

CHAPTER 386

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 18-1335

BY REPRESENTATIVE(S) Young, Hamner, Rankin, Arndt, Becker K., Benavidez, Bridges, Buckner, Carver, Coleman, Danielson, Esgar, Exum, Ginal, Gray, Hansen, Herod, Hooton, Jackson, Kennedy, Kraft-Tharp, Lontine, McLachlan, Melton, Pabon, Pettersen, Roberts, Rosenthal, Salazar, Valdez, Weissman, Winter, Duran, Lee, McKean, Michaelson Jenet, Singer, Wilson; also SENATOR(S) Lundberg, Lambert, Moreno, Aguilar, Court, Crowder, Fields, Jahn, Kagan, Kefalas, Kerr, Merrifield, Todd, Zenzinger.

AN ACT

CONCERNING THE COLORADO CHILD CARE ASSISTANCE PROGRAM, AND, IN CONNECTION THEREWITH, ESTABLISHING ELIGIBILITY REQUIREMENTS FOR ALL COUNTIES AND CREATING A NEW FORMULA TO DETERMINE THE AMOUNT OF BLOCK GRANTS TO COUNTIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments, 26-2-803 and 26-2-804** as follows:

26-2-803. Provider rates - rules. (1) THE STATE DEPARTMENT, IN CONSULTATION WITH THE COUNTIES, SHALL CONTRACT ANNUALLY FOR A MARKET RATE STUDY OF PROVIDER RATES THAT ACCOUNT FOR QUALITY OF CARE, AGE GROUP, AND TYPE OF CARE FOR EACH COUNTY AS RECOMMENDED BY THE EARLY CHILDHOOD LEADERSHIP COMMISSION CREATED IN SECTION 26-6.2-103. NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I), COPIES OF THE STUDY MUST BE PROVIDED TO THE JOINT BUDGET COMMITTEE ON OR BEFORE JANUARY 2, 2019, AND ON OR BEFORE EACH JANUARY 2 THEREAFTER.

(2) ON OR BEFORE JULY 1, 2016, THE STATE-ESTABLISHED PROVIDER REIMBURSEMENT RATES FOR EACH COUNTY MUST INCLUDE A SYSTEM OF TIERED REIMBURSEMENT FOR PROVIDERS THAT ENROLL CHILDREN PARTICIPATING IN CCCAP.

(3) ON OR BEFORE JULY 1, 2016, THE STATE BOARD SHALL PROMULGATE RULES RELATED TO THE STRUCTURE OF TIERED REIMBURSEMENT.

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

26-2-804. Funding - allocation - maintenance of effort - rules. (1) STARTING WITH THE 2018-19 STATE FISCAL YEAR, OR WHEN THE RULES REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION ARE ESTABLISHED, WHICHEVER IS LATER, AND SUBJECT TO AVAILABLE APPROPRIATIONS, ANNUALLY THE STATE DEPARTMENT SHALL ESTABLISH THE AMOUNT OF EACH COUNTY'S BLOCK GRANT FOR CCCAP. THE BLOCK GRANT SHALL BE BASED UPON EACH COUNTY'S PERCENTAGE OF THE ESTIMATED TOTAL NUMBER OF CHILDREN ELIGIBLE TO PARTICIPATE IN CCCAP TIMES THE APPROPRIATE REIMBURSEMENT RATE FOR EACH COUNTY AS DETERMINED BY THE STATE REQUIRED BY SECTION 26-2-803. COUNTIES ARE ONLY REQUIRED TO SPEND THE STATE CCCAP ALLOCATION AND THE MAINTENANCE OF EFFORT FOR THAT ALLOCATION.

(2) (a) THE AMOUNT OF EACH COUNTY'S BLOCK GRANT DETERMINED BY SUBSECTION (1) OF THIS SECTION MAY BE ADJUSTED BY THE STATE DEPARTMENT. THE STATE DEPARTMENT SHALL, IN CONSULTATION WITH THE COUNTIES, ADOPT RULES REGARDING ADJUSTMENTS TO THE AMOUNT OF A BLOCK GRANT, AND THE RULES MUST ADDRESS THE FOLLOWING FACTORS:

- (I) THE COST OF LIVING;
- (II) THE COST OF HIGH-QUALITY EARLY CHILDHOOD PROGRAMS;
- (III) THE COST OF PROGRAMS;
- (IV) THE REGIONAL MARKET RATES FOR CCCAP;
- (V) DRASTIC ECONOMIC CHANGES; AND
- (VI) GEOGRAPHIC DIFFERENCES WITHIN A COUNTY.

(b) THE STATE DEPARTMENT MAY MAKE AN ADJUSTMENT TO THE AMOUNT OF A BLOCK GRANT AUTHORIZED BY RULES PROMULGATED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION.

(3) THE MONEY IN A COUNTY BLOCK GRANT ALLOCATED TO A COUNTY PURSUANT TO THIS SECTION MUST ONLY BE USED FOR THE PROVISION OF CHILD CARE SERVICES UNDER RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS PART 8.

(4) MONEY TRANSFERRED FROM THE COUNTY BLOCK GRANT TEMPORARY ASSISTANCE FOR NEEDY FAMILIES PROGRAM PURSUANT TO SECTION 26-2-714(7) TO THE CHILD CARE DEVELOPMENT FUND MAY BE USED FOR CHILD CARE QUALITY IMPROVEMENT ACTIVITIES AS IDENTIFIED IN THE FEDERAL "CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 2014", 42 U.S.C. SEC. 9858 (e), AS AMENDED.

(5) FOR STATE FISCAL YEAR 2005-06 AND FOR EACH STATE FISCAL YEAR THEREAFTER, EACH COUNTY IS REQUIRED TO MEET A LEVEL OF COUNTY SPENDING FOR CCCAP THAT IS EQUAL TO THE COUNTY'S PROPORTIONATE SHARE OF THE TOTAL COUNTY FUNDS SET FORTH IN THE ANNUAL GENERAL APPROPRIATION ACT FOR CCCAP FOR THAT STATE FISCAL YEAR. THE LEVEL OF COUNTY SPENDING IS KNOWN AS THE COUNTY'S MAINTENANCE OF EFFORT FOR CCCAP FOR THAT STATE FISCAL

YEAR. FOR ANY STATE FISCAL YEAR, THE STATE DEPARTMENT IS AUTHORIZED TO ADJUST A COUNTY'S MAINTENANCE OF EFFORT, REFLECTED AS A PERCENTAGE OF THE TOTAL COUNTY FUNDS SET FORTH IN THE ANNUAL GENERAL APPROPRIATION ACT FOR CCCAP FOR THAT STATE FISCAL YEAR, SO THAT THE PERCENTAGE EQUALS THE COUNTY'S PROPORTIONATE SHARE OF THE TOTAL STATE AND FEDERAL FUNDS APPROPRIATED FOR CCCAP FOR THAT STATE FISCAL YEAR. FOR ANY STATE FISCAL YEAR, THE SUM OF ALL COUNTIES' MAINTENANCE OF EFFORT MUST BE EQUAL TO OR GREATER THAN THE TOTAL COUNTY FUNDS SET FORTH IN THE GENERAL APPROPRIATION ACT FOR THE STATE FISCAL YEAR 1996-97 FOR EMPLOYMENT-RELATED CHILD CARE.

SECTION 2. In Colorado Revised Statutes, 26-2-802, **amend** (1)(b), (1)(c), (1)(d), and (2)(b); and **add** (2)(c) as follows:

26-2-802. Legislative declaration. (1) The general assembly hereby finds and declares that:

(b) Children in low-income families who receive services through a child care assistance program need and deserve the same access to a broad range of child care providers as do children in families who do not need assistance; AND

(c) It is critical to provide low- to moderate-income families with access to high-quality, affordable child care that fosters healthy child development and school readiness, while at the same time promotes family self-sufficiency and attachment to the workforce. ~~and~~

(d) Individual counties play a vital role in administering the child care assistance program and have local knowledge of their individual community needs. ~~Therefore, a county that meets or exceeds statewide eligibility expectations established for the Colorado child care assistance program should have greater flexibility in determining the specifics of how to implement and operate the child care assistance program in that county.~~

(2) Therefore, the general assembly hereby finds and declares that it is in the best interests of the state to:

(b) Adopt a consistent, statewide PLAN FOR child care provider reimbursement rates ~~set at~~ WITH A GOAL of a floor of the seventy-fifth percentile of each county's market rate to facilitate and increase access to high-quality child care for low-income families.

(c) ACHIEVE PARITY ACROSS COUNTIES IN THE STATE WITH REGARD TO THE CCCAP PROGRAM AND FUNDING ALLOCATION.

SECTION 3. In Colorado Revised Statutes, 26-2-805, **amend** (1), (2)(a), (2)(b), (2)(c), (7)(f), (7)(i), and (7)(j); and **repeal** (2)(d), (2)(e), (6), (7)(b), (7)(c), (7)(d), (7)(g), and (7)(h) as follows:

26-2-805. Services - eligibility - assistance provided - waiting lists - rules - exceptions from cooperating with child support establishment. (1) Subject to available appropriations and pursuant to rules promulgated by the state board for the

implementation of this part 8, a county shall provide child care assistance to a participant or any person or family whose income is not more than one hundred ~~sixty-five~~ EIGHTY-FIVE percent of the federal poverty level. SUBJECT TO AVAILABLE APPROPRIATIONS AND ONLY AS NECESSARY TO COMPLY WITH FEDERAL LAW, THE STATE BOARD MAY ADJUST THE PERCENTAGE OF THE FEDERAL POVERTY LEVEL USED TO DETERMINE CHILD CARE ASSISTANCE ELIGIBILITY BY PROMULGATING A RULE.

(2) (a) ~~The BEGINNING JULY 1, 2018, OR WHEN THE RULES REQUIRED BY SECTION 26-2-804 (2)(a) ARE ESTABLISHED, WHICHEVER IS LATER, A county may provide child care assistance for any family whose income meets~~ AT INITIAL DETERMINATION EXCEEDS the requirements of subsection (1) of this section but does not exceed the maximum federal level for eligibility for services of eighty-five percent of the state median income for a family of the same size IF IT:

(I) IS SERVING ALL ELIGIBLE FAMILIES WHO HAVE APPLIED FOR CCCAP AND WHOSE INCOME LEVEL IS BELOW THAT REQUIREMENT; AND

(II) USES ONLY LOCAL MONEY TO SERVE SUCH FAMILIES.

(b) If, during a participant's, person's, or family's twelve-month eligibility period, the participant's, person's, or family's income rises to OR ABOVE the level set by the ~~county~~ STATE BOARD RULE at which the county may deny such participant, person, or family child care assistance, the county shall continue providing the current CCCAP subsidy until that participant's, person's, or family's next twelve-month redetermination.

(c) If, at the time of a participant's, person's, or family's twelve-month eligibility redetermination, the participant's, person's, or family's income rises to or above the level set by the ~~county~~ STATE BOARD at which the county may deny child care assistance, or if that income level rises above the maximum federal eligibility level of eighty-five percent of the state median income for a family of the same size, the county shall immediately notify the participant, person, or family that it is no longer eligible for CCCAP. ~~but may be provided transition CCCAP benefits pursuant to the provisions of paragraphs (d) and (e) of this subsection (2).~~

(d) ~~Except as provided for in paragraph (e) of this subsection (2), the county shall continue to provide the current CCCAP subsidy to a participant, person, or family who has lost eligibility pursuant to this subsection (2) for a period of no less than ninety days from the time of notification to allow the participant, person, or family to make appropriate alternative arrangements for child care. Additionally, the county is strongly encouraged to continue to provide child care assistance for a period of six months from the time of notification. During the six-month period, the county shall work with the participant, person, or family to provide a gradual transition off child care assistance provided pursuant to this subsection (2).~~

(e) ~~Notwithstanding any eligibility level set by a county pursuant to this section, under no circumstance may a county provide child care assistance pursuant to this section if the participant's, person's, or family's income exceeds the maximum level for eligibility for services set by federal law of eighty-five percent of the state median income for a family of the same size.~~

~~(6) For a family with a child who is enrolled in CCCAP, a county shall set the income level at which the county may deny the family according to the parameters defined in rules promulgated by the state board. In the rules, the state board shall ensure that if a county sets the income level at which the county chooses to initially provide CCCAP at or below one hundred eighty-five percent of the federal poverty level, then that county must set the income level at which the county may deny the family higher than the income level at which the county chooses to initially provide child care assistance for that county and at a level not to exceed eighty-five percent of the state median income for a family of the same size. This subsection (6) goes into effect upon notification to counties by the state department that the relevant human services case management systems, including the Colorado child care automated tracking system, are capable of accommodating this subsection (6).~~

~~(7) (b) If a county reduces its income eligibility requirements, the county shall continue to enroll a child enrolled in CCCAP when the change is implemented until the family's next eligibility redetermination or for six months, whichever is longer.~~

~~(c) To the extent practicable, the duration of the child care authorization notice, as defined by rule of the state board, for a child who is enrolled in CCCAP must be the same as the child care assistance eligibility period for the child's family, except that, under specific, limited circumstances described by rule of the state board, including but not limited to job-search periods, the duration of the authorization notice may be less than the family's full period of eligibility. A county may reduce the number of families served pursuant to this part 8 if necessary to ensure that the county, in implementing the provisions of this paragraph (c), does not exceed the amount of the county block grant for CCCAP allocated to the county pursuant to section 26-2-804 for the applicable fiscal year.~~

~~(d) For a family with a child who is solely enrolled in CCCAP or dually enrolled with an early education program other than head start or early head start, the family's CCCAP eligibility redetermination must occur once every twelve months.~~

~~(f) A parent must not be determined ineligible to receive child care assistance pursuant to this part 8 as a result of:~~

~~(I) Taking maternity leave; or~~

~~(II) Being a separated spouse or parent under a validly issued temporary order for parental responsibilities or child custody where the other spouse or parent has disqualifying financial resources;~~

~~(III) EACH INSTANCE OF NONTEMPORARY JOB LOSS FOR LESS THAN NINETY DAYS;
OR~~

~~(IV) A TEMPORARY BREAK IN ELIGIBLE ACTIVITY, AS DEFINED BY RULE OF THE STATE BOARD.~~

~~(g) Upon notification to counties by the state department that the relevant human services case management systems, including the Colorado child care automated tracking system, are capable of accommodating this paragraph (g), a parent with a child enrolled in CCCAP who loses employment while participating in the program~~

~~must remain eligible for CCCAP for at least sixty days within a twelve-month period if he or she is actively searching for employment and he or she continues to meet all other CCCAP eligibility criteria.~~

~~(h) Subject to available appropriations and pursuant to rules promulgated by the state board for the implementation of this part 8, and upon notification to counties by the state department that the relevant human services case management systems, including the Colorado child care automated tracking system, are capable of accommodating this paragraph (h), a parent who is not employed is eligible for CCCAP for sixty days within a twelve-month period if he or she is actively searching for employment and meets all other CCCAP eligibility criteria.~~

~~(i) Subject to available appropriations and pursuant to rules promulgated by the state board for the implementation of this part 8, and upon notification to counties by the state department that the relevant human services case management systems, including the Colorado child care automated tracking system, are capable of accommodating this paragraph (i), a parent who is enrolled in a postsecondary education program or a workforce training program is eligible for CCCAP for at least any two years of the postsecondary education or workforce training program, provided all other CCCAP eligibility requirements are met during those two years. A county may give priority for services to a working family over a family enrolled in postsecondary education or workforce training.~~

~~(j) Upon notification to counties by the state department that the relevant human services case management systems, including the Colorado child care automated tracking system, are capable of accommodating this paragraph (j), and To provide continuous child care with the least disruption to the child, the hours authorized for the provision of child care through CCCAP must include authorized hours for the child that promote continuous, consistent, and regular care and must not be linked directly to a parent's employment, education, or workforce training schedule. Pursuant to rules promulgated by the state board, the number of hours authorized for child care should be based on the number of hours the parent is participating in an eligible activity and the child's needs for care.~~

SECTION 4. In Colorado Revised Statutes, **repeal** 26-2-808.

SECTION 5. Effective date. This act takes effect July 1, 2018.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 2018