

MEDICAL PAYMENT RATES AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill creates new reporting requirements for the Medicaid program.

Highlighted Provisions:

This bill:

► requires the Department of Health to report to the Legislature when the department applies, or receives approval, for a change in any Medicaid capitated payment rates.

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

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) applies for or receives approval for a change in any capitation rate within the
57 Medicaid program; or

58 [~~(v)~~] (vi) initiates a rate change that requires public notice under state or federal law.

- 59 (b) The report required by Subsection (3)(a) shall:
- 60 (i) be submitted to the Social Services Appropriations Subcommittee prior to the
- 61 department implementing the proposed change; and
- 62 (ii) include:
- 63 (A) a description of the department's current practice or policy that the department is
- 64 proposing to change;
- 65 (B) an explanation of why the department is proposing the change;
- 66 (C) the proposed change in services or reimbursement, including a description of the
- 67 effect of the change;
- 68 (D) the effect of an increase or decrease in services or benefits on individuals and
- 69 families;
- 70 (E) the degree to which any proposed cut may result in cost-shifting to more expensive
- 71 services in health or human service programs; and
- 72 (F) the fiscal impact of the proposed change, including:
- 73 (I) the effect of the proposed change on current or future appropriations from the
- 74 Legislature to the department;
- 75 (II) the effect the proposed change may have on federal matching dollars received by
- 76 the state Medicaid program;
- 77 (III) any cost shifting or cost savings within the department's budget that may result
- 78 from the proposed change; and
- 79 (IV) identification of the funds that will be used for the proposed change, including any
- 80 transfer of funds within the department's budget.
- 81 (4) Any rules adopted by the department under Subsection (2) are subject to review and
- 82 reauthorization by the Legislature in accordance with Section [63G-3-502](#).
- 83 (5) The department may, in its discretion, contract with the Department of Human
- 84 Services or other qualified agencies for services in connection with the administration of the
- 85 Medicaid program, including:
- 86 (a) the determination of the eligibility of individuals for the program;
- 87 (b) recovery of overpayments; and
- 88 (c) consistent with Section [26-20-13](#), and to the extent permitted by law and quality
- 89 control services, enforcement of fraud and abuse laws.

90 (6) The department shall provide, by rule, disciplinary measures and sanctions for
91 Medicaid providers who fail to comply with the rules and procedures of the program, provided
92 that sanctions imposed administratively may not extend beyond:

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

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

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

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

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

107 (i) the federal government shall:

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

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

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

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

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

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

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

121 (b) In determining whether an applicant or recipient who is aged, blind, or has a
122 disability is eligible for a service or benefit under this chapter, the department shall use 100%
123 of the federal poverty level as:

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

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

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

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

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

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

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

135 (A) medically needy pregnant women;

136 (B) medically needy children; and

137 (C) medically needy parents and caretaker relatives.

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

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

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

145 (A) under the age of 26; and

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

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