

1 **NURSE HOME VISITING PAY-FOR-SUCCESS PROGRAM**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Luz Escamilla**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill creates an evidence-based nurse home visiting pay-for-success program within
10 the Department of Health.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ creates an evidence-based Nurse Home Visiting Pay-for-Success Program within
- 14 the Department of Health;
- 15 ▶ describes the requirements of the nurse home visiting pay-for-success program;
- 16 ▶ provides that the program is funded through a contractual relationship between the
- 17 Department of Health and one or more private investors;
- 18 ▶ initiates the program as a pilot program;
- 19 ▶ provides for success payments to investors if performance goals outlined in the
- 20 pay-for-success contract are met by the program;
- 21 ▶ makes changes to the Nurse Home Visiting Restricted Account;
- 22 ▶ creates a reporting requirement; and
- 23 ▶ sets a sunset date for the new program.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 This bill provides a special effective date.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63I-1-226**, as last amended by Laws of Utah 2017, Chapters 177 and 443

31 **63J-1-602.1 (Superseded 09/30/18)**, as last amended by Laws of Utah 2017, Chapters
32 88, 194, and 383

33 **63J-1-602.1 (Effective 09/30/18)**, as last amended by Laws of Utah 2017, Chapters 88,
34 107, 194, and 383

35 RENUMBERS AND AMENDS:

36 **26-62-601**, (Renumbered from 26-10-12, as enacted by Laws of Utah 2017, Chapter
37 155)

38 ENACTS:

39 **26-62-101**, Utah Code Annotated 1953

40 **26-62-102**, Utah Code Annotated 1953

41 **26-62-201**, Utah Code Annotated 1953

42 **26-62-202**, Utah Code Annotated 1953

43 **26-62-203**, Utah Code Annotated 1953

44 **26-62-204**, Utah Code Annotated 1953

45 **26-62-301**, Utah Code Annotated 1953

46 **26-62-302**, Utah Code Annotated 1953

47 **26-62-303**, Utah Code Annotated 1953

48 **26-62-401**, Utah Code Annotated 1953

49 **26-62-402**, Utah Code Annotated 1953

50 **26-62-403**, Utah Code Annotated 1953

51 **26-62-501**, Utah Code Annotated 1953

52 **26-62-502**, Utah Code Annotated 1953

53 **26-62-503**, Utah Code Annotated 1953

54 **26-62-504**, Utah Code Annotated 1953



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

57 Section 1. Section **26-62-101** is enacted to read:

58 **CHAPTER 62. NURSE HOME VISITING PAY-FOR-SUCCESS PROGRAM**

Part 1. General Provisions

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26-62-101. Title.

This chapter is known as the "Nurse Home Visiting Pay-for-Success Program."

Section 2. Section **26-62-102** is enacted to read:

26-62-102. Definitions.

As used in this chapter:

(1) "At-risk individual" means an individual who qualifies for coverage under:

(a) the Children's Health Insurance Program created in Chapter 40, Utah Children's Health Insurance Act;

(b) the Medicaid program, as defined in Section [26-18-2](#);

(c) the Special Supplemental Nutrition Program for Women, Infants, and Children, established in 42 U.S.C. Sec. 1786; or

(d) Temporary Assistance for Needy Families, described in 42 U.S.C. Sec. 601 et seq.

(2) "Eligible participant" means an individual who:

(a) is a first-time mother, as defined by the programmatic intermediary;

(b) is referred to the program as an at-risk individual; and

(c) is appropriate for participation in the program as determined by a service provider.

(3) "Fiscal intermediary entity" means an organization that has the necessary experience to coordinate the funding and management of a pay-for-success contract.

(4) "Independent evaluator" means a person that is contracted to conduct an annual evaluation of the performance outcome measures specified in the pay-for-success contract.

(5) "Investor" means a private person that:

(a) provides an up-front cash payment to fund the program; and

(b) receives a success payment if the performance outcome measures are satisfied.

(6) "Pay-for-success contract" means a contract entered into by the department in accordance with Section [26-62-301](#).

(7) "Performance outcome measure" means a measurable outcome established by the department under Section [26-62-302](#).

(8) "Program" means the Nurse Home Visiting Pay-for-Success Program created in Section [26-62-201](#).

(9) "Programmatic intermediary entity" means a private, not-for-profit organization

90 that enters into a pay-for-success contract with the department to operate the program.

91 (10) "Qualified nurse" means an individual who is licensed to practice as a registered
92 nurse in the state.

93 (11) "Restricted account" means the Nurse Home Visiting Restricted Account created
94 in Section [26-62-601](#).

95 (12) "Service provider" means a person that receives a contract from the programmatic
96 intermediary entity to provide the services described in Section [26-62-203](#).

97 (13) "Success payment" means the amount paid by the department to an investor from
98 the restricted fund in accordance with the terms of a pay-for-success contract.

99 Section 3. Section **26-62-201** is enacted to read:

Part 2. Nurse Home Visiting Pay-for-Success Program

26-62-201. Creation.

There is created the Nurse Home Visiting Pay-for-Success Program in the department.

Section 4. Section **26-62-202** is enacted to read:

26-62-202. Department duties.

The department shall:

(1) administer the pilot program described in Section [26-62-401](#);

(2) negotiate and enter into:

(a) a pay-for-success contract to provide the services described in Section [26-62-203](#);

109 and

(b) a contract with an independent evaluator to perform the evaluation described in

111 Section [26-62-303](#);

112 (3) provide necessary data to the independent evaluator to facilitate assessment of the
113 performance outcome metrics;

114 (4) if the independent evaluator determines that the specified performance outcome
115 measures have been achieved, make a success payment from the restricted account to the
116 investors in the amount specified in the pay-for-success contract;

117 (5) refer pregnant at-risk individuals who are likely to be first-time mothers to the
118 program for potential enrollment; and

119 (6) calculate the potential savings to the state through a Medicaid waiver or a state plan
120 amendment under Section [26-62-502](#).

121 Section 5. Section **26-62-203** is enacted to read:

122 **26-62-203. Nurse home visiting program.**

123 (1) A participant in a program shall receive ongoing in-person home visits from a
124 qualified nurse from early in the participant's pregnancy to up to two years after the
125 participant's child is born.

126 (2) (a) To participate in the program, an individual must be an eligible participant at
127 the time of enrollment.

128 (b) The programmatic intermediary entity may request a limited waiver from the
129 requirement in Subsection (2)(a) from the department if the programmatic intermediary entity
130 can demonstrate that a group:

131 (i) is significantly underserved; and

132 (ii) meets all other requirements of the program.

133 (3) The services provided during a home visit described in Subsection (1) shall be
134 provided according to a set of standards that:

135 (a) are nationally recognized;

136 (b) are evidence-based, with support from at least two reliable, randomized control
137 trials with statistically significant results; and

138 (c) have demonstrated sizable and sustained results.

139 Section 6. Section **26-62-204** is enacted to read:

140 **26-62-204. Service providers.**

141 (1) The programmatic intermediary entity may contract with one or more qualified
142 service providers to provide the services described in Section [26-62-203](#) for the program.

143 (2) A service provider that receives a contract under Subsection (1) shall:

144 (a) have a demonstrated record of providing social services to low-income populations;

145 (b) agree to deliver services according to the standards set by the programmatic
146 intermediary entity; and

147 (c) submit data to the independent evaluator that are necessary to evaluate the
148 performance outcome measures.

149 (3) The programmatic intermediary entity shall seek approval from the department
150 before entering into a contract with a service provider under this section.

151 (4) The selection of a service provider by the programmatic intermediary entity:

152 (a) shall be conducted with input from the department; and
153 (b) shall be conducted in accordance with a rigorous, evidence-based selection process.

154 Section 7. Section **26-62-301** is enacted to read:

155 **Part 3. Pay-for-Success Contract**

156 **26-62-301. Pay-for-success contract -- Success payments -- Outcome measures.**

157 The department shall implement a program under this chapter through a pay-for-success
158 contract, which:

159 (1) shall include at least all of the following as parties to the contract:

160 (a) the department;

161 (b) an independent evaluator;

162 (c) an intermediary agency; and

163 (d) an investor;

164 (2) shall include clear performance outcome measures that trigger a success payment;

165 (3) shall establish a payment schedule for investors if the performance outcome
166 measures are achieved;

167 (4) shall only allow repayment from the restricted fund;

168 (5) shall prohibit civil action by investors against the state if a success payment is not
169 made because performance outcome measures are not achieved; and

170 (6) may not, under any circumstance, cause the total outstanding obligations under this
171 chapter to exceed \$25,000,000.

172 Section 8. Section **26-62-302** is enacted to read:

173 **26-62-302. Performance outcome measures.**

174 (1) The department shall establish performance outcome measures that shall be used to
175 determine the conditions of a success payment under a contract described in Section

176 [26-62-301](#).

177 (2) The performance outcome measures described in Subsection (1) shall include:

178 (a) program outcome measures; and

179 (b) enrollment targets.

180 (3) The program outcome measures described in Subsection (2)(a) shall include, at
181 minimum, the following categories:

182 (a) preterm births;

- 183 (b) child injury;
- 184 (c) child immunization rates through age two; and
- 185 (d) postpartum depression.
- 186 (4) The program outcome measures shall be determined using data from:
- 187 (a) the pilot phase described in Section 26-62-401;
- 188 (b) peer-reviewed studies; or
- 189 (c) any government entity.
- 190 (5) The enrollment targets described in Subsection (2)(b) shall include a measure of:
- 191 (a) the number of participants in the program; and
- 192 (b) the proportion of participants who come from a zip code in which 15% or more of
- 193 households have incomes below the federal poverty guidelines established by the secretary of
- 194 the United States Department of Health and Human Services.

Section 9. Section 26-62-303 is enacted to read:

26-62-303. Independent evaluator.

- 197 (1) The department shall contract with an independent evaluator who will perform an
- 198 assessment for the pay-for-success contract.
- 199 (2) The independent evaluator shall:
- 200 (a) have demonstrated expertise in evaluating home visiting programs; and
- 201 (b) have successfully completed at least two independent evaluations of a program that
- 202 utilizes the pay-for-success contract model before entering into the contract.

Section 10. Section 26-62-401 is enacted to read:

Part 4. Implementation

26-62-401. Pilot phase.

- 206 (1) Before July 1, 2019, the department shall:
- 207 (a) identify whether there is a targetable, high-need population for the implementation
- 208 of the home visiting program;
- 209 (b) identify service providers that are able to reach the targeted population with the
- 210 program; and
- 211 (c) gather data needed to make the evaluation in Subsection (3).
- 212 (2) The department may:
- 213 (a) contract with a third party with the necessary expertise to act as a programmatic

214 intermediary agency to administer the pilot phase described in Subsection (1);
215 (b) contract with a fiscal intermediary entity to administer the pilot phase described in
216 Subsection (1); and
217 (c) execute a single contract with the programmatic intermediary agency to administer
218 the pilot phase described in this section and the implementation phase described in Section
219 26-62-402.
220 (3) The department shall begin the implementation phase described in Section
221 26-62-203 if the department determines that:
222 (a) there is at least one identifiable high-need population that would benefit from the
223 program;
224 (b) there are sufficient service providers to provide services under the program to the
225 population described in Subsection (3)(a);
226 (c) there is evidence that the program would produce positive outcomes for the state;
227 and
228 (d) there are persons that are qualified and have expressed an interest in serving as:
229 (i) an intermediary entity;
230 (ii) an independent evaluator; and
231 (iii) an investor.
232 Section 11. Section **26-62-402** is enacted to read:
233 **26-62-402. Implementation phase.**
234 (1) The department shall enter into a pay-for-success contract with a programmatic
235 intermediary entity, an independent evaluator, and investors to provide the services required
236 under Section 26-62-203.
237 (2) The department shall make success payments from the restricted fund to investors
238 in accordance with the terms of the pay-for-success contract.
239 (3) The program shall operate for six years.
240 Section 12. Section **26-62-403** is enacted to read:
241 **26-62-403. Study and expansion phase.**
242 Before July 1, 2025, the department shall create a report to the Legislature describing:
243 (1) cost savings and other benefits to the state resulting from the program; and
244 (2) options for:

- 245 (a) increasing the number of individuals served by home visiting programs;
 246 (b) improving the effectiveness of home visiting programs funded by the state;
 247 (c) leveraging private and government funding, including Medicaid funding, to
 248 increase the use and effectiveness of home visiting programs in the state;
 249 (d) coordinating the identification of individuals who could benefit from home visiting
 250 programs;
 251 (e) coordinating the delivery of services provided through multiple home visiting
 252 programs, where appropriate; and
 253 (f) funding home visiting programs if funding through the federal government's
 254 Maternal, Infant, and Early Childhood Home Visiting program is eliminated or reduced.

255 Section 13. Section **26-62-501** is enacted to read:

256 **Part 5. Miscellaneous Provisions**

257 **26-62-501. Reporting requirement.**

258 The department shall report to the Health and Human Services Interim Committee,
 259 before October 1 of each year while the program is in operation, regarding:

- 260 (1) the number of participants enrolled in the program;
 261 (2) the amount of any success payments that have been made;
 262 (3) an estimate of savings to the state resulting from this program; and
 263 (4) suggestions for legislation that would make a home visiting program or a
 264 pay-for-success contract more efficient or widely available throughout the state.

265 Section 14. Section **26-62-502** is enacted to read:

266 **26-62-502. Medicaid waiver.**

- 267 (1) The department may submit a Medicaid waiver to the secretary of the United States
 268 Department of Health and Human Services to expand the Nurse Home Visiting
 269 Pay-for-Success Program.
 270 (2) The department shall report to the Health and Human Services Interim Committee
 271 or the Health and Human Services Standing Committees within 60 days after the date on which
 272 the department submits a waiver request under Subsection (1).

273 Section 15. Section **26-62-503** is enacted to read:

274 **26-62-503. Limited liability.**

- 275 (1) An investor may not take any action against the state, a political subdivision, a

276 programmatically intermediary entity, a service provider, or a financial intermediary entity for:

277 (a) the failure of a success payment due to the failure to achieve the performance

278 outcome measures; or

279 (b) any amount over the \$25,000,000 limit for all success payments in the aggregate for

280 the program.

281 (2) The limitation described in Subsection (1) does not prohibit an investor from taking

282 action against the state for a failure to make a success payment in accordance with the

283 pay-for-success contract if the performance outcome measures are achieved and the limit has

284 not been exceeded.

285 Section 16. Section **26-62-504** is enacted to read:

286 **26-62-504. Repeal date.**

287 This chapter is repealed on July 1, 2026, in accordance with Section [63I-1-226](#).

288 Section 17. Section **26-62-601**, which is renumbered from Section 26-10-12 is
289 renumbered and amended to read:

290 **Part 6. Nurse Home Visiting Restricted Account**

291 **~~[26-10-12].~~ 26-62-601. Nurse Home Visiting Restricted Account.**

292 ~~[(1) As used in this section, "home visiting" means an evidence-based program~~
293 ~~designed to meet the needs of pregnant women and families with children under four years of~~
294 ~~age by improving maternal mental and physical health, supporting positive parenting,~~
295 ~~preventing child abuse and neglect, and promoting child health, development, and school~~
296 ~~readiness.]~~

297 ~~[(2)(a)]~~ (1) There is created a restricted account within the General Fund known as the
298 "Nurse Home Visiting Restricted Account."

299 ~~[(b)]~~ (2) The restricted account consists of:

300 ~~[(i)]~~ (a) money appropriated to the restricted account by the Legislature;

301 ~~[(ii)]~~ (b) private donations; and

302 ~~[(iii)]~~ (c) all income and interest derived from the deposit and investment of money in
303 the account.

304 ~~[(c) Money in the restricted account may be used only for appropriations by the~~
305 ~~Legislature to fund evidence-based home visiting programs in the state.]~~

306 (3) Subject to legislative appropriations, money in the restricted account may be used

307 to fund activities related to the program created in this chapter.

308 Section 18. Section **63I-1-226** is amended to read:

309 **63I-1-226. Repeal dates, Title 26.**

310 (1) Section [26-1-40](#) is repealed July 1, 2019.

311 (2) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July
312 1, 2025.

313 (3) Section [26-10-11](#) is repealed July 1, 2020.

314 (4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

315 (5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2019.

316 (6) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2021.

317 [~~7~~] Section [26-38-2.5](#) is repealed July 1, 2017.]

318 [~~8~~] Section [26-38-2.6](#) is repealed July 1, 2017.]

319 [~~9~~] (7) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed July 1, 2021.

320 (8) Title 26, Chapter 62, Nurse Home Visiting Pay-for-Success Program is repealed
321 July 1, 2026.

322 Section 19. Section **63J-1-602.1 (Superseded 09/30/18)** is amended to read:

323 **63J-1-602.1 (Superseded 09/30/18). List of nonlapsing accounts and funds --**
324 **General authority and Title 1 through Title 30.**

325 (1) Appropriations made to the Legislature and its committees.

326 (2) The Utah Intracurricular Student Organization Support for Agricultural Education
327 and Leadership Restricted Account created in Section [4-42-102](#).

328 (3) The Percent-for-Art Program created in Section [9-6-404](#).

329 (4) The Native American Repatriation Restricted Account created in Section [9-9-407](#).

330 (5) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
331 Section [9-18-102](#).

332 (6) The National Professional Men's Soccer Team Support of Building Communities
333 Restricted Account created in Section [9-19-102](#).

334 (7) The LeRay McAllister Critical Land Conservation Program created in Section
335 [11-38-301](#).

336 (8) The Support for State-Owned Shooting Ranges Restricted Account created in
337 Section [23-14-13.5](#).

338 (9) An appropriation made to the Division of Wildlife Resources for the appraisal and
339 purchase of lands under the Pelican Management Act, as provided in Section [23-21a-6](#).

340 (10) Award money under the State Asset Forfeiture Grant Program, as provided under
341 Section [24-4-117](#).

342 (11) Funds collected from the program fund for local health department expenses
343 incurred in responding to a local health emergency under Section [26-1-38](#).

344 (12) Funds collected from the emergency medical services grant program, as provided
345 in Section [26-8a-207](#).

346 (13) The primary care grant program created in Section [26-10b-102](#).

347 (14) The Prostate Cancer Support Restricted Account created in Section [26-21a-303](#).

348 (15) The Children with Cancer Support Restricted Account created in Section
349 [26-21a-304](#).

350 (16) State funds appropriated for matching federal funds in the Children's Health
351 Insurance Program as provided in Section [26-40-108](#).

352 (17) The Utah Health Care Workforce Financial Assistance Program created in Section
353 [26-46-102](#).

354 (18) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).

355 (19) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#).

356 (20) The Children with Heart Disease Support Restricted Account created in Section
357 [26-58-102](#).

358 (21) The Nurse Home Visiting Restricted Account created in Section [26-62-601](#).

359 Section 20. Section **63J-1-602.1 (Effective 09/30/18)** is amended to read:

360 **63J-1-602.1 (Effective 09/30/18). List of nonlapsing accounts and funds -- General**
361 **authority and Title 1 through Title 30.**

362 (1) Appropriations made to the Legislature and its committees.

363 (2) The Utah Intracurricular Student Organization Support for Agricultural Education
364 and Leadership Restricted Account created in Section [4-42-102](#).

365 (3) The Percent-for-Art Program created in Section [9-6-404](#).

366 (4) The Native American Repatriation Restricted Account created in Section [9-9-407](#).

367 (5) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in
368 Section [9-18-102](#).

369 (6) The National Professional Men's Soccer Team Support of Building Communities
370 Restricted Account created in Section [9-19-102](#).

371 (7) The LeRay McAllister Critical Land Conservation Program created in Section
372 [11-38-301](#).

373 (8) The Support for State-Owned Shooting Ranges Restricted Account created in
374 Section [23-14-13.5](#).

375 (9) An appropriation made to the Division of Wildlife Resources for the appraisal and
376 purchase of lands under the Pelican Management Act, as provided in Section [23-21a-6](#).

377 (10) Award money under the State Asset Forfeiture Grant Program, as provided under
378 Section [24-4-117](#).

379 (11) Funds collected from the program fund for local health department expenses
380 incurred in responding to a local health emergency under Section [26-1-38](#).

381 (12) Funds collected from the emergency medical services grant program, as provided
382 in Section [26-8a-207](#).

383 (13) The primary care grant program created in Section [26-10b-102](#).

384 (14) The Children with Cancer Support Restricted Account created in Section
385 [26-21a-304](#).

386 (15) State funds appropriated for matching federal funds in the Children's Health
387 Insurance Program as provided in Section [26-40-108](#).

388 (16) The Utah Health Care Workforce Financial Assistance Program created in Section
389 [26-46-102](#).

390 (17) The Rural Physician Loan Repayment Program created in Section [26-46a-103](#).

391 (18) The Opiate Overdose Outreach Pilot Program created in Section [26-55-107](#).

392 (19) The Children with Heart Disease Support Restricted Account created in Section
393 [26-58-102](#).

394 (20) The Nurse Home Visiting Restricted Account created in Section [26-62-601](#).

395 Section 21. **Effective date.**

396 (1) Except as provided in Subsection (2), this bill takes effect on May 8, 2018.

397 (2) The actions affecting Section [63J-1-602.1](#) (Effective 9/30/18) take effect on
398 September 30, 2018.

Legislative Review Note
Office of Legislative Research and General Counsel