

CHAPTER 217

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 97-1304

BY REPRESENTATIVES Owen, Dyer, Bacon, Chavez, Clarke, Gotlieb, Hagedorn, Keller, Leyba, Mace, Miller, Nichol, Romero, Schwarz, Snyder, Tate, Tool, Tucker, Tupa, Udall, Veiga, S. Williams, and Zimmerman;
also SENATORS Hopper, Hernandez, Martinez, Pascoe, Reeves, Rupert, Tanner, and Wham.

AN ACT

CONCERNING THE CREATION OF THE CHILDREN'S BASIC HEALTH PLAN, AND MAKING AN APPROPRIATION
IN CONNECTION THEREWITH.

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

SECTION 1. Title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 19
Children's Basic Health Plan

26-19-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "CHILDREN'S BASIC HEALTH PLAN ACT".

26-19-102. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT A SIGNIFICANT PERCENTAGE OF CHILDREN ARE UNINSURED. THIS LACK OF HEALTH INSURANCE COVERAGE DECREASES CHILDREN'S ACCESS TO PREVENTIVE HEALTH CARE SERVICES, COMPROMISES THE PRODUCTIVITY OF THE STATE'S FUTURE WORKFORCE, AND RESULTS IN AVOIDABLE EXPENDITURES FOR EMERGENCY AND REMEDIAL HEALTH CARE. HEALTH CARE PROVIDERS, HEALTH CARE FACILITIES, AND ALL PURCHASERS OF HEALTH CARE, INCLUDING THE STATE, BEAR THE COSTS OF THIS UNCOMPENSATED CARE.

(2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT THE COORDINATION AND CONSOLIDATION OF FUNDING SOURCES CURRENTLY AVAILABLE TO PROVIDE SERVICES TO UNINSURED CHILDREN SUCH AS THE CHILDREN'S HEALTH PLAN CREATED IN ARTICLE 17 OF THIS TITLE, THE COLORADO INDIGENT CARE PROGRAM PURSUANT TO ARTICLE 15 OF THIS TITLE, AND OTHER CHILDREN'S HEALTH

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

PROGRAMS WOULD EFFICIENTLY AND EFFECTIVELY MEET THE HEALTH CARE NEEDS OF UNINSURED CHILDREN AND WOULD HELP TO REDUCE THE VOLUME OF UNCOMPENSATED CARE IN THE STATE.

(3) (a) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO MAKE HEALTH INSURANCE COVERAGE AFFORDABLE AND TO SUPPORT EMPLOYERS IN THEIR EFFORTS TO PROVIDE THEIR EMPLOYEES AND THEIR DEPENDENTS WITH HEALTH INSURANCE COVERAGE.

(b) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE CHILDREN'S BASIC HEALTH PLAN CREATED BY THIS ARTICLE BE PRIMARILY FUNDED THROUGH SAVINGS AND EFFICIENCIES REALIZED THROUGH ACTUAL REDUCTIONS IN ADMINISTRATIVE AND PROGRAMMATIC COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS ARTICLE ACHIEVED IN OTHER HEALTH CARE PROGRAMS AND NOT DECREASES IN THE NUMBER OF CASELOADS OF SUCH PROGRAMS.

(4) IT IS NOT THE INTENT OF THE GENERAL ASSEMBLY TO CREATE AN ENTITLEMENT FOR HEALTH INSURANCE COVERAGE.

26-19-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CHILD" MEANS A PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE.

(2) "CHILDREN'S BASIC HEALTH PLAN" OR "PLAN" MEANS THE HEALTH INSURANCE PRODUCT DESIGNED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND PROVIDED TO ENROLLEES, AS DEFINED IN THIS SECTION.

(3) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING CREATED IN SECTION 25.5-1-104, C.R.S.

(4) "ELIGIBLE PERSON" MEANS A PERSON WHO IS LESS THAN EIGHTEEN YEARS OF AGE, WHOSE GROSS FAMILY INCOME DOES NOT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE FEDERAL POVERTY LEVEL, ADJUSTED FOR FAMILY SIZE.

(5) "ENROLLEE" MEANS ANY CHILD THAT HAS ENROLLED IN THE PLAN.

(6) "HEALTH CARE PROGRAM" MEANS ANY HEALTH CARE PROGRAM IN THE STATE THAT IS SUPPORTED WITH STATE GENERAL FUND OR FEDERAL DOLLARS.

(7) "SUBSIDIZED ENROLLEE" MEANS AN ELIGIBLE PERSON WHO RECEIVES A SUBSIDY FROM THE DEPARTMENT TO PURCHASE COVERAGE UNDER THE PLAN OR A COMPARABLE HEALTH INSURANCE.

(8) "SUBSIDY" MEANS THE AMOUNT PAID BY THE DEPARTMENT TO ASSIST AN ELIGIBLE PERSON IN PURCHASING COVERAGE UNDER THE PLAN OR A COMPARABLE HEALTH INSURANCE PRODUCT AVAILABLE TO THE ELIGIBLE PERSON THROUGH ANOTHER COVERAGE ENTITY.

(9) "TRUST" MEANS THE CHILDREN'S BASIC HEALTH PLAN TRUST CREATED IN SECTION 26-19-105.

26-19-104. Children's basic health plan - implementation required - rules.

THE DEPARTMENT IS AUTHORIZED TO ADOPT RULES TO IMPLEMENT THE CHILDREN'S BASIC HEALTH PLAN TO PROVIDE HEALTH INSURANCE COVERAGE TO CHILDREN ON A STATEWIDE BASIS PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

26-19-105. Trust - created. (1) A FUND TO BE KNOWN AS THE CHILDREN'S BASIC HEALTH PLAN TRUST IS HEREBY CREATED AND ESTABLISHED IN THE STATE TREASURY. ALL MONEYS DEPOSITED IN THE TRUST AND ALL INTEREST EARNED ON MONEYS IN THE TRUST SHALL REMAIN IN THE TRUST FOR THE PURPOSES SET FORTH IN THIS ARTICLE, AND NO PART THEREOF SHALL BE EXPENDED OR APPROPRIATED FOR ANY OTHER PURPOSE. NO INVESTMENT EARNINGS OR OTHER MONEYS IN THE TRUST SHALL BE SUBJECT TO ANY MANAGEMENT FEE IMPOSED BY LAW FOR THE BENEFIT OF THE GENERAL FUND.

(2) ALL OR A PORTION OF THE MONEYS IN THE TRUST SHALL BE ANNUALLY APPROPRIATED BY THE GENERAL ASSEMBLY FOR THE PURPOSES OF THIS ARTICLE AND SHALL NOT BE TRANSFERRED TO OR REVERT TO THE GENERAL FUND OF THE STATE AT THE END OF ANY FISCAL YEAR.

(3) BEGINNING IN FISCAL YEAR 1998, APPROPRIATIONS TO THE TRUST MAY BE MADE BY THE GENERAL ASSEMBLY BASED ON THE SAVINGS ACHIEVED THROUGH REFORMS, CONSOLIDATIONS, AND STREAMLINING OF HEALTH CARE PROGRAMS REALIZED THROUGH ACTUAL REDUCTIONS IN ADMINISTRATIVE AND PROGRAMMATIC COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS ARTICLE AND NOT DECREASES IN THE NUMBER OF CASELOADS OF SUCH PROGRAMS. BEGINNING WITH AND SUBSEQUENT TO FISCAL YEAR 1999, THESE APPROPRIATIONS MAY BE BASED ON THE ANNUAL SAVINGS REPORT DESCRIBED IN SECTION 26-19-106.

(4) AS PART OF ITS ANNUAL SAVINGS REPORT TO THE GENERAL ASSEMBLY ON NOVEMBER 1 OF EACH YEAR, THE DEPARTMENT MAY IDENTIFY EFFICIENCIES AND CONSOLIDATIONS THAT PRODUCE SAVINGS IN THE DEPARTMENT'S ANNUAL BUDGET REQUEST THAT RESULT IN ACTUAL REDUCTIONS IN ADMINISTRATIVE AND PROGRAMMATIC COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS ARTICLE AND NOT DECREASES IN THE NUMBER OF CASELOADS OF SUCH PROGRAMS. THESE IDENTIFIED SAVINGS SHALL NOT DUPLICATE THE SAVINGS REPORTED IN THE ANNUAL SAVINGS REPORT DESCRIBED IN SECTION 26-19-106. IF THE GENERAL ASSEMBLY DETERMINES THAT THE SAVINGS IDENTIFIED PURSUANT TO THIS SUBSECTION (4) ARE VALID, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT SUCH SAVINGS MAY BE APPROPRIATED TO THE CHILDREN'S BASIC HEALTH PLAN TRUST.

(5) THE DEPARTMENT MAY RECEIVE PAYMENT FOR COVERAGE OFFERED AND MAY RECEIVE OR CONTRACT FOR DONATIONS, GIFTS, AND GRANTS FROM ANY SOURCE. SUCH FUNDS SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE TRUST. THE DEPARTMENT MAY EXPEND SUCH FUNDS FROM THE TRUST FOR THE PURPOSES OF THIS ARTICLE.

26-19-106. Annual savings report. (1) BY NOVEMBER 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY AND TO THE OFFICE OF STATE PLANNING AND BUDGETING AN ANNUAL SAVINGS REPORT STATING THE COST-SAVINGS ANTICIPATED IN THE PREVIOUS, CURRENT, AND SUBSEQUENT FISCAL YEARS FROM HEALTH CARE PROGRAM REFORMS,

CONSOLIDATIONS, AND STREAMLINING.

(2) THE ANNUAL SAVINGS REPORT SHALL INCLUDE A DESCRIPTION OF NET SAVINGS FACTORING IN INCREASED ADMINISTRATIVE EXPENSES FROM THE FOLLOWING:

(a) **Enrollment of medicaid clients in medicaid managed care programs.** IN CALCULATING SAVINGS FROM ENROLLMENT OF MEDICAID CLIENTS INTO MEDICAID MANAGED CARE PROGRAMS, THE DEPARTMENT SHALL CALCULATE THE TOTAL ANNUAL SAVINGS FROM GROWTH IN MANAGED CARE ENROLLMENT SUBSEQUENT TO JUNE 30, 1997.

(b) **Consolidation of the children's portions of the Colorado indigent care program into the plan.** IN CALCULATING THE SAVINGS ACCRUED AND ANTICIPATED FROM CONSOLIDATION OF THE CHILDREN'S PORTIONS OF THE COLORADO INDIGENT CARE PROGRAM, CREATED IN ARTICLE 15 OF THIS TITLE, INTO THE PLAN, THE DEPARTMENT SHALL USE THE FOLLOWING METHODOLOGY: ESTIMATE THE REDUCTION IN EXPENDITURES DUE TO THE REDUCTION IN THE NUMBER OF CHILDREN UNDER AGE EIGHTEEN SERVED BY THE COLORADO INDIGENT CARE PROGRAM FOR EACH FISCAL YEAR IN WHICH CHILDREN HAVE BEEN ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN.

(3) AS REPORTED IN THE ANNUAL SAVINGS REPORT, THE TOTAL SAVINGS FROM CONSOLIDATION OF THE CHILDREN'S PORTIONS OF THE COLORADO INDIGENT CARE PROGRAM, CREATED IN ARTICLE 15 OF THIS TITLE, INTO THE PLAN SHALL NOT REDUCE THE REIMBURSEMENT RATE OF EXPENDITURES MADE ON BEHALF OF CHILDREN TO THE COLORADO INDIGENT CARE PROGRAM ENROLLED PROVIDERS BELOW THE REIMBURSEMENT RATES USED IN THE FISCAL YEAR PRIOR TO THE FIRST CHILD ENROLLING IN THE PLAN.

(4) THE DEPARTMENT SHALL MODIFY TOTAL SAVINGS CALCULATED IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION ACCORDING TO THE GEOGRAPHIC RESIDENCE OF SUBSIDIZED ENROLLEES AND TO THE PROBABLE LOCATION OF THEIR HEALTH CARE PROVIDERS UNDER THE COLORADO INDIGENT CARE PROGRAM, CREATED IN ARTICLE 15 OF THIS TITLE.

(5) THE GENERAL ASSEMBLY SHALL MAKE APPROPRIATIONS TO THE TRUST BASED ON THE SAVINGS CALCULATED IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION TWELVE MONTHS AFTER THE PLAN BEGINS PROVIDING A BENEFIT PACKAGE THAT INCLUDES INPATIENT CARE AND ANNUALLY THEREAFTER.

26-19-107. Duties of the department - schedule of services - premiums - copayments - subsidies. (1) IN ADDITION TO ANY OTHER DUTIES PURSUANT TO THIS ARTICLE, THE DEPARTMENT SHALL HAVE THE FOLLOWING DUTIES:

(a) TO DESIGN, ON OR AFTER JULY 1, 1998, AND FROM TIME TO TIME REVISE, A SCHEDULE OF HEALTH CARE SERVICES INCLUDED IN THE PLAN, INCLUDING, BUT NOT LIMITED TO, PREVENTIVE CARE, PHYSICIAN SERVICES, INPATIENT AND OUTPATIENT HOSPITAL SERVICES, PRESCRIPTION DRUGS AND MEDICATIONS, AND OTHER SERVICES THAT MAY BE MEDICALLY NECESSARY FOR THE HEALTH OF ENROLLEES. THE DEPARTMENT SHALL DESIGN AND REVISE THIS SCHEDULE OF HEALTH CARE SERVICES INCLUDED IN THE PLAN TO BE SIMILAR TO THE BASIC AND STANDARD HEALTH BENEFIT

PLANS DEFINED IN SECTION 10-16-102 (4) AND (42), C.R.S.

(b) TO DESIGN AND IMPLEMENT A STRUCTURE OF PERIODIC PREMIUMS DUE TO THE DEPARTMENT OR TO MANAGED CARE PLANS FROM ENROLLEES THAT IS BASED ON A SLIDING FEE SCALE. THE SLIDING FEE SCALE SHALL BE DEVELOPED BASED ON THE PER CAPITA COST OF THE PLAN AND THE ENROLLEE'S GROSS FAMILY INCOME DURING THE PREVIOUS THREE MONTHS. AS PERMITTED BY FEDERAL AND STATE LAW, ENROLLEES IN THE PLAN MAY USE FUNDS FROM A MEDICAL SAVINGS ACCOUNT TO PAY PREMIUMS. ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE DEPARTMENT SHALL SUBMIT FOR APPROVAL TO THE JOINT BUDGET COMMITTEE ITS PROPOSAL FOR A SCALE FOR INCREASING PREMIUMS OR SERVICE COST SHARING FOR THE PLAN BASED UPON A FAMILY'S INCOME.

(c) TO DESIGN AND IMPLEMENT A STRUCTURE OF COPAYMENTS DUE TO PROVIDERS OF MANAGED HEALTH CARE PLANS FROM ENROLLEES. ENROLLEES IN THE PLAN MAY USE FUNDS FROM A MEDICAL SAVINGS ACCOUNT TO PAY COPAYMENTS.

(d) TO DESIGN DETAILED RULES OF ELIGIBILITY AND ENROLLMENT PROCESSES FOR THE PLAN;

(e) TO DESIGN A PROCEDURE WHEREBY A FINANCIAL SPONSOR MAY PAY THE PREMIUM OR SOME PORTION THEREOF ON BEHALF OF A SUBSIDIZED OR NONSUBSIDIZED ENROLLEE; EXCEPT THAT THE PAYMENT MADE ON BEHALF OF SAID ENROLLEE SHALL NOT EXCEED THE TOTAL PREMIUMS DUE FROM THE ENROLLEE;

(f) TO DESIGN A PROCEDURE WHEREBY THE PLAN MAY PAY SUBSIDIES FOR ELIGIBLE PERSONS TO PURCHASE COVERAGE UNDER THE PLAN OR A COMPARABLE HEALTH INSURANCE PRODUCT;

(g) TO ESTABLISH CRITERIA TO ALLOW A MANAGED CARE PLAN, THE DEPARTMENT, OR SOME OTHER ENTITY TO VERIFY ELIGIBILITY PURSUANT TO SECTION 26-19-109.

(2) THE DEPARTMENT IS AUTHORIZED TO INSTITUTE A PROGRAM FOR COMPETITIVE BIDDING PURSUANT TO SECTION 24-103-202 OR 24-103-203, C.R.S., FOR PROVIDING MEDICAL SERVICES ON A MANAGED CARE BASIS FOR CHILDREN UNDER THIS ARTICLE. THE DEPARTMENT IS AUTHORIZED TO SELECT MORE THAN ONE MANAGED CARE CONTRACTOR. TO THE EXTENT THAT THE DEPARTMENT DETERMINES THAT THERE IS A UNIQUE COMMUNITY-BASED ORGANIZATION THAT IS ABLE TO PERFORM THE NEW FUNCTIONS REQUIRED UNDER THIS ARTICLE, THE DEPARTMENT MAY SELECT SUCH CONTRACTOR PURSUANT TO SECTION 24-103-205, C.R.S., AND RULES PROMULGATED BY THE DEPARTMENT TO ADMINISTER ALL OR A PORTION OF THE CHILDREN'S BASIC HEALTH PLAN ACCORDING TO SECTION 26-19-111. IN ADDITION TO SUCH CONTRACTOR, THE DEPARTMENT MAY ENTER INTO CONTRACTS, AS NECESSARY, WITH THE ADMINISTRATOR OF THE COLORADO CHILDREN'S HEALTH PLAN TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

26-19-108. Financial management. (1) THE DEPARTMENT SHALL PROMULGATE RULES TO IMPLEMENT FINANCIAL MANAGEMENT OF THE PLAN. THE DEPARTMENT SHALL ADJUST BENEFIT LEVELS, ELIGIBILITY GUIDELINES, AND ANY OTHER MEASURE TO ENSURE THAT SUFFICIENT FUNDS ARE PRESENT TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

(2) THE DEPARTMENT SHALL MAKE A QUARTERLY ASSESSMENT OF THE EXPECTED EXPENDITURES FOR THE PLAN FOR THE REMAINDER OF THE CURRENT BIENNIUM AND FOR THE FOLLOWING BIENNIUM. THE ESTIMATED EXPENDITURES, INCLUDING MINIMUM RESERVE REQUIREMENTS SHALL BE COMPARED TO AN ESTIMATE OF THE REVENUES THAT WILL BE DEPOSITED IN THE TRUST FUND. BASED ON THIS COMPARISON, THE DEPARTMENT SHALL MAKE ADJUSTMENTS AS NECESSARY TO ENSURE THAT EXPENDITURES REMAIN WITHIN THE LIMITS OF AVAILABLE REVENUES FOR THE REMAINDER OF THE CURRENT BIENNIUM AND THE FOLLOWING BIENNIUM.

(3) THE DEPARTMENT MAY, IN ADDITION TO ANY OTHER MEASURE IT DETERMINES TO BE NECESSARY, DECREASE PREMIUM SUBSIDIES OR LIMIT ENROLLMENT IN THE PLAN TO ENSURE THAT THE TRUST RETAINS SUFFICIENT FUNDS PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(4) NOTHING IN THIS ARTICLE OR ANY RULES PROMULGATED PURSUANT TO THE PLAN SHALL BE INTERPRETED TO CREATE A LEGAL ENTITLEMENT IN ANY PERSON TO COVERAGE UNDER THE PLAN. ENROLLMENT IN THE PLAN SHALL BE LIMITED BASED UPON ANNUAL APPROPRIATIONS MADE OUT OF THE TRUST BY THE GENERAL ASSEMBLY AS DESCRIBED IN SECTION 26-19-105 AND ANY GRANTS AND DONATIONS. THE GENERAL ASSEMBLY SHALL ANNUALLY ESTABLISH MAXIMUM ENROLLMENT FIGURES FOR SUBSIDIZED CHILDREN. SUCH ENROLLMENT CAPS SHALL NOT BE EXCEEDED BY THE DEPARTMENT REGARDLESS OF WHETHER THE FUNDING COMES FROM ANNUAL APPROPRIATIONS OR GRANTS AND DONATIONS. WHEN ENROLLMENT IN THE PLAN MUST BE LIMITED PURSUANT TO THIS SUBSECTION (4), THE DEPARTMENT SHALL GIVE PRIORITY TO CHILDREN WHO WOULD QUALIFY FOR MEDICAID AS IF THERE WERE NO ASSET TESTING AND TO CHILDREN WITH GROSS FAMILY INCOMES UNDER ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL POVERTY LEVEL.

26-19-109. Eligibility. (1) TO BE ELIGIBLE FOR A SUBSIDY, A CHILD MUST NOT HAVE CURRENTLY NOR IN THE THREE MONTHS PRIOR TO APPLICATION FOR THE PLAN HAVE BEEN INSURED BY A COMPARABLE HEALTH PLAN THROUGH AN EMPLOYER, WITH THE EMPLOYER CONTRIBUTING AT LEAST FIFTY PERCENT OF THE PREMIUM COST. CHILDREN WHO HAVE LOST INSURANCE COVERAGE DUE TO A CHANGE IN OR LOSS OF EMPLOYMENT SHALL NOT BE SUBJECT TO THE WAITING PERIOD.

(2) IF ONE CHILD FROM A FAMILY IS ENROLLED IN THE PLAN, ALL CHILDREN MUST BE ENROLLED, UNLESS THE OTHER CHILDREN HAVE ALTERNATIVE HEALTH INSURANCE COVERAGE.

(3) CHILDREN WITH GROSS FAMILY INCOMES THAT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE FEDERAL POVERTY GUIDELINES MAY ENROLL IN THE PLAN, BUT ARE NOT ELIGIBLE FOR SUBSIDIES FROM THE DEPARTMENT.

(4) CHILDREN WHO ARE DETERMINED TO BE ELIGIBLE FOR THE PLAN SHALL REMAIN ELIGIBLE FOR TWELVE MONTHS SUBSEQUENT TO THE LAST DAY OF THE MONTH IN WHICH THEY WERE ENROLLED.

26-19-110. Participation by managed care plans. (1) MANAGED CARE PLANS, AS DEFINED IN SECTION 10-16-102 (26.5), C.R.S., THAT PARTICIPATE IN THE PLAN SHALL DO SO BY CONTRACT WITH THE DEPARTMENT AND SHALL PROVIDE THE HEALTH CARE SERVICES COVERED BY THE PLAN TO EACH ENROLLEE.

(2) MANAGED CARE PLANS PARTICIPATING IN THE PLAN SHALL NOT DISCRIMINATE AGAINST ANY POTENTIAL OR CURRENT ENROLLEE BASED UPON HEALTH STATUS, SEX, RACE, ETHNICITY, OR RELIGION.

(3) MANAGED CARE PLANS THAT CONTRACT WITH THE DEPARTMENT TO PROVIDE THE PLAN TO ENROLLEES SHALL ALSO BE WILLING TO CONTRACT WITH THE MEDICAID MANAGED CARE PROGRAM, AS ADMINISTERED BY THE DEPARTMENT.

(4) THE DEPARTMENT MAY RECEIVE AND ACT UPON COMPLAINTS FROM ENROLLEES REGARDING FAILURE TO PROVIDE COVERED SERVICES OR EFFORTS TO OBTAIN PAYMENT, OTHER THAN AUTHORIZED COPAYMENTS, FOR COVERED SERVICES DIRECTLY FROM ELIGIBLE RECIPIENTS.

(5) PARENTS OR GUARDIANS OF CHILDREN SHALL CHOOSE A PARTICIPATING HEALTH MAINTENANCE ORGANIZATION BEFORE ENROLLING IN THE PLAN IN AREAS OF THE STATE WHERE A PARTICIPATING HEALTH MAINTENANCE ORGANIZATION IS AVAILABLE. THE DEPARTMENT WILL ASSIGN CHILDREN WHO ARE CURRENTLY ENROLLED IN THE PLAN AND WHOSE PARENTS OR GUARDIANS HAVE NOT SELECTED A HEALTH MAINTENANCE ORGANIZATION WITHIN A TIME PERIOD DETERMINED BY THE DEPARTMENT TO A PARTICIPATING HEALTH MAINTENANCE ORGANIZATION WITH THE CHILD'S PRIMARY CARE PHYSICIAN IN THE NETWORK. THE DEPARTMENT SHALL SEEK TO MAINTAIN CONTINUITY OF THE HEALTH PLAN BETWEEN MEDICAID AND THE CHILDREN'S BASIC HEALTH PLAN.

(6) THE DEPARTMENT SHALL ALLOW, AT LEAST ANNUALLY, AN OPPORTUNITY FOR ENROLLEES TO TRANSFER AMONG PARTICIPATING MANAGED CARE PLANS SERVING THEIR RESPECTIVE GEOGRAPHIC REGIONS. THE DEPARTMENT SHALL ESTABLISH A PERIOD OF AT LEAST TWENTY DAYS ANNUALLY WHEN THIS OPPORTUNITY IS AFFORDED ELIGIBLE RECIPIENTS. IN GEOGRAPHIC REGIONS SERVED BY MORE THAN ONE PARTICIPATING MANAGED CARE PLAN, THE DEPARTMENT SHALL ENDEAVOR TO ESTABLISH A UNIFORM PERIOD FOR SUCH OPPORTUNITY.

(7) THE DEPARTMENT SHALL MAKE A PREMIUM RATE PAYMENT TO MANAGED CARE PLANS BASED UPON A DEFINED SCOPE OF SERVICES. THE DEPARTMENT SHALL ONLY USE MARKET RATE BIDS THAT DO NOT DISCRIMINATE AND ARE ADEQUATE TO ASSURE QUALITY, NETWORK SUFFICIENCY, AND LONG-TERM COMPETITIVENESS IN THE CHILDREN'S BASIC HEALTH PLAN MANAGED CARE MARKET. THE DEPARTMENT SHALL RETAIN A QUALIFIED ACTUARY TO ESTABLISH A LOWER LIMIT FOR SUCH BIDS. A CERTIFICATION BY SUCH ACTUARY TO THE APPROPRIATE LOWER LIMIT SHALL BE CONCLUSIVE EVIDENCE OF THE DEPARTMENT'S COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBSECTION (7). FOR THE PURPOSES OF THIS SUBSECTION (7), A "QUALIFIED ACTUARY" SHALL BE A PERSON DEEMED AS SUCH UNDER REGULATIONS PROMULGATED BY THE COMMISSIONER OF INSURANCE.

(8) ALL MANAGED CARE PLANS PARTICIPATING IN THE PLAN SHALL MEET STANDARDS REGARDING THE QUALITY OF SERVICES TO BE PROVIDED, FINANCIAL INTEGRITY, AND RESPONSIVENESS TO THE UNMET HEALTH CARE NEEDS OF CHILDREN THAT MAY BE SERVED.

26-19-111. Department - privatization. (1) THE GENERAL ASSEMBLY FINDS THAT THE CHILDREN'S BASIC HEALTH PLAN IS A PROGRAM UNDER WHICH THE PRIVATE

SECTOR HAS A GREAT DEAL OF EXPERIENCE IN MAKING VARIOUS HEALTH CARE PLANS AVAILABLE TO THE PRIVATE SECTOR AND SERVING AS THE LIAISON BETWEEN LARGE EMPLOYERS AND HEALTH CARE PROVIDERS, INCLUDING BUT NOT LIMITED TO HEALTH MAINTENANCE ORGANIZATIONS. THE GENERAL ASSEMBLY THEREFORE DETERMINES THAT THE CHILDREN'S BASIC HEALTH PLAN INVOLVES DUTIES SIMILAR TO DUTIES CURRENTLY OR PREVIOUSLY PERFORMED BY STATE EMPLOYEES BUT IS DIFFERENT IN SCOPE AND POLICY OBJECTIVES FROM THE STATE MEDICAL ASSISTANCE PROGRAM.

(2) PURSUANT TO SECTION 24-50-504 (2) (a), C.R.S., THE DEPARTMENT SHALL ENTER INTO PERSONAL SERVICES CONTRACTS THAT CREATE AN INDEPENDENT CONTRACTOR RELATIONSHIP FOR THE ADMINISTRATION OF THE CHILDREN'S BASIC HEALTH PLAN, INCLUDING OUTREACH, MARKETING, ELIGIBILITY DETERMINATION, AND ENROLLMENT. THE DEPARTMENT MAY ENTER INTO ADDITIONAL PERSONAL SERVICES CONTRACTS FOR OTHER ADMINISTRATIVE FUNCTIONS REQUIRED BY THIS ARTICLE.

(3) THE IMPLEMENTATION OF THIS SECTION IS CONTINGENT UPON A FINDING BY THE STATE PERSONNEL DIRECTOR THAT ANY OF THE CONDITIONS OF SECTION 24-50-504 (2), C.R.S., HAVE BEEN MET OR THAT THE CONDITIONS OF SECTION 24-50-503 (1), C.R.S., HAVE BEEN MET.

26-19-112. Authority to the department to apply for federal waivers. THE DEPARTMENT IS HEREBY AUTHORIZED AND REQUIRED TO APPLY FOR ANY FEDERAL WAIVERS NECESSARY TO IMPLEMENT THE PURPOSES OF THIS ARTICLE.

SECTION 2. 26-17-103 (5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-17-103. Definitions. As used in this article, unless the context otherwise requires:

(5) "Eligible persons" means children who are less than ~~thirteen~~ EIGHTEEN years of age, who are eligible under the medically indigent program established in article 15 of this title or are eligible under one of the programs specified in section 26-17-107.5, who are not eligible for medical assistance under the medical assistance program pursuant to article 4 of this title, and who are not otherwise insured for the covered services.

SECTION 3. 26-17-105 (2), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is repealed as follows:

~~**26-17-105. Powers and duties of administrator.** (2) The board shall divide the state into regions based upon the number of eligible persons and the number of provider resources. The administrator may select a region of the state for the initial operation of the plan, taking into account the levels and rates of unemployment in different areas of the state, the unmet need for basic health care services to a population reasonably representative of the portion of the state's population that lacks such coverage, and the need for geographic, demographic, and economic diversity. Any expansion of the program to additional regions of the state in subsequent years shall be subject to approval by the general assembly.~~

SECTION 4. Appropriation - adjustment in 1997 Long Bill. (1) In addition

to any other appropriation for the fiscal year beginning July 1, 1996, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the children's basic health plan trust created in section 26-19-105, Colorado Revised Statutes, the sum of two million dollars (\$2,000,000).

(2) In addition to any other appropriation for the fiscal year beginning July 1, 1997, there is hereby appropriated, to the department of health care policy and financing, medical programs, other medical programs, out of any moneys in the children's basic health plan trust fund, the sum of two million dollars (\$2,000,000), or so much thereof as may be necessary for the implementation of this act.

(3) For the implementation of this act, a lettered note designation made in the annual general appropriation act shall be modified as follows: The lettered note associated with the department of higher education, regents of the university of Colorado health sciences center, Colorado child health plan shall be modified to show that the sum of two million three hundred seventy-four thousand five hundred seventy dollars (\$2,374,570) shall be from program reserves and from moneys received from the department of health care policy and financing.

SECTION 5. 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 28, 1997