

**CONTRACTING FOR MEDICAID ELIGIBILITY**

**DETERMINATION SERVICES**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

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

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**LONG TITLE**

**General Description:**

This bill amends the Medicaid program to require the Department of Health to issue a request for proposal for a private entity to determine Medicaid eligibility on behalf of the state Medicaid program.

**Highlighted Provisions:**

This bill:

- ▶ requires the Department of Health to issue a request for proposal for the determination of Medicaid eligibility by August 15, 2012;
- ▶ establishes some requirements for the request for proposal;
- ▶ requires reports to the Legislature before awarding a contract for determining Medicaid eligibility; and
- ▶ makes technical amendments.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**26-18-3**, as last amended by Laws of Utah 2010, Chapters 149, 323, 340, and 391



28           **26-18-15**, as enacted by Laws of Utah 2008, Chapter 390

29           **35A-1-102**, as last amended by Laws of Utah 2002, Chapter 58

30 ENACTS:

31           **26-18-3.3**, Utah Code Annotated 1953



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

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

35           **26-18-3. Administration of Medicaid program by department -- Reporting to the**  
36 **Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility**  
37 **standards -- Internal audits -- Studies -- Health opportunity accounts.**

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

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

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

46           (i) the standards used by the department for determining eligibility for Medicaid  
47 services;

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

49           (iii) reimbursement methodologies for providers under the Medicaid program.

50           (3) (a) The department shall, in accordance with Subsection (3)(b), report to the Health  
51 and Human Services Appropriations Subcommittee when the department:

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

53           (ii) initiates a new Medicaid waiver;

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

55           (iv) applies for an extension of an application for a waiver or an existing Medicaid  
56 waiver; or

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

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

59 (i) be submitted to the Health and Human Services Appropriations Subcommittee prior  
60 to the department implementing the proposed change; and

61 (ii) include:

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

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

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

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

69 (E) the degree to which any proposed cut may result in cost-shifting to more expensive  
70 services in health or human service programs; and

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

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

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

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

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

80 (4) (a) The Department of Human Services shall report to the Legislative Health and  
81 Human Services Appropriations Subcommittee no later than December 31, 2010, in  
82 accordance with Subsection (4)(b).

83 (b) The report required by Subsection (4)(a) shall include:

84 (i) changes made by the division or the department beginning July 1, 2010, that effect  
85 the Medicaid program, a waiver under the Medicaid program, or an interpretation of Medicaid  
86 services or funding, that relate to care for children and youth in the custody of the Division of  
87 Child and Family Services or the Division of Juvenile Justice Services;

88 (ii) the history and impact of the changes under Subsection (4)(b)(i);

89 (iii) the Department of Human Service's plans for addressing the impact of the changes

90 under Subsection (4)(b)(i); and

91 (iv) ways to consolidate administrative functions within the Department of Human  
92 Services, the Department of Health, the Division of Child and Family Services, and the  
93 Division of Juvenile Justice Services to more efficiently meet the needs of children and youth  
94 with mental health and substance disorder treatment needs.

95 (5) Any rules adopted by the department under Subsection (2) are subject to review and  
96 reauthorization by the Legislature in accordance with Section 63G-3-502.

97 (6) ~~[The]~~ Except as provided in Section 26-18-3.3, the department may, in its  
98 discretion, contract with the Department of Human Services or other qualified agencies for  
99 services in connection with the administration of the Medicaid program, including:

- 100 (a) the determination of the eligibility of individuals for the program;
- 101 (b) recovery of overpayments; and
- 102 (c) consistent with Section 26-20-13, and to the extent permitted by law and quality  
103 control services, enforcement of fraud and abuse laws.

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

- 107 (a) termination from the program;
- 108 (b) recovery of claim reimbursements incorrectly paid; and
- 109 (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

110 (8) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX  
111 of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to  
112 be used by the division in accordance with the requirements of Section 1919 of Title XIX of  
113 the federal Social Security Act.

114 (9) (a) In determining whether an applicant or recipient is eligible for a service or  
115 benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department  
116 shall, if Subsection (9)(b) is satisfied, exclude from consideration one passenger vehicle  
117 designated by the applicant or recipient.

118 (b) Before Subsection (9)(a) may be applied:

119 (i) the federal government must:

120 (A) determine that Subsection (9)(a) may be implemented within the state's existing

121 public assistance-related waivers as of January 1, 1999;

122 (B) extend a waiver to the state permitting the implementation of Subsection (9)(a); or

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

125 (ii) the department must determine that Subsection (9)(a) can be implemented within  
126 existing funding.

127 (10) (a) For purposes of this Subsection (10):

128 (i) "aged, blind, or disabled" shall be defined by administrative rule; and

129 (ii) "spend down" means an amount of income in excess of the allowable income  
130 standard that must be paid in cash to the department or incurred through the medical services  
131 not paid by Medicaid.

132 (b) In determining whether an applicant or recipient who is aged, blind, or disabled is  
133 eligible for a service or benefit under this chapter, the department shall use 100% of the federal  
134 poverty level as:

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

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

137 (11) The department shall conduct internal audits of the Medicaid program, in  
138 proportion to at least the level of funding it receives from Medicaid to conduct internal audits.

139 (12) In order to determine the feasibility of contracting for direct Medicaid providers  
140 for primary care services, the department shall:

141 (a) issue a request for information for direct contracting for primary services that shall  
142 provide that a provider shall exclusively serve all Medicaid clients:

143 (i) in a geographic area;

144 (ii) for a defined range of primary care services; and

145 (iii) for a predetermined total contracted amount; and

146 (b) by February 1, 2011, report to the Health and Human Services Appropriations  
147 Subcommittee on the response to the request for information under Subsection (12)(a).

148 (13) (a) By December 31, 2010, the department shall:

149 (i) determine the feasibility of implementing a three year patient-centered medical  
150 home demonstration project in an area of the state using existing budget funds; and

151 (ii) report the department's findings and recommendations under Subsection (13)(a)(i)

152 to the Health and Human Services Appropriations Subcommittee.

153 (b) If the department determines that the medical home demonstration project  
154 described in Subsection (13)(a) is feasible, and the Health and Human Services Appropriations  
155 Subcommittee recommends that the demonstration project be implemented, the department  
156 shall:

157 (i) implement the demonstration project; and

158 (ii) by December 1, 2012, make recommendations to the Health and Human Services  
159 Appropriations Subcommittee regarding the:

160 (A) continuation of the demonstration project;

161 (B) expansion of the demonstration project to other areas of the state; and

162 (C) cost savings incurred by the implementation of the demonstration project.

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

165 (b) A health opportunity account established under Subsection (14)(a) shall be an  
166 alternative to the existing benefits received by an individual eligible to receive Medicaid under  
167 this chapter.

168 (c) Subsection (14)(a) is not intended to expand the coverage of the Medicaid program.

169 Section 2. Section **26-18-3.3** is enacted to read:

170 **26-18-3.3. Privatization of eligibility determination.**

171 (1) On or before August 15, 2012, the department shall issue a request for proposal in  
172 accordance with this section for the administration of the program to determine eligibility of  
173 individuals for the:

174 (a) Medicaid program;

175 (b) Utah Children's Health Insurance Program created under Chapter 40, Utah  
176 Children's Health Insurance Act;

177 (c) Primary Care Network demonstration project; and

178 (d) Utah Premium Partnership demonstration project.

179 (2) The request for proposal shall:

180 (a) require a bidder to follow the state Medicaid plan eligibility guidelines adopted in  
181 the state plan and by the department under Subsection 26-18-3(2)(b); and

182 (b) prohibit the bidder from implementing a change to the eligibility determination

183 unless the department and the entity under contract with the department meet the reporting  
184 requirements of Section 28-18-3.

185 (3) The department:

186 (a) shall, prior to making a determination under Subsection (3)(b), provide a report to  
187 the Legislature's Executive Appropriations Committee and to the Social Services  
188 Appropriations Subcommittee regarding:

189 (i) the responses to the requests for proposals; and

190 (ii) the advantages and disadvantages to the state in privatizing the eligibility  
191 determination system versus contracting with a state agency for the eligibility determination  
192 system; and

193 (b) may:

194 (i) select the most responsive bidder to the request for proposals and privatize the  
195 eligibility determination system; or

196 (ii) determine that:

197 (A) the responses to the request for proposals are not responsive; and

198 (B) the state Medicaid program eligibility determination should be provided through a  
199 contract with a state agency under Subsection 26-18-3(6).

200 Section 3. Section **26-18-15** is amended to read:

201 **26-18-15. Process to promote health insurance coverage for children.**

202 (1) The ~~[Department of Workforce Services]~~ entity under contract with the department  
203 to implement the eligibility system for the state program, the State Board of Education, and the  
204 department shall:

205 (a) collaborate with one another to develop a process to promote health insurance  
206 coverage for a child in school when:

207 (i) the child applies for free or reduced price school lunch;

208 (ii) a child enrolls in or registers in school; and

209 (iii) other appropriate school related opportunities;

210 (b) report to the Legislature on the development of the process under Subsection (1)(a)  
211 no later than November 19, 2008; and

212 (c) implement the process developed under Subsection (1)(a) no later than the 2009-10  
213 school year.

214 (2) The Department of Workforce Services shall promote and facilitate the enrollment  
215 of children identified under Subsection (1)(a) without health insurance in the Utah Children's  
216 Health Insurance Program, the Medicaid program, or the Utah Premium Partnership for Health  
217 Insurance Program.

218 Section 4. Section **35A-1-102** is amended to read:

219 **35A-1-102. Definitions.**

220 Unless otherwise specified, as used in this title:

221 (1) "Client" means an individual who the department has determined to be eligible for  
222 services or benefits under:

223 (a) Chapter 3, Employment Support Act; and

224 (b) Chapter 5, Training and Workforce Improvement Act.

225 (2) "Consortium of counties" means an organization composed of all the counties  
226 within a regional workforce services area designated under Section 35A-2-101:

227 (a) in which representatives of county government consisting of county commissioners,  
228 county council members, county executives, or county mayors jointly comply with this title in  
229 working with the executive director of the department regarding regional workforce services  
230 areas; and

231 (b) (i) that existed as of July 1, 1997; or

232 (ii) that is created on or after July 1, 1997, with the approval of the executive director.

233 (3) "Department" means the Department of Workforce Services created in Section  
234 35A-1-103.

235 (4) "Employment assistance" means services or benefits provided by the department  
236 under:

237 (a) Chapter 3, Employment Support Act; and

238 (b) Chapter 5, Training and Workforce Improvement Act.

239 (5) "Employment center" is a location in a regional workforce services area where the  
240 services provided by a regional workforce services area under Section 35A-2-201 may be  
241 accessed by a client.

242 (6) "Employment counselor" means an individual responsible for developing an  
243 employment plan and coordinating the services and benefits under this title in accordance with  
244 Chapter 2, Regional Workforce Services Areas.



245 (7) "Employment plan" means a written agreement between the department and a client  
246 that describes:

- 247 (a) the relationship between the department and the client;
- 248 (b) the obligations of the department and the client; and
- 249 (c) the result if an obligation is not fulfilled by the department or the client.

250 (8) "Executive director" means the executive director of the department appointed  
251 under Section 35A-1-201.

252 (9) "Public assistance" means:

- 253 (a) services or benefits provided under Chapter 3, Employment Support Act;
- 254 (b) if the department is under contract with the Department of Health pursuant to  
255 Section 26-18-3, medical assistance provided under Title 26, Chapter 18, Medical Assistance  
256 Act;

257 (c) foster care maintenance payments provided from the General Fund or under Title  
258 IV-E of the Social Security Act;

259 (d) food stamps; and

260 (e) any other public funds expended for the benefit of a person in need of financial,  
261 medical, food, housing, or related assistance.

262 (10) "Regional workforce services area" means a regional workforce services area  
263 established in accordance with Chapter 2, Regional Workforce Services Areas.

264 (11) "Stabilization" means addressing the basic living, family care, and social or  
265 psychological needs of the client so that the client may take advantage of training or  
266 employment opportunities provided under this title or through other agencies or institutions.

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**Legislative Review Note**  
as of 2-2-11 2:49 PM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

H.B. 174

SHORT TITLE: **Contracting for Medicaid Eligibility Determination Services**

SPONSOR: **Harper, W.**

2011 GENERAL SESSION, STATE OF UTAH

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

Enactment of this bill likely will not materially impact the state budget.

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

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

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

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.