

R414. Health, Health Care Financing, Coverage and Reimbursement.**R414-1B. Prohibition of Payment for Certain Abortion Services.****R414-1B-1. Introduction and Authority.**

This rule is to assure compliance with the prohibition on using public funds for certain abortion services as provided in Utah Code Section 76-7-326. It is authorized by Utah Code Sections 26-1-5 and 26-18-3.

R414-1B-2. Definitions

(1) "Abortion billing code" means the following codes:

(a) 59840, 59841, 59850, 59851, 59852, 59855, 59856 and 59857 as shown in the Current Procedural Terminology (CPT) manual of the American Medical Association, 2003 edition; and

(b) 69.01, 69.51, 74.91 and 75.0 as shown in the International Classification of Diseases, 9th Edition, Volumes 1 and 2, Clinical Modification, Volume 3 Procedures.

(2) "Certification" or "Certify" means submitting to the Division of Health Care Financing, Utah Department of Health, a Department-approved document signed by one authorized to act on behalf of a Medicaid provider.

(3) "Public funds" means money provided by the state, its institutions or its political subdivisions. "Public funds" does not include (i) clinical revenue generated from nongovernmental payors; (ii) gift or donor provided funds; (iii) investment income; or (iv) federal funds appropriated by the legislature.

R414-1B-3. Certification.

(1) Each Medicaid provider that bills the Utah Department of Health for services related to an abortion billing code at any time after May 3, 2004 must certify that funds it receives from the Department are not used to pay or otherwise reimburse, either directly or indirectly, any person, agency, or facility for the performance of any induced abortion services unless:

(a) in the professional judgment of the pregnant woman's attending physician, the abortion is necessary to save the pregnant woman's life;

(b) the pregnancy is the result of rape or incest reported to law enforcement agencies, unless the woman was unable to report the crime for physical reasons or fear of retaliation; or

(c) in the professional judgment of the pregnant woman's attending physician, the abortion is necessary to prevent permanent, irreparable and grave damage to a major bodily function of the pregnant women provided that a caesarian procedure or other medical procedure that could also save the life of the child is not a viable option.

(2) The certification shall be ongoing and apply to all future claims unless the provider notifies the Department in writing of a change in its certification status.

(3) Nothing in this rule shall increase Medicaid coverage for abortion services beyond what is required under federal law.

R414-1B-4. Standards for Certification

(1) Each provider who submits a certification is responsible to be informed of the abortion funding restrictions found in Utah Code section 76-7-326 and to assess whether it

receives public funds for any abortion that is not excepted in subsections (a), (b), or (c) of Utah Code subsection 76-7-326(2).

(2) A provider meets the requirements of this rule if it certifies that it is able to demonstrate that:

(a) it uses non-public funds to make up any difference between the reimbursement it receives from all payors for services identified by abortion billing codes, other than those services identified in R414-1B-3(1), and the costs incurred by the provider for those procedures; or

(b) it has adopted another method, based on generally accepted accounting principles, that provides a good faith basis for supporting the certification.

(3) Each provider that submits a certification meeting the requirements of this rule shall maintain records to support the certification and make those records available to the Department on request consistent with participation as a Medicaid provider.

**KEY: Medicaid, abortion
2004**

**26-1-5
26-18-3**