

DMHF Rules Matrix 5-16-24

Rule Summary	Bulletin Publication	Effective
R414-307-3 General Requirements for Home and Community-Based Services Waivers; The purpose of this change is to include time-frame exceptions to the application process for home and community-based services waivers. This amendment, therefore, allows Medicaid to authorize exceptions to the 60-day time frames to apply for a home and community-based services waiver.	5-15-24	6-21-24
R414-320-16 Benefits; Based on recent approval of an amendment to Utah's 1115 Demonstration Waiver and subsequent direction from the Legislature to increase funding for Utah's Premium Partnership for Health Insurance (UPP) program, the purpose of this change is to update the maximum child reimbursement amount for medical expenses. This amendment, therefore, allots a new maximum reimbursement amount of \$180 for children, and clarifies adult coverage for consistency in the text.	5-15-24	6-21-24
R414-401-5 Penalties and Interest; The purpose of this change is to modify penalties and interest for the assessment in accordance with H.B. 392, 2024 General Session. This amendment, therefore, requires nursing care facilities to pay a penalty for failure to timely pay an assessment.	5-15-24	7-1-24
R414-516-3 Quality Improvement Program Requirements of Participation; The purpose of this change is to update and clarify provisions for the nursing facility non-state government-owned upper payment limit quality improvement program (NSGO UPL). This amendment, therefore, includes a new metric for nursing facilities under the NF NSGO UPL program.	5-15-24	7-1-24

The public may access proposed rules published in the State Bulletin at <https://rules.utah.gov/publications/utah-state-bull/>

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Title No. - Rule No. - Section No.

Rule or Section Number:

R414-307-3

Filing ID: Office Use Only

Agency Information

1. Department:	Health and Human Services	
Agency:	Integrated Healthcare	
Room number:		
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-307-3. General Requirements for Home and Community-Based Services Waivers
3. Purpose of the new rule or reason for the change:
The purpose of this change is to include time-frame exceptions to the application process for home and community-based services waivers. This proposed change was deemed necessary a result of internal review.
4. Summary of the new rule or change:
This amendment allows Medicaid to authorize exceptions to the 60-day time frames to apply for a home and community-based services waiver.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no fiscal impact to the state budget as this change introduces an exception to the administrative process but affects neither member services nor provider reimbursement, which would have potentially caused a cost or savings.
B) Local governments:
There is no fiscal impact on local governments as they neither fund nor provide services under the Medicaid program.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no fiscal impact on small businesses as this change introduces an exception to the administrative process but affects neither member services nor provider reimbursement, which would have potentially caused a cost or savings.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no fiscal impact on non-small businesses as this change introduces an exception to the administrative process but affects neither member services nor provider reimbursement, which would have potentially caused a cost or savings.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no fiscal impact to other persons or entities as this change introduces an exception to the administrative process but affects neither member services nor provider reimbursement, which would have potentially caused a cost or savings.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs to any person or entity as this change introduces an exception to the administrative process but affects neither member services nor provider reimbursement, which would have potentially caused a cost or savings.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213	Section 26B-3-108	
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Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	

Issue or Version	
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Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:		06/14/2024
B) A public hearing (optional) will be held:		
Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):
To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.		

9. This rule change MAY become effective on:	06/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> and delaying the first possible effective date.			
Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	04/28/2024

R414. Health and Human Services, Integrated Healthcare.

R414-307. Eligibility for Home and Community-Based Services Waivers.

R414-307-3. General Requirements for Home and Community-Based Services Waivers.

(1) The department shall apply Sec. 2404 of Pub. L. No. 111 148, Patient Protection and Affordable Care Act, which refers to applying Section 1924 of the Social Security Act to married individuals who are eligible for home and community-based waiver services.

(2) To qualify for Medicaid coverage of home and community-based waiver services, an individual shall meet:

(a) the medical eligibility criteria defined in the state waiver implementation plan, which applies to the specific waiver under which the individual is seeking services, as verified by the operating agency case manager;

(b) the financial and non-financial eligibility criteria for one of the Medicaid coverage groups selected in the specific waiver implementation plan under which the individual is seeking services; and

(c) other requirements defined in this rule that apply to waiver applicants and members, or specific to the waiver for which the individual is seeking eligibility.

(3) Except as otherwise stated in this rule, Rules R414-304 and R414-305 apply to eligibility determinations under an HCBS waiver.

(4) The department shall limit the number of individuals covered by an HCBS waiver as provided in the specific waiver implementation plan.

(5)(a) The department implements the requirements for liens, adjustments, recoveries, and the transfers of assets described in 42 U.S.C. 1396p(f). An individual is ineligible for nursing facility and other long-term care services if an individual has home equity that exceeds the limit set forth in ~~[Subsection]~~42 U.S.C. 1396p(f).

(b) The department sets that limit at the minimum level allowed under ~~[Subsection]~~42 U.S.C. 1396p(f)

(c) An individual who has excess home equity and meets eligibility criteria under a community Medicaid eligibility group defined in the Utah Medicaid State Plan may receive Medicaid for services other than long-term care services provided under the plan or the HCBS waiver.

(d) An individual who has excess home equity and does not qualify for a community Medicaid eligibility group, is ineligible for Medicaid under both the special income group and the medically needy waiver group.

(6)(a) The operating agency or designee shall send a completed waiver referral to the eligibility agency, so the eligibility agency may determine initial eligibility for a Medicaid coverage group under an HCBS waiver. Additionally, an individual who is not eligible for Medicaid shall complete a Medicaid application.

(b) The operating agency or designee shall verify the form meets the level-of-care requirements as defined in the state waiver implementation plan.

(c) The following provisions apply for Medicaid eligibility under the HCBS waiver:

(i) A member shall obtain approval within 60 days of the level-of-care date stated on the waiver referral form for the waiver referral form to remain valid, otherwise the operating agency or designee shall submit a new waiver referral form to the eligibility agency to establish a new level-of-care date;

(ii) waiver eligibility cannot begin before the level-of-care date stated on a valid waiver referral form; and

(iii) the eligibility start date begins within 60 days of the level-of-care date stated on the valid waiver referral form.

(d) the Medicaid agency may authorize exceptions to the time frames defined in Subsections (6)(c)(i) and (6)(c)(iii) due to circumstances beyond the applicant's control.

(~~d~~e) The Medicaid agency may not pay for waiver services before the start date of the individual's approved comprehensive care plan, which may not be earlier than the date the individual meets:

(i) the eligibility criteria for a Medicaid coverage group included in the applicable waiver; and

(ii) the level-of-care date verified on a valid waiver referral form.

(7) In the event an individual is not approved for Waiver Medicaid services due to Subsection (6), an individual who otherwise meets Medicaid financial and non-financial eligibility criteria for a Non-Waiver Medicaid coverage group may qualify for Medicaid services other than services under an HCBS waiver.

(8) If an individual's Medicaid eligibility ends and the individual reapplies for Waiver Medicaid, the department shall establish a process of obtaining approval from the operating agency or designee in which the individual continues to meet medical criteria for the waiver. The operating agency or designee approval may establish a new date in which eligibility to receive coverage of waiver services may begin.

(9)(a) An individual denied Medicaid coverage for an HCBS waiver may request a fair hearing.

(b) The department shall conduct hearings on programmatic eligibility for payment of waiver services.

(c) The Department of Workforce Services shall conduct hearings on financial eligibility issues for a Medicaid coverage group.

KEY: eligibility, waivers, special income group

Date of Last Change: January 22, 2024

Notice of Continuation: March 1, 2022

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Title No. - Rule No. - Section No.

Rule or Section Number:

R414-320-16

Filing ID: Office Use Only

Agency Information

1. Department:	Health and Human Services	
Agency:	Integrated Healthcare	
Room number:		
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-320-16. Benefits.
3. Purpose of the new rule or reason for the change:
Based on recent approval of an amendment to Utah's 1115 Demonstration Waiver and subsequent direction from the legislature to increase funding for Utah's Premium Partnership for Health Insurance (UPP) program, the purpose of this change is to update the maximum child reimbursement amount for medical expenses.
4. Summary of the new rule or change:
This amendment allots a new maximum reimbursement amount of \$180 for children, and clarifies adult coverage for consistency in the text.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
The department expects an annual increase to the state budget of about \$120,000 based on an agency review of funding available for the UPP program, and the total number of 219 children who receive UPP coverage. There are no estimated savings. As of this time, the agency is only aware of a fiscal impact for FY2025. As this rule will not be made effective until FY2025, there is no fiscal impact for FY2024.
B) Local governments:
There is no anticipated fiscal impact on local governments as they neither fund nor provide services under the Medicaid program.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no fiscal impact on small businesses as this increase in coverage does not create business revenue through an increase in customer services. Additionally, small businesses will not see administrative or overhead costs that accompany this change.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no fiscal impact on non-small businesses as this increase in coverage does not create business revenue through an increase in customer services. Additionally, non-small businesses will not see administrative or overhead costs that accompany this change.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This amendment does not impose new costs on other entities and creates out-of-pocket savings up to \$120,000 for families based on the total number of 219 children enrolled in the UPP program. As of this time, the agency is only aware of a fiscal impact for FY2025. As this rule will not be made effective until FY2025, there is no fiscal impact for FY2024.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs to a child as this increase in coverage does not impose new costs or requirements.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$120,000	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$120,000	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$120,000	\$0
Total Fiscal Benefits	\$0	\$120,000	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213	Section 26B-3-108	
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Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

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Issue Date	
Issue or Version	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:	06/14/2024	
B) A public hearing (optional) will be held:		
Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):
To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.		

9. This rule change MAY become effective on:	06/21/2024
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> and delaying the first possible effective date.		
Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date: 04/28/2024

R414. Health and Human Services, Integrated Healthcare.

R414-320. Medicaid Health Insurance Flexibility and Accountability Demonstration Waiver.

R414-320-16. Benefits.

- (1) The UPP program shall provide members a monthly reimbursement payment for health coverage.
- (2) The reimbursement may not exceed the amount that the member pays toward the cost of the employer-sponsored health plan, or COBRA continuation coverage.
- (3) The UPP program shall reimburse up to \$300 monthly for each eligible adult's medical coverage.
- (4) The UPP program shall reimburse up to \$~~120~~180 for each eligible child's medical coverage.
 - (a) If the employer-sponsored insurance does not include dental benefits, a child shall receive dental-only benefits through CHIP in addition to the medical insurance reimbursement.
 - (b) If the employer also offers employer-sponsored dental coverage, the applicant may choose to enroll a child in the employer-sponsored dental coverage, in which case, the UPP program will include an additional \$20 for each eligible child enrolled.

KEY: CHIP, Medicaid, PCN, UPP

Date of Last Change: November 10, 2023

Notice of Continuation: January 25, 2021

Authorizing, and Implemented or Interpreted Law: 26B-3-108; 26B-1-213

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE		
TYPE OF FILING: Amendment		
Title No. - Rule No. - Section No.		
Rule or Section Number:	R414-401-5	Filing ID: Office Use Only

Agency Information

1. Department:	Department of Health and Human Services	
Agency:	Division of Integrated Healthcare	
Room number:		
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	801-538-6641	cdevashrayee@utah.gov
Mariah Noble	385-214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-401-5. Penalties and Interest.
3. Purpose of the new rule or reason for the change:
The purpose of this change is to modify penalties and interest for the assessment in accordance with H.B. 392, 2024 General Session.
4. Summary of the new rule or change:
This amendment requires nursing care facilities to pay a penalty for failure to timely pay an assessment. It also makes structural changes to the text.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no impact to the state budget as these changes are covered under previous allocations.
B) Local governments:
There is no impact on local governments as they neither fund nor administer nursing facilities under the Medicaid program.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no impact on small businesses as these changes are covered under previous allocations.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no impact on non-small businesses as these changes are covered under previous allocations.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
There is no impact to other persons or entities as these changes are covered under previous allocations.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs to a person or entity as these changes are covered under previous allocations.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2025	FY2026	FY2027
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:

The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis. Businesses will see neither costs nor revenue as these changes are covered under previous allocations.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213	Section 26B-3-404	Section 26B-3-108
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Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):

A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

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B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

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Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	06/14/2024	
B) A public hearing (optional) will be held:		
Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):

To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.

9. This rule change MAY become effective on: 06/21/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee and title:	Tracy S. Gruber, Executive Director	Date:	04/28/2024
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R414. Health and Human Services, Integrated Healthcare.

R414-401. Nursing Care Facility Assessment.

R414-401-5. Penalties and Interest.

~~(1) The penalty[ies] for failure to file a [report or pay the assessment due are provided] return or pay the assessment due within the time prescribed in Section 26B-3-40[4]3 is the greater of \$100 or 5% of the assessment due on the assessment patient day report. [The department may suspend Medicaid payments, after giving notice, to a nursing facility until the facility pays the assessment and penalties due in full or until the facility and the department reach a negotiated settlement.]~~

~~(2) After giving notice, the department may suspend Medicaid payments to a nursing facility until the facility pays the assessment and penalties due in full or until the facility and the department reach a negotiated settlement. [The department shall charge penalties as prescribed in Subsections 26B-3-404(1) through 26B-3-404(2).]~~

~~(3) The department shall charge a nursing facility a negligence penalty as prescribed in Subsection 26B-3-404(3)(a) if the facility does not pay in full within 60 days of the due date.~~

~~(4) The department shall charge a nursing facility an intentional disregard penalty as prescribed in Subsection 26B-3-404(3)(b) if the facility does not pay in full within 90 days of the due date.~~

~~(5) The department shall charge a nursing facility an intent to evade penalty as prescribed in Subsection 26B-3-404(4) if the facility does not pay in full within 120 days of the due date.~~

~~(6)(3) The [P]penalty[ies and interest] accrues according to [the]this [statute and]rule without notification.~~

~~(7)4 If a facility seeks to have the department waive penalties, a facility must request a state fair hearing to allow an administrative law judge to determine whether the facility has shown good cause for the department to waive penalties.~~

~~(8)5 [The department does not waive interest accrued by the facility.]~~

~~(9) For non-Medicaid certified facilities, the department may refer a delinquent facility to its Division of Licensing and Background Checks based on administrator requirements as noted in Section R432-150-8.~~

KEY: Medicaid, nursing facility

Date of Last Change: January 1, 2024

Notice of Continuation: November 7, 2023

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-404; 26B-3-108

State of Utah
Administrative Rule Analysis
Revised May 2023

NOTICE OF PROPOSED RULE

TYPE OF FILING: Amendment

Title No. - Rule No. - Section No.

Rule or Section Number:

R414-516-3

Filing ID: Office Use Only

Agency Information

1. Department:	Department of Health and Human Services	
Agency:	Division of Integrated Healthcare	
Room number:		
Building:	Cannon Health Building	
Street address:	288 N. 1460 W.	
City, state and zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 143102	
City, state and zip:	Salt Lake City, UT 84114-3102	
Contact persons:		
Name:	Phone:	Email:
Craig Devashrayee	(801) 538-6641	cdevashrayee@utah.gov
Mariah Noble	(385) 214-1150	mariahnoble@utah.gov
Please address questions regarding information on this notice to the persons listed above.		

General Information

2. Rule or section catchline:
R414-516-3. Quality Improvement Program Requirements of Participation.
3. Purpose of the new rule or reason for the change:
The purpose of this change is to update and clarify provisions for the nursing facility non-state government-owned upper payment limit quality improvement program (NSGO UPL).
4. Summary of the new rule or change:
This amendment includes a new metric for nursing facilities under the NF NSGO UPL program. It also makes other technical updates and clarifications.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no impact to the state budget as NSGO entities fund the UPL with seed money that draws a federal match.
B) Local governments:
There is no impact on local governments as NSGO entities fund the UPL with seed money that draws a federal match.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no impact on small businesses as NSGO entities fund the UPL with seed money that draws a federal match.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There is no impact on non-small businesses as NSGO entities fund the UPL with seed money that draws a federal match.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
There is no impact to other persons or entities as NSGO entities fund the UPL with seed money that draws a federal match.
F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):
There are no compliance costs to a single person or entity as NSGO entities fund the UPL with seed money that draws a federal match.
G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits	FY2024	FY2025	FY2026
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head comments on fiscal impact and approval of regulatory impact analysis:
 The Executive Director of the Department of Health and Human Services, Tracy S. Gruber, has reviewed and approved this regulatory impact analysis. Businesses will see neither costs nor revenue as NSGO entities fund the UPL with seed money that draws a federal match.

Citation Information

6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 26B-1-213	Section 26B-3-108	
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Incorporations by Reference Information

7. Incorporations by Reference (if this rule incorporates more than two items by reference, please include additional tables):
A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

Official Title of Materials Incorporated (from title page)	
Publisher	
Issue Date	
Issue or Version	

Public Notice Information

8. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 06/14/2024

B) A public hearing (optional) will be held:

Date (mm/dd/yyyy):	Time (hh:mm AM/PM):	Place (physical address or URL):

To the agency: If more space is needed for a physical address or URL, refer readers to Box 4 in General Information. If more than two hearings will take place, continue to add rows.

9. This rule change MAY become effective on:

06/21/2024

NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 63G-3-302, 63G-3-303, and 63G-3-402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee and title:

Tracy S. Gruber, Executive Director

Date:

04/30/2024

R414. Health and Human Services, Integrated Healthcare.

R414-516. Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program.

R414-516-3. Quality Improvement Program Requirements of Participation.

(1) A program is required in six of nine metrics to:

(a) ~~to~~ score better than the national average;

(b) improve from the ~~prior~~ earlier state fiscal year (SFY); or

(c) not receive a state survey deficiency of F, H, I, J, K, or L ~~[in six of nine metrics]~~.

(2) The metrics and state survey used for the QI Program are in accordance with the following data:

(a) CASPER percentage of long-stay residents assessed and appropriately given the seasonal influenza vaccine;

(b) CASPER percentage of long-stay residents with a urinary tract infection;

(c) CASPER percentage of high-risk long-stay residents with pressure ulcers;

(d) CASPER percentage of long-stay residents experiencing one or more falls with major injury;

(e) CASPER percentage of long-stay residents who lose too much weight;

(f) CASPER percentage of long-stay residents who receive an antipsychotic medication;

(g) CASPER percentage of long-stay residents whose ability to move independently worsens;

(h) adjusted nursing staff hours ~~[per]~~ for each resident ~~[per]~~ each day; and

(i) ~~[a]~~ state survey without a quality of care deficiency of F, H, I, J, K, or L.

(3) If CMS modifies or removes a metric for any state fiscal year (SFY), the department shall notify the facilities and consider the metric as achieved for the facilities.

(4) If state licensing does not conduct a survey for a program in any given SFY, then the survey requirement described in Subsection ~~([4]2)~~(i) of this section is removed from consideration, and the facility must meet five of eight metrics.

~~([4]5)~~ If more than one survey is completed during the QI SFY, then all surveys are used for the period.

~~([5]6)~~ The source of data used to calculate compliance comes from the CMS website, except for data described in Subsection ~~[R414-516-3(4)2]~~(i), which comes from state licensing. ~~[-]~~The data that represent the SFY are used for the analysis. ~~[-]~~Each program provides data to CMS for nursing hours and CASPER. ~~[-]~~The data is then made available in the subsequent SFY and ~~[will be]~~ downloaded by DIH.

~~([6]7)~~ DIH does not require a provider that enters the NF NSGO UPL program for only part of an SFY, based on provider participation start date, to comply with the QI requirements described in Subsection ~~([4]2)~~ in the first SFY.

KEY: Medicaid

Date of Last Change: November 10, 2023

Notice of Continuation: December 30, 2022

Authorizing, and Implemented or Interpreted Law: 26B-1-213; 26B-3-108