

BEHAVIORAL HEALTH SERVICES AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: Stewart E. Barlow

LONG TITLE

Committee Note:

The Health and Human Services Interim Committee recommended this bill.

Legislative Vote: 15 voting for 0 voting against 3 absent

General Description:

This bill addresses behavioral health treatment and services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires the Department of Health to:
 - award a grant to a local mental health authority to implement or expand an integrated behavioral health program;
 - develop a proposal to allow the state Medicaid program to reimburse a local mental health authority for ~~physical~~ **behavioral** ~~behavioral~~ **physical** health services in an integrated behavioral health care setting ~~at an increased rate~~ ; and
 - apply for a waiver under the state Medicaid plan to implement the proposal;
 - ▶ allows a certain medication-assistance treatment drug to be recycled under the Charitable Prescription Drug Recycling Act, subject to federal law;
 - ▶ creates a sunset date;
 - ▶ creates reporting requirements; and
 - ▶ makes technical and conforming changes.

S.B. 41



28 **Money Appropriated in this Bill:**

29 This bill appropriates in fiscal year 2023:

29a **H→ ▶ to Department of Health and Human Services -- Integrated Health Care**
29b **Services -- Medicaid Behavioral Health Services, as an ongoing appropriation:**29c • **from General Fund, \$116,000; and ←H**30 ▶ to Department of Health **S→ and Human Services ←S -- S→ [Family Health and**
30a **Preparedness] Integrated Health Care Services -- Medicaid Behavioral Health Services ←S** , as
30b a one-time
31 appropriation:32 • from General Fund, One-time, **H→ [\$200,000] \$87,000 ←H** .33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **58-17b-902**, as last amended by Laws of Utah 2021, Chapter 39738 **58-17b-905**, as last amended by Laws of Utah 2021, Chapter 39739 **63I-1-226**, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234,
40 and 417

41 ENACTS:

42 **26-1-43**, Utah Code Annotated 195343 **26-18-427**, Utah Code Annotated 195345 *Be it enacted by the Legislature of the state of Utah:*46 Section 1. Section **26-1-43** is enacted to read:47 **26-1-43. Integrated behavioral health care grant program.**

48 (1) As used in this section:

49 (a) "Integrated behavioral health care services" means coordinated physical and
50 behavioral health care services for one patient.51 (b) "Local mental health authority" means a local mental health authority described in
52 Section **17-43-301**.53 (c) "Project" means a project described in Subsection (2).54 (2) Before July 1 H→ [~~2022~~] of each year ←H , the department shall issue a request for
54a proposals in
55 accordance with this section to award a grant to a local mental health authority for development
56 or expansion of a project to provide effective delivery of integrated behavioral health care
57 services.58 (3) To be considered for a grant award under Subsection (2), a local mental health

59 authority shall submit an application to the department that:

60 (a) explains the benefits of integrated behavioral health care services to a patient who is
61 receiving mental health or substance use disorder treatment;

62 (b) describes the local mental health authority's operational plan for delivery of
63 integrated behavioral health care services under the proposed project and any data or
64 evidence-based practices supporting the likely success of the operational plan;

65 (c) includes:

66 (i) the number of patients to be served by the local mental health authority's proposed
67 project; and

68 (ii) the cost of the local mental health authority's proposed project; and

69 (d) provides details regarding:

70 (i) any plan to use funding sources in addition to the grant award under this section for
71 the local mental health authority's proposed project;

72 (ii) any existing or planned contracts or partnerships between the local mental health
73 authority and other individuals or entities to develop or implement the local mental health
74 authority's proposed project; and

75 (iii) the sustainability and reliability of the local mental health authority's proposed
76 project.

77 (4) In evaluating a local mental health authority's application under Subsection (3) to
78 determine the grant award under Subsection (2), the department shall consider:

79 (a) how the local mental health authority's proposed project will ensure effective
80 provision of integrated behavioral health care services;

81 (b) the cost of the local mental health authority's proposed project;

82 (c) the extent to which any existing or planned contracts or partnerships or additional
83 funding sources described in the local mental health authority's application are likely to benefit
84 the proposed project; and

85 (d) the sustainability and reliability of the local mental health authority's proposed
86 project.

87 (5) Before July 1, 2025, the department shall report to the Health and Human Services
88 Interim Committee regarding:

89 (a) any knowledge gained or obstacles encountered in providing integrated behavioral

90 health care services under each project;

91 (b) data gathered in relation to each project; and

92 (c) recommendations for expanding a project statewide.

93 Section 2. Section **26-18-427** is enacted to read:

94 **26-18-427. Medicaid waiver for increased integrated health care reimbursement.**

95 (1) As used in this section:

96 (a) "Local mental health authority" means a local mental health authority described in
97 Section [17-43-301](#).

98 (b) "Integrated health care setting" means a health care or behavioral health care setting
99 that provides integrated physical and behavioral health care services.

100 (2) The department shall develop a proposal to allow the state Medicaid program to
101 reimburse a local mental health authority for covered \hat{S} \rightarrow **[behavioral] physical** \leftarrow \hat{S} health care

101a services provided

102 in an integrated health care setting \hat{S} \rightarrow **[at an increased capitation rate within the state Medicaid**

103 **program] to Medicaid eligible individuals** \leftarrow \hat{S} .

104 (3) Before December 31, 2022, the department shall apply for a Medicaid waiver or a
105 state plan amendment with CMS to implement the proposal described in Subsection (2).

106 (4) If the waiver or state plan amendment described in Subsection (3) is approved, the
107 department shall:

108 (a) implement the proposal described in Subsection (2); and

109 (b) while the waiver or state plan amendment is in effect, submit a report to the Health
110 and Human Services Interim Committee each year before November 30 detailing:

111 (i) the number of patients served under the waiver or state plan amendment;

112 (ii) the cost of the waiver or state plan amendment; and

113 (iii) any benefits of the waiver or state plan amendment.

114 Section 3. Section **58-17b-902** is amended to read:

115 **58-17b-902. Definitions.**

116 As used in this part:

117 (1) "Assisted living facility" means the same as that term is defined in Section [26-21-2](#).

118 (2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a
119 drug used in chemotherapy to destroy cancer cells.

120 (3) "Charitable clinic" means a charitable nonprofit corporation that:

- 121 (a) holds a valid exemption from federal income taxation issued under Section 501(a),
122 Internal Revenue Code;
- 123 (b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
124 Code;
- 125 (c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to
126 an individual not residing or confined at a facility owned or operated by the charitable
127 nonprofit corporation:
- 128 (i) advice;
- 129 (ii) counseling;
- 130 (iii) diagnosis;
- 131 (iv) treatment;
- 132 (v) surgery; or
- 133 (vi) care or services relating to the preservation or maintenance of health; and
- 134 (d) has a licensed outpatient pharmacy.
- 135 (4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable
136 clinic.
- 137 (5) "County health department" means the same as that term is defined in Section
138 [26A-1-102](#).
- 139 (6) "Donated prescription drug" means a prescription drug that an eligible donor or
140 individual donates to an eligible pharmacy under the program.
- 141 (7) "Eligible donor" means a donor that donates a prescription drug from within the
142 state and is:
- 143 (a) a nursing care facility;
- 144 (b) an assisted living facility;
- 145 (c) a licensed intermediate care facility for people with an intellectual disability;
- 146 (d) a manufacturer;
- 147 (e) a pharmaceutical wholesale distributor;
- 148 (f) an eligible pharmacy; or
- 149 (g) a physician's office.
- 150 (8) "Eligible pharmacy" means a pharmacy that:
- 151 (a) is registered by the division as eligible to participate in the program; and

152 (b) (i) is licensed in the state as a Class A retail pharmacy; or
153 (ii) is operated by:
154 (A) a county;
155 (B) a county health department;
156 (C) a pharmacy under contract with a county health department;
157 (D) the Department of Health, created in Section 26-1-4;
158 (E) the Division of Substance Abuse and Mental Health, created in Section
159 62A-15-103; or
160 (F) a charitable clinic.
161 (9) (a) "Eligible prescription drug" means a prescription drug, described in Section
162 58-17b-904, that is not:
163 ~~[(a)]~~ (i) except as provided in Subsection (9)(b), a controlled substance; or
164 ~~[(b)]~~ (ii) a drug that can only be dispensed to a patient registered with the drug's
165 manufacturer in accordance with federal Food and Drug Administration requirements.
166 (b) "Eligible prescription drug" includes a medication-assisted treatment drug that may
167 be accepted, transferred, and dispensed under the program in accordance with federal law.
168 (10) "Licensed intermediate care facility for people with an intellectual disability"
169 means the same as that term is defined in Section 58-17b-503.
170 (11) "Medically indigent individual" means an individual who:
171 (a) (i) does not have health insurance; and
172 (ii) lacks reasonable means to purchase prescribed medications; or
173 (b) (i) has health insurance; and
174 (ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed
175 medications.
176 (12) "Medication-assisted treatment drug" means buprenorphine prescribed to treat
177 substance use withdrawal symptoms or an opiate use disorder.
178 ~~[(12)]~~ (13) "Nursing care facility" means the same as that term is defined in Section
179 26-18-501.
180 ~~[(13)]~~ (14) "Physician's office" means a fixed medical facility that:
181 (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered
182 nurse, licensed under Title 58, Occupations and Professions; and

183 (b) treats an individual who presents at, or is transported to, the facility.

184 [~~(14)~~] (15) "Program" means the Charitable Prescription Drug Recycling Program
185 created in Section 58-17b-903.

186 [~~(15)~~] (16) "Unit pack" means the same as that term is defined in Section 58-17b-503.

187 [~~(16)~~] (17) "Unlawful conduct" means the same as that term is defined in Sections
188 58-1-501 and 58-17b-501.

189 [~~(17)~~] (18) "Unprofessional conduct" means the same as that term is defined in
190 Sections 58-1-501 and 58-17b-502.

191 Section 4. Section 58-17b-905 is amended to read:

192 **58-17b-905. Participation in program -- Requirements -- Fees.**

193 (1) An eligible donor, an individual, or an eligible pharmacy may participate in the
194 program.

195 (2) An eligible pharmacy:

196 (a) shall comply with all applicable federal and state laws related to the storage,
197 disposal, and distribution of a prescription drug;

198 (b) shall comply with all applicable federal and state laws related to the acceptance and
199 transfer of a prescription drug, including 21 U.S.C. Chapter 9, Subchapter V, Part H,
200 Pharmaceutical Distribution Supply Chain;

201 (c) shall, before accepting or dispensing a prescription drug under the program, inspect
202 each prescription drug to determine whether the prescription drug is an eligible prescription
203 drug;

204 (d) may dispense an eligible prescription drug to a medically indigent individual who:

205 (i) is located in the state when the drug is dispensed; and

206 (ii) has a prescription issued by a practitioner;

207 (e) may charge a handling fee, adopted by the division under Section 63J-1-504; and

208 (f) may not accept, transfer, or dispense a prescription drug in violation of the federal
209 Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

210 Section 5. Section 63I-1-226 is amended to read:

211 **63I-1-226. Repeal dates, Title 26.**

212 (1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory
213 Committee, is repealed July 1, 2024.

214 (2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed
215 July 1, 2025.

216 (3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July
217 1, 2025.

218 (4) Section 26-1-40 is repealed July 1, 2022.

219 (5) Section 26-1-41 is repealed July 1, 2026.

220 (6) Section 26-7-10 is repealed July 1, 2025.

221 (7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1,
222 2028.

223 (8) Section 26-7-14 is repealed December 31, 2027.

224 (9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
225 1, 2025.

226 (10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee,
227 is repealed July 1, 2026.

228 (11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed
229 July 1, 2025.

230 (12) Subsection 26-15c-104(3), relating to a limitation on the number of
231 microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

232 (13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is
233 repealed July 1, 2028.

234 (14) Section 26-18-27 is repealed July 1, 2025.

235 (15) Section 26-1-43 is repealed December 31, ~~H~~→ [2022] 2025 ←~~H~~ .

236 [(15)] (16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed
237 July 1, 2027.

238 [(16)] (17) Subsection 26-18-418(2), the language that states "and the Behavioral
239 Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

240 [(17)] (18) Section 26-33a-117 is repealed on December 31, 2023.

241 [(18)] (19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1,
242 2024.

243 [(19)] (20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July
244 1, 2024.

245 [(20)] (21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is
 246 repealed July 1, 2024.

247 [(21)] (22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July
 248 1, 2024.

249 [(22)] (23) Section 26-39-201, which creates the Residential Child Care Licensing
 250 Advisory Committee, is repealed July 1, 2024.

251 [(23)] (24) Section 26-40-104, which creates the Utah Children's Health Insurance
 252 Program Advisory Council, is repealed July 1, 2025.

253 [(24)] (25) Section 26-50-202, which creates the Traumatic Brain Injury Advisory
 254 Committee, is repealed July 1, 2025.

255 [(25)] (26) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
 256 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

257 [(26)] (27) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is
 258 repealed July 1, 2026.

259 [(27)] (28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed
 260 July 1, 2026.

261 [(28)] (29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July
 262 1, 2024.

263 Section 6. **Appropriation.**

264 The following sums of money are appropriated for the fiscal year beginning July 1,
 265 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for
 266 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
 267 Act, the Legislature appropriates the following sums of money from the funds or accounts
 268 indicated for the use and support of the government of the state of Utah.

269 ITEM 1

270 To $\hat{S} \rightarrow$ ~~[Department of Health -- Family Health and Preparedness]~~ Department of Health
 270a and Human Services -- Integrated Health Care Services $\leftarrow \hat{S}$

271 $\hat{H} \rightarrow$ From General Fund \$116,000 $\leftarrow \hat{H}$

271a From General Fund, One-time $\hat{H} \rightarrow$ ~~[\$200,000]~~ \$87,000 $\leftarrow \hat{H}$

272 Schedule of Programs:

273 $\hat{S} \rightarrow$ ~~[Integrated Behavioral Health Care Grant]~~ Medicaid Behavioral
 273a Health Services $\leftarrow \hat{S}$ $\hat{H} \rightarrow$ ~~[\$200,000]~~ \$203,000 $\leftarrow \hat{H}$

274 The Legislature intends that $\hat{S} \rightarrow$ [the Department of Health use] $\leftarrow \hat{S}$ the appropriations
 274a provided

275 under this item $\hat{S} \rightarrow$ be used $\leftarrow \hat{S}$ to award grants under the Integrated Behavioral Health Care
 275a Grant Program

276 created in Section [26-1-43](#).