120 Medicaid waivers;

- 121            (iv) case management programs that can:  
122            (A) schedule prompt visits with primary care providers within 72 to 96 hours of an  
123 emergency department visit;  
124            (B) help super-utilizers with behavioral health or substance abuse issues to obtain care  
125 in appropriate care settings; and  
126            (C) assist with transportation to primary care visits if transportation is a barrier to  
127 appropriate care for the recipient; and  
128            (v) sharing of medical records between health care providers and emergency  
129 departments for Medicaid recipients.  
130            (5) The Health Data Committee may publish data in accordance with Chapter 33a,  
131 Utah Health Data Authority Act, which compares the quality measures for the accountable care  
132 plans.  
133            (6) The department shall report to the Legislature's Health and Human Services Interim  
134 Committee on or before October 1, 2016, regarding implementation of this section.

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**Legislative Review Note**  
**as of 11-20-14 4:07 PM**

**Office of Legislative Research and General Counsel**