

**MEDICAID ELIGIBILITY AMENDMENTS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carol Spackman Moss**

Senate Sponsor: Todd Weiler

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to eligibility for the state Medicaid program.

**Highlighted Provisions:**

This bill:

▶ prohibits the department from terminating eligibility for the state Medicaid program solely because the individual is incarcerated.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**26-18-3**, as last amended by Laws of Utah 2018, Chapters 114 and 281

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

Section 1. Section **26-18-3** is amended to read:

**26-18-3. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Health opportunity accounts.**

(1) The department shall be the single state agency responsible for the administration



28 of the Medicaid program in connection with the United States Department of Health and  
29 Human Services pursuant to Title XIX of the Social Security Act.

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

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

35 (i) the standards used by the department for determining eligibility for Medicaid  
36 services;

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

38 (iii) reimbursement methodologies for providers under the Medicaid program; and

39 (iv) a requirement that:

40 (A) a person receiving Medicaid services shall participate in the electronic exchange of  
41 clinical health records established in accordance with Section 26-1-37 unless the individual  
42 opts out of participation;

43 (B) prior to enrollment in the electronic exchange of clinical health records the enrollee  
44 shall receive notice of enrollment in the electronic exchange of clinical health records and the  
45 right to opt out of participation at any time; and

46 (C) beginning July 1, 2012, when the program sends enrollment or renewal information  
47 to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive  
48 notice of the right to opt out of the electronic exchange of clinical health records.

49 (3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social  
50 Services Appropriations Subcommittee when the department:

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

52 (ii) initiates a new Medicaid waiver;

53 (iii) initiates an amendment to an existing Medicaid waiver;

54 (iv) applies for an extension of an application for a waiver or an existing Medicaid  
55 waiver; or

56 (v) initiates a rate change that requires public notice under state or federal law.

57 (b) The report required by Subsection (3)(a) shall:

58 (i) be submitted to the Social Services Appropriations Subcommittee prior to the

59 department implementing the proposed change; and

60 (ii) include:

61 (A) a description of the department's current practice or policy that the department is  
62 proposing to change;

63 (B) an explanation of why the department is proposing the change;

64 (C) the proposed change in services or reimbursement, including a description of the  
65 effect of the change;

66 (D) the effect of an increase or decrease in services or benefits on individuals and  
67 families;

68 (E) the degree to which any proposed cut may result in cost-shifting to more expensive  
69 services in health or human service programs; and

70 (F) the fiscal impact of the proposed change, including:

71 (I) the effect of the proposed change on current or future appropriations from the  
72 Legislature to the department;

73 (II) the effect the proposed change may have on federal matching dollars received by  
74 the state Medicaid program;

75 (III) any cost shifting or cost savings within the department's budget that may result  
76 from the proposed change; and

77 (IV) identification of the funds that will be used for the proposed change, including any  
78 transfer of funds within the department's budget.

79 (4) Any rules adopted by the department under Subsection (2) are subject to review and  
80 reauthorization by the Legislature in accordance with Section [63G-3-502](#).

81 (5) The department may, in its discretion, contract with the Department of Human  
82 Services or other qualified agencies for services in connection with the administration of the  
83 Medicaid program, including:

84 (a) the determination of the eligibility of individuals for the program;

85 (b) recovery of overpayments; and

86 (c) consistent with Section [26-20-13](#), and to the extent permitted by law and quality  
87 control services, enforcement of fraud and abuse laws.

88 (6) The department shall provide, by rule, disciplinary measures and sanctions for  
89 Medicaid providers who fail to comply with the rules and procedures of the program, provided

90 that sanctions imposed administratively may not extend beyond:

- 91 (a) termination from the program;
- 92 (b) recovery of claim reimbursements incorrectly paid; and
- 93 (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

94 (7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title  
95 XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated  
96 credits to be used by the division in accordance with the requirements of Section 1919 of Title  
97 XIX of the federal Social Security Act.

98 (b) In accordance with Section [63J-1-602.2](#), sanctions collected under this Subsection  
99 (7) are nonlapsing.

100 (8) (a) In determining whether an applicant or recipient is eligible for a service or  
101 benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department  
102 shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle  
103 designated by the applicant or recipient.

104 (b) Before Subsection (8)(a) may be applied:

105 (i) the federal government shall:

106 (A) determine that Subsection (8)(a) may be implemented within the state's existing  
107 public assistance-related waivers as of January 1, 1999;

108 (B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

109 (C) determine that the state's waivers that permit dual eligibility determinations for  
110 cash assistance and Medicaid are no longer valid; and

111 (ii) the department shall determine that Subsection (8)(a) can be implemented within  
112 existing funding.

113 (9) (a) For purposes of this Subsection (9):

114 (i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as  
115 defined in 42 U.S.C. Sec. 1382c(a)(1); and

116 (ii) "spend down" means an amount of income in excess of the allowable income  
117 standard that shall be paid in cash to the department or incurred through the medical services  
118 not paid by Medicaid.

119 (b) In determining whether an applicant or recipient who is aged, blind, or has a  
120 disability is eligible for a service or benefit under this chapter, the department shall use 100%

121 of the federal poverty level as:

122 (i) the allowable income standard for eligibility for services or benefits; and

123 (ii) the allowable income standard for eligibility as a result of spend down.

124 (10) The department shall conduct internal audits of the Medicaid program.

125 (11) (a) The department may apply for and, if approved, implement a demonstration  
126 program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

127 (b) A health opportunity account established under Subsection (11)(a) shall be an  
128 alternative to the existing benefits received by an individual eligible to receive Medicaid under  
129 this chapter.

130 (c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.

131 (12) (a) (i) The department shall apply for, and if approved, implement an amendment  
132 to the state plan under this Subsection (12) for benefits for:

133 (A) medically needy pregnant women;

134 (B) medically needy children; and

135 (C) medically needy parents and caretaker relatives.

136 (ii) The department may implement the eligibility standards of Subsection (12)(b) for  
137 eligibility determinations made on or after the date of the approval of the amendment to the  
138 state plan.

139 (b) In determining whether an applicant is eligible for benefits described in Subsection  
140 (12)(a)(i), the department shall:

141 (i) disregard resources held in an account in the savings plan created under Title 53B,  
142 Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:

143 (A) under the age of 26; and

144 (B) living with the account owner, as that term is defined in Section 53B-8a-102, or  
145 temporarily absent from the residence of the account owner; and

146 (ii) include the withdrawals from an account in the Utah Educational Savings Plan as  
147 resources for a benefit determination, if the withdrawal was not used for qualified higher  
148 education costs as that term is defined in Section 53B-8a-102.5.

149 (13) (a) The department may not deny or terminate eligibility for Medicaid solely  
150 because an individual is  ~~H→~~ :

150a (i) ←H incarcerated H→ ; and [:]

150b (ii) not an inmate as defined in Section 64-13-1.

151 ~~[(b) Upon release from incarceration, an individual remains eligible for Medicaid if the]~~ ←H

152 ~~↳~~ [individual:  
153 ~~—— (i) was eligible for Medicaid before incarceration; and~~  
154 ~~—— (ii) is not determined to be ineligible for Medicaid on grounds other than incarceration.~~  
155 ~~—— (e) This] (b) ←~~ Subsection (13) ~~↳~~ (a) ← does not require the Medicaid program to  
155a provide coverage  
156 for any services for an individual while the individual is incarcerated ~~↳~~ [if prohibited under state  
157 or federal law] ← .