

INTERGOVERNMENTAL TRANSFER AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dean Sanpei

Senate Sponsor: _____

LONG TITLE

General Description:

This bill regulates the use of intergovernmental transfers for the Medicaid program.

Highlighted Provisions:

This bill:

▶ prohibits a city owned hospital or city owned nursing care facility from operating in another city's boundary without entering into an interlocal agreement with the city;

▶ establishes an annual reporting requirement for the Medicaid program and local governmental entities that create intergovernmental transfers to draw down federal matching Medicaid funds;

▶ defines terms;

▶ amends the Federal Funds Procedures Act to make Medicaid intergovernmental transfer programs subject to the federal funds review process; and

▶ prohibits the creation of new intergovernmental transfer programs after July 1, 2017, unless the Department of Health submits the intergovernmental transfer program for review and approval by the Executive Appropriations Committee under the federal funds review and approval process of the Budgetary Procedures Act.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **10-8-90**, as last amended by Laws of Utah 2003, Chapter 292

31 **63J-5-103**, as last amended by Laws of Utah 2015, Chapter 190

32 ENACTS:

33 **26-18-21**, Utah Code Annotated 1953

34 **63J-5-206**, Utah Code Annotated 1953

35

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

37 Section 1. Section **10-8-90** is amended to read:

38 **10-8-90. Ownership and operation of hospitals.**

39 (1) Each city of the third, fourth, or fifth class and each town of the state is authorized
40 to construct, own, and operate hospitals and to join with other cities, towns, and counties in the
41 construction, ownership, and operation of hospitals.

42 (2) Beginning July 1, 2017, a hospital under Subsection (1) that owns a nursing care
43 facility regulated under Title 26, Chapter 21, Health Care Facility Licensing and Inspection
44 Act, and uses an intergovernmental transfer as that term is defined in Section 26-18-21 may not
45 operate a nursing care facility in another city, town, or county without first entering into an
46 agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or other contract with the
47 other city, town, or county to operate the nursing care facility.

48 Section 2. Section **26-18-21** is enacted to read:

49 **26-18-21. Medicaid intergovernmental transfer report.**

50 (1) As used in this section:

51 (a) (i) "Intergovernmental transfer" means the transfer of public funds from:

52 (A) a local government entity to another nonfederal governmental entity; or

53 (B) from a nonfederal, government owned health care facility regulated under Chapter
54 21, Health Care Facility Licensing and Inspection Act, to another nonfederal governmental
55 entity.

56 (ii) "Intergovernmental transfer" does not include:

57 (A) the transfer of public funds from one state agency to another state agency; or

58 (B) an intergovernmental transfer from the University of Utah Hospitals and Clinics for

59 the inpatient hospital intergovernmental transfer program.

60 (b) "Intergovernmental transfer program" means a reimbursement category authorized
61 by the Medicaid state plan or waiver authority for intergovernmental transfers.

62 (c) "Local government entity" means a county, city, town, special service district, or
63 local education agency as that term is defined in Section [63J-5-102](#).

64 (2) (a) An entity that receives federal Medicaid dollars from the department as a result
65 of an intergovernmental transfer shall, on or before August 1, 2017, and on or before August 1
66 each year thereafter, provide the department with:

67 (i) information regarding the services funded with the intergovernmental transfer;

68 (ii) the entity's analysis of the entity's ability to repay federal funds if there is a federal
69 disallowance of the intergovernmental transfer; and

70 (iii) other information required by the department in the contract for the
71 intergovernmental transfer.

72 (b) On or before October 15, 2017, and on or before October 15 each year thereafter,
73 the department shall prepare a report for the Executive Appropriations Committee that
74 includes:

75 (i) the amount of each intergovernmental transfer under Subsection (2)(a);

76 (ii) the department's analysis of the risk of a federal disallowance for the state; and

77 (iii) other information the department gathers about the intergovernmental transfer
78 under Subsection (2)(a).

79 (3) The department shall not create a new intergovernmental transfer program after
80 July 1, 2017, unless the department reports to the Executive Appropriations Committee, in
81 accordance with Section [63J-5-206](#), before submitting the new intergovernmental transfer
82 program for federal approval. The report shall include information required by Subsection
83 [63J-5-102](#)(1)(d) and the analysis required in Subsections (2)(a) and (b).

84 Section 3. Section **63J-5-103** is amended to read:

85 **63J-5-103. Scope and applicability of chapter.**

86 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
87 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
88 this chapter apply to each agency and govern each federal funds request.

89 (2) This chapter does not govern federal funds requests for:

- 90 (a) except as provided in Section 63J-5-206, the Medical Assistance Program,
- 91 commonly known as Medicaid;
- 92 (b) except as provided in Section 63J-5-206, the Children's Health Insurance Program;
- 93 (c) the Women, Infant, and Children program;
- 94 (d) the Temporary Assistance for Needy Families program, except for a one-time
- 95 TANF request as defined in Section 63J-5-102;
- 96 (e) Social Security Act money;
- 97 (f) the Substance Abuse Prevention and Treatment program;
- 98 (g) Child Care and Development Block Grant;
- 99 (h) SNAP Administration and Training money;
- 100 (i) Unemployment Insurance Operations money;
- 101 (j) Federal Highway Administration money;
- 102 (k) the Utah National Guard; or
- 103 (l) pass-through federal funds.

104 (3) The governor need not seek legislative review or approval of federal funds received
105 by the state if:

- 106 (a) the governor has declared a state of emergency; and
- 107 (b) the federal funds are received to assist victims of the state of emergency under
- 108 Section 53-2a-204.

109 Section 4. Section **63J-5-206** is enacted to read:

110 **63J-5-206. Intergovernmental transfers for Medicaid.**

111 (1) An intergovernmental transfer program under Section 26-18-21 is a federal funds
112 request subject to review under this chapter and under Subsections (2) and (3).

113 (2) If the intergovernmental transfer program created under Subsection 26-18-21(3)
114 will result in the state receiving total payments of \$1,000,000 or more per year from the federal
115 government, the federal funds review process shall be the high impact federal funds review
116 process in Subsections 63J-5-204(3), (4), and (5).

117 (3) Beginning on July 1, 2017, an intergovernmental transfer program created before
118 July 1, 2017, is subject to the federal funds review process of Section 63J-5-201.

Legislative Review Note
Office of Legislative Research and General Counsel