

CHAPTER 219

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 02-1039

BY REPRESENTATIVE(S) Clapp, Mace, Romanoff, Stafford, Borodkin, Fairbank, Fritz, Garcia, Groff, Hefley, Jahn, Lawrence, Madden, Marshall, Rippy, Stengel, Weddig, and Williams S.;
also SENATOR(S) Chlouber, Hernandez, Musgrave, Entz, Epps, Fitz-Gerald, Hagedorn, Hanna, Phillips, Reeves, Taylor, Teck, Tupa, and Windels.

AN ACT

**CONCERNING THE CREATION OF A CONSUMER-DIRECTED CARE PILOT PROGRAM FOR THE ELDERLY,
AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

SECTION 1. Article 4 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 13
CONSUMER-DIRECTED CARE FOR THE ELDERLY**

26-4-1301. Definitions. AS USED IN THIS PART 13, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "AUTHORIZED REPRESENTATIVE" MEANS AN INDIVIDUAL DESIGNATED BY THE ELIGIBLE PERSON, OR BY THE GUARDIAN OF THE ELIGIBLE PERSON, IF APPROPRIATE, WHO HAS THE JUDGMENT AND ABILITY TO ASSIST THE ELIGIBLE PERSON IN ACQUIRING AND UTILIZING SERVICES UNDER THIS PART 13. THE EXTENT OF THE AUTHORIZED REPRESENTATIVE'S INVOLVEMENT SHALL BE DETERMINED UPON DESIGNATION.

(2) "CONSUMER-DIRECTED" MEANS THAT AN ELIGIBLE PERSON RECEIVES A DIRECT PAYMENT THROUGH A VOUCHER TO PURCHASE QUALIFIED SERVICES. THE DIRECT PAYMENT RECEIVED BY THE ELIGIBLE PERSON TO PAY FOR QUALIFIED SERVICES SHALL NOT BE COUNTED AS INCOME FOR PURPOSES OF DETERMINING ELIGIBILITY FOR MEDICAID AND OTHER STATE PROGRAMS THAT USE INCOME TO DETERMINE ELIGIBILITY.

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

(3) "ELIGIBLE PERSON" MEANS AN ELDERLY PERSON WHO IS ELIGIBLE TO RECEIVE SERVICES UNDER SUBPART 1 OF PART 6 OF ARTICLE 4 OF THIS TITLE.

(4) "QUALIFIED SERVICES" MEANS HOME- AND COMMUNITY-BASED SERVICES AS SPECIFIED IN SECTION 26-4-607 (1).

26-4-1302. Program - consumer-directed care for the elderly. (1) THE STATE DEPARTMENT SHALL IMPLEMENT A CONSUMER-DIRECTED CARE PROGRAM THAT ALLOWS ELIGIBLE PERSONS TO RECEIVE A DIRECT PAYMENT THROUGH A VOUCHER TO PURCHASE QUALIFIED SERVICES. THE STATE DEPARTMENT IS AUTHORIZED TO SEEK ANY FEDERAL WAIVERS OR WAIVER AMENDMENTS THAT MAY BE NECESSARY TO IMPLEMENT THIS PART 13. THE STATE DEPARTMENT SHALL DESIGN AND IMPLEMENT THE PROGRAM WITH INPUT FROM ELDERLY CONSUMERS OF HOME- AND COMMUNITY-BASED SERVICES OR THEIR AUTHORIZED REPRESENTATIVES.

(2) IN ORDER TO QUALIFY AND TO REMAIN ELIGIBLE FOR THE PROGRAM AUTHORIZED BY THIS SECTION, AN ELDERLY PERSON SHALL:

(a) BE ELIGIBLE FOR HOME- AND COMMUNITY-BASED SERVICES UNDER SUBPART 1 OF PART 6 OF ARTICLE 4 OF THIS TITLE;

(b) BE WILLING TO PARTICIPATE IN THE PROGRAM;

(c) OBTAIN A STATEMENT FROM HIS OR HER PRIMARY CARE PHYSICIAN INDICATING THAT THE PERSON HAS SOUND JUDGMENT AND THE ABILITY TO DIRECT HIS OR HER CARE OR HAS AN AUTHORIZED REPRESENTATIVE;

(d) DEMONSTRATE THE ABILITY TO HANDLE THE FINANCIAL ASPECTS OF SELF-DIRECTED CARE OR HAS AN AUTHORIZED REPRESENTATIVE WHO IS ABLE TO HANDLE THE FINANCIAL ASPECTS OF THE ELIGIBLE PERSON'S CARE;

(e) MEET ANY OTHER QUALIFICATIONS ESTABLISHED BY THE MEDICAL SERVICES BOARD BY RULE.

(3) THE VOUCHER ISSUED TO THE ELIGIBLE PERSON UNDER THIS PROGRAM SHALL BE BASED ON THE ELIGIBLE PERSON'S HISTORICAL UTILIZATION OF HOME- AND COMMUNITY-BASED SERVICES UNDER SUBPART 1 OF PART 6 OF THIS ARTICLE OR THE SINGLE ENTRY POINT AGENCY'S CARE PLAN FOR THE ELIGIBLE PERSON.

(4) WHILE AN ELIGIBLE PERSON IS PARTICIPATING IN THE CONSUMER-DIRECTED CARE PROGRAM ESTABLISHED IN THIS PART 13, THAT PERSON SHALL BE INELIGIBLE TO RECEIVE A HOME CARE ALLOWANCE AS PROVIDED IN SECTION 26-2-122.3 (1) (b).

(5) THE STATE DEPARTMENT SHALL DEVELOP THE ACCOUNTABILITY REQUIREMENTS NECESSARY TO SAFEGUARD THE USE OF PUBLIC DOLLARS, TO PROMOTE EFFECTIVE AND EFFICIENT DELIVERY OF SERVICES, AND TO MONITOR THE SAFETY AND WELFARE OF ELIGIBLE PERSONS UNDER THIS PART 13.

(6) THE MEDICAL SERVICES BOARD SHALL ADOPT RULES AS NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE PROGRAM AUTHORIZED BY THIS PART 13. SUCH RULES SHALL INCLUDE A PROVISION ALLOWING AN ELIGIBLE PERSON TO

DESIGNATE A FAMILY MEMBER OR AUTHORIZED REPRESENTATIVE TO BE RESPONSIBLE FOR MANAGING THE FINANCIAL MATTERS ASSOCIATED WITH THE CONSUMER-DIRECTED CARE OR TO DIRECT THE ELIGIBLE PERSON'S CARE. EXCEPT AS PROVIDED IN SECTION 26-4-609, SUCH DESIGNEE SHALL NOT RECEIVE REIMBURSEMENT FOR HIS OR HER SERVICES.

26-4-1303. Reporting. (1) THE STATE DEPARTMENT SHALL PROVIDE A REPORT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE HEALTH, ENVIRONMENT, CHILDREN AND FAMILIES COMMITTEE OF THE SENATE BY OCTOBER 1, 2006, THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

(a) THE NUMBER OF ELDERLY PERSONS PARTICIPATING IN THE CONSUMER-DIRECTED CARE PROGRAM;

(b) THE COST-EFFECTIVENESS OF THE CONSUMER-DIRECTED CARE PROGRAM;

(c) FEEDBACK FROM CONSUMERS AND THE STATE DEPARTMENT CONCERNING THE PROGRESS AND SUCCESS OF THE CONSUMER-DIRECTED CARE PROGRAM; AND

(d) ANY CHANGES TO THE HEALTH STATUS OR HEALTH OUTCOMES OF THE PROGRAM PARTICIPANTS.

SECTION 2. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, to the department of health care policy and financing, medical programs administration, for the fiscal year beginning July 1, 2002, the sum of forty thousand five hundred fifty-eight dollars (\$40,558) and 0.8 FTE, or so much thereof as may be necessary, for the implementation of this act. Said sum from the general fund shall be subject to the "(M)" notation as defined in the general appropriation act. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2002, the department of health care policy and financing, medical programs administration, will receive the sum of seventy-seven thousand two hundred sixty-two dollars (\$77,262) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds.

(2) It is the intent of the general assembly that the general fund appropriation in subsection (1) of this section for the implementation of this act shall be derived from savings generated from the implementation of the provisions of House Bill 02-1292, as enacted during the Second Regular Session of the Sixty-third General Assembly.

SECTION 3. Effective date. (1) This act shall take effect July 1, 2002, only if:

(a) The final fiscal estimate for House Bill 02-1292, as reflected in the appropriations clause for said act, shows a net general fund savings that is equal to or greater than the final general fund fiscal estimate for this act, as reflected in section 2 of this act; and

(b) House Bill 02-1292 is enacted at the Second Regular Session of the Sixty-third General Assembly and becomes law.

SECTION 4. 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: May 30, 2002