Representative Steve R. Christiansen proposes the following substitute bill:

1 # PROGRAM ELIGIBILITY AMENDMENTS

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Steve R. Christiansen**

5 Senate Sponsor: ____________

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the responsibilities state agencies have regarding federal public

10 assistance programs.

11 **Highlighted Provisions:**

12 This bill:

13 ▸ defines terms;

14 ▸ allows the Department of Health (DOH) to contract with a third-party vendor to

15 assist with verifying Medicaid eligibility;

16 ▸ removes DOH's ability to receive automated data matching from financial

17 institutions;

18 ▸ requires a benefit recipient to agree to disclose certain information before the

19 recipient is eligible for benefits;

20 ▸ requires certain state entities to regularly share information with DOH and the

21 Department of Workforce Services (DWS) to determine if an individual has

22 experienced a change in circumstances affecting the individual's eligibility for

23 federal programs;

24 ▸ requires DWS to regularly publish information regarding benefit fraud;

25 ▸ requires DOH and DWS to independently verify an individual's enrollment

26 information;
27 ▸ outlines DOH's duties when federal law prohibits DOH from removing an
28 individual from the Medicaid program;
29 ▸ requires DOH to apply for the following Medicaid waivers with the Centers for
30 Medicare and Medicaid Services:
31 • a waiver to remove the requirement that DOH use information it already
32 possesses when determining eligibility;
33 • a waiver to stop using pre-populating forms; and
34 • a waiver to restrict presumptive eligibility to pregnant women and children;
35 ▸ requires a hospital that makes presumptive eligibility determinations to meet certain
36 standards or be barred from making eligibility determinations;
37 ▸ codifies requirements for Supplemental Nutrition Assistance Program (SNAP) and
38 Medicaid eligibility; and
39 ▸ restricts DWS's use of categorical eligibility regarding SNAP benefits.
40 **Money Appropriated in this Bill:**
41 None
42 **Other Special Clauses:**
43 None
44 **Utah Code Sections Affected:**
45 AMENDS:
46 **26-18-2.5**, as last amended by Laws of Utah 2019, Chapter 393
47 **26-18-3**, as last amended by Laws of Utah 2019, Chapters 104 and 253
48 **26-18-3.9**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
49 ENACTS:
50 **26-18-27**, Utah Code Annotated 1953
51 **26-18-28**, Utah Code Annotated 1953
52 **35A-3-119**, Utah Code Annotated 1953
53 **35A-3-120**, Utah Code Annotated 1953
54

55 *Be it enacted by the Legislature of the state of Utah:*
56 Section 1. Section **26-18-2.5** is amended to read:

57 **26-18-2.5. Simplified enrollment and renewal process for Medicaid and other**
58 **state medical programs -- Financial institutions.**
59 (1) The department may apply for grants and accept donations to make technology
60 system improvements necessary to implement a simplified enrollment and renewal process for
61 the Medicaid program, Utah Premium Partnership, and Primary Care Network Demonstration
62 Project programs.
63 (2) (a) The department may enter into an agreement with a third-party vendor or
64 financial institution doing business in the state to develop and operate a data match system to
65 [~~identify an applicant's or enrollee's assets that:~~] manage data and ensure eligibility.
66 [~~(i) uses automated data exchanges to the maximum extent feasible; and~~]
67 [~~(ii) requires a financial institution each month to provide the name, record address,~~
68 ~~Social Security number, other taxpayer identification number, or other identifying information~~
69 ~~for each applicant or enrollee who maintains an account at the financial institution.~~]
70 (b) The department may pay a reasonable fee to a third-party vendor or financial
71 institution for compliance with this Subsection (2), as provided in Section 7-1-1006.
72 (c) A third-party vendor or financial institution may not be liable under any federal or
73 state law to any person for any disclosure of information or action taken in good faith under
74 this Subsection (2).
75 (d) The department may disclose a financial record obtained from a third-party vendor
76 or financial institution under this section only for the purpose of, and to the extent necessary in,
77 verifying eligibility as provided in this section and Section 26-40-105.
78 Section 2. Section **26-18-3** is amended to read:
79 **26-18-3. Administration of Medicaid program by department -- Reporting to the**
80 **Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility**
81 **standards -- Internal audits -- Health opportunity accounts.**
82 (1) The department shall be the single state agency responsible for the administration
83 of the Medicaid program in connection with the United States Department of Health and
84 Human Services pursuant to Title XIX of the Social Security Act.
85 (2) (a) The department shall implement the Medicaid program through administrative
86 rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking
87 Act, the requirements of Title XIX, and applicable federal regulations.

88 (b) [~~The~~] In addition to other rules necessary to implement the program, rules adopted
89 under Subsection (2)(a) shall include[~~, in addition to other rules necessary to implement the~~
90 ~~program~~]:
91 (i) the standards used by the department for determining eligibility for Medicaid
92 services;
93 (ii) the services and benefits to be covered by the Medicaid program;
94 (iii) reimbursement methodologies for providers under the Medicaid program; and
95 (iv) a requirement that:
96 (A) a person receiving Medicaid services shall participate in the electronic exchange of
97 clinical health records established in accordance with Section 26-1-37 unless the individual
98 opts out of participation;
99 (B) prior to enrollment in the electronic exchange of clinical health records the enrollee
100 shall receive notice of enrollment in the electronic exchange of clinical health records and the
101 right to opt out of participation at any time; and
102 (C) beginning July 1, 2012, when the program sends enrollment or renewal information
103 to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive
104 notice of the right to opt out of the electronic exchange of clinical health records[~~.~~];
105 (v) except when prohibited by federal law, a requirement that an applicant or enrollee
106 consent to the disclosure of information to the department or the Department of Workforce
107 Services that:
108 (A) the applicant, enrollee, or a third party possesses; and
109 (B) relates to the applicant or enrollee's age, residence, citizenship, employment,
110 applications for employment, income, and financial resources; and
111 (vi) before any benefits may be authorized or reauthorized, a requirement that an
112 applicant or enrollee meet all eligibility requirements.
113 (3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social
114 Services Appropriations Subcommittee when the department:
115 (i) implements a change in the Medicaid State Plan;
116 (ii) initiates a new Medicaid waiver;
117 (iii) initiates an amendment to an existing Medicaid waiver;
118 (iv) applies for an extension of an application for a waiver or an existing Medicaid

119 waiver;
120 (v) applies for or receives approval for a change in any capitation rate within the
121 Medicaid program; or
122 (vi) initiates a rate change that requires public notice under state or federal law.
123 (b) The report required by Subsection (3)(a) shall:
124 (i) be submitted to the Social Services Appropriations Subcommittee prior to the
125 department implementing the proposed change; and
126 (ii) include:
127 (A) a description of the department's current practice or policy that the department is
128 proposing to change;
129 (B) an explanation of why the department is proposing the change;
130 (C) the proposed change in services or reimbursement, including a description of the
131 effect of the change;
132 (D) the effect of an increase or decrease in services or benefits on individuals and
133 families;
134 (E) the degree to which any proposed cut may result in cost-shifting to more expensive
135 services in health or human service programs; and
136 (F) the fiscal impact of the proposed change, including:
137 (I) the effect of the proposed change on current or future appropriations from the
138 Legislature to the department;
139 (II) the effect the proposed change may have on federal matching dollars received by
140 the state Medicaid program;
141 (III) any cost shifting or cost savings within the department's budget that may result
142 from the proposed change; and
143 (IV) identification of the funds that will be used for the proposed change, including any
144 transfer of funds within the department's budget.
145 (4) Any rules adopted by the department under Subsection (2) are subject to review and
146 reauthorization by the Legislature in accordance with Section 63G-3-502.
147 (5) The department may, in its discretion, contract with the Department of Human
148 Services or other qualified agencies for services in connection with the administration of the
149 Medicaid program, including:

150 (a) the determination of the eligibility of individuals for the program;
151 (b) recovery of overpayments; and
152 (c) consistent with Section 26-20-13, and to the extent permitted by law and quality
153 control services, enforcement of fraud and abuse laws.
154 (6) The department shall provide, by rule, disciplinary measures and sanctions for
155 Medicaid providers who fail to comply with the rules and procedures of the program, provided
156 that sanctions imposed administratively may not extend beyond:
157 (a) termination from the program;
158 (b) recovery of claim reimbursements incorrectly paid; and
159 (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.
160 (7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title
161 XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated
162 credits to be used by the division in accordance with the requirements of Section 1919 of Title
163 XIX of the federal Social Security Act.
164 (b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection
165 (7) are nonlapsing.
166 (8) (a) In determining whether an applicant or recipient is eligible for a service or
167 benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department
168 shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle
169 designated by the applicant or recipient.
170 (b) Before Subsection (8)(a) may be applied:
171 (i) the federal government shall:
172 (A) determine that Subsection (8)(a) may be implemented within the state's existing
173 public assistance-related waivers as of January 1, 1999;
174 (B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or
175 (C) determine that the state's waivers that permit dual eligibility determinations for
176 cash assistance and Medicaid are no longer valid; and
177 (ii) the department shall determine that Subsection (8)(a) can be implemented within
178 existing funding.
179 (9) (a) For purposes of this Subsection (9):
180 (i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as

181 defined in 42 U.S.C. Sec. 1382c(a)(1); and
182 (ii) "spend down" means an amount of income in excess of the allowable income
183 standard that shall be paid in cash to the department or incurred through the medical services
184 not paid by Medicaid.
185 (b) In determining whether an applicant or recipient who is aged, blind, or has a
186 disability is eligible for a service or benefit under this chapter, the department shall use 100%
187 of the federal poverty level as:
188 (i) the allowable income standard for eligibility for services or benefits; and
189 (ii) the allowable income standard for eligibility as a result of spend down.
190 (10) The department shall conduct internal audits of the Medicaid program.
191 (11) (a) The department may apply for and, if approved, implement a demonstration
192 program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.
193 (b) A health opportunity account established under Subsection (11)(a) shall be an
194 alternative to the existing benefits received by an individual eligible to receive Medicaid under
195 this chapter.
196 (c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.
197 (12) (a) (i) The department shall apply for, and if approved, implement an amendment
198 to the state plan under this Subsection (12) for benefits for:
199 (A) medically needy pregnant women;
200 (B) medically needy children; and
201 (C) medically needy parents and caretaker relatives.
202 (ii) The department may implement the eligibility standards of Subsection (12)(b) for
203 eligibility determinations made on or after the date of the approval of the amendment to the
204 state plan.
205 (b) In determining whether an applicant is eligible for benefits described in Subsection
206 (12)(a)(i), the department shall:
207 (i) disregard resources held in an account in the savings plan created under Title 53B,
208 Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:
209 (A) under the age of 26; and
210 (B) living with the account owner, as that term is defined in Section 53B-8a-102, or
211 temporarily absent from the residence of the account owner; and

212 (ii) include the withdrawals from an account in the Utah Educational Savings Plan as
213 resources for a benefit determination, if the withdrawal was not used for qualified higher
214 education costs as that term is defined in Section 53B-8a-102.5.
215 (13) (a) The department may not deny or terminate eligibility for Medicaid solely
216 because an individual is:
217 (i) incarcerated; and
218 (ii) not an inmate as defined in Section 64-13-1.
219 (b) Subsection (13)(a) does not require the Medicaid program to provide coverage for
220 any services for an individual while the individual is incarcerated.
221 Section 3. Section **26-18-3.9** is amended to read:
222 **26-18-3.9. Expanding the Medicaid program.**
223 (1) As used in this section:
224 (a) "CMS" means the Centers for Medicare and Medicaid Services in the United States
225 Department of Health and Human Services.
226 (b) "Federal poverty level" means the same as that term is defined in Section
227 26-18-411.
228 (c) "Medicaid expansion" means an expansion of the Medicaid program in accordance
229 with this section.
230 (d) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in
231 Section 26-36b-208.
232 (2) (a) As set forth in Subsections (2) through (5), eligibility criteria for the Medicaid
233 program shall be expanded to cover additional low-income individuals.
234 (b) The department shall continue to seek approval from CMS to implement the
235 Medicaid waiver expansion as defined in Section 26-18-415.
236 (c) The department may implement any provision described in Subsections
237 26-18-415(2)(b)(iii) through (viii) in a Medicaid expansion if the department receives approval
238 from CMS to implement that provision.
239 (3) The department shall expand the Medicaid program in accordance with this
240 Subsection (3) if the department:
241 (a) receives approval from CMS to:
242 (i) expand Medicaid coverage to eligible individuals whose income is below 95% of

243 the federal poverty level;
244 (ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for
245 enrolling an individual in the Medicaid expansion under this Subsection (3); and
246 (iii) permit the state to close enrollment in the Medicaid expansion under this
247 Subsection (3) if the department has insufficient funds to provide services to new enrollment
248 under the Medicaid expansion under this Subsection (3);
249 (b) pays the state portion of costs for the Medicaid expansion under this Subsection (3)
250 with funds from:
251 (i) the Medicaid Expansion Fund;
252 (ii) county contributions to the nonfederal share of Medicaid expenditures; or
253 (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid
254 expenditures; and
255 (c) closes the Medicaid program to new enrollment under the Medicaid expansion
256 under this Subsection (3) if the department projects that the cost of the Medicaid expansion
257 under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized
258 by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter
259 1, Budgetary Procedures Act.
260 (4) (a) The department shall expand the Medicaid program in accordance with this
261 Subsection (4) if the department:
262 (i) receives approval from CMS to:
263 (A) expand Medicaid coverage to eligible individuals whose income is below 95% of
264 the federal poverty level;
265 (B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for
266 enrolling an individual in the Medicaid expansion under this Subsection (4); and
267 (C) permit the state to close enrollment in the Medicaid expansion under this
268 Subsection (4) if the department has insufficient funds to provide services to new enrollment
269 under the Medicaid expansion under this Subsection (4);
270 (ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4)
271 with funds from:
272 (A) the Medicaid Expansion Fund;
273 (B) county contributions to the nonfederal share of Medicaid expenditures; or

274 (C) any other contributions, funds, or transfers from a nonstate agency for Medicaid
275 expenditures; and
276 (iii) closes the Medicaid program to new enrollment under the Medicaid expansion
277 under this Subsection (4) if the department projects that the cost of the Medicaid expansion
278 under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized
279 by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter
280 1, Budgetary Procedures Act.
281 (b) The department shall submit a waiver, an amendment to an existing waiver, or a
282 state plan amendment to CMS to:
283 (i) administer federal funds for the Medicaid expansion under this Subsection (4)
284 according to a per capita cap developed by the department that includes an annual inflationary
285 adjustment, accounts for differences in cost among categories of Medicaid expansion enrollees,
286 and provides greater flexibility to the state than the current Medicaid payment model;
287 (ii) limit[~~, in certain circumstances as defined by the department,~~], in accordance with
288 Subsection 26-18-28(1) and for other circumstances as determined by the department, the
289 ability of a qualified entity to determine presumptive eligibility for Medicaid coverage for an
290 individual enrolled in a Medicaid expansion under this Subsection (4);
291 (iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under
292 this Subsection (4) violates certain program requirements as defined by the department;
293 (iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to
294 remain in the Medicaid program for up to a 12-month certification period as defined by the
295 department; and
296 (v) allow federal Medicaid funds to be used for housing support for eligible enrollees
297 in the Medicaid expansion under this Subsection (4).
298 (5) (a) (i) If CMS does not approve a waiver to expand the Medicaid program in
299 accordance with Subsection (4)(a) on or before January 1, 2020, the department shall develop
300 proposals to implement additional flexibilities and cost controls, including cost sharing tools,
301 within a Medicaid expansion under this Subsection (5) through a request to CMS for a waiver
302 or state plan amendment.
303 (ii) The request for a waiver or state plan amendment described in Subsection (5)(a)(i)
304 shall include:

305 (A) a path to self-sufficiency for qualified adults in the Medicaid expansion that
306 includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and
307 (B) a requirement that an individual who is offered a private health benefit plan by an
308 employer to enroll in the employer's health plan.
309 (iii) The department shall submit the request for a waiver or state plan amendment
310 developed under Subsection (5)(a)(i) on or before March 15, 2020.
311 (b) Notwithstanding Sections 26-18-18 and 63J-5-204, and in accordance with this
312 Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in
313 the optional Medicaid expansion population under the Patient Protection and Affordable Care
314 Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L.
315 No. 111-152, and related federal regulations and guidance, on the earlier of:
316 (i) the day on which CMS approves a waiver to implement the provisions described in
317 Subsections (5)(a)(ii)(A) and (B); or
318 (ii) July 1, 2020.
319 (c) The department shall seek a waiver, or an amendment to an existing waiver, from
320 federal law to:
321 (i) implement each provision described in Subsections 26-18-415(2)(b)(iii) through
322 (viii) in a Medicaid expansion under this Subsection (5);
323 (ii) limit, in certain circumstances as defined by the department, the ability of a
324 qualified entity to determine presumptive eligibility for Medicaid coverage for an individual
325 enrolled in a Medicaid expansion under this Subsection (5); and
326 (iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under
327 this Subsection (5) violates certain program requirements as defined by the department.
328 (d) The eligibility criteria in this Subsection (5) shall be construed to include all
329 individuals eligible for the health coverage improvement program under Section 26-18-411.
330 (e) The department shall pay the state portion of costs for a Medicaid expansion under
331 this Subsection (5) entirely from:
332 (i) the Medicaid Expansion Fund;
333 (ii) county contributions to the nonfederal share of Medicaid expenditures; or
334 (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid
335 expenditures.

336 (f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds
337 available under Subsection (5)(e):
338 (i) the department may reduce or eliminate optional Medicaid services under this
339 chapter; and
340 (ii) savings, as determined by the department, from the reduction or elimination of
341 optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid
342 Expansion Fund; and
343 (iii) the department may submit to CMS a request for waivers, or an amendment of
344 existing waivers, from federal law necessary to implement budget controls within the Medicaid
345 program to address the deficiency.
346 (g) If the costs of the Medicaid expansion under this Subsection (5) are projected by
347 the department to exceed the funds available in the current fiscal year under Subsection (5)(e),
348 including savings resulting from any action taken under Subsection (5)(f):
349 (i) the governor shall direct the Department of Health, Department of Human Services,
350 and Department of Workforce Services to reduce commitments and expenditures by an amount
351 sufficient to offset the deficiency:
352 (A) proportionate to the share of total current fiscal year General Fund appropriations
353 for each of those agencies; and
354 (B) up to 10% of each agency's total current fiscal year General Fund appropriations;
355 (ii) the Division of Finance shall reduce allotments to the Department of Health,
356 Department of Human Services, and Department of Workforce Services by a percentage:
357 (A) proportionate to the amount of the deficiency; and
358 (B) up to 10% of each agency's total current fiscal year General Fund appropriations;
359 and
360 (iii) the Division of Finance shall deposit the total amount from the reduced allotments
361 described in Subsection (5)(g)(ii) into the Medicaid Expansion Fund.
362 (6) The department shall maximize federal financial participation in implementing this
363 section, including by seeking to obtain any necessary federal approvals or waivers.
364 (7) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to
365 provide matching funds to the state for the cost of providing Medicaid services to newly
366 enrolled individuals who qualify for Medicaid coverage under a Medicaid expansion.

367 (8) The department shall report to the Social Services Appropriations Subcommittee on
368 or before November 1 of each year that a Medicaid expansion is operational:
369 (a) the number of individuals who enrolled in the Medicaid expansion;
370 (b) costs to the state for the Medicaid expansion;
371 (c) estimated costs to the state for the Medicaid expansion for the current and
372 following fiscal years;
373 (d) recommendations to control costs of the Medicaid expansion; and
374 (e) as calculated in accordance with Subsections 26-36b-204(4) and 26-36c-204(2), the
375 state's net cost of the qualified Medicaid expansion.
376 Section 4. Section **26-18-27** is enacted to read:
377 **26-18-27. Medicaid eligibility verification.**
378 (1) (a) The following entities shall provide the department with information that
379 indicates a change of circumstances concerning Medicaid eligibility:
380 (i) the Office of Vital Records and Statistics;
381 (ii) the Department of Corrections;
382 (iii) a county jail for an individual incarcerated at least 30 days as of the day on which
383 the jail provides information to the department; and
384 (iv) the Department of Workforce Services.
385 (b) The information described in Subsection (1)(a) may include death certificates,
386 employment history, wages, out-of-state electronic benefit transfers, and incarceration records.
387 (c) The department shall review the information described in Subsection (1)(a) at least
388 once each month.
389 (2) The Department of Workforce Services shall publish on the Department of
390 Workforce Services' website information regarding Medicaid and Children's Health Insurance
391 Program non-compliance and fraud investigations, including the following aggregate,
392 non-confidential, and non-personally identifying information:
393 (a) the number of assistance cases investigated for an intentional program violation or
394 fraud;
395 (b) the total number of assistance cases referred to the Office of the Attorney General
396 for prosecution;
397 (c) the total amount of improper payments and expenditures;

398 (d) the total amount of money recovered;
399 (e) data concerning improper payments and ineligible recipients as a percentage of the
400 payments investigated and reviewed; and
401 (f) the amount of funds expended by electronic benefit transactions in each state
402 outside of Utah.
403 (3) The department shall publish a link to the Department of Workforce Services'
404 website for the information described in Subsection (2).
405 (4) If the department receives information concerning an enrollee that indicates a
406 change in circumstances that may affect the enrollee's eligibility, the department shall review
407 the enrollee's case.
408 (5) If an exchange established under 42 U.S.C. Sec. 18041, determines an individual is
409 eligible for the Medicaid program, the department may not accept the exchange's determination
410 until the department:
411 (a) independently verifies the individual's eligibility information; and
412 (b) makes an eligibility determination.
413 (6) The department shall apply for a Medicaid waiver with CMS to enable the
414 department to suspend the following Medicaid requirements:
415 (a) renewing eligibility automatically based on information the department already
416 possesses; and
417 (b) using a pre-populated renewal form.
418 (7) Unless required under federal law, the department may not:
419 (a) designate the department as a qualified entity for the purpose of making
420 presumptive eligibility determinations;
421 (b) enroll an individual in the Medicaid program based on self-attestation of income,
422 residency, age, household composition, caretaker or relative status, or receipt of other coverage,
423 unless the department first verifies the information or determines that the individual is
424 homeless or actively seeking shelter from domestic violence;
425 (c) request authority to decline to check any available income-related data sources to
426 verify eligibility; or
427 (d) request authority to waive the public notice requirements applicable to proposed
428 changes to the state plan under 42 C.F.R. Sec. 447.205, 42 C.F.R. Sec. 447.57, and 42 C.F.R.

429 Sec. 440.386 unless the governor or the United States Department of Health and Human
430 Services has declared a public health emergency.
431 (8) During a period where federal law, including maintenance of effort provisions
432 under the Families First Coronavirus Response Act, Public Law 116-127, 134 Stat.178,
433 restricts the department's ability to disenroll an individual from the Medicaid program, the
434 department shall:
435 (a) continue to redetermine eligibility and take appropriate actions regarding the
436 individual's eligibility to the extent possible under federal law;
437 (b) as soon as possible but not longer than 120 days after the day on which the period
438 described in this Subsection (8) ends, the department shall:
439 (i) redetermine eligibility for each case that the department has not redetermined within
440 the last 12 months;
441 (ii) for an enrollee first enrolled during the period described in this Subsection (8), or
442 enrolled longer than three months during the period described in this Subsection (8):
443 (A) request federal approval from CMS for the authority to temporarily suspend the
444 annual redetermination limitation; and
445 (B) if CMS grants the authority described in Subsection (8)(b)(ii)(A) without a
446 decrease in federal matching funds, redetermine the enrollee's eligibility and take appropriate
447 action; and
448 (iii) verify all information as required under state law;
449 (c) prepare a report regarding information the department obtains while enforcing
450 Subsection (8)(b); and
451 (d) submit the report described in Subsection (8)(c) to the Social Services
452 Appropriations Subcommittee within one year after the day on which the period described in
453 this Subsection (8) ends.
454 Section 5. Section **26-18-28** is enacted to read:
455 **26-18-28. Hospital presumptive eligibility.**
456 (1) (a) The department shall apply for a Medicaid waiver with CMS to enable the
457 department to restrict hospital presumptive eligibility determinations to pregnant women and
458 children only.
459 (b) The department shall:

460 (i) submit the waiver request described in Subsection (1)(a) before January 1, 2022;
461 and
462 (ii) resubmit a waiver request within fifty-two months from January 1, 2022, if CMS
463 denies a request described in Subsection (1)(a).
464 (2) A hospital that makes a presumptive eligibility determination shall:
465 (a) notify the department of the presumptive eligibility determination within five
466 business days after the day on which the hospital makes the determination;
467 (b) assist the individual with completing and submitting a full Medicaid application
468 form;
469 (c) notify the applicant in writing and on all relevant forms with plain language and
470 large print that if the applicant does not submit a full Medicaid application with the department
471 before the last day of the following month, the applicant's presumptive eligibility coverage will
472 end on that last day; and
473 (d) notify the applicant that if the applicant submits a full Medicaid application to the
474 department before the last day of the following month, presumptive eligibility coverage will
475 continue until the department makes an eligibility determination on the application.
476 (3) The department shall use the following standards to evaluate each presumptive
477 eligibility determination made by a hospital and inform the hospital regarding any deficiencies:
478 (a) whether the department received adequate notice of the presumptive eligibility
479 determination within five business days after the day on which the determination was made;
480 (b) whether the department received a full Medicaid application before the expiration
481 of the presumptive eligibility period; and
482 (c) if the department received a full application before the expiration of the
483 presumptive eligibility period, whether the department found the individual eligible for full
484 Medicaid coverage.
485 (4) If a hospital violates a requirement described in Subsection (2), within five business
486 days after the day on which the department discovers the violation, the department shall
487 provide a notice to the hospital describing:
488 (a) the specific violation;
489 (b) the appeals process; and
490 (c) any potential penalties for a subsequent violation as described in Subsection (5).

491 (5) A hospital that violates Subsection (2), is subject to the following:
492 (a) after a second violation that occurs within one year after the day on which the
493 department discovers the first violation, the department shall provide mandatory training for
494 the hospital's staff who make presumptive eligibility determinations and develop a corrective
495 action plan with the hospital; and
496 (b) after a third violation that occurs within one year after the day on which the
497 department discovers the second violation, the hospital may not make presumptive eligibility
498 determinations for five years.
499 (6) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
500 Administrative Rulemaking Act, for implementing Subsection (5).
501 Section 6. Section **35A-3-119** is enacted to read:
502 **35A-3-119. SNAP eligibility verification.**
503 (1) The department shall, except when prohibited by federal law, require an applicant
504 or enrollee to consent to the disclosure of information that:
505 (a) the applicant, enrollee, or a third party possesses; and
506 (b) relates to the applicant or enrollee's age, residence, citizenship, employment,
507 applications for employment, income, or financial resources.
508 (2) The department may authorize or reauthorize SNAP benefits, only if the applicant
509 or enrollee meets all eligibility requirements.
510 (3) (a) The following agencies shall provide the department with information that
511 indicates a change of circumstances concerning SNAP eligibility:
512 (i) the Office of Vital Records and Statistics;
513 (ii) the Department of Corrections;
514 (iii) a county jail for an individual incarcerated at least 30 days as of the day on which
515 the jail provides information to the department; and
516 (iv) the Department of Health.
517 (b) The information described in Subsection (3)(a) may include death certificates,
518 employment history, wages, out-of-state electronic benefit transfers, and incarceration records.
519 (c) The department shall review the information described in Subsection (3)(a) at least
520 once each month.
521 (4) Each quarter, the department shall publish on the department's website information

522 regarding non-compliance and fraud investigations, including the following aggregate,
523 non-confidential, and non-personally identifying information:
524 (a) the number of assistance cases investigated for intentional program violations or
525 fraud;
526 (b) the total number of assistance cases referred to the Office of the Attorney General
527 for prosecution;
528 (c) the total amount of improper payments and expenditures;
529 (d) the total amount of money recovered;
530 (e) data concerning improper payments and ineligible recipients as a percentage of the
531 payments investigated and reviewed; and
532 (f) the amount of funds expended by electronic benefit transactions in each state
533 outside of Utah.
534 (5) If the department receives information concerning an individual receiving SNAP
535 benefits that indicates a change in circumstances that may affect the individual's eligibility, the
536 department shall review the individual or household's case.
537 (6) The department may execute a memorandum of understanding with another
538 government entity described in Subsection (3)(a) to share the information described in
539 Subsection (3).
540 Section 7. Section **35A-3-120** is enacted to read:
541 **35A-3-120. Benefit reporting -- child support -- categorical eligibility.**
542 (1) Notwithstanding any other provision of law, the department shall require a
543 household receiving SNAP benefits to report a change in circumstances, as described in 7
544 C.F.R. Sec. 273.12(a)(1), within 10 days after the day on which the change is known to the
545 household.
546 (2) Unless required by federal law, the department may not:
547 (a) grant categorical eligibility under 7 U.S.C. Sec. 2014(a) or 7 C.F.R. Sec.
548 273.2(j)(2)(iii) for any noncash, in-kind, or other benefit;
549 (b) apply a gross income standard that exceeds the standards described in 7 U.S.C. Sec.
550 2014(c); or
551 (c) exempt a household from gross income requirements under categorical eligibility
552 for any noncash, in-kind, or other benefit.