

MEDICAID REFORM

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel R. Liljenquist

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Budgetary Procedures Act and the Medical Assistance Act.

Highlighted Provisions:

This bill:

- ▶ requires the Department of Health to develop a proposal to modify the Medicaid program in a way that maximizes replacement of the fee-for-service delivery model with one or more risk-based delivery models;
- ▶ specifies criteria for the proposal;
- ▶ requires the department to report to the Legislature on the development of the proposal;
- ▶ requires the department to submit a request to the Centers for Medicare and Medicaid Services for waivers from federal law to implement the proposal;
- ▶ directs the department to implement the proposal in the fiscal year following the fiscal year in which the waivers are approved;
- ▶ provides definitions;
- ▶ creates the Medicaid Growth Reduction and Budget Stabilization Account restricted account;
- ▶ specifies conditions under which Medicaid growth savings shall be transferred or appropriated to the account;
- ▶ provides that Medicaid growth savings not transferred into the account shall be



28 included in the base budget for the second following fiscal year;

- 29 ▶ specifies the priority of the account's claim on General Fund revenue surplus;
- 30 ▶ specifies how account funds may be used;
- 31 ▶ makes conforming amendments;
- 32 ▶ makes clarifying amendments; and
- 33 ▶ makes technical corrections.

34 **Money Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **63J-1-312**, as renumbered and amended by Laws of Utah 2009, Chapter 183

41 **63J-1-314**, as last amended by Laws of Utah 2009, Chapter 389 and renumbered and
42 amended by Laws of Utah 2009, Chapter 183

43 **63M-1-905**, as last amended by Laws of Utah 2010, Chapters 245 and 278

44 ENACTS:

45 **26-18-405**, Utah Code Annotated 1953

46 **63J-1-315**, Utah Code Annotated 1953



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

49 Section 1. Section **26-18-405** is enacted to read:

50 **26-18-405. Waivers to maximize replacement of fee-for-service delivery model.**

51 (1) The department shall develop a proposal to amend the state plan for the Medicaid
52 program in a way that maximizes replacement of the fee-for-service delivery model with one or
53 more risk-based delivery models. The proposal shall:

54 (a) restructure the program's provider payment provisions to reward health care
55 providers for delivering the most appropriate services at the lowest cost and in ways that,
56 compared to services delivered before implementation of the proposal, maintain or improve
57 recipient health status;

58 (b) restructure the program's cost sharing provisions to reward recipients for personal

59 efforts to:

60 (i) maintain or improve their health status; and

61 (ii) use providers that deliver the most appropriate services at the lowest cost;

62 (c) identify the evidence-based practices and measures, risk adjustment methodologies,
63 payment systems, and other mechanisms necessary to reward providers for delivering the most
64 appropriate services at the lowest cost, including mechanisms that:

65 (i) pay providers for packages of services delivered over entire episodes of illness
66 rather than for individual services delivered during each patient encounter; and

67 (ii) reward providers for delivering services that make the most positive contribution to
68 a recipient's health status;

69 (d) limit total per-patient-per-month expenditures for services delivered through
70 fee-for-service arrangements to total per-patient-per-month expenditures for services delivered
71 through risk-based arrangements covering similar client populations and services; and

72 (e) limit the rate of growth in per-patient-per-month General Fund expenditures for the
73 program to the rate of growth in General Fund expenditures for all other programs, when the
74 rate of growth in the General Fund expenditures for all other programs is greater than zero.

75 (2) No later than June 1, 2011, the department shall submit a written report on the
76 development of the proposal to the Executive Appropriations Committee, the Social Services
77 Appropriations Subcommittee, and the Health and Human Services Interim Committee.

78 (3) No later than July 1, 2011, the department shall submit to the Centers for Medicare
79 and Medicaid Services within the United States Department of Health and Human Services a
80 request for waivers from federal statutory and regulatory law necessary to implement the
81 proposal.

82 (4) The department shall implement the proposal in the fiscal year that follows the
83 fiscal year in which the United States Secretary of Health and Human Services approves the
84 request for waivers.

85 Section 2. Section **63J-1-312** is amended to read:

86 **63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for**
87 **deposits and expenditures from the account -- Providing for interest generated by the**
88 **account.**

89 (1) As used in this section:

90 (a) "Education Fund budget deficit" means a situation where appropriations made by
91 the Legislature from the Education Fund for a fiscal year exceed the estimated revenues
92 adopted by the Executive Appropriations Committee of the Legislature for the Education Fund
93 in that fiscal year.

94 (b) "General Fund appropriations" means the sum of the spending authority for a fiscal
95 year that is:

96 (i) granted by the Legislature in all appropriation acts and bills; and

97 (ii) identified as coming from the General Fund.

98 (c) "General Fund budget deficit" means a situation where General Fund appropriations
99 made by the Legislature for a fiscal year exceed the estimated revenues adopted by the
100 Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

101 (d) "General Fund revenue surplus" means a situation where actual General Fund
102 revenues collected in a completed fiscal year exceed the estimated revenues for the General
103 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
104 Legislature.

105 (e) "Operating deficit" means that, at the end of the fiscal year, the unreserved and
106 undesignated fund balance in the General Fund is less than zero.

107 (2) There is created within the General Fund a restricted account to be known as the
108 General Fund Budget Reserve Account, which is designated to receive the legislative
109 appropriations, investment earnings, and the surplus revenue required to be deposited into the
110 account by this section.

111 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in
112 which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in
113 conjunction with the completion of the annual audit by the state auditor, determines that there
114 is a General Fund revenue surplus, the Division of Finance shall transfer 25% of the General
115 Fund revenue surplus to the General Fund Budget Reserve Account.

116 (ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund
117 Budget Reserve Account would cause the balance in the account to exceed 6% of General Fund
118 appropriations for the fiscal year in which the revenue surplus occurred, the Division of
119 Finance shall transfer only those funds necessary to ensure that the balance in the account
120 equals 6% of General Fund appropriations for the fiscal year in which the General Fund

121 revenue surplus occurred.

122 (iii) ~~[The]~~ After the transfer of General Fund revenue surplus to the Medicaid Budget
123 Stabilization Restricted Account has been made, as provided in Section 63J-1-315, the

124 Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

125 (A) before transferring from the General Fund revenue surplus any other year-end
126 contingency appropriations, year-end set-asides, or other year-end transfers required by law;
127 and

128 (B) excluding ~~[the]~~ from the General Fund revenue surplus any General Fund
129 investment earnings for the fiscal year and ~~[excluding]~~ any direct legislative appropriation
130 made to the General Fund Budget Reserve Account for the fiscal year.

131 (b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if
132 a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has
133 appropriated any ~~[money]~~ funds from the General Fund Budget Reserve Account that has not
134 been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance
135 shall transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget
136 Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if
137 any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have
138 replaced the appropriations from the account.

139 (ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to
140 exceed 6% of General Fund appropriations for the fiscal year in which the revenue surplus
141 occurred, the Division of Finance shall transfer only those funds necessary to ensure that the
142 balance in the account equals 6% of General Fund appropriations for the fiscal year in which
143 the revenue surplus occurred.

144 (iii) ~~[The]~~ After the transfer of General Fund revenue surplus to the Medicaid Budget
145 Stabilization Restricted Account has been made, as provided in Section 63J-1-315, the

146 Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

147 (A) before transferring from the General Fund revenue surplus any other year-end
148 contingency appropriations, year-end set-asides, or other year-end transfers required by law;
149 and

150 (B) excluding ~~[the]~~ from the General Fund revenue surplus any General Fund
151 investment earnings for the fiscal year and ~~[excluding]~~ any direct legislative appropriation

152 made to the General Fund Budget Reserve Account for the fiscal year.

153 (c) For appropriations made by the Legislature to the General Fund Budget Reserve
154 Account, the Division of Finance shall treat those appropriations, unless otherwise specified in
155 the appropriation, as replacement funds for appropriations made from the account if funds were
156 appropriated from the General Fund Budget Reserve Account within the past 10 years and have
157 not yet been replaced.

158 [~~(4) (a) If, at the close of any fiscal year, there appear to be insufficient monies to pay
159 additional debt service for any bonded debt authorized by the Legislature, the Division of
160 Finance may hold back from any General Fund revenue surplus monies sufficient to pay the
161 additional debt service requirements resulting from issuance of bonded debt that was
162 authorized by the Legislature.]~~

163 [~~(b) The Division of Finance may not spend the hold-back amount for debt service
164 under Subsection (4)(a) unless and until it is appropriated by the Legislature.]~~

165 [~~(c) If, after calculating the amount for transfers to the General Fund Budget Reserve
166 Account, the remaining General Fund revenue surplus is insufficient to cover the hold back for
167 debt service required by Subsection (4)(a), the Division of Finance shall reduce the transfer to
168 the General Fund Budget Reserve Account by the amount necessary to cover the debt service
169 hold-back.]~~

170 [~~(d) Notwithstanding Subsection (3), the Division of Finance shall hold back the
171 General Fund balance for debt service authorized by this Subsection (4) before making any
172 transfers to the General Fund Budget Reserve Account or any other designation or allocation of
173 General Fund revenue surplus.]~~

174 [~~(5) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of
175 Finance determines that an operating deficit exists and that holding back the transfers to the
176 State Disaster Recovery Restricted Account under Section 63J-1-314 does not eliminate the
177 operating deficit, the Division of Finance may reduce the transfer to the General Fund Budget
178 Reserve Account by the amount necessary to eliminate the operating deficit.]~~

179 [(6)] (4) The Legislature may appropriate [~~monies~~] funds from the General Fund
180 Budget Reserve Account only to:

181 (a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund
182 budget deficit occurs;

183 (b) pay some or all of state settlement agreements approved under Title 63G, Chapter
184 10, State Settlement Agreements Act;

185 (c) pay retroactive tax refunds; or

186 (d) resolve an Education Fund budget deficit.

187 [~~(7)~~] (5) Interest generated from investments of [~~money~~] funds in the General Fund
188 Budget Reserve Account shall be deposited into the General Fund.

189 Section 3. Section **63J-1-314** is amended to read:

190 **63J-1-314. Deposits related to the Disaster Recovery Funding Act.**

191 (1) As used in this section, "operating deficit" means that, at the end of the fiscal year,
192 the unreserved and undesignated fund balance in the General Fund is less than zero.

193 (2) Except as provided under Subsection (3), [~~beginning with the fiscal year ending~~
194 ~~June 30, 2007,~~] at the end of each fiscal year and after the transfer of surplus General Fund
195 revenues has been made to the Medicaid Budget Stabilization Restricted Account, as provided
196 in Section 63J-1-315, and the General Fund Budget Reserve Account, as provided in Section
197 63J-1-312, the Division of Finance shall deposit an amount into the State Disaster Recovery
198 Restricted Account, created in Section 53-2-403, calculated by:

199 (a) determining the amount of surplus General Fund revenues that is unrestricted and
200 undesignated after the transfer to the Medicaid Budget Stabilization Restricted Account under
201 Section 63J-1-315 and the General Fund Budget Reserve Account under Section 63J-1-312
202 [~~that is unrestricted and undesignated~~];

203 (b) calculating an amount equal to the lesser of:

204 (i) 25% of the amount determined under Subsection (2)(a); or

205 (ii) 6% of the total of the General Fund appropriation amount for the fiscal year in
206 which the surplus occurs; and

207 (c) adding to the amount calculated under Subsection (2)(b) an amount equal to the
208 lesser of:

209 (i) 25% more of the amount described in Subsection (2)(a); or

210 (ii) the amount necessary to replace, in accordance with this Subsection (2)(c), any
211 amount appropriated from the State Disaster Recovery Restricted Account within 10 fiscal
212 years before the fiscal year in which the surplus occurs if:

213 (A) a surplus exists; and

214 (B) the Legislature appropriates [~~money~~] funds from the State Disaster Recovery
 215 Restricted Account that is not replaced by appropriation or as provided in this Subsection
 216 (2)(c).

217 (3) Notwithstanding Subsection (2)[~~-(a)-if~~], if at the end of a fiscal year, the Division
 218 of Finance determines that an operating deficit exists, the [~~Division of Finance~~] division shall
 219 reduce the transfer to the State Disaster Recovery Restricted Account by the amount necessary
 220 to eliminate the operating deficit[~~-, and~~].

221 [~~(b) for FY 2008-09 and FY 2009-10 only, the Division of Finance shall suspend the~~
 222 ~~deposit provided under Subsection (2) to the State Disaster Recovery Restricted Account~~
 223 ~~created under Section 53-2-403.~~]

224 Section 4. Section **63J-1-315** is enacted to read:

225 **63J-1-315. Medicaid Growth Reduction and Budget Stabilization Restricted**
 226 **Account --Transfers of Medicaid growth savings -- Base budget adjustments.**

227 (1) As used in this section:

228 (a) "Department" means the Department of Health created in Section 26-1-4.

229 (b) "Division" means the Division of Health Care Financing created within the
 230 department under Section 26-18-2.1.

231 (c) "General Fund appropriations" means the sum of the spending authority for a fiscal
 232 year that is:

233 (i) granted by the Legislature in all appropriation acts and bills; and

234 (ii) identified as coming from the General Fund.

235 (d) "General Fund budget deficit" means a situation where General Fund
 236 appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted
 237 by the Executive Appropriations Committee of the Legislature for the General Fund in that
 238 fiscal year.

239 (e) "General Fund revenue surplus" means a situation where actual General Fund
 240 revenues collected in a completed fiscal year exceed the estimated revenues for the General
 241 Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the
 242 Legislature, as determined by the Division of Finance, in consultation with the Legislative
 243 Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor.

244 (f) "Medicaid growth savings" means the Medicaid growth target minus Medicaid

245 program expenditures, if Medicaid program expenditures are less than the Medicaid growth
246 target.

247 (g) "Medicaid growth target" means Medicaid program expenditures for the previous
248 year multiplied by 1.08.

249 (h) "Medicaid program" is as defined in Section 26-18-2.

250 (i) "Medicaid program expenditures" means total state revenue expended for the
251 Medicaid program from the General Fund during a fiscal year.

252 (j) "Medicaid program expenditures for the previous year" means total state revenue
253 expended for the Medicaid program from the General Fund during the fiscal year immediately
254 preceding a fiscal year for which Medicaid program expenditures are calculated.

255 (k) "Operating deficit" means that, at the end of the fiscal year, the unreserved and
256 undesignated fund balance in the General Fund is less than zero.

257 (l) "State revenue" means revenue other than federal revenue.

258 (m) "State revenue expended for the Medicaid program" includes funds transferred or
259 appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the
260 extent the funds are subsequently transferred to and appropriated from the General Fund for the
261 Medicaid program by the Legislature.

262 (2) There is created within the General Fund a restricted account to be known as the
263 Medicaid Growth Reduction and Budget Stabilization Account.

264 (3) (a) (i) Except as provided in Subsection (6), if at the end of a fiscal year there is a
265 General Fund revenue surplus, the Division of Finance shall transfer an amount equal to
266 Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and
267 Budget Stabilization Account.

268 (ii) If the amount transferred is reduced to prevent an operating deficit, as provided in
269 Subsection (6), the Legislature shall include, to the extent funds are available, an amount equal
270 to the reduction as an appropriation from the General Fund to the account in the base budget
271 for the second fiscal year following the fiscal year for which the reduction was made.

272 (b) If at the end of a fiscal year there is not a General Fund revenue surplus, the
273 Legislature shall include, to the extent funds are available, an amount equal to Medicaid
274 growth savings as an appropriation from the General Fund to the account in the base budget for
275 the second fiscal year following the fiscal year for which the reduction was made.

276 (c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department
277 implements the proposal developed under Section 26-18-405 to reduce the long-term growth in
278 state expenditures for the Medicaid program, and to each fiscal year thereafter.

279 (4) The Division of Finance shall calculate the amount to be transferred under
280 Subsection (3):

281 (a) after excluding from the General Fund revenue surplus any General Fund
282 investment earnings for the fiscal year and any direct legislative appropriations to the General
283 Fund Budget Reserve Account for the fiscal year;

284 (b) before transferring revenue from the General Fund revenue surplus to:

285 (i) the General Fund Budget Reserve Account under Section 63J-1-312;

286 (ii) the State Disaster Recovery Restricted Account under Section 63J-1-314; and

287 (iii) the Industrial Assistance Account under Section 63M-1-905; and

288 (c) before making any other year-end contingency appropriations, year-end set-asides,
289 or other year-end transfers required by law.

290 (5) (a) If, at the close of any fiscal year, there appear to be insufficient funds to pay
291 additional debt service for any bonded debt authorized by the Legislature, the Division of
292 Finance may hold back from any General Fund revenue surplus funds sufficient to pay the
293 additional debt service requirements resulting from issuance of bonded debt that was
294 authorized by the Legislature.

295 (b) The Division of Finance may not spend the hold back amount for debt service
296 under Subsection (5)(a) unless and until it is appropriated by the Legislature.

297 (c) If, after calculating the amount for transfers to the General Fund Budget Reserve
298 Account, the remaining General Fund revenue surplus is insufficient to cover the hold back for
299 debt service required by Subsection (5)(a), the Division of Finance shall reduce the transfer to
300 the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to
301 cover the debt service hold back.

302 (d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back
303 the General Fund balance for debt service authorized by this Subsection (5) before making any
304 transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other
305 designation or allocation of General Fund revenue surplus.

306 (6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division

307 of Finance determines that an operating deficit exists and that holding back transfers to the
 308 Industrial Assistance Account under Section 63J-1-314, the State Disaster Recovery Restricted
 309 Account under Section 63J-1-314, the General Fund Budget Reserve Account under Section
 310 63J-1-312, or more than one of those accounts, in that order, does not eliminate the operating
 311 deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and
 312 Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

313 (7) The Legislature may appropriate funds from the Medicaid Growth Reduction and
 314 Budget Stabilization Account only:

315 (a) if the estimated amount of state revenue to be expended for the Medicaid program
 316 from the General Fund during the fiscal year for which the appropriation is made is at least
 317 108% of the amount of state revenue actually expended for the program from the General Fund
 318 during the previous fiscal year; and

319 (b) for the Medicaid program.

320 (8) The Division of Finance shall deposit interest or other earnings derived from
 321 investment of Medicaid Growth Reduction and Budget Stabilization Account funds into the
 322 General Fund.

323 Section 5. Section **63M-1-905** is amended to read:

324 **63M-1-905. Loans, grants, and assistance -- Repayment -- Earned credits.**

325 (1) (a) A company that qualifies under Section 63M-1-906 may receive loans, grants,
 326 or other financial assistance from the Industrial Assistance Account for expenses related to
 327 establishment, relocation, or development of industry in Utah.

328 (b) A company creating an economic impediment that qualifies under Section
 329 63M-1-908 may in accordance with this part receive loans, grants, or other financial assistance
 330 from the restricted account for the expenses of the company creating an economic impediment
 331 related to:

332 (i) relocation to a rural area in Utah of the company creating an economic impediment;

333 and

334 (ii) the siting of a replacement company.

335 (c) An entity offering an economic opportunity that qualifies under Section 63M-1-909
 336 may:

337 (i) receive loans, grants, or other financial assistance from the restricted account for

338 expenses related to the establishment, relocation, retention, or development of industry in the
339 state; and

340 (ii) include infrastructure or other economic development precursor activities that act
341 as a catalyst and stimulus for economic activity likely to lead to the maintenance or
342 enlargement of the state's tax base.

343 (2) (a) Subject to Subsection (2)(b), the administrator has authority to determine the
344 structure, amount, and nature of any loan, grant, or other financial assistance from the restricted
345 account.

346 (b) Loans made under Subsection (2)(a) shall be structured so the intended repayment
347 or return to the state, including cash or credit, equals at least the amount of the assistance
348 together with an annual interest charge as negotiated by the administrator.

349 (c) Payments resulting from grants awarded from the restricted account shall be made
350 only after the administrator has determined that the company has satisfied the conditions upon
351 which the payment or earned credit was based.

352 (3) (a) (i) Except as provided in Subsection (3)(b), the administrator may provide for a
353 system of earned credits that may be used to support grant payments or in lieu of cash
354 repayment of a restricted account loan obligation.

355 (ii) The value of the credits described in Subsection (3)(a)(i) shall be based on factors
356 determined by the administrator, including:

357 (A) the number of Utah jobs created;

358 (B) the increased economic activity in Utah; or

359 (C) other events and activities that occur as a result of the restricted account assistance.

360 (b) (i) The administrator shall provide for a system of credits to be used to support
361 grant payments or in lieu of cash repayment of a restricted account loan when loans are made to
362 a company creating an economic impediment.

363 (ii) The value of the credits described in Subsection (3)(b)(i) shall be based on factors
364 determined by the administrator, including:

365 (A) the number of Utah jobs created;

366 (B) the increased economic activity in Utah; or

367 (C) other events and activities that occur as a result of the restricted account assistance.

368 (4) (a) A cash loan repayment or other cash recovery from a company receiving

369 assistance under this section, including interest, shall be deposited into the restricted account.

370 (b) The administrator and the Division of Finance shall determine the manner of
371 recognizing and accounting for the earned credits used in lieu of loan repayments or to support
372 grant payments as provided in Subsection (3).

373 (5) (a) (i) At the end of each fiscal year, the unrestricted, undesignated General Fund
374 balance after the transfers of surplus of General Fund revenues described in this Subsection
375 (5)(a) shall be earmarked to the Industrial Assistance Account in an amount equal to any credit
376 that has accrued under this part.

377 (ii) The earmark under Subsection (5)(a)(i) shall be capped at \$50,000,000, at which
378 time no subsequent contributions may be made and any interest accrued above the \$50,000,000
379 cap shall be deposited into the General Fund.

380 (b) The earmark required by Subsection (5)(a) shall be made after the transfer of
381 surplus General Fund revenues is made:

382 (i) to the Medicaid Growth Reduction and Budget Stabilization Restricted Account, as
383 provided in Section 63J-1-315;

384 [~~(i)~~] (ii) to the General Fund Budget Reserve Account, as provided in Section
385 63J-1-312; and

386 [~~(ii)~~ beginning with the fiscal year ending June 30, 2007]

387 (iii) to the State Disaster Recovery Restricted Account, as provided in Section
388 63J-1-314.

389 (c) These credit amounts may not be used for purposes of the restricted account as
390 provided in this part until appropriated by the Legislature.

Legislative Review Note
as of 2-8-11 12:07 PM

Office of Legislative Research and General Counsel