

BEHAVIORAL HEALTH SERVICES AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: Stewart E. Barlow

LONG TITLE

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 health services in an integrated behavioral health care setting; 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.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to Department of Health and Human Services -- Integrated Health Care Services -- Medicaid Behavioral Health Services, as an ongoing appropriation:
 - from General Fund, \$116,000; and

30 ▶ to Department of Health and Human Services -- Integrated Health Care Services --
 31 Medicaid Behavioral Health Services, as a one-time appropriation:
 32 • from General Fund, One-time, \$87,000.

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 397

38 **58-17b-905**, as last amended by Laws of Utah 2021, Chapter 397

39 **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 1953

43 **26-18-427**, Utah Code Annotated 1953



44
 45 *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 of each year, the department shall issue a request for 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) "Integrated health care setting" means a health care or behavioral health care setting
97 that provides integrated physical and behavioral health care services.

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

100 (2) The department shall develop a proposal to allow the state Medicaid program to
101 reimburse a local mental health authority for covered physical health care services provided in
102 an integrated health care setting to Medicaid eligible individuals.

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

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

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

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

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

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

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

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

114 **58-17b-902. Definitions.**

115 As used in this part:

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

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

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

120 (a) holds a valid exemption from federal income taxation issued under Section 501(a),
121 Internal Revenue Code;

122 (b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
123 Code;

124 (c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to
125 an individual not residing or confined at a facility owned or operated by the charitable
126 nonprofit corporation:

127 (i) advice;

128 (ii) counseling;

129 (iii) diagnosis;

130 (iv) treatment;

131 (v) surgery; or

132 (vi) care or services relating to the preservation or maintenance of health; and

133 (d) has a licensed outpatient pharmacy.

134 (4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable
135 clinic.

136 (5) "County health department" means the same as that term is defined in Section
137 26A-1-102.

138 (6) "Donated prescription drug" means a prescription drug that an eligible donor or
139 individual donates to an eligible pharmacy under the program.

140 (7) "Eligible donor" means a donor that donates a prescription drug from within the
141 state and is:

- 142 (a) a nursing care facility;
- 143 (b) an assisted living facility;
- 144 (c) a licensed intermediate care facility for people with an intellectual disability;
- 145 (d) a manufacturer;
- 146 (e) a pharmaceutical wholesale distributor;
- 147 (f) an eligible pharmacy; or
- 148 (g) a physician's office.
- 149 (8) "Eligible pharmacy" means a pharmacy that:
 - 150 (a) is registered by the division as eligible to participate in the program; and
 - 151 (b) (i) is licensed in the state as a Class A retail pharmacy; or
 - 152 (ii) is operated by:
 - 153 (A) a county;
 - 154 (B) a county health department;
 - 155 (C) a pharmacy under contract with a county health department;
 - 156 (D) the Department of Health, created in Section 26-1-4;
 - 157 (E) the Division of Substance Abuse and Mental Health, created in Section
 - 158 62A-15-103; or
 - 159 (F) a charitable clinic.
- 160 (9) (a) "Eligible prescription drug" means a prescription drug, described in Section
- 161 58-17b-904, that is not:
 - 162 [~~(a)~~] (i) except as provided in Subsection (9)(b), a controlled substance; or
 - 163 [~~(b)~~] (ii) a drug that can only be dispensed to a patient registered with the drug's
 - 164 manufacturer in accordance with federal Food and Drug Administration requirements.
 - 165 (b) "Eligible prescription drug" includes a medication-assisted treatment drug that may
 - 166 be accepted, transferred, and dispensed under the program in accordance with federal law.
- 167 (10) "Licensed intermediate care facility for people with an intellectual disability"
- 168 means the same as that term is defined in Section 58-17b-503.
- 169 (11) "Medically indigent individual" means an individual who:

- 170 (a) (i) does not have health insurance; and
- 171 (ii) lacks reasonable means to purchase prescribed medications; or
- 172 (b) (i) has health insurance; and
- 173 (ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed
- 174 medications.

175 (12) "Medication-assisted treatment drug" means buprenorphine prescribed to treat

176 substance use withdrawal symptoms or an opiate use disorder.

177 [~~12~~] (13) "Nursing care facility" means the same as that term is defined in Section

178 26-18-501.

179 [~~13~~] (14) "Physician's office" means a fixed medical facility that:

- 180 (a) is staffed by a physician, physician's assistant, nurse practitioner, or registered
- 181 nurse, licensed under Title 58, Occupations and Professions; and
- 182 (b) treats an individual who presents at, or is transported to, the facility.

183 [~~14~~] (15) "Program" means the Charitable Prescription Drug Recycling Program

184 created in Section 58-17b-903.

185 [~~15~~] (16) "Unit pack" means the same as that term is defined in Section 58-17b-503.

186 [~~16~~] (17) "Unlawful conduct" means the same as that term is defined in Sections

187 58-1-501 and 58-17b-501.

188 [~~17~~] (18) "Unprofessional conduct" means the same as that term is defined in

189 Sections 58-1-501 and 58-17b-502.

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

191 **58-17b-905. Participation in program -- Requirements -- Fees.**

192 (1) An eligible donor, an individual, or an eligible pharmacy may participate in the

193 program.

194 (2) An eligible pharmacy:

195 (a) shall comply with all applicable federal and state laws related to the storage,

196 disposal, and distribution of a prescription drug;

197 (b) shall comply with all applicable federal and state laws related to the acceptance and

198 transfer of a prescription drug, including 21 U.S.C. Chapter 9, Subchapter V, Part H,
199 Pharmaceutical Distribution Supply Chain;

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

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

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

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

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

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

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

210 **63I-1-226. Repeal dates, Title 26.**

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

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

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

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

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

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

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

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

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

225 (10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee,

226 is repealed July 1, 2026.

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

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

231 (13) Subsection [26-18-2.6\(9\)](#), which addresses reimbursement for dental hygienists, is
232 repealed July 1, 2028.

233 (14) Section [26-18-27](#) is repealed July 1, 2025.

234 (15) Section [26-1-43](#) is repealed December 31, 2025.

235 [~~(15)~~] (16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed
236 July 1, 2027.

237 [~~(16)~~] (17) Subsection [26-18-418\(2\)](#), the language that states "and the Behavioral
238 Health Crisis Response Commission created in Section [63C-18-202](#)" is repealed July 1, 2023.

239 [~~(17)~~] (18) Section [26-33a-117](#) is repealed on December 31, 2023.

240 [~~(18)~~] (19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1,
241 2024.

242 [~~(19)~~] (20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July
243 1, 2024.

244 [~~(20)~~] (21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is
245 repealed July 1, 2024.

246 [~~(21)~~] (22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July
247 1, 2024.

248 [~~(22)~~] (23) Section [26-39-201](#), which creates the Residential Child Care Licensing
249 Advisory Committee, is repealed July 1, 2024.

250 [~~(23)~~] (24) Section [26-40-104](#), which creates the Utah Children's Health Insurance
251 Program Advisory Council, is repealed July 1, 2025.

252 [~~(24)~~] (25) Section [26-50-202](#), which creates the Traumatic Brain Injury Advisory
253 Committee, is repealed July 1, 2025.

254 [~~(25)~~] (26) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and
255 Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

256 [~~(26)~~] (27) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is
257 repealed July 1, 2026.

258 [~~(27)~~] (28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed
259 July 1, 2026.

260 [~~(28)~~] (29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July
261 1, 2024.

262 Section 6. **Appropriation.**

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

268 ITEM 1

269 To Department of Health and Human Services -- Integrated Health Care Services

<u>From General Fund</u>	<u>\$116,000</u>
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<u>From General Fund, One-time</u>	<u>\$87,000</u>
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272 Schedule of Programs:

<u>Medicaid Behavioral Health Services</u>	<u>\$203,000</u>
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274 The Legislature intends that the appropriations provided under this item be used to
275 award grants under the integrated behavioral health care grant program created in Section
276 [26-1-43](#).