

CHAPTER 205

HEALTH CARE POLICY AND FINANCING

SENATE BILL 03-259

BY SENATOR(S) Teck, Owen, and Reeves;
also REPRESENTATIVE(S) Witwer, Plant, Young, Boyd, and Williams S.

AN ACT

CONCERNING THE AUTHORITY OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO CHARGE A MONTHLY FEE TO SPECIFIED FAMILIES WHOSE CHILDREN ARE ENROLLED IN A CHILDREN'S HOME- AND COMMUNITY-BASED SERVICES WAIVER PROGRAM, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

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

26-4-424. Fee authority - home- and community-based services - children - rules - cash fund. (1) BEGINNING JULY 1, 2003, THE STATE DEPARTMENT SHALL COLLECT A MONTHLY PREMIUM FEE TO BE CHARGED ON A SLIDING FEE SCALE BASIS TO FAMILIES OF CHILDREN WHO ARE ENROLLED IN EITHER THE CHILDREN'S HOME- AND COMMUNITY-BASED SERVICES WAIVER PROGRAM, AUTHORIZED BY SECTION 26-4-509, OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER PROGRAM, FOR WHICH THE STATE DEPARTMENT HAS FEDERAL WAIVER AUTHORITY. THE MONTHLY PREMIUM FEE SHALL ONLY BE CHARGED TO A FAMILY WITH AN INCOME OF GREATER THAN THREE HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL. THE MONTHLY PREMIUM FEE PER FAMILY SHALL BE BASED UPON THE FOLLOWING:

(a) FOR FAMILIES WITH ONE ENROLLED CHILD, THE MONTHLY PREMIUM FEE SHALL NOT EXCEED TWO HUNDRED FIFTY DOLLARS.

(b) FOR FAMILIES WITH TWO OR MORE ENROLLED CHILDREN, WHOSE MONTHLY PREMIUM FEE FOR ONE ENROLLED CHILD, AS ESTABLISHED BY THE STATE BOARD PURSUANT TO SUBSECTION (3) OF THIS SECTION, IS FIFTY DOLLARS OR LESS, THE AMOUNT OF THE MONTHLY PREMIUM FOR EACH ADDITIONAL CHILD SHALL NOT EXCEED THE AMOUNT CHARGED FOR THE FIRST CHILD.

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

(c) FOR FAMILIES WITH TWO OR MORE ENROLLED CHILDREN, WHOSE MONTHLY PREMIUM FEE FOR ONE ENROLLED CHILD, AS ESTABLISHED BY THE STATE BOARD PURSUANT TO SUBSECTION (3) OF THIS SECTION, IS GREATER THAN FIFTY DOLLARS BUT NO MORE THAN TWO HUNDRED FIFTY DOLLARS, THE AMOUNT OF THE MONTHLY PREMIUM FEE FOR EACH ADDITIONAL CHILD SHALL BE FIFTY DOLLARS.

(2) NOTWITHSTANDING THE PROVISIONS OF SECTION 24-30-202.4, C.R.S., THE STATE DEPARTMENT, WITH THE APPROVAL OF THE STATE CONTROLLER, IS AUTHORIZED TO COLLECT MONTHLY PREMIUM FEES FROM A FAMILY WHO HAS NOT PAID THE MONTHLY PREMIUM FEE REQUIRED BY THIS SECTION. THE STATE DEPARTMENT MAY EMPLOY PRIVATE COUNSEL OR A COLLECTION AGENCY TO HANDLE THE COLLECTION OF ANY SUCH MONTHLY PREMIUM FEES. THE STATE DEPARTMENT MAY ALSO COLLECT UNPAID MONTHLY PREMIUM FEES BY MEANS OF INTERCEPTING A FAMILY'S STATE INCOME TAX REFUND OR THE GARNISHMENT OF WAGES AND OTHER EARNINGS, AS AUTHORIZED IN SECTION 26-4-403.4.

(3) (a) THE STATE BOARD SHALL PROMULGATE RULES NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS SECTION.

(b) THE STATE BOARD SHALL ESTABLISH THE SLIDING FEE SCALE FOR THE MONTHLY PREMIUM FEE BY RULE. THE RULES PROMULGATED BY THE STATE BOARD SHALL ALSO ESTABLISH A PROCESS FOR A FAMILY TO APPEAL THE FAMILY'S MONTHLY PREMIUM AMOUNT.

(4) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT MEDICAL ASSISTANCE CONTINUE TO BE OFFERED TO ENROLLED RECIPIENTS OF THE CHILDREN'S HOME- AND COMMUNITY-BASED SERVICES WAIVER PROGRAM AND THE CHILDREN'S EXTENSIVE SUPPORT WAIVER PROGRAM AS SECONDARY INSURANCE WHEN PRIMARY HEALTH INSURANCE COVERAGE IS AVAILABLE. THE STATE DEPARTMENT MAY RECOVER FROM A FAMILY, WHO TERMINATES OR DECLINES EXISTING OR READILY AVAILABLE EMPLOYER-BASED HEALTH INSURANCE COVERAGE ON OR THE EFFECTIVE DATE OF THIS SECTION, FOR THE SOLE PURPOSE OF AVOIDING MULTIPLE MONTHLY PREMIUM PAYMENTS, MEDICAL ASSISTANCE PAYMENTS MADE ON BEHALF OF AN ENROLLED CHILD FOR THE APPLICABLE TIME PERIOD. DURING THE APPLICATION AND ANNUAL ELIGIBILITY REVIEW PROCESSES, THE STATE DEPARTMENT IS AUTHORIZED TO DETERMINE IF A FAMILY DELIBERATELY DECLINED OR TERMINATED EXISTING OR READILY AVAILABLE EMPLOYER-BASED HEALTH INSURANCE COVERAGE, AND TO RECOVER MEDICAL ASSISTANCE PAYMENTS AS APPLICABLE. A FAMILY SHALL NOT BE SUBJECT TO RECOVERY OF MEDICAL ASSISTANCE PAYMENTS IF THE LOSS OF PRIVATE HEALTH INSURANCE COVERAGE IS DUE TO ANY OTHER REASON, INCLUDING BUT NOT LIMITED TO LOSS OF EMPLOYMENT OR UNAVAILABILITY OF HEALTH INSURANCE FOR THE ENROLLED CHILD. ONCE IT HAS BEEN DETERMINED THAT A FAMILY INTENTIONALLY TERMINATED OR DECLINED PRIMARY HEALTH INSURANCE COVERAGE, NOTWITHSTANDING THE MONTHLY PREMIUM FEE LIMITATION SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE FAMILY'S MONTHLY PREMIUM FEE SHALL BE INCREASED BY TEN PERCENT. THE STATE BOARD SHALL PROMULGATE RULES NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS SUBSECTION (4).

(5) ALL MONEYS COLLECTED PURSUANT TO THIS SECTION SHALL BE TRANSMITTED

TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE CHILDREN'S HOME- AND COMMUNITY-BASED SERVICES CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SUBSECTION (5) AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE PURPOSE OF PAYING FOR A PORTION OF THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE CHILDREN'S HOME- AND COMMUNITY-BASED SERVICES AND THE CHILDREN'S EXTENSIVE SUPPORT WAIVER PROGRAMS. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THE CHILDREN'S HOME- AND COMMUNITY-BASED SERVICES WAIVER PROGRAM OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER PROGRAM MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(6) THE STATE DEPARTMENT SHALL SEEK THE FEDERAL AUTHORIZATION NECESSARY TO IMPOSE A MONTHLY PREMIUM FEE UNDER THE CHILDREN'S HOME- AND COMMUNITY-BASED SERVICES PROGRAM AND THE CHILDREN'S EXTENSIVE SUPPORT PROGRAM, AS REQUIRED BY THIS SECTION.

SECTION 2. Appropriation - adjustments to the 2003 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of health care policy and financing for the fiscal year beginning July 1, 2003, shall be adjusted as follows:

(a) The appropriation to the executive director's office, for personal services, is increased by thirty-eight thousand seven hundred ninety-seven dollars (\$38,797) and 1.0 FTE. Of said sum, nineteen thousand three hundred ninety-nine dollars (\$19,399) shall be from cash funds and nineteen thousand three hundred ninety-eight dollars (\$19,398) shall be from federal funds. The cash funds appropriation shall be from the children's home- and community-based services cash fund created in section 26-4-424 (5), Colorado Revised Statutes.

(b) The appropriation to the executive director's office, for operating expenses, is increased by seven thousand five hundred fifty-five dollars (\$7,555). Of said sum, three thousand seven hundred seventy-eight dollars (\$3,778) shall be from cash funds and three thousand seven hundred seventy-seven dollars (\$3,777) shall be from federal funds. The cash funds appropriation shall be from the children's home- and community-based services cash fund created in section 26-4-424 (5), Colorado Revised Statutes.

(c) The general fund appropriation for medical services premiums is decreased by seven hundred seventeen thousand seven hundred nineteen dollars (\$717,719) and the cash funds appropriation for medical services premiums is increased by seven hundred seventeen thousand seven hundred nineteen dollars (\$717,719). The cash funds appropriation shall be from the children's home- and community-based services cash fund created in section 26-4-424 (5), Colorado Revised Statutes.

(d) The general fund appropriation to the department of human services medicaid-funded programs, services for people with disabilities-medicaid funding,

services for families and children-medicare funding, is decreased by two hundred fifty-three thousand two hundred forty-four dollars (\$253,244) and the cash funds appropriation to the department of human services medicare-funded programs, services for people with disabilities-medicare funding, services for families and children-medicare funding is increased by two hundred fifty-three thousand two hundred forty-four dollars (\$253,244). The cash funds appropriation shall be from the children's home- and community-based services cash fund created in section 26-4-424 (5), Colorado Revised Statutes.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2003, to the department of personnel and administration, finance and procurement, collections services, for personal services, is increased by twenty-five thousand four hundred ninety-nine dollars (\$25,499) cash funds. The cash funds appropriation shall be from the children's home- and community-based services cash fund created in section 26-4-424 (5), Colorado Revised Statutes.

SECTION 3. 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 1, 2003