

CHAPTER 165

GOVERNMENT - STATE

SENATE BILL 15-247

BY SENATOR(S) Steadman, Grantham, Lambert, Aguilar, Crowder, Guzman, Heath, Johnston, Kefalas, Kerr, Merrifield, Newell, Todd;
also REPRESENTATIVE(S) Young, Hamner, Rankin, Becker K., Fields, Garnett, Ginal, Kagan, Kraft-Tharp, Lee, Lontine, Pettersen, Rosenthal, Ryden, Salazar, Williams.

AN ACT

CONCERNING THE AUGMENTATION OF THE SCOPE OF SERVICES OF THE STATE DRUG ASSISTANCE PROGRAM ADMINISTERED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO AUTHORIZE FUNDING FOR PREVENTION, INTERVENTION, AND OTHER SERVICES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 25-4-1411, **amend** (1) (a), (1) (b), (2), (3) introductory portion, (3) (a), (3) (c), (4), (5), and (6) (a) as follows:

25-4-1411. Drug assistance program - program fund - created - legislative declaration - no entitlement created. (1) (a) The general assembly recognizes that:

(I) ~~Medical science is making strides in treating persons~~ INDIVIDUALS who have AIDS or HIV; ~~The general assembly recognizes that new pharmaceutical products have been developed that delay the debilitating effects of AIDS and HIV, thereby allowing HIV-infected persons to maintain a higher quality of life and remain productive. The general assembly also recognizes that many persons with AIDS may eventually have their medical bills paid through some form of government assistance. The general assembly finds that the state will recognize a savings in medical assistance if persons with HIV can remain working longer.~~

(II) THERE ARE EFFECTIVE BIOMEDICAL STRATEGIES TO REDUCE NEW HIV INFECTIONS;

(III) INDIVIDUALS AT RISK OF HIV MAY ALSO BE AT RISK OF OTHER INFECTIOUS

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

DISEASES THAT CAN EXACERBATE THE OUTCOMES OF AN HIV INFECTION;

(IV) INDIVIDUALS OF LOWER INCOME FACE BARRIERS ACCESSING BIOMEDICAL INTERVENTIONS, PARTICULARLY IF THEY LACK HEALTH INSURANCE COVERAGE OR IF THEIR HEALTH INSURANCE INCLUDES UNAFFORDABLE PREMIUMS OR COST-SHARING REQUIREMENTS; AND

(V) BOTH THE PUBLIC HEALTH AND QUALITY OF LIFE WOULD BENEFIT FROM PROVIDING ASSISTANCE WITH SUCH COSTS AND ENCOURAGING PROMPT AND SUSTAINED TREATMENT, EVENTUALLY PREVENTING FURTHER TRANSMISSION OF HIV, VIRAL HEPATITIS, AND SEXUALLY TRANSMITTED INFECTIONS THROUGH PREVENTION, CURE, OR VIRAL SUPPRESSION.

(b) Therefore, the general assembly declares that the purpose of this section is to implement the drug treatment component of the federal "Ryan White C.A.R.E. Act of 1990", as amended, by creating the AIDS drug assistance program to provide certain pharmaceutical products to qualifying low-income persons who have AIDS or HIV ASSISTANCE PROGRAM FOR QUALIFYING INDIVIDUALS OF LOWER INCOME WHO HAVE MEDICAL OR PREVENTATIVE NEEDS CONCERNING AIDS OR HIV, VIRAL HEPATITIS, OR A SEXUALLY TRANSMITTED INFECTION.

(2) (a) Subject to available appropriations, the department of public health and environment is authorized to implement and administer ~~an AIDS~~ A drug assistance program, referred to in this section as the "state program", to provide ~~pharmaceutical products to treat HIV disease or prevent the serious deterioration of health arising from HIV disease in eligible individuals~~ ASSISTANCE WITH INDICATED SCREENING, GENERAL MEDICAL, PREVENTATIVE, AND PHARMACEUTICAL COSTS FOR ELIGIBLE INDIVIDUALS.

(b) The general assembly may annually appropriate moneys from the general fund to ~~purchase~~ ASSIST WITH INDICATED SCREENING, GENERAL MEDICAL, PREVENTATIVE, AND ~~pharmaceutical products~~ COSTS for ~~persons~~ INDIVIDUALS participating in the state program.

(c) The state program ~~shall also be~~ IS ALSO funded with federal funds available under the federal "Ryan White C.A.R.E. Act of 1990", as amended. ~~and~~

(d) ANY MONEYS RECEIVED IN EXCESS OF A FEDERAL PRICE AGREEMENT ARE A DONATION.

(e) FOR ACTIVITIES OF THE STATE PROGRAM FUNDED BY THE DRUG ASSISTANCE PROGRAM FUND THAT EXCEED THE APPROPRIATION FROM THE DRUG ASSISTANCE PROGRAM FUND, IF THERE ARE SUFFICIENT UNCOMMITTED MONEYS IN THE AIDS AND HIV PREVENTION FUND, THE PROGRAM MAY USE moneys appropriated for the implementation and administration of the state program from the AIDS and HIV prevention fund as authorized by section 25-4-1415 (1).

(3) To be eligible to participate in the state program, an individual ~~shall~~ MUST:

(a) Have a medical ~~diagnosis of HIV disease~~ INDICATION FOR TREATMENT OR PREVENTION FOR HIV OR AIDS, VIRAL HEPATITIS, OR ANOTHER SEXUALLY

TRANSMITTED INFECTION;

(c) Have a prescription from an authorized provider for a pharmaceutical product or combination of pharmaceutical products, AS APPLICABLE, that are included on the drug formulary for the state program; AND

(4) A subcommittee of an advisory group convened by the governor to make recommendations for HIV AND AIDS policy in the state shall serve in an advisory role to the department of public health and environment in implementing the state program and shall ~~advise and recommend~~ PROVIDE ADVICE AND RECOMMENDATIONS to the department of public health and environment ~~what~~ CONCERNING:

(a) WHICH pharmaceutical products should be listed on the drug formulary for the state program;

(b) INCOME AND OTHER ELIGIBILITY REQUIREMENTS FOR THE STATE PROGRAM; AND

(c) THE USES OF FUNDING FOR THE STATE PROGRAM PURSUANT TO PARAGRAPHS (a) TO (e) OF SUBSECTION (2) OF THIS SECTION.

(5) If at any time the department of public health and environment, in consultation with the subcommittee of the advisory group on HIV AND AIDS policy established in subsection (4) of this section, determines that the ~~AIDS~~ drug assistance program is reaching the program's fiscal limitations, the department, in consultation with the subcommittee, shall implement a policy of giving preference to THE HIGHEST-PRIORITY applicants of lower income, who otherwise meet the eligibility requirements in subsection (3) of this section, for enrollment into the program IN THE FOLLOWING RANK ORDER:

(a) INDIVIDUALS DIAGNOSED WITH HIV OR AIDS;

(b) INDIVIDUALS IN NEED OF TREATMENT TO PREVENT HIV INFECTION;

(c) INDIVIDUALS DIAGNOSED WITH OTHER SEXUALLY TRANSMITTED INFECTIONS THAT CAN BE PREVENTED OR CURED THROUGH CURRENTLY AVAILABLE PHARMACEUTICAL TREATMENTS;

(d) INDIVIDUALS DIAGNOSED WITH VIRAL HEPATITIS;

(e) INDIVIDUALS WITH EMERGING CARE, TREATMENT, OR PREVENTION NEEDS CONCERNING HIV, VIRAL HEPATITIS, OR OTHER SEXUALLY TRANSMITTED INFECTIONS.

(6) (a) The ~~AIDS~~ drug assistance program fund is created in the state treasury. The principal of the fund consists of tobacco litigation settlement moneys transferred by the state treasurer to the fund pursuant to section 24-75-1104.5 (1) (j), C.R.S. Subject to annual appropriation by the general assembly, the department of public health and environment may expend moneys from the fund for the state program. ~~The lesser of all unexpended and unencumbered moneys in the fund at the~~

~~end of any fiscal year or an amount of such moneys equal to five percent of the amount appropriated from the fund for the fiscal year remain in the fund and shall not be transferred to the general fund or any other fund. Any additional unexpended and unencumbered moneys in the fund at the end of any fiscal year shall be transferred to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S. ANY UNEXPENDED OR UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2014, REMAINS IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.~~

SECTION 2. In Colorado Revised Statutes, 24-75-1104.5, **amend** (1) (j) (I) as follows:

24-75-1104.5. Use of settlement moneys - programs - repeal. (1) Except as otherwise provided in subsections (1.3) and (5) of this section, and except that disputed payments received by the state in the 2013-14 fiscal year or in any fiscal year thereafter are excluded from the calculation of allocations under this subsection (1), for the 2004-05 fiscal year and for each fiscal year thereafter, the following programs, services, or funds shall receive the following specified amounts from the settlement moneys received by the state in the preceding fiscal year:

(j) (I) The ~~AIDS~~ drug assistance program created in section 25-4-1411, C.R.S., shall receive three and a half percent of the total amount of settlement moneys annually received by the state, not to exceed five million dollars in any fiscal year, as provided in said section.

SECTION 3. In Colorado Revised Statutes, 25-1.5-101, **amend** (1) (m) (I) as follows:

25-1.5-101. Powers and duties of department - laboratory cash fund. (1) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section as follows:

(m) (I) To accept AND EXPEND on behalf of and in the name of the state, gifts, donations, and grants for any purpose connected with the work and programs of the department.

SECTION 4. In Colorado Revised Statutes, 25-4-1415, **amend** (1) as follows:

25-4-1415. Cash fund - administration - limitation. (1) There is hereby created in the state treasury the AIDS and HIV prevention fund, referred to in this section as the "fund", ~~that shall consist~~ WHICH CONSISTS of moneys that may be appropriated to the fund by the general assembly. The moneys in the fund ~~shall be~~ ARE subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the program. ~~except that, for the 2009-10 and 2010-11 fiscal years, the general assembly may appropriate moneys from the fund to the department of public health and environment for the implementation and administration of the AIDS drug assistance program described in section 25-4-1411(2).~~ Any moneys in the fund not expended for the purpose of the 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 a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

SECTION 5. Appropriation. (1) For the 2015-16 state fiscal year, \$263,033 is appropriated to the department of public health and environment for use by the disease control and environmental epidemiology division. This appropriation is from the AIDS drug assistance program fund created in section 25-4-1411 (6) (a), C.R.S. To implement this act, the division may use this appropriation for the Ryan White Act operating expenses.

(2) For the 2015-16 state fiscal year, the general assembly anticipates that the department of public health and environment will receive \$600,000 from the moneys received in excess of a federal price agreement pursuant to section 25-4-1411 (2) (d), C.R.S. It is anticipated this amount will be used by the disease control and environmental epidemiology division for the Ryan White Act operating expenses. This amount is included for informational purposes only.

SECTION 6. 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 8, 2015