

CHAPTER 271

SOCIAL SERVICES

SENATE BILL 93-163

BY SENATORS Rizzuto, Gallagher, Johnson, Mares, Mendez, Peterson, Ruddick, and Traylor;
also REPRESENTATIVES Grampas, Romero, Armstrong, Greenwood, and Hagedorn.

AN ACT

CONCERNING MEASURES FOR FINANCING LONG-TERM CARE.

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

SECTION 1. Part 5 of article 4 of title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

26-4-506.7. Study of private-public partnership for financing long-term care - exemption of countable resources for persons with long-term care policies - authority to implement exemption - rules. (1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT:

- (a) A LARGE NUMBER OF COLORADANS ARE IN NEED OF LONG-TERM HEALTH CARE;
- (b) THE COST OF LONG-TERM CARE, ESPECIALLY NURSING HOME CARE, IS SIGNIFICANT;
- (c) MANY PERSONS IN NEED OF LONG-TERM CARE ARE INELIGIBLE FOR STATE MEDICAL ASSISTANCE DUE TO COUNTABLE RESOURCES. WHEN FACED WITH THE NEED FOR LONG-TERM CARE, SUCH PERSONS EXPEND SUCH RESOURCES TO PAY FOR NURSING HOME CARE.
- (d) A PERSON'S RESOURCES MAY COVER ONLY A RELATIVELY SHORT PERIOD OF CARE, OFTEN RESULTING IN RENDERING SUCH PERSON IMPOVERISHED, AND AFTER WHICH TIME THE PERSON MUST RELY ON STATE MEDICAL ASSISTANCE;
- (e) EXPENDITURES FOR LONG-TERM CARE REPRESENT A SIGNIFICANT PORTION OF THE STATE'S MEDICAL ASSISTANCE BUDGET;

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

(f) UNLESS COLORADO IMPLEMENTS NEW METHODS FOR FINANCING LONG-TERM CARE, WHICH METHODS INCLUDE PARTICIPATION BY THE PRIVATE SECTOR, THE COST TO THE STATE FOR LONG-TERM CARE WILL INCREASE ASTRONOMICALLY; AND

(g) IT IS THEREFORE APPROPRIATE TO ENACT LEGISLATION THAT ALLOWS THE STATE DEPARTMENT, UPON A DETERMINATION BY THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT THAT IT IS FEASIBLE, TO DESIGN AND IMPLEMENT A PRIVATE-PUBLIC PARTNERSHIP FOR FINANCING LONG-TERM CARE IN THIS STATE.

(2) THE STATE DEPARTMENT SHALL STUDY THE FEASIBILITY OF IMPLEMENTING A PRIVATE-PUBLIC PARTNERSHIP PROGRAM FOR FINANCING LONG-TERM CARE. IT IS THE GENERAL ASSEMBLY'S INTENT THAT SUCH A PROGRAM SHALL BE DESIGNED TO ENCOURAGE INDIVIDUALS TO PURCHASE LONG-TERM CARE INSURANCE BY PROVIDING UNDER THE MEDICAL ASSISTANCE PROGRAM A FULL OR PARTIAL RESOURCE EXEMPTION AND ESTATE RECOVERY WAIVER FOR THE INDIVIDUAL WHO APPLIES FOR MEDICAL ASSISTANCE PURSUANT TO THIS ARTICLE. THE AMOUNT OF THE RESOURCE EXEMPTION AND THE EXTENT OF THE ESTATE RECOVERY WAIVER SHALL BE SET FORTH IN RULES ADOPTED BY THE STATE BOARD. HOWEVER, THE RESOURCE EXEMPTION AND THE AMOUNT OF ASSISTANCE WHICH SHALL NOT BE SUBJECT TO ESTATE RECOVERY SHALL BE RELATED TO THE AMOUNT OF LONG-TERM CARE BENEFITS PAID UNDER THE INSURANCE POLICY ON BEHALF OF THE MEDICAL ASSISTANCE RECIPIENT.

(3) IN CONDUCTING THE FEASIBILITY STUDY, THE STATE DEPARTMENT SHALL CONSIDER, AT A MINIMUM, THE FOLLOWING:

(a) OTHER STATES' EXPERIENCES AND PROGRAMS;

(b) THE PROJECTED IMPACT OF THE PROGRAM ON TOTAL MEDICAL ASSISTANCE EXPENDITURES;

(c) THE TARGET POPULATION FOR THE PROGRAM;

(d) THE STANDARDS FOR QUALIFYING LONG-TERM CARE INSURANCE POLICIES UNDER THE PROGRAM;

(e) PUBLIC AWARENESS OF AND EDUCATION ABOUT THE PROGRAM;

(f) THE EXTENT TO WHICH THE PROGRAM PARTICIPANTS CAN BE MONITORED IN ORDER TO ASSESS THE EFFICIENCY AND SUCCESS OF THE PROGRAM;

(g) THE EXTENT TO WHICH THE INSURANCE INDUSTRY SHOULD BE REGULATED IN CONNECTION WITH THE PROGRAM IN ORDER TO MAXIMIZE INFORMED CHOICES BY CONSUMERS; AND

(h) EXPECTED FUNCTIONS AND RESOURCES OF THE STATE AND COUNTY DEPARTMENTS NECESSARY FOR IMPLEMENTATION AND ADMINISTRATION OF THE PROGRAM.

(4) (a) TO FACILITATE A COMPREHENSIVE STUDY OF THE PROGRAM, THE STATE DEPARTMENT SHALL COOPERATE WITH AND RECEIVE RECOMMENDATIONS FROM AN

ADVISORY COMMITTEE, WHICH THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT IS HEREBY AUTHORIZED TO ESTABLISH. THE COMMITTEE SHALL CONSIST OF NOT LESS THAN THIRTEEN MEMBERS, INCLUDING A CHAIRPERSON, WHO SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT AND SHALL SERVE WITHOUT COMPENSATION. MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL BE FROM AMONG THE FOLLOWING GROUPS OR AGENCIES:

(I) FINANCIAL PLANNERS;

(II) INSURANCE COMPANIES;

(III) CONSUMER ADVOCATES;

(IV) ASSOCIATIONS OF LONG-TERM CARE PROVIDERS;

(V) THE DIVISION OF INSURANCE WITHIN THE DEPARTMENT OF REGULATORY AGENCIES;

(VI) THE STATE DEPARTMENT OF SOCIAL SERVICES.

(b) THIS SUBSECTION (4) IS REPEALED, EFFECTIVE JULY 1, 1995.

(5) NO LATER THAN DECEMBER 1, 1993, THE STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY ADDRESSING THE FEASIBILITY OF IMPLEMENTING A PRIVATE-PUBLIC PARTNERSHIP PROGRAM FOR FINANCING LONG-TERM CARE. THE REPORT SHALL SPECIFICALLY ADDRESS THE ITEMS TO BE CONSIDERED IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION.

(6) IF, BASED ON THE FEASIBILITY STUDY REQUIRED BY SUBSECTION (2) OF THIS SECTION, A DETERMINATION IS MADE BY THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT THAT A PRIVATE-PUBLIC PARTNERSHIP PROGRAM FOR FINANCING LONG-TERM CARE WOULD BE FEASIBLE AND UPON REVIEW AND APPROVAL OF THE PLAN BY THE JOINT BUDGET COMMITTEE, THE STATE DEPARTMENT SHALL IMPLEMENT AND ADMINISTER SUCH A PROGRAM. THE PROGRAM SHALL BE IMPLEMENTED NO LATER THAN JULY 1, 1994, AND SHALL BE CONSISTENT WITH THE GENERAL ASSEMBLY'S INTENT EXPRESSED IN SUBSECTION (2) OF THIS SECTION. THE STATE BOARD OF SOCIAL SERVICES AND THE DIVISION OF INSURANCE SHALL ADOPT RULES NECESSARY FOR THE IMPLEMENTATION OF THE PROGRAM, IN ACCORDANCE WITH SECTION 24-4-103, C.R.S. THE DIVISION OF INSURANCE RULES SHALL BE CONSISTENT WITH STANDARDS RECOMMENDED IN THE FEASIBILITY STUDY.

(7) THE STATE DEPARTMENT SHALL SEEK ANY NECESSARY FEDERAL WAIVER OR FEDERAL APPROVAL FOR AN AMENDMENT TO THE STATE'S MEDICAL ASSISTANCE STATE PLAN PRIOR TO THE IMPLEMENTATION OF THE PROGRAM.

(8) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS AUTHORIZING AN APPROPRIATION FOR THE IMPLEMENTATION OR ADMINISTRATION OF THE PRIVATE-PUBLIC PARTNERSHIP PROGRAM FOR LONG-TERM CARE.

SECTION 2. 26-4-403.3, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-4-403.3. Recovery of assets. (8) EFFECTIVE UPON THE IMPLEMENTATION OF A PRIVATE-PUBLIC PARTNERSHIP PROGRAM FOR FINANCING LONG-TERM CARE PURSUANT TO SECTION 26-4-506.7, THIS SECTION SHALL APPLY TO PARTICIPANTS OF SUCH PROGRAM ONLY AFTER EXCLUDING FROM THE AMOUNT THAT MAY OTHERWISE BE RECOVERED FROM SUCH PERSON'S ESTATE AN AMOUNT ALLOWED BY RULES ADOPTED BY THE STATE BOARD IN ACCORDANCE WITH SECTION 26-4-506.7.

SECTION 3. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 4. 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: June 6, 1993