

1 **CHILDREN'S HEALTH INSURANCE PROGRAM**

2 **AMENDMENTS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Timothy D. Hawkes**

6 Senate Sponsor: Peter C. Knudson

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Utah Children's Health Insurance Program.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends membership provisions of the Utah Children's Health Insurance Program

14 Advisory Council;

- 15 ▶ deletes obsolete provisions;

- 16 ▶ deletes a provision requiring the Department of Health to request bids for Utah

17 Children's Health Insurance Program benefits at least once every five years;

- 18 ▶ deletes provisions requiring the executive director of the Department of Health to

19 consult with the Utah Children's Health Insurance Program Advisory Council under

20 certain circumstances; and

- 21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:



- 28 **26-40-104**, as last amended by Laws of Utah 2010, Chapter 286
- 29 **26-40-106**, as last amended by Laws of Utah 2012, Chapter 279
- 30 **26-40-110**, as last amended by Laws of Utah 2013, Chapter 103
- 31 **26-40-115**, as enacted by Laws of Utah 2011, Chapter 400
- 32 **49-20-201**, as last amended by Laws of Utah 2007, Chapter 130

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

35 Section 1. Section **26-40-104** is amended to read:

36 **26-40-104. Utah Children's Health Insurance Program Advisory Council.**

37 (1) There is created a Utah Children's Health Insurance Program Advisory Council
 38 consisting of at least [~~eight~~] five and no more than [~~++~~] eight members appointed by the
 39 executive director of the department. The term of each appointment shall be three years. The
 40 appointments shall be staggered at one-year intervals to ensure continuity of the advisory
 41 council.

42 (2) The advisory council shall meet at least quarterly.

43 (3) The membership of the advisory council shall include at least one representative
 44 from each of the following groups:

- 45 (a) child health care providers;
- 46 [~~(b) parents and guardians of children enrolled in the program;~~]
- 47 [~~(c)~~] (b) ethnic populations other than American Indians;
- 48 [~~(d)~~] (c) American Indians;
- 49 [~~(e) the Utah Association of Health Care Providers;~~]
- 50 [~~(f)~~] (d) health and accident and health insurance providers; and
- 51 [~~(g)~~] (e) the general public.

52 (4) The advisory council shall advise the department on:

- 53 (a) benefits design;
- 54 (b) eligibility criteria;
- 55 (c) outreach;
- 56 (d) evaluation; and
- 57 (e) special strategies for under-served populations.

58 (5) A member may not receive compensation or benefits for the member's service, but

59 may receive per diem and travel expenses in accordance with:

60 (a) Section 63A-3-106;

61 (b) Section 63A-3-107; and

62 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

63 63A-3-107.

64 Section 2. Section 26-40-106 is amended to read:

65 **26-40-106. Program benefits.**

66 [~~(1) Until the department implements a plan under Subsection (2), program benefits~~
67 ~~may include:]~~

68 [~~(a) hospital services;~~]

69 [~~(b) physician services;~~]

70 [~~(c) laboratory services;~~]

71 [~~(d) prescription drugs;~~]

72 [~~(e) mental health services;~~]

73 [~~(f) basic dental services;~~]

74 [~~(g) preventive care including:]~~

75 [~~(i) routine physical examinations;~~]

76 [~~(ii) immunizations;~~]

77 [~~(iii) basic vision services; and]~~

78 [~~(iv) basic hearing services;~~]

79 [~~(h) limited home health and durable medical equipment services; and]~~

80 [~~(i) hospice care.]~~

81 [~~(2)(a) (1) Except as provided in Subsection [(2)(d), no later than July 1, 2008, the]~~

82 ~~(4), medical program benefits shall be benchmarked, in accordance with 42 U.S.C. Sec.~~

83 ~~1397cc, to be actuarially equivalent to a health benefit plan with the largest insured commercial~~

84 ~~enrollment offered by a health maintenance organization in the state.~~

85 [~~(b) (2) Except as provided in Subsection [(2)(d), after July 1, 2012] (4):~~

86 [~~(i) (a) medical program benefits may not exceed the benefit level described in~~

87 ~~Subsection [(2)(a) (1); and~~

88 [~~(ii) (b) medical program benefits shall be adjusted every July 1[, thereafter] to meet~~

89 ~~the benefit level described in Subsection [(2)(a) (1).~~

90 ~~[(c)]~~ (3) The dental benefit plan shall be benchmarked, in accordance with the
 91 Children's Health Insurance Program Reauthorization Act of 2009, to be equivalent to a dental
 92 benefit plan that has the largest insured, commercial, non-Medicaid enrollment of covered lives
 93 that is offered in the state, except that the utilization review mechanism for orthodontia shall be
 94 based on medical necessity. Dental program benefits shall be adjusted on July 1, 2012, and on
 95 July 1 every three years thereafter to meet the benefit level required by this Subsection ~~[(2)(c)]~~
 96 (3).

97 ~~[(d)]~~ (4) The program benefits for enrollees who are at or below 100% of the federal
 98 poverty level are exempt from the benchmark requirements of Subsections ~~[(2)(a)]~~ (1) and
 99 (2)~~[(b)]~~.

100 Section 3. Section **26-40-110** is amended to read:

101 **26-40-110. Managed care -- Contracting for services.**

102 (1) Program benefits provided to enrollees under the program, as described in Section
 103 26-40-106, shall be delivered ~~[in]~~ by a managed care ~~[system]~~ organization if the department
 104 determines that adequate services are available where the enrollee lives or resides.

105 (2) ~~[(a)]~~ The department may contract with a managed care organization to provide
 106 program benefits. The department shall use the following criteria to evaluate [bids from health
 107 plans] a potential contract with a managed care organization:

108 (a) the managed care organization's:

109 (i) ability to manage medical expenses, including mental health costs;

110 (ii) proven ability to handle accident and health insurance;

111 (iii) efficiency of claim paying procedures;

112 (iv) proven ability for managed care and quality assurance;

113 (v) provider contracting and discounts;

114 (vi) pharmacy benefit management;

115 (vii) ~~[an estimate of]~~ estimated total charges for administering the pool;

116 (viii) ability to administer the pool in a cost-efficient manner;

117 (ix) ~~[the]~~ ability to provide adequate providers and services in the state; and

118 ~~[(x) for contracts entered into or renewed on or after January 1, 2014;]~~

119 (x) [the] ability to meet quality measures for emergency room use and access to

120 primary care established by the department under Subsection 26-18-408(4); and

121 ~~[(xi)]~~ (b) other criteria established by the department.

122 ~~[(b)]~~ (3) The department may enter into separate contracts to provide dental benefits
123 required by Section 26-40-106 ~~[may be bid out separately from other program benefits].~~

124 ~~[(c)]~~ Except for dental benefits, the department shall request bids for the program's
125 benefits in 2008. The department shall request bids for the program's dental benefits in 2009.
126 The department shall request bids for the program's benefits at least once every five years
127 thereafter.]

128 ~~[(d)]~~ (4) The department's contract with a health ~~[plans]~~ or dental plan for the
129 program's benefits shall include risk sharing provisions in which the ~~[health]~~ plan shall accept
130 at least 75% of the risk for any difference between the department's premium payments per
131 client and actual medical expenditures.

132 ~~[(3)]~~ The executive director shall report to and seek recommendations from the Health
133 Advisory Council created in Section 26-1-7.5:]

134 ~~[(a)]~~ if the division receives less than two bids or proposals under this section that are
135 acceptable to the division or responsive to the bid, and]

136 ~~[(b)]~~ before awarding a contract to a managed care system.]

137 ~~[(4) (a)]~~ The department shall award contracts to responsive bidders if the department
138 determines that a bid is acceptable and meets the criteria of Subsections (2)(a) and (d).]

139 ~~[(b)]~~ (5) (a) The department may contract with the Group Insurance Division within the
140 Utah State Retirement Office to provide services under Subsection (1) if[:] no other health or
141 dental plan is willing to contract with the department or the department determines no other
142 plan meets the criteria established under Subsection (2).

143 ~~[(i)]~~ the executive director seeks the recommendation of the Health Advisory Council
144 under Subsection (3); and]

145 ~~[(ii)]~~ the executive director determines that the bids were not acceptable to the
146 department.]

147 ~~[(e)]~~ (b) In accordance with Section 49-20-201, a contract awarded under Subsection
148 ~~[(4)(b)]~~ (5)(a) is not subject to the risk sharing required by Subsection ~~[(2)(d)]~~ (4).

149 ~~[(5)]~~ Title 63G, Chapter 6a, Utah Procurement Code, shall apply to this section.]:

150 Section 4. Section 26-40-115 is amended to read:

151 **26-40-115. State contractor -- Employee and dependent health benefit plan**

152 coverage.

153 For purposes of Sections 17B-2a-818.5, 19-1-206, 63A-5-205, 63C-9-403, 72-6-107.5,
154 and 79-2-404, "qualified health insurance coverage" means, at the time the contract is entered
155 into or renewed:

156 (1) a health benefit plan and employer contribution level with a combined actuarial
157 value at least actuarially equivalent to the combined actuarial value of the benchmark plan
158 determined by the [~~Children's Health Insurance~~] program under Subsection
159 26-40-106[(2)(a)](1), and a contribution level of 50% of the premium for the employee and the
160 dependents of the employee who reside or work in the state, in which:

161 (a) the employer pays at least 50% of the premium for the employee and the
162 dependents of the employee who reside or work in the state; and

163 (b) for purposes of calculating actuarial equivalency under this Subsection (1)(b):

164 (i) rather [~~that~~] than the benchmark plan's deductible, and the benchmark plan's
165 out-of-pocket maximum based on income levels:

166 (A) the deductible is \$1,000 per individual and \$3,000 per family; and

167 (B) the out-of-pocket maximum is \$3,000 per individual and \$9,000 per family;

168 (ii) dental coverage is not required; and

169 (iii) other than Subsection 26-40-106[(2)(a)](1), the provisions of Section 26-40-106

170 do not apply; or

171 (2) a federally qualified high deductible health plan that, at a minimum:

172 (a) has a deductible that is either:

173 (i) the lowest deductible permitted for a federally qualified high deductible health plan;

174 or

175 (ii) a deductible that is higher than the lowest deductible permitted for a federally
176 qualified high deductible health plan, but includes an employer contribution to a health savings
177 account in a dollar amount at least equal to the dollar amount difference between the lowest
178 deductible permitted for a federally qualified high deductible plan and the deductible for the
179 employer offered federally qualified high deductible plan;

180 (b) has an out-of-pocket maximum that does not exceed three times the amount of the
181 annual deductible; and

182 (c) the employer pays 60% of the premium for the employee and the dependents of the

183 employee who work or reside in the state.

184 Section 5. Section 49-20-201 is amended to read:

185 **49-20-201. Program participation -- Eligibility -- Optional for certain groups.**

186 (1) (a) The state shall participate in the program on behalf of its employees.

187 (b) Other employers, including political subdivisions and educational institutions, are
188 eligible, but are not required, to participate in the program on behalf of their employees.

189 (2) (a) ~~[The]~~ As provided in Subsection 26-40-110(5), the Department of Health may
190 participate in the program for the purpose of providing health and dental benefits to children
191 enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah
192 Children's Health Insurance Act~~[, if the provisions in Subsection 26-40-110(4) occur]~~.

193 (b) If the Department of Health participates in the program under the provisions of this
194 Subsection (2), all insurance risk associated with the Utah Children's Health Insurance Program
195 shall be the responsibility of the Department of Health and not the program or the office.

196 (3) A covered individual shall be eligible for coverage after termination of employment
197 under rules adopted by the board.

198 (4) Only the following are eligible for Medicare supplement coverage under this
199 chapter upon becoming eligible for Medicare Part A and Part B coverage:

200 (a) retirees;

201 (b) members;

202 (c) participants;

203 (d) employees who have medical employee benefit plan coverage at the time of their
204 retirement; and

205 (e) current spouses of those who are eligible under Subsections (4)(a) through (d).

Legislative Review Note
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Office of Legislative Research and General Counsel