

**MEDICAID RECOVERY AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kera Birkeland**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill addresses recovery of Medicaid funds from ~~H→ [a parent whose child is injured in foster care]~~ certain third party obligors ←H .

**Highlighted Provisions:**

This bill:

▶ prohibits the Department of Health from recovering Medicaid funds from a ~~H→ [parent whose child suffers certain injuries in foster care if the foster parent is obligated to pay for the injuries]~~ third party obligor that is required to pay for injuries to a child in foster care ←H ; and

▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**26-19-201**, as renumbered and amended by Laws of Utah 2018, Chapter 443

**26-19-401**, as renumbered and amended by Laws of Utah 2018, Chapter 443

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

Section 1. Section **26-19-201** is amended to read:



59 (c) The department may not recover medical assistance under Subsection (1)(a) if:

60 (i) the third party ~~H→ [is a foster parent who]~~ ←H is obligated to pay the recipient for an  
 60a injury to

61 the recipient's child that occurred while the child was in the H→ [legal] physical ←H custody of  
 61a H→ [the] a ←H foster parent;

62 and

63 (ii) the child's injury is a physical or mental impairment that requires ongoing medical  
 64 attention, or limits activities of daily living, for at least one year.

65 (2) (a) The department shall mail or deliver written notice of [its] the department's  
 66 claim or lien to the third party at [its] the third party's principal place of business or last-known  
 67 address.

68 (b) The notice shall include:

69 (i) the recipient's name;

70 (ii) the approximate date of illness or injury;

71 (iii) a general description of the type of illness or injury; and

72 (iv) if applicable, the general location where the injury is alleged to have occurred.

73 (3) The department may commence an action on [its] the department's claim or lien in  
 74 [its own] the department's name, but [that] the claim or lien is not enforceable as to a third  
 75 party unless:

76 (a) the third party receives written notice of the department's claim or lien before [it]  
 77 the third party settles with the recipient; or

78 (b) the department has evidence that the third party had knowledge that the department  
 79 provided or was obligated to provide medical assistance.

80 (4) The department may:

81 (a) waive a claim or lien against a third party in whole or in part; or

82 (b) compromise, settle, or release a claim or lien.

83 (5) An action commenced under this section does not bar an action by a recipient or a  
 84 dependent of a recipient for loss or damage not included in the department's action.

85 (6) The department's claim or lien on proceeds under this section is not affected by the  
 86 transfer of the proceeds to a trust, annuity, financial account, or other financial instrument.