

CHILD HEALTH CARE COVERAGE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Clare Collard

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Medical Assistance Act.

Highlighted Provisions:

This bill:

- ▶ deletes self-sufficiency requirements from certain Medicaid expansion provisions;
- ▶ requires the Department of Health to request approval of a Medicaid waiver or state plan amendment to create 12-month continuous eligibility for a child enrolled in the Medicaid program; and
- ▶ makes technical amendments.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-3.9, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

26-18-16, as enacted by Laws of Utah 2012, Chapter 155

26-18-415, as last amended by Laws of Utah 2019, Chapters 1 and 393

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



28 Section 1. Section **26-18-3.9** is amended to read:

29 **26-18-3.9. Expanding the Medicaid program.**

30 (1) As used in this section:

31 (a) "CMS" means the Centers for Medicare and Medicaid Services in the United States
32 Department of Health and Human Services.

33 (b) "Federal poverty level" means the same as that term is defined in Section
34 [26-18-411](#).

35 (c) "Medicaid expansion" means an expansion of the Medicaid program in accordance
36 with this section.

37 (d) "Medicaid Expansion Fund" means the Medicaid Expansion Fund created in
38 Section [26-36b-208](#).

39 (2) (a) As set forth in Subsections (2) through (5), eligibility criteria for the Medicaid
40 program shall be expanded to cover additional low-income individuals.

41 (b) The department shall continue to seek approval from CMS to implement the
42 Medicaid waiver expansion as defined in Section [26-18-415](#).

43 (c) The department may implement any provision described in Subsections
44 [26-18-415](#)(2)(b)(iii) through (viii) in a Medicaid expansion if the department receives approval
45 from CMS to implement that provision.

46 (3) The department shall expand the Medicaid program in accordance with this
47 Subsection (3) if the department:

48 (a) receives approval from CMS to:

49 (i) expand Medicaid coverage to eligible individuals whose income is below 95% of
50 the federal poverty level;

51 (ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(b) for
52 enrolling an individual in the Medicaid expansion under this Subsection (3); and

53 (iii) permit the state to close enrollment in the Medicaid expansion under this
54 Subsection (3) if the department has insufficient funds to provide services to new enrollment
55 under the Medicaid expansion under this Subsection (3);

56 (b) pays the state portion of costs for the Medicaid expansion under this Subsection (3)
57 with funds from:

58 (i) the Medicaid Expansion Fund;

59 (ii) county contributions to the nonfederal share of Medicaid expenditures; or
60 (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid
61 expenditures; and

62 (c) closes the Medicaid program to new enrollment under the Medicaid expansion
63 under this Subsection (3) if the department projects that the cost of the Medicaid expansion
64 under this Subsection (3) will exceed the appropriations for the fiscal year that are authorized
65 by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter
66 1, Budgetary Procedures Act.

67 (4) (a) The department shall expand the Medicaid program in accordance with this
68 Subsection (4) if the department:

69 (i) receives approval from CMS to:

70 (A) expand Medicaid coverage to eligible individuals whose income is below 95% of
71 the federal poverty level;

72 (B) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for
73 enrolling an individual in the Medicaid expansion under this Subsection (4); and

74 (C) permit the state to close enrollment in the Medicaid expansion under this
75 Subsection (4) if the department has insufficient funds to provide services to new enrollment
76 under the Medicaid expansion under this Subsection (4);

77 (ii) pays the state portion of costs for the Medicaid expansion under this Subsection (4)
78 with funds from:

79 (A) the Medicaid Expansion Fund;

80 (B) county contributions to the nonfederal share of Medicaid expenditures; or

81 (C) any other contributions, funds, or transfers from a nonstate agency for Medicaid
82 expenditures; and

83 (iii) closes the Medicaid program to new enrollment under the Medicaid expansion
84 under this Subsection (4) if the department projects that the cost of the Medicaid expansion
85 under this Subsection (4) will exceed the appropriations for the fiscal year that are authorized
86 by the Legislature through an appropriations act adopted in accordance with Title 63J, Chapter
87 1, Budgetary Procedures Act.

88 (b) The department shall submit a waiver, an amendment to an existing waiver, or a
89 state plan amendment to CMS to:

90 (i) administer federal funds for the Medicaid expansion under this Subsection (4)
91 according to a per capita cap developed by the department that includes an annual inflationary
92 adjustment, accounts for differences in cost among categories of Medicaid expansion enrollees,
93 and provides greater flexibility to the state than the current Medicaid payment model;

94 (ii) limit, in certain circumstances as defined by the department, the ability of a
95 qualified entity to determine presumptive eligibility for Medicaid coverage for an individual
96 enrolled in a Medicaid expansion under this Subsection (4);

97 (iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under
98 this Subsection (4) violates certain program requirements as defined by the department;

99 (iv) allow an individual enrolled in a Medicaid expansion under this Subsection (4) to
100 remain in the Medicaid program for up to a 12-month certification period as defined by the
101 department; and

102 (v) allow federal Medicaid funds to be used for housing support for eligible enrollees
103 in the Medicaid expansion under this Subsection (4).

104 (5) (a) (i) If CMS does not approve a waiver to expand the Medicaid program in
105 accordance with Subsection (4)(a) on or before January 1, 2020, the department shall develop
106 proposals to implement additional flexibilities and cost controls, including cost sharing tools,
107 within a Medicaid expansion under this Subsection (5) through a request to CMS for a waiver
108 or state plan amendment.

109 (ii) The request for a waiver or state plan amendment described in Subsection (5)(a)(i)
110 shall include~~[- (A) a path to self-sufficiency for qualified adults in the Medicaid expansion~~
111 ~~that includes employment and training as defined in 7 U.S.C. Sec. 2015(d)(4); and (B)]~~ a
112 requirement that an individual who is offered a private health benefit plan by an employer to
113 enroll in the employer's health plan.

114 (iii) The department shall submit the request for a waiver or state plan amendment
115 developed under Subsection (5)(a)(i) on or before March 15, 2020.

116 (b) Notwithstanding Sections 26-18-18 and 63J-5-204, and in accordance with this
117 Subsection (5), eligibility for the Medicaid program shall be expanded to include all persons in
118 the optional Medicaid expansion population under the Patient Protection and Affordable Care
119 Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L.
120 No. 111-152, and related federal regulations and guidance, on the earlier of:

121 (i) the day on which CMS approves a waiver to implement the provisions described in
122 [~~Subsections (5)(a)(ii)(A) and (B)~~] Subsection (5)(a)(ii); or

123 (ii) July 1, 2020.

124 (c) The department shall seek a waiver, or an amendment to an existing waiver, from
125 federal law to:

126 (i) implement each provision described in Subsections [26-18-415\(2\)\(b\)\(iii\)](#) through
127 (viii) in a Medicaid expansion under this Subsection (5);

128 (ii) limit, in certain circumstances as defined by the department, the ability of a
129 qualified entity to determine presumptive eligibility for Medicaid coverage for an individual
130 enrolled in a Medicaid expansion under this Subsection (5); and

131 (iii) impose a lock-out period if an individual enrolled in a Medicaid expansion under
132 this Subsection (5) violates certain program requirements as defined by the department.

133 (d) The eligibility criteria in this Subsection (5) shall be construed to include all
134 individuals eligible for the health coverage improvement program under Section [26-18-411](#).

135 (e) The department shall pay the state portion of costs for a Medicaid expansion under
136 this Subsection (5) entirely from:

137 (i) the Medicaid Expansion Fund;

138 (ii) county contributions to the nonfederal share of Medicaid expenditures; or

139 (iii) any other contributions, funds, or transfers from a nonstate agency for Medicaid
140 expenditures.

141 (f) If the costs of the Medicaid expansion under this Subsection (5) exceed the funds
142 available under Subsection (5)(e):

143 (i) the department may reduce or eliminate optional Medicaid services under this
144 chapter; ~~and~~

145 (ii) savings, as determined by the department, from the reduction or elimination of
146 optional Medicaid services under Subsection (5)(f)(i) shall be deposited into the Medicaid
147 Expansion Fund; and

148 (iii) the department may submit to CMS a request for waivers, or an amendment of
149 existing waivers, from federal law necessary to implement budget controls within the Medicaid
150 program to address the deficiency.

151 (g) If the costs of the Medicaid expansion under this Subsection (5) are projected by

152 the department to exceed the funds available in the current fiscal year under Subsection (5)(e),
153 including savings resulting from any action taken under Subsection (5)(f):

154 (i) the governor shall direct the Department of Health, Department of Human Services,
155 and Department of Workforce Services to reduce commitments and expenditures by an amount
156 sufficient to offset the deficiency:

157 (A) proportionate to the share of total current fiscal year General Fund appropriations
158 for each of those agencies; and

159 (B) up to 10% of each agency's total current fiscal year General Fund appropriations;

160 (ii) the Division of Finance shall reduce allotments to the Department of Health,
161 Department of Human Services, and Department of Workforce Services by a percentage:

162 (A) proportionate to the amount of the deficiency; and

163 (B) up to 10% of each agency's total current fiscal year General Fund appropriations;

164 and

165 (iii) the Division of Finance shall deposit the total amount from the reduced allotments
166 described in Subsection (5)(g)(ii) into the Medicaid Expansion Fund.

167 (6) The department shall maximize federal financial participation in implementing this
168 section, including by seeking to obtain any necessary federal approvals or waivers.

169 (7) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to
170 provide matching funds to the state for the cost of providing Medicaid services to newly
171 enrolled individuals who qualify for Medicaid coverage under a Medicaid expansion.

172 (8) The department shall report to the Social Services Appropriations Subcommittee on
173 or before November 1 of each year that a Medicaid expansion is operational:

174 (a) the number of individuals who enrolled in the Medicaid expansion;

175 (b) costs to the state for the Medicaid expansion;

176 (c) estimated costs to the state for the Medicaid expansion for the current and
177 following fiscal years;

178 (d) recommendations to control costs of the Medicaid expansion; and

179 (e) as calculated in accordance with Subsections 26-36b-204(4) and 26-36c-204(2), the
180 state's net cost of the qualified Medicaid expansion.

181 Section 2. Section 26-18-16 is amended to read:

182 **26-18-16. Medicaid waivers -- Continuous eligibility -- Promoting payment and**

183 **delivery reform.**

184 (1) ~~[In accordance with]~~ Subject to Subsection (2), and within appropriations from the
 185 Legislature, the department may ~~[amend the state Medicaid plan to]~~ request from CMS a
 186 Medicaid waiver or state plan amendment to do one or more of the following:

187 (a) create continuous eligibility for up to 12 months for an individual who ~~[has~~
 188 ~~qualified for the state Medicaid program;]~~ is:

189 (i) an enrollee; and

190 (ii) not a child;

191 (b) provide incentives in managed care contracts for an individual to obtain appropriate
 192 care in appropriate settings; ~~[and]~~ or

193 (c) require ~~[the]~~ a managed care [system] organization that contracts with the Medicaid
 194 program to accept the risk of managing the Medicaid population assigned to the [plan
 195 amendment] organization in return for receiving the benefits of providing quality and cost
 196 effective care.

197 ~~[(2) If the department amends the state Medicaid plan under Subsection (1)(a) or (b),~~
 198 ~~the department:]~~

199 (2) (a) The department shall ensure that [the] a Medicaid waiver or state plan
 200 amendment requested under Subsection (1)(a) or (b):

201 (i) is cost effective for the [state] Medicaid program; and

202 (ii) increases the quality and continuity of care for recipients~~[- and]~~.

203 ~~[(iii) calculates and transfers administrative savings from continuous enrollment from~~
 204 ~~the Department of Workforce Services to the Department of Health; and]~~

205 (b) The department may limit [the] a Medicaid waiver or state plan amendment under
 206 Subsection (1)(a) or (b) to [select] certain geographic areas or [specific Medicaid] populations.

207 ~~[(3) The department may seek approval for a state plan amendment, waiver, or a~~
 208 ~~demonstration project from the Secretary of Health and Human Services if necessary to~~
 209 ~~implement a plan amendment under Subsection (1)(a) or (b).]~~

210 (3) The department shall, no later than July 1, 2022, request from CMS approval of a
 211 Medicaid waiver or state plan amendment to create 12-month continuous eligibility for a child
 212 enrolled in the Medicaid program.

213 (4) Upon approval of a Medicaid waiver or state plan amendment requested under

214 Subsection (1) or (3), the department shall implement the Medicaid waiver or state plan
215 amendment.

216 (5) The department shall calculate and transfer administrative savings attributable to
217 continuous eligibility created under Subsection (1)(a) or (3) from the Department of Workforce
218 Services to the department.

219 Section 3. Section **26-18-415** is amended to read:

220 **26-18-415. Medicaid waiver expansion.**

221 (1) As used in this section:

222 (a) "Federal poverty level" means the same as that term is defined in Section
223 [26-18-411](#).

224 (b) "Medicaid waiver expansion" means an expansion of the Medicaid program in
225 accordance with this section.

226 (2) (a) Before January 1, 2019, the department shall apply to CMS for approval of a
227 waiver or state plan amendment to implement the Medicaid waiver expansion.

228 (b) The Medicaid waiver expansion shall:

229 (i) expand Medicaid coverage to eligible individuals whose income is below 95% of
230 the federal poverty level;

231 (ii) obtain maximum federal financial participation under 42 U.S.C. Sec. 1396d(y) for
232 enrolling an individual in the Medicaid program;

233 (iii) provide Medicaid benefits through the state's Medicaid accountable care
234 organizations in areas where a Medicaid accountable care organization is implemented;

235 (iv) integrate the delivery of behavioral health services and physical health services
236 with Medicaid accountable care organizations in select geographic areas of the state that
237 choose an integrated model;

238 ~~[(v) include a path to self-sufficiency, including work activities as defined in 42 U.S.C.~~
239 ~~Sec. 607(d), for qualified adults;]~~

240 ~~[(vi)]~~ (v) require an individual who is offered a private health benefit plan by an
241 employer to enroll in the employer's health plan;

242 ~~[(vii)]~~ (vi) sunset in accordance with Subsection (5)(a); and

243 ~~[(viii)]~~ (vii) permit the state to close enrollment in the Medicaid waiver expansion if
244 the department has insufficient funding to provide services to additional eligible individuals.

245 (3) If the Medicaid waiver described in Subsection (2)(a) is approved, the department
246 may only pay the state portion of costs for the Medicaid waiver expansion with appropriations
247 from:

- 248 (a) the Medicaid Expansion Fund, created in Section 26-36b-208;
- 249 (b) county contributions to the non-federal share of Medicaid expenditures; and
- 250 (c) any other contributions, funds, or transfers from a non-state agency for Medicaid
251 expenditures.

252 (4) (a) In consultation with the department, Medicaid accountable care organizations
253 and counties that elect to integrate care under Subsection (2)(b)(iv) shall collaborate on
254 enrollment, engagement of patients, and coordination of services.

255 (b) As part of the provision described in Subsection (2)(b)(iv), the department shall
256 apply for a waiver to permit the creation of an integrated delivery system:

257 (i) for any geographic area that expresses interest in integrating the delivery of services
258 under Subsection (2)(b)(iv); and

259 (ii) in which the department:

260 (A) may permit a local mental health authority to integrate the delivery of behavioral
261 health services and physical health services;

262 (B) may permit a county, local mental health authority, or Medicaid accountable care
263 organization to integrate the delivery of behavioral health services and physical health services
264 to select groups within the population that are newly eligible under the Medicaid waiver
265 expansion; and

266 (C) may make rules in accordance with Title 63G, Chapter 3, Utah Administrative
267 Rulemaking Act, to integrate payments for behavioral health services and physical health
268 services to plans or providers.

269 (5) (a) If federal financial participation for the Medicaid waiver expansion is reduced
270 below 90%, the authority of the department to implement the Medicaid waiver expansion shall
271 sunset no later than the next July 1 after the date on which the federal financial participation is
272 reduced.

273 (b) The department shall close the program to new enrollment if the cost of the
274 Medicaid waiver expansion is projected to exceed the appropriations for the fiscal year that are
275 authorized by the Legislature through an appropriations act adopted in accordance with Title

276 63J, Chapter 1, Budgetary Procedures Act.

277 (6) If the Medicaid waiver expansion is approved by CMS, the department shall report
278 to the Social Services Appropriations Subcommittee on or before November 1 of each year that
279 the Medicaid waiver expansion is operational:

280 (a) the number of individuals who enrolled in the Medicaid waiver program;

281 (b) costs to the state for the Medicaid waiver program;

282 (c) estimated costs for the current and following state fiscal year; and

283 (d) recommendations to control costs of the Medicaid waiver expansion.