

**INMATE HEALTH INSURANCE AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**Committee Note:**

The Judiciary, Law Enforcement, and Criminal Justice Interim Committee recommended this bill.

**General Description:**

This bill modifies the Institutions Code and other code provisions regarding health care for inmates by modifying provisions concerning coverage by a person's private health and dental policies while the person is an inmate or while the person is in the custody of the Department of Corrections or a county jail, and also addresses coordination of benefits and exemptions.

**Highlighted Provisions:**

This bill:

► provides that, if an insured is otherwise eligible for health or dental benefits under a policy, an insurer may not exclude coverage for an insured who is:

- an inmate housed in a correctional facility;
- an offender in the custody of the Department of Corrections; or
- an inmate housed in a county jail;

► requires a health or dental insurer to coordinate benefits for an insured who is:

- an inmate housed in a correctional facility;
- an offender in the custody of the Department of Corrections; or
- an inmate housed in a county jail;



28           ▶ requires a person who has health or dental insurance coverage, upon entering into  
29 the custody of the department or county sheriff, to use that coverage as primary  
30 payer for health and dental costs while in custody; and

31           ▶ provides exemptions regarding coverage by an inmate's health or dental insurance  
32 policy for:

- 33           • incidents of inmate self harm;
- 34           • injuries sustained by the inmate as a result of an act of physical violence  
35 committed either upon or by the inmate; or
- 36           • situations where the department or sheriff has reason to believe, based on a  
37 medical evaluation of the inmate, that the inmate sought the health or dental  
38 care knowing that an underlying medical or dental need did not exist.

39 **Money Appropriated in this Bill:**

40           None

41 **Other Special Clauses:**

42           This bill takes effect on July 1, 2011.

43 **Utah Code Sections Affected:**

44 AMENDS:

45           **31A-22-613**, as last amended by Laws of Utah 2005, Chapter 78

46           **31A-22-619**, as last amended by Laws of Utah 2010, Chapter 285

47           **64-13-30 (Effective 07/01/11)**, as last amended by Laws of Utah 2010, Chapter 386



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

50           Section 1. Section **31A-22-613** is amended to read:

51           **31A-22-613. Permitted provisions for accident and health insurance policies.**

52           The following provisions may be contained in an accident [~~and~~], health, and dental  
53 insurance policy, but if they are in that policy, they shall conform to at least the minimum  
54 requirements for the policyholder in this section.

55           (1) Any provision respecting change of occupation may provide only for a lower  
56 maximum benefit payment and for reduction of loss payments proportionate to the change in  
57 appropriate premium rates, if the change is to a higher rated occupation, and this provision  
58 shall provide for retroactive reduction of premium rates from the date of change of occupation

59 or the last policy anniversary date, whichever is the more recent, if the change is to a lower  
60 rated occupation.

61 (2) Section 31A-22-405 applies to misstatement of age in accident and health policies,  
62 with the appropriate modifications of terminology.

63 (3) (a) Any policy which contains a provision establishing, as an age limit or otherwise,  
64 a date after which the coverage provided by the policy is not effective, and if that date falls  
65 within a period for which a premium is accepted by the insurer or if the insurer accepts a  
66 premium after that date, the coverage provided by the policy continues in force, subject to any  
67 right of cancellation, until the end of the period for which the premium was accepted.

68 (b) This Subsection (3) does not apply if the acceptance of premium would not have  
69 occurred but for a misstatement of age by the insured.

70 (4) (a) (i) If an insured is otherwise eligible for maternity benefits, a policy may not  
71 contain language which requires an insured to obtain any additional preauthorization or  
72 preapproval for customary and reasonable maternity care expenses or for the delivery of the  
73 child after an initial preauthorization or preapproval has been obtained from the insurer for  
74 prenatal care.

75 (ii) A requirement for notice of admission for delivery is not a requirement for  
76 preauthorization or preapproval, however, the maternity benefit may not be denied or  
77 diminished for failure to provide admission notice. The policy may not require the provision of  
78 admission notice by only the insured patient.

79 (b) This Subsection (4) does not prohibit an insurer from:

80 (i) requiring a referral before maternity care can be obtained;

81 (ii) specifying a group of providers or a particular location from which an insured is  
82 required to obtain maternity care; or

83 (iii) limiting reimbursement for maternity expenses and benefits in accordance with the  
84 terms and conditions of the insurance contract so long as ~~such~~ the terms do not conflict with  
85 Subsection (4)(a).

86 (5) An insurer may only represent that a policy:

87 (a) offers a vision benefit if the policy:

88 (i) charges a premium for the benefit; and

89 (ii) provides reimbursement for materials or services provided under the policy; and

90 (b) covers laser vision correction, whether photorefractive keratectomy, laser assisted  
91 in-situ keratomelusus, or related procedure, if the policy:

- 92 (i) charges a premium for the benefit; and
- 93 (ii) the procedure is at least a partially covered benefit.

94 (6) If an insured is otherwise eligible for benefits under a health or dental policy, the  
95 insurer may not exclude coverage if the insured is an:

96 (a) inmate housed in a correctional facility as defined in Section 64-13-1;

97 (b) offender in the custody of the Department of Corrections; or

98 (c) inmate housed in a county jail.

99 Section 2. Section **31A-22-619** is amended to read:

100 **31A-22-619. Coordination of benefits.**

101 (1) The commissioner shall:

102 (a) adopt rules concerning the coordination of benefits between accident and health  
103 insurance policies;

104 (b) publish a coordination of benefits guide;

105 (c) post the coordination of benefits guide on the state insurance exchange; and

106 (d) work with the Health Data Authority, health care provider groups, and with state  
107 and national organizations that are developing uniform standards for the electronic exchange of  
108 health insurance claims to develop standardized language regarding coordination of benefits for  
109 the purpose of including the standardized language in an insurer's explanation of benefits.

110 (2) Rules adopted by the commissioner under Subsection (1):

111 (a) may not prohibit coordination of benefits with individual accident and health  
112 insurance policies;

113 (b) shall apply equally to all accident and health insurance policies without regard to  
114 whether the policies are group or individual policies; ~~and~~

115 (c) shall include standardized language regarding the coordination of benefits process  
116 that shall be included in each insurer's accident and health insurance policy[-]; and

117 (d) shall require a health or dental insurer to coordinate benefits for an insured who is  
118 an:

119 (i) inmate housed in a correctional facility as defined in Section 64-13-1;

120 (ii) offender in the custody of the Department of Corrections; or

121 (iii) inmate housed in a county jail.

122 Section 3. Section **64-13-30 (Effective 07/01/11)** is amended to read:

123 **64-13-30 (Effective 07/01/11). Expenses incurred by offenders -- Payment to**  
124 **department or county jail -- Medical care expenses and copayments.**

125 (1) (a) The department shall establish and collect from each offender on a work release  
126 program the reasonable costs of the offender's maintenance, transportation, and incidental  
127 expenses incurred by the department on behalf of the offender.

128 (b) Priority shall be given to restitution and family support obligations.

129 (c) The offender's reimbursement to the department for the cost of obtaining the  
130 offender's DNA specimen under Section 53-10-404 is the next priority after Subsection (1)(b).

131 (2) The department, under its rules, may advance funds to any offender as necessary to  
132 establish the offender in a work release program.

133 (3) (a) The department or county jail may require an inmate to make a copayment for  
134 medical and dental services provided by the department or county jail.

135 (b) For services provided while in the custody of the department, the copayment by the  
136 inmate is \$5 for primary medical care, \$5 for dental care, and \$2 for prescription medication.

137 (c) For services provided outside of a prison facility while in the custody of the  
138 department, the ~~[offender]~~ inmate is responsible for 10% of the costs associated with hospital  
139 care with a cap on an inmate's share of hospital care expenses not to exceed \$2,000 per fiscal  
140 year.

141 (4) (a) An inmate who has assets exceeding \$200,000, as determined by the department  
142 upon entry into the department's custody, is responsible ~~[to pay]~~ for paying the costs of all  
143 medical and dental care up to 20% of the inmate's total determined asset value.

144 (b) After an inmate has received medical and dental care equal to 20% of the inmate's  
145 total asset value, the inmate is subject to the copayments provided in Subsection (3).

146 (5) The department shall turn over to the Office of State Debt Collection any debt  
147 under this section that is unpaid at the time the offender is released from parole.

148 (6) An inmate may not be denied medical treatment if the inmate is unable to pay for  
149 the treatment because of inadequate financial resources.

150 (7) (a) An inmate who, upon entering into the department's custody, has medical  
151 insurance or dental insurance coverage shall use that coverage as the primary payer for medical

152 and dental costs incurred while in the custody of the department or county sheriff, except as  
153 limited under Subsection (7)(b).

154 (b) Any insurance policy held by an inmate for medical or dental care is not required  
155 under Subsection (7)(a) to provide coverage for:

156 (i) incidents involving the self harm of the inmate;

157 (ii) injuries sustained by the inmate as a result of an act of physical violence committed  
158 either upon or by the inmate; or

159 (iii) situations where the department or sheriff has reason to believe, based on a  
160 medical evaluation of the inmate, that the inmate sought the medical or dental care knowing  
161 that an underlying medical or dental need did not exist.

162 ~~[(7)]~~ (8) When an offender in the custody of the department receives medical care that  
163 is provided outside of a prison facility, the department shall pay the costs:

164 (a) at the contracted rate; or

165 (b) (i) if there is no contract between the department and a health care facility that  
166 establishes a fee schedule for medical services rendered, expenses shall be at the noncapitated  
167 state Medicaid rate in effect at the time the service was provided; and

168 (ii) if there is no contract between the department and a health care provider that  
169 establishes a fee schedule for medical services rendered, expenses shall be 65% of the amount  
170 that would be paid under the Public Employees' Benefit and Insurance Program, created in  
171 Section 49-20-103.

172 ~~[(8)]~~ (9) Expenses described in Subsection ~~[(7)]~~ (8) are a cost to the department only to  
173 the extent that they exceed an offender's private insurance that is in effect at the time of the  
174 service and that covers those expenses.

175 ~~[(9)]~~ (10) (a) The Public Employees' Benefit and Insurance Program shall provide  
176 information to the department that enables the department to calculate the amount to be paid to  
177 a health care provider under Subsection ~~[(7)]~~ (8)(b).

178 (b) The department shall ensure that information provided under Subsection ~~[(9)]~~  
179 (10)(a) is confidential.

180 Section 4. **Effective date.**

181 This bill takes effect on July 1, 2011.

**Legislative Review Note**  
as of 6-24-10 11:21 AM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

H.B. 11, 2011 General Session

SHORT TITLE: Inmate Health Insurance Amendments

SPONSOR: Ray, P.

STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill may alleviate some costs for the Department of Corrections in the future but these costs are not quantifiable at the present time.

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill may result in some savings to local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill will require insurance companies to pay certain claims under policies that are currently in effect.