

CHAPTER 160

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 09-1103

BY REPRESENTATIVE(S) Riesberg, Apuan, Fischer, Frangas, Gerou, Green, Kefalas, Labuda, Massey, McGihon, Primavera, Ryden, Schafer S., Todd, Acree, Merrifield, Vigil;
also SENATOR(S) Newell, Bacon, Boyd, Carroll M., Foster, Gibbs, Groff, Heath, Hodge, Hudak, Isgar, Morse, Sandoval, Schwartz, Shaffer B., Tochtrop, Williams.

AN ACT

**CONCERNING PRESUMPTIVE ELIGIBILITY UNDER THE MEDICAL ASSISTANCE PROGRAM FOR PERSONS
IN NEED OF LONG-TERM CARE.**

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

SECTION 1. 25.5-5-204, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25.5-5-204. Presumptive eligibility - pregnant women - children - long-term care - state plan. (2.7) (a) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK FEDERAL AUTHORIZATION TO ALLOW A PERSON WHO IS IN NEED OF LONG-TERM CARE, AS DEFINED IN SECTION 25.5-6-104, TO BE PRESUMPTIVELY ELIGIBLE FOR THE MEDICAL ASSISTANCE PROGRAM PURSUANT TO THIS ARTICLE AND ARTICLES 4 AND 6 OF THIS TITLE.

(b) IF THE STATE DEPARTMENT RECEIVES FEDERAL AUTHORIZATION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2.7) AND SUFFICIENT SPENDING AUTHORITY, A PERSON IN NEED OF LONG-TERM CARE SHALL BE PRESUMPTIVELY ELIGIBLE FOR THE MEDICAL ASSISTANCE PROGRAM IF THE PERSON OR THE PERSON'S LEGAL REPRESENTATIVE DECLARES ALL PERTINENT INFORMATION RELATING TO THE CRITERIA OF INCOME, ASSETS, AND IMMIGRATION STATUS. SUCH PERSON SHALL BE ASSESSED FOR THE APPROPRIATE LEVEL OF CARE PURSUANT TO SECTION 25.5-6-104. IF REQUIRED DUE TO LIMITATIONS OF FEDERAL AUTHORIZATION OR SPENDING AUTHORITY, THE STATE DEPARTMENT MAY IMPLEMENT THIS PARAGRAPH (b) AS A PILOT PROGRAM RATHER THAN STATEWIDE.

(c) THE STATE DEPARTMENT SHALL MAKE ANY NECESSARY CHANGES TO THE

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

STATE PLAN AND WAIVERS FOR HOME- AND COMMUNITY-BASED SERVICE PROGRAMS AUTHORIZED PURSUANT TO THIS ARTICLE AND ARTICLES 4 AND 6 OF THIS TITLE TO COMPLY WITH THIS SUBSECTION (2.7).

(d) IF IT IS DETERMINED THAT A RECIPIENT WAS NOT ELIGIBLE FOR MEDICAL BENEFITS AFTER THE RECIPIENT HAD BEEN DETERMINED TO BE ELIGIBLE BASED UPON PRESUMPTIVE ELIGIBILITY, THE STATE DEPARTMENT SHALL NOT PURSUE RECOVERY FROM A COUNTY DEPARTMENT FOR THE COST OF MEDICAL SERVICES PROVIDED TO THE RECIPIENT, AND THE COUNTY DEPARTMENT SHALL NOT BE RESPONSIBLE FOR ANY FEDERAL ERROR RATE SANCTIONS RESULTING FROM SUCH DETERMINATION.

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: April 22, 2009