

MEDICAID WAIVER AND RESPITE SERVICES

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Allen M. Christensen

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions related to respite care in the state Medicaid program.

Highlighted Provisions:

This bill:

▸ requires the Department of Health to apply for a Medicaid waiver for the provision of respite services to individuals with a disability in the state Medicaid program;

and

▸ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-5-102, as last amended by Laws of Utah 2013, Chapter 172

ENACTS:

26-18-410, Utah Code Annotated 1953

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

Section 1. Section **26-18-410** is enacted to read:



28 **26-18-410. Medicaid waiver for limited respite services.**

29 (1) As used in this section:

30 (a) "Program" means the limited respite services program described in Subsection (3).

31 (b) "Respite services" means services provided on a short-term basis to a participant
32 who is unable to care for himself or herself, due to the absence or need for relief of an
33 individual who normally provides care to the participant.

34 (2) The department shall apply, no later than June 30, 2015, for a home and community
35 based services waiver with the Centers for Medicare and Medicaid Services within the United
36 States Department of Health and Human Services to implement, within the state Medicaid
37 program, the program described in Subsection (3).

38 (3) If the waiver described in Subsection (2) is approved, as funding permits, the
39 department shall provide limited respite services to an individual who:

40 (a) otherwise qualifies for Utah's Community Supports, home and community based
41 services waiver for individuals with intellectual disabilities and other related conditions;

42 (b) requires only respite services; and

43 (c) is randomly selected for participation.

44 Section 2. Section 62A-5-102 is amended to read:

45 **62A-5-102. Division of Services for People with Disabilities -- Creation --**
46 **Authority -- Direction -- Provision of services.**

47 (1) There is created within the department the Division of Services for People with
48 Disabilities, under the administrative direction of the executive director of the department.

49 (2) In accordance with this chapter, the division has the responsibility to plan and
50 deliver an appropriate array of services and supports to persons with disabilities and their
51 families in this state.

52 (3) Within appropriations from the Legislature, the division shall provide services to
53 any person with a disability who is eligible to receive division services.

54 (4) (a) Starting on July 1, 2013, any new appropriations designated to serve eligible
55 persons waiting for services from the division shall be allocated as [~~set forth~~] described in this
56 section.

57 (b) Eighty-five percent of the money appropriated in Subsection (4)(a) shall be
58 allocated, as determined by the division by rule based on the:

- 59 (i) severity of the disability;
- 60 (ii) urgency of the need for services;
- 61 (iii) ability of a parent or guardian to provide the person with appropriate care and
- 62 supervision; and
- 63 (iv) length of time during which the person has not received services from the division.
- 64 (c) The division may use funds described in Subsection (4)(b) that are not spent by the
- 65 division at the end of the fiscal year, as described in Subsection (7).

66 ~~[(c)]~~ (5) (a) Fifteen percent of the money appropriated in Subsection (4)(a) shall be

67 allocated for respite services, and the division shall:

- 68 (i) establish rules to identify a person whose only need is respite services;
- 69 (ii) allocate money under this Subsection ~~[(4)(c)]~~ (5)(a) to the ~~[people]~~ persons
- 70 described in Subsection ~~[(4)(c)(i)]~~ (5)(a)(i) based on random selection; and
- 71 (iii) if all persons described in Subsection ~~[(4)(c)(i)]~~ (5)(a)(i) have been served and
- 72 there is money remaining for respite care under this Subsection ~~[(4)(c)]~~ (5)(a), the division
- 73 shall use the remaining money as described in Subsection (4)(b).

74 ~~[(d) Funds from Subsection (4)(b) that are not spent by the division at the end of the~~

75 ~~fiscal year may be used as set forth in Subsection (7).]~~

76 (b) If a home and community based services waiver is approved for a limited respite

77 services program, as described in Section 26-18-410, the division shall implement the limited

78 respite services program, in collaboration with the Department of Health, in place of the respite

79 services described in Subsection (5)(a) and shall use the money described in Subsection (5)(a)

80 for the services described in Subsection (4)(b).

81 ~~[(5)]~~ (6) The division:

- 82 (a) has the functions, powers, duties, rights, and responsibilities described in Section
- 83 [62A-5-103](#); and
- 84 (b) is authorized to work in cooperation with other state, governmental, and private
- 85 agencies to carry out the responsibilities described in Subsection ~~[(5)]~~ (6)(a).

86 ~~[(6)]~~ (7) Within appropriations authorized by the Legislature, and to the extent allowed

87 under Title XIX of the Social Security Act, the division shall ensure that the services and

88 support that the division provides to any person with a disability:

- 89 (a) are provided in the least restrictive and most enabling environment;

- 90 (b) ensure opportunities to access employment; and
- 91 (c) enable reasonable personal choice in selecting services and support that:
 - 92 (i) best meet individual needs; and
 - 93 (ii) promote:
 - 94 (A) independence;
 - 95 (B) productivity; and
 - 96 (C) integration in community life.
- 97 [~~7~~] (8) (a) Appropriations to the division are nonlapsing.
- 98 (b) If an individual receiving services under Subsection (4)(b) or [~~5~~] (5)(a) ceases to
- 99 receive those services, the division shall use the funds that were allocated to that individual to
- 100 provide services to another eligible individual waiting for services as described in Subsection
- 101 (4)(b).
- 102 (c) Funds unexpended by the division at the end of the fiscal year may be used only for
- 103 one-time expenditures unless otherwise authorized by the Legislature.
- 104 (d) A one-time expenditure under this section:
 - 105 (i) is not an entitlement;
 - 106 (ii) may be withdrawn at any time; and
 - 107 (iii) may provide short-term, limited services, including:
 - 108 (A) respite care;
 - 109 (B) service brokering;
 - 110 (C) family skill building and preservation classes;
 - 111 (D) after school group services; and
 - 112 (E) other professional services.

Legislative Review Note
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Office of Legislative Research and General Counsel