

CHAPTER 304

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 15-1318

BY REPRESENTATIVE(S) Young, Hamner, Rankin, Arndt, Becker K., Duran, Esgar, Fields, Ginal, Kraft-Tharp, Lontine, Melton, Pettersen, Primavera, Roupe, Ryden, Salazar, Vigil, Williams;
also SENATOR(S) Grantham, Lambert, Steadman, Aguilar, Crowder, Guzman, Heath, Hodge, Jones, Kefalas, Kerr, Martinez Humenik, Merrifield, Newell, Roberts, Todd.

AN ACT

CONCERNING THE REQUIREMENTS FOR ADMINISTERING A SINGLE MEDICAID WAIVER FOR HOME- AND COMMUNITY-BASED SERVICES FOR ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, 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, **add** 25.5-6-409.3 as follows:

25.5-6-409.3. Consolidated waiver - intellectual and developmental disabilities - conflict-free case management - legislative declaration. (1) (a) THE GENERAL ASSEMBLY DECLARES THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT MONEYS APPROPRIATED FOR SERVICES FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES BE SPENT IN THE MOST EFFECTIVE MANNER, THEREBY ENABLING THE GREATEST NUMBER OF ELIGIBLE INDIVIDUALS TO RECEIVE THE SERVICES THAT THEY NEED IN THE AMOUNTS NEEDED SO THAT THEY MAY LIVE SUCCESSFULLY IN THE COMMUNITY. THEREFORE, THE GENERAL ASSEMBLY FINDS THAT THE BEST MECHANISM FOR PROVIDING ADEQUATE SERVICES FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES IS TO HAVE A SINGLE CONSOLIDATED MEDICAID WAIVER FOR HOME- AND COMMUNITY-BASED INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(b) FURTHER, THE GENERAL ASSEMBLY ACKNOWLEDGES THE RIGHTS OF INDIVIDUALS TO MAKE CHOICES REGARDING THEIR CASE MANAGERS AND SERVICE PROVIDERS. THEREFORE, THE GENERAL ASSEMBLY BELIEVES THERE EXISTS THE NEED TO ENSURE CONFLICT-FREE CASE MANAGEMENT SERVICES WITHIN THE MEDICAID WAIVERS FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

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

(2) THE STATE DEPARTMENT SHALL ESTABLISH A REDESIGNED MEDICAID WAIVER FOR HOME- AND COMMUNITY-BASED SERVICES FOR ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, EFFECTIVE JULY 1, 2016, OR AS SOON AS THE CENTERS FOR MEDICARE AND MEDICAID SERVICES APPROVES THE REDESIGNED WAIVER.

(3) THE REDESIGNED WAIVER MUST INCLUDE FLEXIBLE SERVICE DEFINITIONS, PROVIDE ACCESS TO SERVICES AND SUPPORTS WHEN AND WHERE THEY ARE NEEDED, OFFER SERVICES AND SUPPORTS BASED ON THE INDIVIDUAL'S NEEDS AND PREFERENCES, AND INCORPORATE THE FOLLOWING PRINCIPLES:

(a) FREEDOM OF CHOICE OVER LIVING ARRANGEMENTS AND SOCIAL, COMMUNITY, AND RECREATIONAL OPPORTUNITIES;

(b) INDIVIDUAL AUTHORITY OVER SUPPORTS AND SERVICES;

(c) SUPPORT TO ORGANIZE RESOURCES IN WAYS THAT ARE MEANINGFUL TO THE INDIVIDUAL RECEIVING SERVICES;

(d) HEALTH AND SAFETY ASSURANCES;

(e) OPPORTUNITY FOR COMMUNITY CONTRIBUTION; AND

(f) RESPONSIBLE USE OF PUBLIC DOLLARS.

(3.3)(a) THE STATE DEPARTMENT'S ADMINISTRATION OF THE REDESIGNED WAIVER SHALL INCLUDE:

(I) A FUNCTIONAL ELIGIBILITY AND NEEDS ASSESSMENT TOOL USED FOR THE REDESIGNED WAIVER THAT ALIGNS WITH THE RECOMMENDATIONS OF THE COMMUNITY LIVING ADVISORY GROUP AND THAT IS FULLY INTEGRATED WITH THE ASSESSMENT PROCESS FOR ALL CLIENTS RECEIVING LONG-TERM SERVICES AND SUPPORTS;

(II) AN ASSESSMENT PROCESS THAT IS PERSON-CENTERED, DEMONSTRATES INTER-RATER RELIABILITY, IS NORM REFERENCED FOR PEOPLE WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AND INCLUDES THE FOLLOWING PRINCIPLES AND GOALS:

(A) MAXIMUM PERSONAL CONTROL;

(B) SYSTEM TRANSPARENCY; AND

(C) SUPPORT NEEDED TO ACHIEVE KEY SERVICE OUTCOMES, INCLUDING HEALTH AND WELFARE, IMPROVING QUALITY OF LIFE, INCREASING INDEPENDENCE, AND SUPPORTING EMPLOYMENT AND COMMUNITY INTEGRATION; AND

(III) A SERVICE PAYMENT SYSTEM THAT ENSURES FAIR DISTRIBUTION OF AVAILABLE RESOURCES AND THAT IS EFFICIENT, TRANSPARENT, AND EQUITABLE FOR BOTH PROVIDERS AND CONSUMERS.

(b) AS PART OF THE STATE DEPARTMENT'S FISCAL YEAR 2016-17 BUDGET REQUEST TO THE JOINT BUDGET COMMITTEE, THE STATE DEPARTMENT SHALL INCLUDE A JUSTIFICATION FOR THE CONTINUED USE OF THE SUPPORTS INTENSITY SCALE ASSESSMENT. IF THE JOINT BUDGET COMMITTEE CONCLUDES THAT THE JUSTIFICATION IS INSUFFICIENT TO CONTINUE THE USE OF THE SUPPORTS INTENSITY SCALE ASSESSMENT, THE STATE DEPARTMENT SHALL PRESENT A PLAN TO THE JOINT BUDGET COMMITTEE FOR THE TRANSITION TO A DIFFERENT ASSESSMENT TOOL THAT MEETS THE PRINCIPLES AND GOALS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH (a) OF THIS SUBSECTION (3.3), AS WELL AS A TIMELINE FOR TRANSITION TO THE NEW ASSESSMENT TOOL THAT COMPORTS WITH THE TIME FRAME SET FORTH IN SUBSECTION (2) OF THIS SECTION FOR THE ADMINISTRATION OF THE SINGLE CONSOLIDATED MEDICAID WAIVER.

(3.5) THE REDESIGNED WAIVER MUST ENSURE CONTINUITY OF SUPPORT, INCLUDING RESIDENTIAL SERVICES, FOR ELIGIBLE INDIVIDUALS ENROLLED IN THE HOME- AND COMMUNITY-BASED SERVICES WAIVERS SERVING ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO WERE RECEIVING SERVICES AS OF JANUARY 1, 2016, AND WHO HAVE MAINTAINED WAIVER ELIGIBILITY.

(4) THE STATE DEPARTMENT SHALL NOTIFY THE JOINT BUDGET COMMITTEE NO LATER THAN JUNE 1, 2016, IF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES HAS NOT APPROVED A SINGLE CONSOLIDATED MEDICAID WAIVER FOR HOME- AND COMMUNITY-BASED SERVICES FOR ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES. IF THE STATE DEPARTMENT HAS NOT RECEIVED APPROVAL FROM THE CENTERS FOR MEDICARE AND MEDICAID SERVICES BY JULY 1, 2016, THE JOINT BUDGET COMMITTEE SHALL ESTABLISH A NOTIFICATION AND REVIEW PROCESS RELATING TO THE STATUS OF THE PENDING WAIVER CONSOLIDATION PROCESS.

(5) NO LATER THAN JULY 1, 2016, THE STATE DEPARTMENT, WITH INPUT FROM COMMUNITY-CENTERED BOARDS, SINGLE ENTRY POINT AGENCIES, AND OTHER STAKEHOLDERS, SHALL DEVELOP A PLAN FOR THE DELIVERY OF CONFLICT-FREE CASE MANAGEMENT SERVICES THAT COMPLIES WITH THE FEDERAL REGULATIONS RELATING TO PERSON-CENTERED PLANNING. THE PLAN MUST INCLUDE A REASONABLE TIMELINE FOR IMPLEMENTATION OF THE PLAN. THE STATE DEPARTMENT MAY HIRE A CONSULTANT TO ASSIST WITH PLAN DEVELOPMENT. DURING THE BUDGET PROCESS FOR THE 2016-17 LEGISLATIVE SESSION, THE STATE DEPARTMENT SHALL REPORT TO THE JOINT BUDGET COMMITTEE ON THE DEVELOPMENT OF THE PLAN AND ANY STATUTORY CHANGES REQUIRED TO IMPLEMENT THE PLAN.

SECTION 2. Appropriation. (1) For the 2015-16 state fiscal year, \$788,347 is appropriated to the department of health care policy and financing for use by the division of intellectual and developmental disabilities. This appropriation is from the intellectual and developmental disabilities services cash fund created in section 25.5-10-207, C.R.S., and is based on an assumption that the division will require an additional 2.7 FTE. To implement this act, the division may use this appropriation for administrative costs. Any moneys appropriated in this section not expended prior to July 1, 2015, are further appropriated to the department for the 2016-17 state fiscal year for the same purpose.

(2) For the 2015-16 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$1,388,348 in federal funds to implement this act. The appropriation in subsection (1) of this section is based on the assumption that the department will receive this amount of federal funds.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 5, 2015