

## HOUSE BILL NO. HB0086

Medicaid birth cost recovery.

Sponsored by: Representative(s) Stith, Barlow, Furphy,  
Jennings, Lindholm and Olsen and Senator(s)  
Anselmi-Dalton and Scott

A BILL

for

1 AN ACT relating to welfare; requiring the department of  
2 family services to recover birth costs paid by medical  
3 assistance from specified persons; providing procedures for  
4 the calculation and collection of birth costs; creating  
5 accounts; providing rulemaking authority; requiring  
6 specified persons to cooperate with a paternity  
7 determination as a condition of eligibility for medical  
8 assistance; making conforming amendments; specifying  
9 applicability; and providing for effective dates.

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

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13 **Section 1.** W.S. 14-2-1001 through 14-2-1008 and  
14 42-4-122 are created to read:

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ARTICLE 10

MEDICAID FAIRNESS ACT

**14-2-1001. Short title.**

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

**14-2-1002. Definitions.**

(a) As used in this article:

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

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

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

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

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5 **14-2-1003. Birth cost recovery - medical assistance.**

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

12

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

16

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

22

1           (d) Within ninety (90) days of a request made  
2 pursuant to subsection (c) of this section, if the father  
3 has not made full payment or has not made arrangements for  
4 full payment to the satisfaction of the department, the  
5 department shall commence a civil action in accordance with  
6 W.S. 14-2-204 to recover the amount of birth costs  
7 established pursuant to W.S. 14-2-1004.

8

9           (e) If paternity has not been established, the  
10 department, in cooperation with the mother of the child,  
11 shall use any means authorized by law to determine the  
12 paternity of the child, subject to W.S. 42-4-122(b)(ii).

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14           (f) Consistent with W.S. 42-4-106(b), if the father  
15 of the child is identified by the department pursuant to  
16 subsection (e) of this section, the department shall bring  
17 a civil action to adjudicate paternity and recover the  
18 amount of birth costs established pursuant to W.S.  
19 42-4-1004 from the father, in the manner set forth in W.S.  
20 14-2-822.

21

1           (g) The department shall not take any of the actions  
2 set forth in this section on or after the fifth birthday of  
3 the child.

4

5           **14-2-1004. Birth cost recovery calculation - medical**  
6 **assistance.**

7

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

17

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

23

1           (i) For a father earning less than two hundred  
2 percent (200%) of the federal poverty level, zero percent  
3 (0%) of the birth costs;

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5           (ii) For a father earning two hundred percent  
6 (200%) or greater, but less than two hundred fifty percent  
7 (250%) of the federal poverty level, ten percent (10%) of  
8 the birth costs;

9

10           (iii) For a father earning two hundred fifty  
11 percent (250%) or greater, but less than three hundred  
12 percent (300%) of the federal poverty level, twenty percent  
13 (20%) of the birth costs;

14

15           (iv) For a father earning three hundred percent  
16 (300%) or greater, but less than three hundred fifty  
17 percent (350%) of the federal poverty level, thirty percent  
18 (30%) of the birth costs;

19

20           (v) For a father earning three hundred fifty  
21 percent (350%) or greater, but less than four hundred  
22 percent (400%) of the federal poverty level, forty percent  
23 (40%) of the birth costs;

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

5

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

14

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

21

22 **14-2-1005. Birth cost recovery allocation - medical**  
23 **assistance.**

1

2 (a) Except as otherwise provided in subsections (c)  
3 and (d) of this section, any amount recovered by the  
4 department pursuant to W.S. 14-2-1003(c), (d) or (f) shall  
5 be remitted to the general fund, with notice to the  
6 department of health.

7

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

11

12 (i) Recovered in the manner set forth in W.S.  
13 20-6-101 through 20-6-222; and

14

15 (ii) Remitted by the clerk of court to the state  
16 treasurer for credit to an account in the general fund,  
17 with notice to the department of health.

18

19 (c) The department shall, in consultation with the  
20 department of health and on a quarterly basis, remit to the  
21 federal government any amount collected under this article  
22 and required to be reimbursed pursuant to 42 U.S.C.  
23 1396k(b).



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2 (d) The department shall, on a quarterly basis,  
3 remit:

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

11

12 (ii) Any fee or attorney's fee assessed by the  
13 department pursuant to W.S. 14-2-1004(c) to the birth cost  
14 recovery administration account created pursuant to W.S.  
15 14-2-1006(b).

16

17 **14-2-1006. Birth cost recovery accounts.**

18

19 (a) There is created the birth cost recovery  
20 incentive account. Funds remitted to the account pursuant  
21 to W.S. 14-2-1005(d)(i) shall be used by the department for  
22 any services or programs relating to infants or mothers.  
23 The account may be divided into subaccounts for purposes of

1 administrative management. Funds in the account are  
2 continuously appropriated and shall not lapse at the end of  
3 any fiscal period.

4

5 (b) There is created the birth cost recovery  
6 administration account. Funds remitted to the account  
7 pursuant to W.S. 14-2-1005(d)(ii) shall be used by the  
8 department to offset the costs of the administration of  
9 this article and W.S. 42-4-122. The account may be divided  
10 into subaccounts for purposes of administrative management.  
11 Funds in the account are continuously appropriated and  
12 shall not lapse at the end of any fiscal period.

13

14 **14-2-1007. Best interests of a child.**

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16 The department shall not take any action authorized by this  
17 article and W.S. 42-4-122 if the department determines that  
18 the action would not be in the best interests of a child.

19

20 **14-2-1008. Adoption of rules.**

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22 The department of family services and the department of  
23 health, in consultation with each other, shall each

1 promulgate rules to carry out the provisions of this  
2 article and W.S. 42-4-122.

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

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

11

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

15

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

20

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

1

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

4

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

8

9 **Section 2.** W.S. 14-2-822 by creating a new subsection  
10 (g), 20-2-401 by creating new subsections (f) and (g) and  
11 42-1-102(a) (intro) are amended to read:

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13 **14-2-822. Order adjudicating parentage.**

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15 (g) Upon a sufficient showing by the department of  
16 family services that birth costs were paid by medical  
17 assistance within the preceding five (5) years, the court  
18 shall include a requirement in an order adjudicating  
19 parentage that the father pay birth costs to the department  
20 in the manner set forth in W.S. 14-2-1004. Failure of the  
21 department to make a sufficient showing under this  
22 subsection shall not preclude the department from

1 subsequently seeking recovery in any other manner  
2 authorized by law.

3  
4 **20-2-401. Medical support to be included as part of**  
5 **child support order.**

6  
7 (f) In any action to establish or modify a child  
8 support obligation and upon a sufficient showing by the  
9 department of family services that birth costs were paid by  
10 medical assistance within the preceding five (5) years, the  
11 court shall also order that the father pay birth costs to  
12 the department in the manner set forth in W.S. 14-2-1001  
13 through 14-2-1008. Failure of the department to make a  
14 sufficient showing under this subsection shall not preclude  
15 the department from subsequently seeking recovery in any  
16 other manner authorized by law.

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

23

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

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

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8           **Section 3.** On or before July 1, 2018, the department  
9 of family services and the department of health, in  
10 consultation with each other, shall each promulgate rules  
11 required by section 1 of this act, provided that these  
12 rules shall not take effect until July 1, 2018.

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14           **Section 4.** This act applies to the costs of the birth  
15 of any child by paid medical assistance on or after July 1,  
16 2018.

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18           **Section 5.**

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20           (a) Except as otherwise provided in subsection (b) of  
21 this section, this act is effective July 1, 2018.

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1           (b) Section 3 of this act is effective immediately  
2 upon completion of all acts necessary for a bill to become  
3 law as provided by Article 4, Section 8 of the Wyoming  
4 Constitution.

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(END)