

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Medicaid birth cost recovery repeal.

Sponsored by: Joint Labor, Health & Social Services Interim
Committee

A BILL

for

1 AN ACT relating to medical assistance and services;
2 repealing provisions relating to birth cost recovery under
3 the Wyoming medical assistance and services act; repealing
4 obsolete provisions; making conforming amendments; and
5 providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 42-1-102(a)(intro) is amended to
10 read:

11

12 **42-1-102. Conflict with federal laws.**

1

2 (a) If any provision of this title ~~or W.S. 14-2-1001~~
3 ~~through 14-2-1008~~ is found to be in conflict with federal
4 law or to come in conflict with federal law due to new
5 federal enactments, the department shall:

6

7 **Section 2.** W.S. 14-2-1001 through 14-2-1008, 20-2-
8 401(f) and (g) and 42-4-122 are repealed.

9

10 *****
11 *****

12 **STAFF COMMENT**

13
14 **The repealed language is as follows:**

15

16 ~~14-2-1001. Short title.~~

17

18 ~~This article may be cited as the "Medicaid Fairness Act."~~

19

20 ~~14-2-1002. Definitions.~~

21

22 ~~(a) As used in this article:~~

23

24 ~~(i) "Birth cost" means all expenses relating to~~
25 ~~prenatal care, delivery of a child and any other costs~~
26 ~~which are directly connected to a pregnancy and paid by~~
27 ~~medical assistance;~~

28

29 ~~(ii) "Department" means the department of family~~
30 ~~services created pursuant to W.S. 9-2-2101;~~

31

32 ~~(iii) "Federal poverty level" means the federal~~
33 ~~poverty guideline updated annually in the federal register~~
34 ~~by the United States department of health and human~~
35 ~~services;~~

36

1 ~~(iv) "Medical assistance" means as defined in~~
2 ~~W.S. 42-4-102(a)(ii).~~

3
4 ~~14-2-1003. Birth cost recovery medical assistance.~~

5
6 ~~(a) Not more than sixty (60) days after an unmarried~~
7 ~~recipient of medical assistance gives birth to a child, the~~
8 ~~department of health shall notify the department of family~~
9 ~~services of the actual amount of birth costs paid by~~
10 ~~medical assistance.~~

11
12 ~~(b) Upon receiving notice pursuant to subsection (a)~~
13 ~~of this section, the department shall determine whether the~~
14 ~~paternity of the child has been established.~~

15
16 ~~(c) Consistent with W.S. 42-4-106(b), if paternity~~
17 ~~has been established based on an acknowledgment made~~
18 ~~pursuant to W.S. 14-2-601, the department shall, in~~
19 ~~writing, request the father to pay the amount of birth~~
20 ~~costs established pursuant to W.S. 14-2-1004.~~

21
22 ~~(d) Within ninety (90) days of a request made~~
23 ~~pursuant to subsection (c) of this section, if the father~~
24 ~~has not made full payment or has not made arrangements for~~
25 ~~full payment to the satisfaction of the department, the~~
26 ~~department shall commence a civil action in accordance with~~
27 ~~W.S. 14-2-204 to recover the amount of birth costs~~
28 ~~established pursuant to W.S. 14-2-1004.~~

29
30 ~~(e) If paternity has not been established, the~~
31 ~~department, in cooperation with the mother of the child,~~
32 ~~shall use any means authorized by law to determine the~~
33 ~~paternity of the child, subject to W.S. 42-4-122(b)(ii).~~

34
35 ~~(f) Consistent with W.S. 42-4-106(b), if the father~~
36 ~~of the child is identified by the department pursuant to~~
37 ~~subsection (c) of this section, the department shall bring~~
38 ~~a civil action to adjudicate paternity and recover the~~
39 ~~amount of birth costs established pursuant to W.S. 42-4-~~
40 ~~1004 from the father, in the manner set forth in W.S. 14-2-~~
41 ~~822.~~

42
43 ~~(g) The department shall not take any of the actions~~
44 ~~set forth in this section on or after the fifth birthday of~~
45 ~~the child.~~

~~14-2-1004. Birth cost recovery calculation-medical assistance.~~

~~(a) Before requiring the payment of any amount of birth costs under W.S. 14-2-1003, the department shall require the father to provide satisfactory proof of income. If the father does not provide satisfactory proof of income, or if the department is unable to determine the father's income using any means authorized by law, a rebuttable presumption shall exist that the father's income is greater than four hundred percent (400%) of the federal poverty level.~~

~~(b) After notification of birth costs pursuant to W.S. 14-2-1003(a), the department shall calculate the amount of birth costs that are recoverable from the father in the following manner, subject to subsection (d) of this section:~~

~~(i) For a father earning less than two hundred percent (200%) of the federal poverty level, zero percent (0%) of the birth costs;~~

~~(ii) For a father earning two hundred percent (200%) or greater, but less than two hundred fifty percent (250%) of the federal poverty level, ten percent (10%) of the birth costs;~~

~~(iii) For a father earning two hundred fifty percent (250%) or greater, but less than three hundred percent (300%) of the federal poverty level, twenty percent (20%) of the birth costs;~~

~~(iv) For a father earning three hundred percent (300%) or greater, but less than three hundred fifty percent (350%) of the federal poverty level, thirty percent (30%) of the birth costs;~~

~~(v) For a father earning three hundred fifty percent (350%) or greater, but less than four hundred percent (400%) of the federal poverty level, forty percent (40%) of the birth costs;~~

1 ~~(vi) For a father earning four hundred percent~~
2 ~~(400%) of the federal poverty level or greater, fifty~~
3 ~~percent (50%) of the birth costs.~~

4
5 ~~(c) The department may assess a fee, in addition to~~
6 ~~any recoverable birth costs under subsection (b) of this~~
7 ~~section, which equals the average expenses incurred by the~~
8 ~~department on a per case basis for the administration of~~
9 ~~this article and W.S. 42-4-122, plus any attorney's fees,~~
10 ~~if applicable. No fee or attorney's fees shall be assessed~~
11 ~~against a father who meets the criteria of paragraph (b)(i)~~
12 ~~of this section.~~

13
14 ~~(d) The total amount recoverable by the department~~
15 ~~under this section, including any fee or attorney's fees~~
16 ~~assessed pursuant to subsection (c) of this section, shall~~
17 ~~not exceed the average birth cost paid by medical~~
18 ~~assistance in this state, as established by rule~~
19 ~~promulgated pursuant to W.S. 14-2-1008.~~

20
21 ~~**14-2-1005. Birth cost recovery allocation-medical**~~
22 ~~**assistance.**~~

23
24 ~~(a) Except as otherwise provided in subsections (c)~~
25 ~~and (d) of this section, any amount recovered by the~~
26 ~~department pursuant to W.S. 14-2-1003(c), (d) or (f) shall~~
27 ~~be remitted to the department of health.~~

28
29 ~~(b) Except as otherwise provided in subsections (c)~~
30 ~~and (d) of this section, any amount recovered by the~~
31 ~~department pursuant to W.S. 20-2-401(f) shall be:~~

32
33 ~~(i) Recovered in the manner set forth in W.S.~~
34 ~~20-6-101 through 20-6-222; and~~

35
36 ~~(ii) Remitted by the department to the~~
37 ~~department of health.~~

38
39 ~~(c) The department of health shall remit to the~~
40 ~~federal government any amount collected under this article~~
41 ~~and required to be reimbursed pursuant to 42 U.S.C.~~
42 ~~1396k(b).~~

43
44 ~~(d) The department may, on a quarterly basis, remit:~~
45

1 ~~(i) Forty percent (40%) of the total amount of~~
2 ~~birth costs recovered pursuant to W.S. 14-2-1003(c), (d)~~
3 ~~and (f) and 20-2-401(f), less any reimbursements made to~~
4 ~~the federal government pursuant to subsection (c) of this~~
5 ~~section, to the birth cost recovery incentive account~~
6 ~~created pursuant to W.S. 14-2-1006(a).~~

7
8 ~~(ii) Any fee or attorney's fee assessed by the~~
9 ~~department pursuant to W.S. 14-2-1004(c) to the birth cost~~
10 ~~recovery administration account created pursuant to W.S.~~
11 ~~14-2-1006(b).~~

12
13 ~~**14-2-1006. Birth cost recovery accounts.**~~

14
15 ~~(a) There is created the birth cost recovery~~
16 ~~incentive account. Funds remitted to the account pursuant~~
17 ~~to W.S. 14-2-1005(d)(i) shall be used by the department for~~
18 ~~any services or programs relating to infants or mothers.~~
19 ~~The account may be divided into subaccounts for purposes of~~
20 ~~administrative management. Funds in the account are~~
21 ~~continuously appropriated and shall not lapse at the end of~~
22 ~~any fiscal period.~~

23
24 ~~(b) There is created the birth cost recovery~~
25 ~~administration account. Funds remitted to the account~~
26 ~~pursuant to W.S. 14-2-1005(d)(ii) shall be used by the~~
27 ~~department to offset the costs of the administration of~~
28 ~~this article and W.S. 42-4-122. The account may be divided~~
29 ~~into subaccounts for purposes of administrative management.~~
30 ~~Funds in the account are continuously appropriated and~~
31 ~~shall not lapse at the end of any fiscal period.~~

32
33 ~~**14-2-1007. Best interests of a child.**~~

34
35 ~~The department shall not take any action authorized by this~~
36 ~~article and W.S. 42-4-122 if the department determines that~~
37 ~~the action would not be in the best interests of a child.~~

38
39 ~~**14-2-1008. Adoption of rules.**~~

40
41 ~~The department of family services and the department of~~
42 ~~health, in consultation with each other, shall each~~
43 ~~promulgate rules to carry out the provisions of this~~
44 ~~article and W.S. 42-4-122.~~

45

~~20-2-401. Medical support to be included as part of
child support order.~~

~~(f) In any action to establish or modify a child support obligation and upon a sufficient showing by the department of family services that birth costs were paid by medical assistance within the preceding five (5) years, the court shall also order that the father pay birth costs to the department in the manner set forth in W.S. 14-2-1001 through 14-2-1008. Failure of the department to make a sufficient showing under this subsection shall not preclude the department from subsequently seeking recovery in any other manner authorized by law.~~

~~(g) If the department of family services has previously attempted to recover birth costs pursuant to W.S. 14-2-1001 through 14-2-1008, the court is not required to issue the order described in subsection (f) of this section.~~

~~42-4-122. Cooperation with paternity determination.~~

~~(a) Except as otherwise provided in subsection (b) of this section, as a condition of eligibility, or continuing eligibility, for medical assistance under this chapter, a person who receives medical assistance shall cooperate in good faith with the department to:~~

~~(i) Establish the paternity of a child, including any proceeding to adjudicate parentage that is held pursuant to W.S. 14-2-801 through 14-2-823;~~

~~(ii) Obtain a child support obligation payment or other payments or property to which the state may have a claim, including recovery of birth costs paid by medical assistance pursuant to W.S. 14-2-1001 through 14-2-1008.~~

~~(b) The following persons are not required to cooperate with the department pursuant to subsection (a) of this section:~~

~~(i) A person who is pregnant, or who has been pregnant within the preceding sixty (60) days;~~

1 ~~(ii) A person who has good cause to not~~
2 ~~cooperate with the department, as determined by rule~~
3 ~~promulgated pursuant to W.S. 14-2-1008;~~

4
5 ~~(iii) A woman who has been pregnant within the~~
6 ~~preceding twelve (12) months. This paragraph is repealed~~
7 ~~effective March 31, 2027.~~

8
9 *****
10 *****
11

12 **Section 3.** This act is effective July 1, 2026.

13
14 (END)