

28 AMENDS:

29 **26-18-3**, as last amended by Laws of Utah 2019, Chapters 104 and 253

30 **35A-1-304**, as last amended by Laws of Utah 1998, Chapter 116

31 **35A-1-307**, as repealed and reenacted by Laws of Utah 1997, Chapter 375

32 **35A-3-103**, as last amended by Laws of Utah 2016, Chapters 296 and 348

33 **63I-2-226**, as last amended by Laws of Utah 2020, Chapters 154, 187, 215, and 354

34 ENACTS:

35 **26B-1-101**, Utah Code Annotated 1953

36 **26B-1-102**, Utah Code Annotated 1953

37 **26B-1-103**, Utah Code Annotated 1953

38 **26B-1-201**, Utah Code Annotated 1953

39 **26B-1-201.1**, Utah Code Annotated 1953



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

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

43 **26-18-3. Administration of Medicaid program by department -- Reporting to the**
44 **Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility**
45 **standards -- Internal audits -- Health opportunity accounts.**

46 (1) The department shall be the single state agency responsible for the administration
47 of the Medicaid program in connection with the United States Department of Health and
48 Human Services pursuant to Title XIX of the Social Security Act.

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

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

54 (i) the standards used by the department for determining eligibility for Medicaid
55 services;

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

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

58 (iv) a requirement that:

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

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

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

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

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

71 (ii) initiates a new Medicaid waiver;

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

73 (iv) applies for an extension of an application for a waiver or an existing Medicaid
74 waiver;

75 (v) applies for or receives approval for a change in any capitation rate within the
76 Medicaid program; or

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

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

79 (i) be submitted to the Social Services Appropriations Subcommittee prior to the
80 department implementing the proposed change; and

81 (ii) include:

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

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

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

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

89 (E) the degree to which any proposed cut may result in cost-shifting to more expensive

90 services in health or human service programs; and

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

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

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

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

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

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

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

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

106 (b) recovery of overpayments; and

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

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

112 (a) termination from the program;

113 (b) recovery of claim reimbursements incorrectly paid; and

114 (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

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

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

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

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

126 (i) the federal government shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 154 (A) medically needy pregnant women;
- 155 (B) medically needy children; and
- 156 (C) medically needy parents and caretaker relatives.

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

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

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

- 164 (A) under the age of 26; and
- 165 (B) living with the account owner, as that term is defined in Section 53B-8a-102, or
166 temporarily absent from the residence of the account owner; and

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

170 (13) (a) The department may not deny or terminate eligibility for Medicaid solely
171 because an individual is:

- 172 (i) incarcerated; and
- 173 (ii) not an inmate as defined in Section 64-13-1.

174 (b) Subsection (13)(a) does not require the Medicaid program to provide coverage for
175 any services for an individual while the individual is incarcerated.

176 (14) The department is a party to, and may intervene at any time in, any judicial or
177 administrative action:

- 178 (a) to which the Department of Workforce Services is a party; and
- 179 (b) that involves medical assistance under:
 - 180 (i) Title 26, Chapter 18, Medical Assistance Act; or
 - 181 (ii) Title 26, Chapter 40, Utah Children's Health Insurance Act.

182 Section 2. Section 26B-1-101 is enacted to read:

TITLE 26B. DEPARTMENT OF HEALTH AND HUMAN SERVICES
CHAPTER 1. GENERAL PROVISIONS AND ORGANIZATION

Part 1. General Provisions

26B-1-101. Title.

This title is known as the "Department of Health and Human Services."

Section 3. Section **26B-1-102** is enacted to read:

26B-1-102. Definitions.

As used in this title:

(1) "Department" means the Department of Health and Human Services created in Section 26B-2-103.

(2) "Department of Health" means the Department of Health created in Section 26-1-4.

(3) "Department of Human Services" means the Department of Human Services created in Section 62A-1-102.

Section 4. Section **26B-1-103** is enacted to read:

26B-1-103. Purpose of title -- Consolidation of functions into single state agency.

The purpose of this title is to consolidate into a single agency of state government all of the functions exercised by:

(1) the Department of Health, including all of the powers and duties described in Title 26, Utah Health Code; and

(2) the Department of Human Services, including all of the powers and duties described in Title 62A, Utah Human Services Code.

Section 5. Section **26B-1-201** is enacted to read:

Part 2. Organization

26B-1-201. Department of Health and Human Services -- Creation -- Duties.

(1) There is created within state government the Department of Health and Human Services, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in this title.

(2) In addition to Subsection (1), during the transition period described in Sections 26-1-43 and 62A-1-123, the Department of Health and Human Services may exercise any of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Department of Health and the Department of Human Services under the

214 joint direction of:

215 (a) the executive director of the Department of Health; and

216 (b) the executive director of the Department of Human Services.

217 Section 6. Section **26B-1-201.1** is enacted to read:

218 **26B-1-201.1. Transition to single state agency -- Transition plan -- Restricted**
219 **Account.**

220 (1) As used in this section:

221 (a) "Transition agencies" means the:

222 (i) Department of Health; and

223 (ii) Department of Human Services.

224 (b) "Transition period" means the period of time:

225 (i) during which the transition of the department to the Department of Health and

226 Human Services takes place; and

227 (ii) beginning on the effective date of the bill, and ending on July 1, 2022.

228 (2) On or before December 1, 2021, the transition agencies shall develop a written

229 transition plan for merging the functions of the transition agencies into the Department of

230 Health and Human Services on July 1, 2022, in order to:

231 (a) more efficiently and effectively manage health and human services programs that

232 are the responsibility of the state;

233 (b) establish a health and human services policy for the state; and

234 (c) promote health and the quality of life in the health and human services field.

235 (3) The written transition plan described in Subsection (2) shall describe:

236 (a) the tasks that need to be completed before the move on July 1, 2022, including a

237 description of:

238 (i) how the transition agencies solicited comment from stakeholders, including:

239 (A) employees of the transition agencies;

240 (B) clients and partners of the transition agencies;

241 (C) members of the public;

242 (D) the Legislature; and

243 (E) the executive office of the governor;

244 (ii) the proposed organizational structure of the department, including the transition of

245 responsibilities of employees, by job title and classification, under the newly proposed
246 organizational structure and a plan for these transitions;

247 (iii) office space and infrastructure requirements related to the transition;
248 (iv) any work site location changes for transitioning employees;
249 (v) the transition of service delivery sites;
250 (vi) amendments needed to existing contracts, including grants;
251 (vii) legislative changes needed to implement the transition described in this section;
252 (viii) how the transition agencies will coordinate agency rules;
253 (ix) procedures for the transfer and reconciliation of budgeting and funding of the
254 department as the transition agencies transition into the department; and

255 (x) the transition of technology services to the department;
256 (b) the tasks that may need to be completed after the transition on July 1, 2022; and
257 (c) how the transition to the department will be funded, including details of:
258 (i) how expenses associated with the transition will be managed;
259 (ii) how funding for services provided by the transition agencies will be managed to
260 ensure services will be provided by the transition agencies and the department without
261 interruption; and

262 (iii) how federal funds will be used by or transferred between the transition agencies
263 and the department to ensure services will be provided by the transition agencies and the
264 department without interruption.

265 (4) The written transition plan described in Subsection (2) shall:
266 (a) include a detailed timeline for the completion of the tasks described in Subsection
267 (3)(a);
268 (b) be updated at least one time in every two week period until the transition is
269 complete;
270 (c) describe how information will be provided to clients of the transition agencies and
271 the department regarding any changes to where services will be provided and the hours services
272 will be provided;
273 (d) be provided to the:
274 (i) Health and Human Services Interim Committee;
275 (ii) Social Services Appropriations Subcommittee;

276 (iii) the executive office of the governor;

277 (iv) Division of Finance; and

278 (v) Department of Technology Services; and

279 (e) be made available to employees that are transitioning or may potentially be

280 transitioned.

281 (5) The transition agencies shall publish information that provides a full overview of
282 the written transition plan and how the move may affect client services offered by the transition
283 agencies on the transition agencies' respective websites, including regular updates regarding:

284 (a) how the move may affect client services offered by the transition agencies;

285 (b) information regarding the location where services are provided and the hours
286 services are provided; and

287 (c) contact information so that clients of the transition agencies can contact
288 transitioning employees and obtain information regarding client services.

289 (6) The transition agencies may, separately or collectively, enter into a memorandum of
290 understanding regarding how costs and responsibilities will be shared to:

291 (a) ensure that services provided under agreements with the federal government,
292 including new and ongoing grant programs, are fulfilled;

293 (b) ensure that commitments made by the transition agencies are met;

294 (c) provide ongoing or shared services as needed, including the provision of payments
295 to the department from the transition agencies; and

296 (d) ensure that money from the Department of Health and Human Services Transition
297 Restricted Account created in Subsection (8) is used appropriately by the transition agencies
298 and the department.

299 (7) In implementing the written transition plan described in this section, the transition
300 agencies and the department shall protect existing services, programs, and access to services
301 provided by the transition agencies.

302 (8) (a) There is created a restricted account within the General Fund known as the
303 "Department of Health and Human Services Transition Restricted Account."

304 (b) The restricted account shall consist of appropriations made by the Legislature.

305 (c) Subject to appropriation, the transition agencies and the department may spend
306 money from the restricted account to pay for expenses related to moving the transition agencies

307 into the department, including staff and legal services.

308 Section 7. Section **35A-1-304** is amended to read:

309 **35A-1-304. Review authority of the Workforce Appeals Board.**

310 (1) (a) In accordance with this title and Title 63G, Chapter 4, Administrative
311 Procedures Act, the Workforce Appeals Board may allow an appeal from a decision of an
312 administrative law judge from a formal adjudicative proceeding if a motion for review is filed
313 with the Division of Adjudication within the designated time by any party entitled to the notice
314 of the administrative law judge's decision.

315 (b) An appeal filed by the party shall be allowed as of right if the decision of the
316 administrative law judge did not affirm the department's prior decision.

317 (c) If the Workforce Appeals Board denies an application for appeal from the decision
318 of an administrative law judge, the decision of the administrative law judge is considered a
319 decision of the Workforce Appeals Board for purposes of judicial review and is subject to
320 judicial review if further appeal is initiated under this title.

321 (2) On appeal, the Workforce Appeals Board may on the basis of the evidence
322 previously submitted in the case, or upon the basis of any additional evidence it requires:

323 (a) affirm the decision of the administrative law judge;

324 (b) modify the decision of the administrative law judge; or

325 (c) reverse the findings, conclusions, and decision of the administrative law judge.

326 (3) The Workforce Appeals Board shall promptly notify the parties to any proceedings
327 before it of its decision, including its findings and conclusions, and the decision is a final order
328 of the department unless within 30 days after the date the decision of the Workforce Appeals
329 Board is issued, further appeal is initiated under this title.

330 Section 8. Section **35A-1-307** is amended to read:

331 **35A-1-307. Scope of part.**

332 This part does not apply to adjudication under[: (1) ~~Chapter 3, Employment Support~~
333 ~~Act, or (2)~~] Chapter 5, Part 1, Job Training Coordination Act.

334 Section 9. Section **35A-3-103** is amended to read:

335 **35A-3-103. Department responsibilities.**

336 The department shall:

337 (1) administer public assistance programs assigned by the Legislature and the

338 governor;

339 (2) determine eligibility for public assistance programs in accordance with the

340 requirements of this chapter;

341 (3) cooperate with the federal government in the administration of public assistance

342 programs;

343 (4) administer state employment services;

344 (5) provide for the compilation of necessary or desirable information, statistics, and

345 reports;

346 (6) perform other duties and functions required by law;

347 (7) monitor the application of eligibility policy;

348 (8) develop personnel training programs for effective and efficient operation of the

349 programs administered by the department;

350 (9) provide refugee resettlement services in accordance with Section 35A-3-701;

351 (10) provide child care assistance for children in accordance with Part 2, Office of

352 Child Care; ~~and~~

353 (11) provide services that enable an applicant or recipient to qualify for affordable

354 housing in cooperation with:

355 (a) the Utah Housing Corporation;

356 (b) the Housing and Community Development Division; and

357 (c) local housing authorities[-];

358 (12) in accordance with 42 C.F.R. Sec. 431.10, develop non-clinical eligibility policy

359 and procedures to implement the eligibility state plan, waivers, and administrative rules

360 developed and issued by the Department of Health and Human Services for medical assistance

361 under:

362 (a) Title 26, Chapter 18, Medical Assistance Act; and

363 (b) Title 26, Chapter 40, Utah Children's Health Insurance Act;

364 (13) administer the Medicaid Eligibility Quality Control function in accordance with

365 42 C.F.R. Sec. 431.812; and

366 (14) conduct eligibility hearings and issue final decisions in adjudicative proceedings,

367 including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for medical assistance

368 eligibility under:

369 (a) Title 26, Chapter 18, Medical Assistance Act; or

370 (b) Title 26, Chapter 40, Utah Children's Health Insurance Act.

371 Section 10. Section **63I-2-226** is amended to read:

372 **63I-2-226. Repeal dates, Title 26 through 26B.**

373 (1) Subsection **26-1-7(1)(c)**, in relation to the Air Ambulance Committee, is repealed
374 July 1, 2024.

375 (2) Subsection **26-7-8(3)** is repealed January 1, 2027.

376 (3) Section **26-8a-107** is repealed July 1, 2024.

377 (4) Subsection **26-8a-203(3)(a)(i)** is repealed January 1, 2023.

378 (5) Section **26-8a-211** is repealed July 1, 2023.

379 (6) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection
380 **26-8a-602(1)(a)** is amended to read:

381 "(a) provide the patient or the patient's representative with the following information
382 before contacting an air medical transport provider:

383 (i) which health insurers in the state the air medical transport provider contracts with;

384 (ii) if sufficient data is available, the average charge for air medical transport services
385 for a patient who is uninsured or out of network; and

386 (iii) whether the air medical transport provider balance bills a patient for any charge
387 not paid by the patient's health insurer; and".

388 (7) Subsection **26-18-2.4(3)(e)** is repealed January 1, 2023.

389 (8) Subsection **26-18-411(8)**, related to reporting on the health coverage improvement
390 program, is repealed January 1, 2023.

391 (9) Subsection **26-18-420(5)**, related to reporting on coverage for in vitro fertilization
392 and genetic testing, is repealed July 1, 2030.

393 [~~(10) Subsection **26-21-28(2)(b)** is repealed January 1, 2021.~~]

394 [(H)] (10) In relation to the Air Ambulance Committee, July 1, 2024, Subsection
395 **26-21-32(1)(a)** is amended to read:

396 "(a) provide the patient or the patient's representative with the following information
397 before contacting an air medical transport provider:

398 (i) which health insurers in the state the air medical transport provider contracts with;

399 (ii) if sufficient data is available, the average charge for air medical transport services

400 for a patient who is uninsured or out of network; and

401 (iii) whether the air medical transport provider balance bills a patient for any charge
402 not paid by the patient's health insurer; and".

403 ~~[(12)]~~ (11) Subsection [26-33a-106.1\(2\)\(a\)](#) is repealed January 1, 2023.

404 ~~[(13)]~~ (12) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance
405 Program, is repealed July 1, 2027.

406 ~~[(14) Subsection [26-55-107\(8\)](#) is repealed January 1, 2021.]~~

407 ~~[(15)]~~ (13) Subsection [26-61-202\(4\)\(b\)](#) is repealed January 1, 2022.

408 ~~[(16)]~~ (14) Subsection [26-61-202\(5\)](#) is repealed January 1, 2022.

409 (15) Section [26B-1-201.1](#) is repealed July 1, 2022.

410 Section 11. **Effective date.**

411 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
412 elected to each house, this bill takes effect upon approval by the governor, or the day following
413 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
414 signature, or in the case of a veto, the date of veto override.

415 (2) The actions affecting the following sections take effect on July 1, 2022:

416 (a) Section [26-18-3](#);

417 (b) Section [35A-1-304](#);

418 (c) Section [35A-1-307](#); and

419 (d) Section [35A-3-103](#).