

CHAPTER 283

HEALTH CARE POLICY AND FINANCING

SENATE BILL 98-079

BY SENATORS Pascoe, Hernandez, Hopper, Johnson, Linkhart, Martinez, Phillips, Reeves, Rupert, Tanner, Thiebaut, and Wham;
also REPRESENTATIVES Lawrence, Alexander, Anderson, Bacon, Chavez, Clarke, Dyer, Faatz, Gordon, Leyba, Mace, Musgrave, Reeser, Romero, Snyder, Sullivant, Tucker, Udall, Veiga, S. Williams, Young, and Zimmerman.

AN ACT

CONCERNING PARITY FOR LONG-TERM CARE SERVICES IN MEDICAID.

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

SECTION 1. 26-4-506 (1) (a) and (1) (d), Colorado Revised Statutes, are amended to read:

26-4-506. Spousal protection - protection of income and resources for community spouse - definitions - amounts retained - responsibility of state department - right to appeal. (1) As used in this section, unless the context otherwise requires:

(a) (I) "Community spouse" means the spouse of a person who is in an institution or nursing facility ~~OR THE SPOUSE OF A PERSON WHO IS ENROLLED IN THE PACE PROGRAM AUTHORIZED PURSUANT TO SECTION 26-4-124. THE PROVISIONS OF THIS SUBPARAGRAPH (I) SHALL BE EFFECTIVE UNTIL JULY 1, 1999.~~

(II) "COMMUNITY SPOUSE" MEANS THE SPOUSE OF A PERSON WHO IS IN AN INSTITUTION OR NURSING FACILITY, THE SPOUSE OF A PERSON WHO IS ENROLLED IN THE PACE PROGRAM AUTHORIZED PURSUANT TO SECTION 26-4-124, THE SPOUSE OF A PERSON WHO IS RECEIVING HOME- AND COMMUNITY-BASED SERVICES PURSUANT TO PART 6 OF THIS ARTICLE, OR THE SPOUSE OF A PERSON WHO IS RECEIVING EQUIVALENT SERVICES UNDER THE INTEGRATED CARE AND FINANCING PROJECT AUTHORIZED PURSUANT TO SECTION 26-4-122. THE PROVISIONS OF THIS SUBPARAGRAPH (II) SHALL

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

BECOME EFFECTIVE ON AND AFTER JULY 1, 1999.

(d) (I) "Institutionalized spouse" means an individual who is in an institution or nursing facility who is married to a spouse who is not in an institution or nursing facility.

(II) (A) FOR PURPOSES OF THIS SECTION, "INSTITUTIONALIZED SPOUSE" INCLUDES AN INDIVIDUAL WHO IS ENROLLED IN THE PACE PROGRAM AUTHORIZED PURSUANT TO SECTION 26-4-124 AND WHO IS MARRIED TO A SPOUSE WHO IS NOT ENROLLED IN THE PACE PROGRAM. THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (A) SHALL BE EFFECTIVE UNTIL JULY 1, 1999.

(B) FOR PURPOSES OF THIS SECTION, "INSTITUTIONALIZED SPOUSE" INCLUDES AN INDIVIDUAL WHO IS ENROLLED IN THE PACE PROGRAM AUTHORIZED PURSUANT TO SECTION 26-4-124 OR IS RECEIVING HOME- AND COMMUNITY-BASED SERVICES PURSUANT TO PART 6 OF THIS ARTICLE OR IS RECEIVING EQUIVALENT SERVICES UNDER THE INTEGRATED CARE AND FINANCING PROJECT AUTHORIZED PURSUANT TO SECTION 26-4-122, AND WHO IS MARRIED TO A SPOUSE WHO IS NOT ENROLLED IN THE PACE PROGRAM OR RECEIVING HOME- AND COMMUNITY-BASED SERVICES OR RECEIVING EQUIVALENT SERVICES UNDER THE INTEGRATED CARE AND FINANCING PROJECT AUTHORIZED PURSUANT TO SECTION 26-4-122. THE PROVISIONS OF THIS SUB-SUBPARAGRAPH (B) SHALL BECOME EFFECTIVE ON AND AFTER JULY 1, 1999.

SECTION 2. 26-4-606 (1), Colorado Revised Statutes, is amended to read:

26-4-606. Eligible groups. (1) ~~Home~~ HOME- and community-based services under this subpart 1 shall be offered only to persons:

(a) Who are elderly, blind, or physically disabled; and

(b) Who are in need of the level of care available in a nursing home; and

(c) Who are categorically eligible for medical assistance, or whose gross income does not exceed three hundred percent of the current federal supplemental security income benefit level, and whose resources do not exceed the limit established for individuals receiving a mandatory minimum state supplementation of supplemental security income benefits OR, IN THE CASE OF A PERSON WHO IS MARRIED, DO NOT EXCEED THE AMOUNT AUTHORIZED IN SECTION 26-4-506; and

(d) For whom the costs of services necessary to prevent nursing facility placement would not exceed the average cost of nursing facility care.

SECTION 3. 26-4-623 (2), Colorado Revised Statutes, is amended to read:

26-4-623. Definitions. As used in this subpart 2, unless the context otherwise requires:

(2) (a) "Eligible person" means a person with developmental disabilities:

(I) Who meets the definition of categorically needy as defined in section 26-4-103 (3);

(II) Who is in need of the level of care available in an intermediate care facility for the mentally retarded;

(III) Whose gross income does not exceed three hundred percent of the current federal supplemental security income benefits level or other applicable standard provided in federal regulations construing the federal "Social Security Act", as amended, AND WHOSE RESOURCES DO NOT EXCEED THE LIMIT ESTABLISHED FOR INDIVIDUALS RECEIVING A MANDATORY MINIMUM STATE SUPPLEMENTATION OF SUPPLEMENTAL SECURITY INCOME BENEFITS OR, IN THE CASE OF A PERSON WHO IS MARRIED, DO NOT EXCEED THE AMOUNT AUTHORIZED IN SECTION 26-4-506; and

(IV) For whom it is determined that provision of such services is necessary to avoid placement in an intermediate care facility for the mentally retarded.

(b) The amount of parental income and resources ~~which~~ THAT shall be attributable to a child's gross income for purposes of eligibility under paragraph (a) of this subsection (2) shall be set forth in rules ~~and regulations~~ promulgated by the department of human services.

SECTION 4. 26-4-644, Colorado Revised Statutes, is amended to read:

26-4-644. Program established - financial eligibility. (1) In recognition of the social and economic benefits accruing from the maintenance of persons with HIV/AIDS in their own homes, the general assembly hereby finds and declares that a program shall be implemented by the state department to provide the services set forth in section 26-4-645 to those persons with HIV/AIDS whose gross income does not exceed three hundred percent of the current federal supplemental security income benefit level, whose resources do not exceed the limit established by the state department for individuals receiving a mandatory minimum state supplementation of SSI benefits pursuant to section 26-2-204, OR, IN THE CASE OF A PERSON WHO IS MARRIED, DO NOT EXCEED THE AMOUNT AUTHORIZED IN SECTION 26-4-506, and for whom a licensed physician certifies that such program provides an appropriate alternative to institutionalized care.

(2) Any person who accepts and receives services authorized under this subpart 3 shall pay to the state department, or to an agent or provider designated by the state department, an amount that shall be the lesser of the person's gross income, minus federally allowed maintenance and medical deductions, or the projected cost of services to be rendered to the person under the case plan. Such amount shall be reviewed and revised as necessary each time the case plan is reviewed.

SECTION 5. 26-4-673, Colorado Revised Statutes, is amended to read:

26-4-673. Definition. As used in this subpart 5, unless the context otherwise requires:

(1) "Eligible person" means a person:

(a) Who has a primary diagnosis of major mental illness, as such term is defined in the diagnostic and statistical manual of mental disorders used by the mental health profession, and includes schizophrenic, paranoid, major affective, and schizo affective

disorders, and atypical psychosis, but does not include dementia, including alzheimer's disease or related disorders;

(b) Who is in need of the level of care available in a nursing facility;

(c) Who is categorically eligible for medical assistance, or whose gross income does not exceed three hundred percent of the current federal supplemental security income benefit level, and whose resources do not exceed the limit established for individuals receiving a mandatory minimum state supplementation of supplemental security income benefits OR, IN THE CASE OF A PERSON WHO IS MARRIED, DO NOT EXCEED THE AMOUNT AUTHORIZED IN SECTION 26-4-506; and

(d) For whom the cost of services necessary to prevent nursing facility placement would not exceed the average cost of nursing home care.

SECTION 6. 26-4-683 (4), Colorado Revised Statutes, is amended to read:

26-4-683. Definitions. As used in this subpart 6, unless the context otherwise requires:

(4) "Eligible person" means a person:

(a) Who has a diagnosis of brain injury, as such term is defined in subsection (3) of this section;

(b) Who is in need of the level of care available in a hospital, rehabilitation hospital, or hospital in lieu of a nursing facility;

(c) Who is categorically eligible for medical assistance, or has a gross income that does not exceed three hundred percent of the current federal supplemental security income benefit level and resources that do not exceed the limit established for individuals receiving a mandatory minimum state supplementation of supplemental security income benefits OR, IN THE CASE OF A PERSON WHO IS MARRIED, DO NOT EXCEED THE AMOUNT AUTHORIZED IN SECTION 26-4-506; and

(d) For whom the cost of services would not exceed the average cost of hospital care.

SECTION 7. 26-4-124 (6), Colorado Revised Statutes, is amended to read:

26-4-124. Program of all-inclusive care for the elderly - services - eligibility.

(6) For purposes of this section, "eligible person" means a frail elderly individual who voluntarily enrolls in the PACE program and whose gross income does not exceed three hundred percent of the current federal supplemental security income benefit level, whose resources do not exceed the limit established by the state department of human services for individuals receiving a mandatory minimum state supplementation of SSI benefits pursuant to section 26-2-204, OR IN THE CASE OF A PERSON WHO IS MARRIED, DO NOT EXCEED THE AMOUNT AUTHORIZED IN SECTION 26-4-506, and for whom a physician licensed pursuant to article 36 of title 12, C.R.S., certifies that such a program provides an appropriate alternative to

institutionalized care. The term "frail elderly" means an individual who meets functional eligibility requirements, as established by the state department, for nursing home care and who is sixty-five years of age or older.

SECTION 8. Effective date. This act shall take effect upon passage.

SECTION 9. No appropriations - report to the joint budget committee.

(1) For state fiscal year 1998-99, the general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

(2) For state fiscal year 1999-2000 and state fiscal years thereafter, it is the intent of the general assembly that any savings associated with the deinstitutionalization project implemented by the state department of health care policy and financing shall be applied to cover additional costs, if any, associated with the implementation of this act.

(3) The state department of health care policy and financing shall present to the joint budget committee of the general assembly those savings from deinstitutionalization used to fund this act for state fiscal year 1999-2000.

SECTION 10. 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 1, 1998