

ENROLLED ACT NO. 59, HOUSE OF REPRESENTATIVES

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
2018 BUDGET SESSION

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

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

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

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;

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(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;

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

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

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

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

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

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

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

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

(g) The department shall not take any of the actions set forth in this section on or after the fifth birthday of 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:

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(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;

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

(c) The department may assess a fee, in addition to any recoverable birth costs under subsection (b) of this section, which equals the average expenses incurred by the department on a per case basis for the administration of this article and W.S. 42-4-122, plus any attorney's fees, if applicable. No fee or attorney's fees shall be assessed

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against a father who meets the criteria of paragraph (b) (i) of this section.

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

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

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

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

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

(ii) Remitted by the department to the department of health.

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

(d) The department may, on a quarterly basis, remit:

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

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

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

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

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

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

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

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

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

**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;

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

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

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

(g) 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 include a requirement in an order adjudicating parentage that the father pay birth costs to the department in the manner set forth in W.S. 14-2-1004. 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.

**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.



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(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.

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

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

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

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

**Section 5.**

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

ORIGINAL HOUSE  
BILL NO. HB0086

ENGROSSED

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

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk