

## CHAPTER 184

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**HEALTH CARE POLICY AND FINANCING**

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**HOUSE BILL 18-1328**

BY REPRESENTATIVE(S) Young, Hamner, Rankin, Buckner, Esgar, Ginal, Herod, Hooton, Jackson, Kennedy, Kraft-Tharp, Lontine, Melton, Michaelson Jenet, Pettersen, Reyher, Rosenthal, Valdez, Williams D., Winkler, Duran; also SENATOR(S) Lambert and Moreno, Lundberg, Court, Crowder, Jones, Kagan, Kefalas, Kerr, Martinez Humenik, Merrifield, Todd.

**AN ACT**

**CONCERNING THE CHILDREN'S HABILITATION RESIDENTIAL WAIVER PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING AN APPROPRIATION.**

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

**SECTION 1. Legislative declaration.** The general assembly declares that children with intellectual and developmental disabilities who also have complex behavioral support needs, where the exhibited behavior results in danger to themselves, their families, or their communities, should have access to services that support the children remaining in or returning to their family homes, as well as crisis stabilization and out-of-home services, when necessary.

**SECTION 2.** In Colorado Revised Statutes, 25.5-5-306, **add** (5) and (6) as follows:

**25.5-5-306. Residential child health care - waiver - program - rules - notice to revisor - repeal.** (5) (a) ON AND AFTER JULY 1, 2018, THE STATE DEPARTMENT SHALL INITIATE A STAKEHOLDER PROCESS TO DEVELOP ELIGIBILITY CRITERIA, SERVICE DEFINITIONS, AND PROVIDER QUALIFICATIONS FOR PURPOSES OF DRAFTING AND SUBMITTING A REDESIGNED WAIVER THAT PROVIDES HOME- AND COMMUNITY-BASED SERVICES UNDER THE CHILDREN'S HABILITATION RESIDENTIAL PROGRAM WAIVER FOR MEDICAID-ELIGIBLE CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS DEFINED IN SECTION 25.5-10-202, WHO HAVE COMPLEX BEHAVIORAL SUPPORT NEEDS. THE REDESIGNED WAIVER MUST PROVIDE ACCESS TO SERVICES AND SUPPORTS THAT ALLOW A CHILD OR YOUTH, REGARDLESS OF CUSTODY STATUS, TO REMAIN IN OR RETURN TO HIS OR HER FAMILY HOME, INCLUDING BUT NOT LIMITED TO A CHILD OR YOUTH IN THE CUSTODY OF A COUNTY

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*Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

DEPARTMENT OF HUMAN OR SOCIAL SERVICES, WHILE ALSO PROVIDING CRISIS STABILIZATION AND OUT-OF-HOME SERVICES WHEN NECESSARY.

(b) NO LATER THAN MARCH 31, 2019, THE STATE DEPARTMENT SHALL SUBMIT THE REDESIGNED WAIVER FOR FEDERAL APPROVAL.

(c) ONCE THE WAIVER IS APPROVED, THE STATE BOARD SHALL ADOPT RULES IMPLEMENTING THE REDESIGNED WAIVER.

(d) ON AND AFTER JULY 1, 2018, THE STATE DEPARTMENT MAY SEEK FEDERAL AUTHORIZATION TO CHANGE THE AGENCY DESIGNATED TO OPERATE AND ADMINISTER THE PROGRAM FROM THE DEPARTMENT OF HUMAN SERVICES TO THE STATE DEPARTMENT.

(6) THIS SECTION WILL BE REPEALED IF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES APPROVES THE WAIVER REQUESTED PURSUANT TO SUBSECTION (5) OF THIS SECTION. THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED IN THIS SECTION HAS OCCURRED BY E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION IS REPEALED, EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES APPROVED THE WAIVER OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

**SECTION 3.** In Colorado Revised Statutes, **add 25.5-6-903** as follows:

**25.5-6-903. Residential child health care program - waiver - home- and community-based services - rules - repeal.** (1) SUBJECT TO FEDERAL AUTHORIZATION, THE STATE DEPARTMENT SHALL IMPLEMENT A PROGRAM FOR MEDICAID-ELIGIBLE CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS DEFINED IN SECTION 25.5-10-202, WITH SIGNIFICANT BEHAVIORAL SUPPORT NEEDS WHO ARE AT RISK OF INSTITUTIONALIZATION. THE STATE BOARD SHALL ESTABLISH, BY RULE, THE TYPE OF SERVICES PROVIDED PURSUANT TO THE PROGRAM, TO THE EXTENT THE SERVICES ARE COST-EFFICIENT, AND THE RECIPIENT ELIGIBILITY CRITERIA THAT MAY INCLUDE, BUT ARE NOT LIMITED TO, A MEDICAL NECESSITY DETERMINATION AND A FINANCIAL ELIGIBILITY DETERMINATION.

(2) THE STATE DEPARTMENT MAY LIMIT THE NUMBER OF PARTICIPANTS IN THE PROGRAM IN ACCORDANCE WITH ANY FEDERAL WAIVER OBTAINED BY THE STATE DEPARTMENT TO IMPLEMENT THIS SECTION.

(3) THE STATE BOARD SHALL PROMULGATE RULES AS NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE PROGRAM, INCLUDING BUT NOT LIMITED TO RULES REGARDING PROGRAM SERVICES; ELIGIBILITY CRITERIA, INCLUDING FINANCIAL ELIGIBILITY CRITERIA; AND REIMBURSEMENT OF PROVIDERS.

(4) THIS SECTION WILL TAKE EFFECT IF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES APPROVES A REDESIGNED CHILDREN'S HABILITATION RESIDENTIAL PROGRAM WAIVER FOR MEDICAID-ELIGIBLE CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS DEFINED IN SECTION

25.5-10-202, WHO HAVE COMPLEX BEHAVIORAL SUPPORT NEEDS, PURSUANT TO HOUSE BILL 18-1328, AS ENACTED IN 2018. THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED IN THIS SECTION HAS OCCURRED BY E-MAILING THE NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION TAKES EFFECT, EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES APPROVED THE WAIVER OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE REVISOR OF STATUTES.

**SECTION 4.** In Colorado Revised Statutes, 26-5-104, **amend** (4)(d) as follows:

**26-5-104. Funding of child welfare services - rules - report - provider contracts - funding mechanism review - definitions.** (4) **Allocations.** (d) The state department may only seek additional funding from the general assembly in a supplemental appropriations bill based upon caseload growth, subject to the provisions of subsection (7) of this section, or changes in federal law or federal funding. ~~For fiscal years 2006-07 and 2007-08, the state department may seek supplemental funding related to the implementation of the placement of children in a residential child health care program as specified in section 25.5-5-306, C.R.S.~~

**SECTION 5.** In Colorado Revised Statutes, 25.5-5-203, **amend** (1)(m) as follows:

**25.5-5-203. Optional programs with special state provisions.** (1) Subject to the provisions of subsection (2) of this section, this section specifies programs developed by Colorado to increase federal financial participation through selecting optional services or optional eligible groups. These programs include but are not limited to:

(m) The program for residential child health care, as specified in section ~~25.5-5-306~~ 25.5-6-903;

**SECTION 6.** In Colorado Revised Statutes, 25.5-5-402, **amend** (2) introductory portion and (2)(a) as follows:

**25.5-5-402. Statewide managed care system.** (2) The managed care system implemented pursuant to this ~~article~~ ARTICLE 5 shall not include:

(a) The services delivered under the residential child health care program described in section ~~25.5-5-306~~ 25.5-6-903, except in those counties in which there is a written agreement between the county department of HUMAN OR social services, the designated and contracted behavioral health organization selected pursuant to section 25.5-5-411, and the state department;

**SECTION 7.** In Colorado Revised Statutes, 27-67-103, **amend** (2)(b) as follows:

**27-67-103. Definitions.** As used in this article 67, unless the context otherwise requires:

(2) "Child at risk of out-of-home placement" means a child who, although not

otherwise categorically eligible for medicaid, meets the following criteria:

(b) Requires a level of care that is provided in a residential child care facility pursuant to section ~~25.5-5-306, C.R.S.~~ 25.5-6-903, or that is provided through in-home or community-based programs and who, without such care, is at risk of out-of-home placement;

**SECTION 8. Appropriation - adjustments to 2018 long bill.** (1) To implement this act, the general fund appropriations made in the annual general appropriation act for the 2018-19 state fiscal year to the department of health care policy and financing and the related FTE are increased as follows:

**Executive director's office, general administration**

Personal services	\$70,938 (1.8 FTE)
Health, life, and dental	\$3,964
Short-term disability	\$72
S.B. 04-257 amortization equalization disbursement	\$1,890
S.B. 06-235 supplemental amortization equalization disbursement	\$1,890
Operating expenses	\$5,135
General professional services and special projects	\$14,750

(2) To implement this act, general fund appropriations made in the annual general appropriation act for the 2018-19 state fiscal year to the department of health care policy and financing, which are each subject to the "(M)" notation as defined in the annual general appropriation act for the same fiscal year, are increased as follows:

**Medical services premiums**

Medical and long-term care services for medicaid eligible individuals	\$33,971
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(3) To implement this act, general fund appropriations made in the annual general appropriation act for the 2018-19 state fiscal year to the department of health care policy and financing, which are each subject to the "(M)" notation as defined in the annual general appropriation act for the same fiscal year, are decreased as follows:

<b>Department of human services medicaid-funded programs, executive director's office - medicaid funding</b>	\$7,818
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**Department of human services medicaid-funded programs, division of child welfare - medicaid funding**

Administration	\$42,192
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Child welfare services	\$1,291,630
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(4) For the 2018-19 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$132,609 in federal funds to implement this act. The appropriations in subsections (1) and (2) of this section are based on the assumption that the department will receive this amount of federal funds to be used as follows:

**Executive director's office, general administration**

Personal services	\$70,938
Health, life, and dental	\$3,963
Short-term disability	\$72
S.B. 04-257 amortization equalization disbursement	\$1,891
S.B. 06-235 supplemental amortization equalization disbursement	\$1,891
Operating expenses	\$5,135
General professional services and special projects	\$14,750

**Medical services premiums**

Medical and long-term care services for medicaid eligible individuals	\$33,969
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(5) The decrease of the appropriations in subsection (3) of this section is based on the assumption that the anticipated amount of federal funds received for the 2018-19 state fiscal year by the department of health care policy and financing will decrease as follows:

<b>Department of human services medicaid-funded programs, executive director's office - medicaid funding</b>	\$7,815
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**Department of human services medicaid-funded programs, division of child welfare - medicaid funding**

Administration	\$42,191
Child welfare services	\$1,291,629

(6) For the 2018-19 state fiscal year, \$1,257,660 is appropriated to the department of health care policy and financing for use by the office of community living. This appropriation is from the general fund and is subject to the "(M)" notation as defined in the annual general appropriation act for the same fiscal year. To implement this act, the office may use this appropriation for the children's habilitation residential program.

(7) For the 2018-19 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$1,257,659 in federal funds for the children's habilitation residential program to implement this act. The appropriation in subsection (6) of this section is based on the assumption that the department will receive this amount of federal funds.

**SECTION 9. Appropriation - adjustments to 2018 long bill.** (1) To implement this act, the appropriations made in the annual general appropriation act for the 2018-19 state fiscal year to the department of human services from reappropriated medicaid funds received from the department of health care policy and financing and the related FTE are decreased as follows:

**Executive director's office, general administration**

Health, life, and dental	\$7,927
Short-term disability	\$144
S.B. 04-257 amortization equalization disbursement	\$3,781
S.B. 06-235 supplemental amortization equalization disbursement	\$3,781
Operating expenses	\$1,900

**Division of child welfare**

Administration	\$84,383 (1.0 FTE)
Child welfare services	\$2,583,260

**SECTION 10. Effective date.** This act takes effect July 1, 2018; except that sections 3, 4, 5, 6, and 7 of this act take effect upon notice to the revisor of statutes pursuant to section 25.5-5-306 (6), Colorado Revised Statutes, as enacted in section 2 of this act.

**SECTION 11. 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 30, 2018