

CHAPTER 239

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 02-1029

BY REPRESENTATIVE(S) Romanoff, Clapp, Mace, Stafford, Borodkin, Daniel, Fairbank, Groff, Jahn, Kester, Madden, Marshall, Mitchell, Plant, Ragsdale, Sanchez, Tapia, and Williams S.; also SENATOR(S) Hanna, Hernandez, Epps, Fitz-Gerald, Gordon, Linkhart, Nichol, Perlmutter, Phillips, Tate, Taylor, Teck, Tupa, and Windels.

AN ACT**CONCERNING EXPANSION OF THE PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY.**

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

SECTION 1. 26-4-124, Colorado Revised Statutes, is amended to read:**26-4-124. Program of all-inclusive care for the elderly - services - eligibility.**

(1) (a) The general assembly hereby finds and declares that it is the intent of this section to replicate the ON LOK program in San Francisco, California, that has proven to be cost-effective at both the state and federal levels. The PACE program is part of a national replication project authorized in section 9412(b)(2) of the federal "Omnibus Budget Reconciliation Act of 1986", as amended, which instructs the secretary of the federal department of health and human services to grant medicare and medicaid waivers to permit not more than ten public or nonprofit private community-based organizations in the country to provide comprehensive health care services on a capitated basis to frail elderly who are at risk of institutionalization. The general assembly finds that, by coordinating an extensive array of medical and nonmedical services, the needs of the participants will be met primarily in an outpatient environment in an adult day health center, in their homes, or in an institutional setting. The general assembly finds that such a service delivery system will enhance the quality of life for the participant and offers the potential to reduce and cap the costs to Colorado of the medical needs of the participants, including hospital and nursing home admissions.

(b) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE SUCCESS OF THE CURRENT PROVIDER IN PROVIDING A SERVICE DELIVERY SYSTEM HAS ENHANCED THE QUALITY OF LIFE FOR MANY PARTICIPANTS IN THE PACE PROGRAM AND, THEREFORE,

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

THE STATE SHOULD DEVELOP ADDITIONAL PACE PROGRAM SITES. THE GENERAL ASSEMBLY FINDS THAT SECTION 4802 OF THE FEDERAL "BALANCED BUDGET ACT OF 1997", AS AMENDED, ALLOWS THE STATE TO DEVELOP ADDITIONAL PACE PROGRAM SITES. THE GENERAL ASSEMBLY FURTHER FINDS THAT NEW PACE PROGRAM SITES SHOULD BE DEVELOPED USING THE PROGRAM DEVELOPED BY THE CURRENT PROVIDER AS A MODEL. THE GENERAL ASSEMBLY ALSO FINDS THAT THE STATE SHOULD CAPITALIZE ON THE SUCCESS, EXPERIENCE, AND QUALITY OF CARE OF SUCH PROVIDER IN OPERATING THE PACE MODEL BY UTILIZING THE PROVIDER'S TECHNICAL ASSISTANCE CAPABILITIES. ADDITIONALLY, THE GENERAL ASSEMBLY FINDS THAT IT IS NECESSARY TO PROVIDE TECHNICAL ASSISTANCE TO NEW PACE PROGRAM SITES TO INSURE CONSISTENT QUALITY OF SERVICES AND ULTIMATE SUCCESS. THE GENERAL ASSEMBLY, THEREFORE, ENCOURAGES THE STATE DEPARTMENT TO SEEK GRANTS AND DONATIONS FROM NATIONAL PACE ORGANIZATIONS THAT HAVE RECEIVED FUNDING TO ASSIST STATES IN PACE EXPANSION INITIATIVES AND TO SECURE FUNDING TO DEDICATE A FULL-TIME STAFF PERSON TO THE IMPLEMENTATION OF THIS PACE EXPANSION.

(2) The general assembly has determined on the recommendation of the state department that the PACE program is cost-effective. As a result of such determination and after consultation with the joint budget committee of the general assembly, application has been made to and waivers have been obtained from the federal health care financing administration to implement the PACE program as provided in this section. The general assembly, therefore, authorizes the state department to implement the PACE program in accordance with this section. In connection with the implementation of the program, the state department shall:

- (a) Provide a system for reimbursement for services to the PACE program pursuant to this section;
- (b) Develop and implement a contract with ~~the~~ ANY nonprofit organization providing the PACE program that sets forth contractual obligations for the PACE program, including but not limited to reporting and monitoring of utilization of services and of the costs of the program as required by the state department;
- (c) Acknowledge that it is participating in the national PACE project as initiated by congress;
- (d) Be responsible for certifying the eligibility for services of all PACE program participants.

(3) The general assembly declares that the purpose of this section is to provide services that would foster the following goals:

- (a) To maintain eligible persons at home as an alternative to long-term institutionalization;
- (b) To provide optimum accessibility to various important social and health resources that are available to assist eligible persons in maintaining independent living;
- (c) To provide that eligible persons who are frail elderly but who have the capacity

to remain in an independent living situation have access to the appropriate social and health services without which independent living would not be possible;

(d) To coordinate, integrate, and link such social and health services by removing obstacles that impede or limit improvements in delivery of these services;

(e) To provide the most efficient and effective use of capitated funds in the delivery of such social and health services;

(f) To assure that capitation payments amount to no more than ninety-five percent of the amount paid under the medicaid fee-for-service structure for an actuarially similar population.

(4) Within the context of the PACE program, the state department may include any or all of the services listed in sections 26-4-202, 26-4-203, 26-4-302, and 26-4-303, as applicable.

(5) An eligible person may elect to receive services from the PACE program as described in subsection (4) of this section. If such an election is made, the eligible person shall not remain eligible for services or payment through the regular medicare or medicaid programs. All services provided by said programs shall be provided through the PACE program in accordance with this section. An eligible person may elect to disenroll from the PACE program at any time.

(5.5) THE STATE DEPARTMENT, IN COOPERATION WITH THE SINGLE ENTRY POINT AGENCIES ESTABLISHED IN SECTION 26-4-522, SHALL DEVELOP AND IMPLEMENT A COORDINATED PLAN TO PROVIDE EDUCATION ABOUT PACE PROGRAM SITE OPERATIONS UNDER THIS SECTION. THE STATE DEPARTMENT SHALL ADOPT RULES TO ENSURE THAT CASE MANAGERS AND ANY OTHER APPROPRIATE STATE DEPARTMENT STAFF DISCUSS THE OPTION AND POTENTIAL BENEFITS OF PARTICIPATING IN THE PACE PROGRAM WITH ALL ELIGIBLE LONG-TERM CARE CLIENTS. THESE RULES SHALL REQUIRE ADDITIONAL AND ON-GOING TRAINING OF THE SINGLE ENTRY POINT AGENCY CASE MANAGERS IN COUNTIES WHERE A PACE PROGRAM IS OPERATING. THIS TRAINING SHALL BE PROVIDED BY A FEDERALLY APPROVED PACE PROVIDER. IN ADDITION, EACH SINGLE ENTRY POINT AGENCY MAY DESIGNATE CASE MANAGERS WHO HAVE KNOWLEDGE ABOUT THE PACE PROGRAM.

(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 fifty-five years of age or older.

(7) Using a risk-based financing model, the ANY nonprofit organization providing

the PACE program shall assume responsibility for all costs generated by PACE program participants, and it shall create and maintain a risk reserve fund that will cover any cost overages for any participant. The PACE program is responsible for the entire range of services in the consolidated service model, including hospital and nursing home care, according to participant need as determined by the multidisciplinary team. The ANY nonprofit organization providing the PACE program is responsible for the full financial risk at the conclusion of the demonstration period and when permanent waivers from the federal health care financing administration are granted. Specific arrangements of the risk-based financing model shall be adopted and negotiated by the federal health care financing administration, the ANY nonprofit organization providing the PACE program, and the state department.

(7.5) NOTHING IN THIS SECTION REQUIRES A PACE PROGRAM SITE OPERATOR TO HOLD A CERTIFICATE OF AUTHORITY AS A HEALTH MAINTENANCE ORGANIZATION UNDER PART 4 OF ARTICLE 16 OF TITLE 10, C.R.S., FOR PURPOSES OF THE PACE PROGRAM.

(8) Any person who accepts and receives services authorized under this section 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 such person's gross income minus the current federal aid to needy disabled supplemental security income benefit level and cost of dependents and minus any amounts paid for private health or medical insurance, or the projected cost of services to be rendered to the person under the plan of care. Such amount shall be reviewed and revised as necessary each time the plan of care is reviewed. The state department shall establish a standard amount to be allowed for the costs of dependents. In determining a person's gross income, the state department shall establish, by rule, a deduction schedule to be allowed and applied in the case of any person who has incurred excessive medical expenses or other outstanding liabilities that require payments.

(8.5) (a) THE STATE DEPARTMENT SHALL PERFORM A FEASIBILITY STUDY, CONDITIONED ON THE RECEIPT OF SUFFICIENT GIFTS, GRANTS, AND DONATIONS, IN ORDER TO IDENTIFY VIABLE COMMUNITIES THAT MAY SUPPORT A PACE PROGRAM SITE. THIS STUDY SHALL BE COMPLETED ON OR BEFORE MAY 1, 2003.

(b) THE STATE DEPARTMENT, CONSISTENT WITH THE RESULTS OF THE FEASIBILITY STUDY, SHALL USE ITS BEST EFFORTS TO HAVE IN OPERATION:

- (I) ONE ADDITIONAL PACE PROGRAM SITE BY JULY 1, 2004;
- (II) A TOTAL OF FOUR ADDITIONAL PACE PROGRAM SITES BY JULY 1, 2005; AND
- (III) A TOTAL OF SIX ADDITIONAL PACE PROGRAM SITES BY JULY 1, 2006.

(c) (I) NO LATER THAN MAY 30, 2003, THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL SUBMIT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, TO THE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND TO THE HEALTH, ENVIRONMENT, CHILDREN AND FAMILIES COMMITTEE OF THE SENATE A WRITTEN REPORT OF THE RESULTS OF THE FEASIBILITY STUDY CONDUCTED UNDER PARAGRAPH (a) OF THIS SUBSECTION (8.5).

(II) NO LATER THAN JANUARY 1, 2007, THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL SUBMIT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, TO THE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND TO THE HEALTH, ENVIRONMENT, CHILDREN AND FAMILIES COMMITTEE OF THE SENATE A FINAL WRITTEN REPORT DETAILING THE EXPANSION OF PACE PROGRAM SITES ACROSS THE STATE.

(9) The medical services board shall promulgate such rules, ~~and regulations~~, pursuant to article 4 of title 24, C.R.S., as are necessary to implement this section.

(10) The general assembly shall make appropriations to the state department to fund services under this section provided at a monthly capitated rate. The state department shall annually renegotiate a monthly capitated rate for the contracted services based on the ninety-five percent of the medicaid fee-for-service costs of an actuarially similar population.

(11) The state department may accept grants and donations from private sources for the purpose of implementing this section.

SECTION 2. 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 31, 2002