

# OFFICE OF LEGISLATIVE LEGAL SERVICES

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## MEMORANDUM (2)(c)<sup>1</sup>

TO: Statutory Revision Committee

FROM: Brita Darling, Office of Legislative Legal Services

DATE: November 9, 2017

SUBJECT: Remove the obsolete home- and community-based services waiver in the Colorado medical assistance program for persons living with AIDS

### Summary

Part 5 of article 6 of title 25.5, C.R.S., codifies the home- and community-based services (HCBS) waiver in the Colorado medical assistance program (Medicaid) for persons with health complexes related to acquired immune deficiency syndrome (Persons Living with AIDS). This waiver was consolidated with the HCBS waiver for the elderly, blind, and disabled (EBD). Because the waiver is no longer operational and no clients are served through the waiver, part 5 of article 6 of title 25.5, C.R.S., is obsolete and should be removed from the Colorado Revised Statutes.

This matter was brought to the Statutory Revision Committee by the Colorado Department of Health Care Policy and Financing (HCPF).

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<sup>1</sup> This legal memorandum was prepared by the Office of Legislative Legal Services (OLLS) in the course of its statutory duty to provide staff assistance to the Statutory Revision Committee (SRC). It does not represent an official legal position of the OLLS, SRC, General Assembly, or the state of Colorado, and is not binding on the members of the SRC. This memorandum is intended for use in the legislative process and as information to assist the SRC in the performance of its legislative duties.

## **Analysis**

The HCBS waivers in Colorado's Medicaid program provide additional long-term care services that allow individuals the opportunity to continue living in their home and community and prevent the need for institutionalization. By 2014, Colorado had more HCBS waivers than any other state, which resulted in an overly complex long-term care Medicaid system. HCPF has undertaken efforts to consolidate HCBS waivers to make the waivers easier to navigate for Medicaid clients and easier and more efficient for HCPF to administer.

In 2014, HCPF consolidated the Persons Living with AIDS waiver, its first and smallest HCBS waiver, by transferring the 54 clients enrolled in the program to the HCBS EBD waiver. The federal Centers for Medicare and Medicaid Services approved the consolidation of the two waivers in April 2014, and Colorado lost its federal authority to continue operating a waiver specifically for persons living with AIDS.

The Persons Living with AIDS waiver is no longer operational and serves no clients, and, therefore, part 5 of article 6 of title 25.5, C.R.S., should be repealed.

## **Statutory Charge<sup>2</sup>**

Repealing references in the Colorado Revised Statutes to programs that have been subsumed within other statutory programs fits within the Committee's statutory charge to eliminate antiquated, redundant, or contradictory rule of law.

## **Proposed Bill**

Staff has attached a bill draft (See **Addendum A**) to address the issue and has provided the bill draft to HCPF for its review. The bill repeals part 5 of article 6 of title 25.5, C.R.S., and includes conforming amendments.

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<sup>2</sup> The Statutory Revision Committee is charged with "[making] an ongoing examination of the statutes of the state and current judicial decisions for the purpose of discovering defects and anachronisms in the law and recommending needed reforms" and recommending "legislation annually to effect such changes in the law as it deems necessary in order to modify or eliminate antiquated, redundant, or contradictory rules of law and to bring the law of this state into harmony with modern conditions." § 2-3-902 (1), C.R.S. In addition, the Committee "shall propose legislation only to streamline, reduce, or repeal provisions of the Colorado Revised Statutes." § 2-3-902 (3), C.R.S.

**DRAFT**

*Temporary storage location: S:\LLS\2018A\Bills\Pre-Draft\18-SRC-HCPF repeal AIDS waiver.wpd*

LLS NO. 18-####.## Brita Darling x2241

**COMMITTEE BILL**

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**Statutory Revision Committee**

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**BILL TOPIC: "Repeal Obsolete Medicaid Waiver Persons With AIDS"**

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**A BILL FOR AN ACT**

101 **CONCERNING THE REPEAL OF OBSOLETE PROVISIONS IN THE**  
102 **COLORADO MEDICAL ASSISTANCE PROGRAM RELATING TO THE**  
103 **INACTIVE HOME- AND COMMUNITY-BASED SERVICES WAIVER**  
104 **FOR PERSONS LIVING WITH AIDS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)*

**Statutory Revision Committee.** The bill repeals the inactive home- and community-based services waiver under the Colorado medical

assistance program for persons with health complexes related to acquired immune deficiency syndrome (persons living with AIDS waiver). Due to the consolidation of home- and community-based services waivers under the Colorado medical assistance program, persons participating in the persons living with AIDS waiver were transferred to the home- and community-based services waiver for the elderly, blind, and disabled, and federal authorization for the persons living with AIDS waiver has been withdrawn.

The bill makes conforming amendments to remove references to the obsolete home- and community-based services waiver program.

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

2           **SECTION 1. Legislative declaration.** The general assembly  
3 declares the purpose of House Bill/Senate Bill 18-\_\_\_\_, enacted in 2018,  
4 is to remove the inactive home- and community-based services waiver  
5 under the Colorado medical assistance program for persons with health  
6 complexes related to acquired immune deficiency syndrome, which was  
7 incorporated into another waiver, the home- and community-based wavier  
8 for the elderly, blind, and disabled.

9           **SECTION 2.** In Colorado Revised Statutes, **repeal** part 5 of  
10 article 6 of title 25.5.

11           **SECTION 3.** In Colorado Revised Statutes, **repeal** 25.5-5-202  
12 (1)(c)(III).

13           **SECTION 4.** In Colorado Revised Statutes, **repeal** 25.5-5-203  
14 (1)(d).

15           **SECTION 5.** In Colorado Revised Statutes, **repeal** 25.5-6-104  
16 (3)(b)(VIII).

17           **SECTION 6.** In Colorado Revised Statutes, **repeal** 25.5-6-106  
18 (2)(b)(III).

19           **SECTION 7.** In Colorado Revised Statutes, 25.5-6-303, **amend**  
20 the introductory portion and (5)(a) as follows:

1           **25.5-6-303. Definitions.** As used in this part 3, ~~and part 5 of this~~  
2 ~~article~~, unless the context otherwise requires:

3           (5) (a) "Case management agency" means agencies providing  
4 services on and before July 1, 1995, for home- and community-based  
5 programs for the elderly, blind, and disabled ~~and for persons living with~~  
6 ~~AIDS~~ shall be terminated July 1, 1995, and case management functions  
7 shall thereafter be performed in accordance with this ~~article~~ ARTICLE 6.

8           **SECTION 8. Act subject to petition - effective date.** This act  
9 takes effect at 12:01 a.m. on the day following the expiration of the  
10 ninety-day period after final adjournment of the general assembly (August  
11 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
12 referendum petition is filed pursuant to section 1 (3) of article V of the  
13 state constitution against this act or an item, section, or part of this act  
14 within such period, then the act, item, section, or part will not take effect  
15 unless approved by the people at the general election to be held in  
16 November 2018 and, in such case, will take effect on the date of the  
17 official declaration of the vote thereon by the governor.