

CHAPTER 221

HEALTH AND ENVIRONMENT

SENATE BILL 97-208

BY SENATORS Wattenberg, Reeves, and Wham;
also REPRESENTATIVES George, Bacon, Chavez, Clarke, Gotlieb, Hagedorn, Kaufman, Keller, Mace, Miller, Morrison, Nichol,
Reeser, Romero, Saliman, Smith, Takis, Taylor, Tupa, Udall, Veiga, S. Williams, and Zimmerman.

AN ACT

CONCERNING DENTAL HEALTH PROGRAMS TO ADDRESS DENTAL PROBLEMS, AND MAKING AN
APPROPRIATION THEREFOR.

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

SECTION 1. Title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended,
is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 21.5
Children's Dental Assistance and Fluoridation Program

25-21.5-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
THE "COLORADO DENTAL PROGRAM ACT OF 1997".

25-21.5-102. Legislative declaration. (1) IT IS THE PURPOSE OF THIS ARTICLE
TO PROMOTE THE PUBLIC HEALTH AND WELFARE OF THE PEOPLE OF COLORADO BY
PROVIDING:

(a) A DENTAL ASSISTANCE PROGRAM OF PREVENTIVE, EMERGENCY, DIAGNOSTIC,
AND LIMITED RESTORATIVE DENTAL CARE FOR CHILDREN UNDER TWENTY-ONE YEARS
OF AGE WHO ARE NOT INSURED UNDER A DENTAL PLAN AND ARE NOT ELIGIBLE FOR
MEDICAID;

(b) COORDINATION OF DONATED DENTAL SERVICES FOR DISABLED CHILDREN AND
ADULTS; AND

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

(c) A GRANT PROGRAM TO ASSIST COMMUNITIES IN ATTAINING APPROPRIATE LEVELS OF FLUORIDE IN DRINKING WATER PROVIDED BY COMMUNITY WATER SYSTEMS AS A MEANS OF PRIMARY PREVENTION OF DENTAL DECAY.

(2) THE OBJECTIVES OF THIS ARTICLE SHALL BE IMPLEMENTED THROUGH VARIOUS EXECUTIVE DEPARTMENTS, AGENCIES, AND POLITICAL SUBDIVISIONS OF THE STATE IN COOPERATION WITH PRIVATE INDIVIDUALS AND ORGANIZATIONS.

(3) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO CREATE AN EXEMPTION FROM THE APPLICABLE PROVISIONS OF TITLE 10, C.R.S.

25-21.5-103. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADVISORY COMMITTEE" MEANS THE DENTAL ADVISORY COMMITTEE CREATED IN SECTION 25-21.5-106.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(3) "ELIGIBLE CHILD" MEANS A CHILD:

(a) WHO IS UNDER THE AGE OF TWENTY-ONE YEARS;

(b) WHO IS NOT COVERED UNDER A POLICY OF DENTAL INSURANCE;

(c) WHO IS NOT ELIGIBLE FOR MEDICAID; AND

(d) WHOSE FAMILY INCOME IS EQUAL TO OR LESS THAN ONE HUNDRED EIGHTY-FIVE PERCENT OF THE FEDERAL POVERTY LEVEL.

25-21.5-104. Dental assistance program for children. (1) SUBJECT TO AVAILABLE APPROPRIATIONS, THE DEPARTMENT SHALL ADMINISTER A PROGRAM OF DENTAL ASSISTANCE TO ANY CHILD WHO IS AN ELIGIBLE CHILD, REFERRED TO IN THIS ARTICLE AS "THE PROGRAM". DENTAL ASSISTANCE UNDER THE PROGRAM SHALL CONSIST OF PREVENTIVE, EMERGENCY, DIAGNOSTIC, AND LIMITED RESTORATIVE SERVICES PROVIDED BY APPROPRIATE LICENSED DENTAL PROVIDERS, INCLUDING DENTISTS AND DENTAL HYGIENISTS WORKING IN PRIVATE AND PUBLIC SETTINGS.

(2) THE DEPARTMENT SHALL PROMULGATE RULES NECESSARY FOR THE IMPLEMENTATION OF THE PROGRAM, AFTER CONSULTATION WITH THE ADVISORY COMMITTEE CREATED IN SECTION 25-21.5-106.

(3) THE DEPARTMENT SHALL ADMINISTER THE PROGRAM THROUGH RECRUITMENT OF QUALIFIED PROVIDERS, INCLUDING DENTAL HYGIENISTS. THE DEPARTMENT SHALL CONTRACT WITH APPROPRIATE PROVIDERS, PROVIDER NETWORKS, OR DENTAL PLANS TO PROVIDE SERVICES AND SHALL DETERMINE APPROPRIATE PAYMENT MECHANISMS. THE DEPARTMENT SHALL COLLABORATE WITH OTHER STATE OR PRIVATE ENTITIES THAT DETERMINE INCOME ELIGIBILITY, WHICH MAY INCLUDE THE ADMINISTRATOR FOR THE CHILDREN'S HEALTH PLAN, ARTICLE 17 OF TITLE 26, C.R.S., TO DETERMINE THE

INCOME ELIGIBILITY OF CHILDREN APPLYING FOR THE DENTAL ASSISTANCE PROGRAM.

25-21.5-105. Copayment - eligibility - children's dental plan cash fund - payment schedule. (1) A CHILD WHO MEETS THE ELIGIBILITY CRITERIA SET FORTH IN SECTION 25-21.5-103 (3) SHALL BE ELIGIBLE FOR SERVICES PURSUANT TO THIS SECTION; EXCEPT THAT THE NUMBER OF CHILDREN SERVED SHALL DEPEND ON THE AMOUNTS APPROPRIATED FOR THE PROGRAM. THE DEPARTMENT SHALL DETERMINE COSTS FOR EACH ELIGIBLE CHILD AND FOR INDIVIDUAL SERVICES OR COMBINATIONS OF SERVICES AND SHALL ESTABLISH COPAYMENTS OR FEES FOR EACH PARTICIPATING ELIGIBLE CHILD, NOT TO EXCEED A CAP PER ELIGIBLE FAMILY. ANY SUCH PAYMENTS UNDER THIS PROGRAM SHALL BE CREDITED TO THE CHILDREN'S DENTAL PLAN CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. THE FUND SHALL ALSO CONSIST OF MONEYS FROM GIFTS, DONATIONS, OR GRANTS OF ANY KIND FROM ANY PUBLIC OR PRIVATE ENTITY. MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO HELP DEFRAY THE EXPENSES OF THE DENTAL ASSISTANCE PROGRAM. THE DEPARTMENT IS AUTHORIZED TO SPEND MONEYS IN THE FUND FOR PURPOSES OF THE DENTAL ASSISTANCE PROGRAM. AT THE END OF EACH FISCAL YEAR, ANY UNEXPENDED OR UNALLOCATED FUNDS SHALL REMAIN IN THE CASH FUND AND SHALL NOT BE TRANSFERRED TO THE GENERAL FUND.

(2) THE DEPARTMENT IS AUTHORIZED TO RECEIVE GIFTS, DONATIONS, OR GRANTS OF ANY KIND FROM ANY PUBLIC OR PRIVATE ENTITY TO CARRY OUT THE PURPOSES OF THIS ARTICLE SUBJECT TO THE TERMS AND CONDITIONS UNDER WHICH GIVEN; EXCEPT THAT NO GIFT, DONATION, OR GRANT SHALL BE ACCEPTED IF THE CONDITIONS ATTACHED THERETO REQUIRE THE USE OR EXPENDITURE THEREOF IN A MANNER CONTRARY TO LAW. ALL SUCH GIFTS, DONATIONS, AND GRANTS SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE CHILDREN'S DENTAL PLAN CASH FUND, CREATED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

(3) THE DEPARTMENT SHALL DEFINE THE TYPES OF DENTAL SERVICES TO BE PROVIDED UNDER THIS ARTICLE WITH THE ADVICE OF THE DENTAL ADVISORY COMMITTEE.

(4) THE DEPARTMENT SHALL ANNUALLY SET THE PAYMENT RATE FOR SERVICES, WHICH SHALL BE ADEQUATE TO ATTRACT SUFFICIENT PROVIDERS IN THE PROGRAM BUT SHALL BE LESS THAN THE USUAL AND CUSTOMARY CHARGES FOR THE TYPES OF DENTAL SERVICES PROVIDED IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION.

25-21.5-106. Dental advisory committee - creation - repeal. (1) THERE IS HEREBY CREATED IN THE DEPARTMENT A DENTAL ADVISORY COMMITTEE, WHICH SHALL BE APPOINTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT. THE DENTAL ADVISORY COMMITTEE SHALL BE COMPRISED OF TEN MEMBERS, INCLUDING ONE MEMBER REPRESENTING THE DEPARTMENT WHO SHALL BE A NON-VOTING MEMBER, ONE MEMBER REPRESENTING THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, TWO DENTISTS PROVIDING DENTAL CARE TO THE INDIGENT, ONE DENTAL HYGIENIST, ONE REPRESENTATIVE OF A CHARITABLE PROGRAM THAT FULLY SUBSIDIZES DENTAL CARE FOR CHILDREN, ONE DENTIST IN PRIVATE PRACTICE WHO REPRESENTS THE PROFESSIONAL DENTAL ASSOCIATION, ONE REPRESENTATIVE FROM A DENTAL SCHOOL, AND TWO PARENTS OF ELIGIBLE CHILDREN. TERMS OF THE MEMBERS SHALL BE THREE YEARS; EXCEPT THAT THE TERMS OF THE FIRST APPOINTEES

SHALL BE STAGGERED FROM ONE TO THREE YEARS TO ALLOW FOR CONTINUITY OF THE COMMITTEE. MEMBERS OF THE ADVISORY COMMITTEE SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICE OTHER THAN REIMBURSEMENT FOR REASONABLE TRAVEL EXPENSES.

(2) THE ADVISORY COMMITTEE SHALL HAVE THE FOLLOWING FUNCTIONS:

(a) TO ADVISE THE DEPARTMENT ON THE TYPES OF DENTAL SERVICES THAT SHOULD BE PROVIDED UNDER THE DENTAL ASSISTANCE PROGRAM;

(b) TO ADVISE THE DEPARTMENT ON THE FEE STRUCTURE FOR THE DENTAL SERVICES PROVIDED UNDER THE DENTAL ASSISTANCE PROGRAM;

(c) TO ADVISE THE DEPARTMENT ON REASONABLE RULES NECESSARY TO IMPLEMENT THE DENTAL ASSISTANCE PROGRAM, THE COORDINATION OF DONATED DENTAL SERVICES, AND THE GRANT PROGRAM DESCRIBED IN SECTION 25-21.5-108, INCLUDING BUT NOT LIMITED TO HOW PRIORITIES FOR PROGRAM IMPLEMENTATION AND RESOURCE ALLOCATION WILL BE DETERMINED.

(3) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2006.

(b) PRIOR TO SAID REPEAL, THE DENTAL ADVISORY COMMITTEE SHALL BE REVIEWED, AS PROVIDED IN SECTION 2-3-1203 (3), C.R.S.

25-21.5-107. Donated dental services - contract. THE DEPARTMENT SHALL CONTRACT WITH A NONPROFIT ORGANIZATION TO ADMINISTER A DONATED DENTAL SERVICES PROGRAM TO PROVIDE DENTAL TREATMENT TO PEOPLE WHO ARE DISABLED OR ELDERLY, HAVE SERIOUS DENTAL PROBLEMS BUT CANNOT AFFORD SUCH CARE, AND ARE NOT ELIGIBLE FOR MEDICAID. PURSUANT TO THE TERMS OF THE CONTRACT, THE NONPROFIT ORGANIZATION SHALL DETERMINE APPLICANT ELIGIBILITY AND, THROUGH THE USE OF REFERRAL COORDINATORS, SHALL MATCH ELIGIBLE PERSONS WITH DENTISTS AND LABORATORIES THAT VOLUNTEER TO PROVIDE DONATED DENTAL SERVICES. SUBJECT TO AVAILABLE APPROPRIATIONS, THE CONTRACT SHALL COVER THE COSTS INCURRED BY THE NONPROFIT ORGANIZATION IN IMPLEMENTING THE DONATED DENTAL SERVICES PROGRAM.

25-21.5-108. Fluoridation of community water supplies - grants - rules.

(1) THE DEPARTMENT SHALL ADMINISTER A GRANT PROGRAM TO ASSIST COMMUNITY WATER SYSTEMS IN ADJUSTING THE LEVEL OF FLUORIDE IN DRINKING WATER AS A MEANS OF PREVENTING DENTAL DECAY FOR BOTH CHILDREN AND ADULTS, SUBJECT TO AVAILABLE APPROPRIATIONS.

(2) SUBJECT TO CRITERIA ESTABLISHED BY THE DEPARTMENT PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT SHALL AWARD GRANTS TO COMMUNITIES THAT PROVIDE FOR SOME OR ALL OF THE FOLLOWING:

(a) ASSISTANCE IN THE DESIGN, PURCHASE, INSTALLATION, AND MAINTENANCE OF EQUIPMENT TO ADD PROPER AMOUNTS OF FLUORIDE TO DRINKING WATER;

(b) TRAINING OF WATER PLANT PERSONNEL IN THE PROPER OPERATION OF FLUORIDATION EQUIPMENT;

(c) MONITORING OF THE FLUORIDE CONTENT BY OBTAINING PERIODIC SAMPLES OF FINISHED DRINKING WATER TO ASSURE THE PROPER LEVEL OF FLUORIDE TO PREVENT DENTAL DECAY AND TO PREVENT RISK TO THE PUBLIC HEALTH.

(3) THE DEPARTMENT SHALL ESTABLISH CRITERIA FOR AWARDING GRANTS FOR ASSISTANCE UNDER THE FLUORIDATION PROGRAM OUTLINED IN THIS SECTION. THE CRITERIA SHALL INCLUDE BUT NOT BE LIMITED TO GIVING PRIORITY TO THOSE COUNTIES OR COMMUNITY WATER SYSTEMS WITH THE GREATEST NEED FOR DENTAL SERVICES AND THE FEWEST DENTAL RESOURCES AND TO THOSE COMMUNITIES THAT AGREE TO SHARE PART OF THE COST OF THE DESIGN, PURCHASE, INSTALLATION, AND MAINTENANCE OF FLUORIDATION EQUIPMENT.

(4) THE DEPARTMENT SHALL PROMULGATE NECESSARY RULES FOR THE IMPLEMENTATION OF THE FLUORIDATION PROGRAM.

25-21.5-109. No general fund moneys. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT NO GENERAL FUND MONEYS BE APPROPRIATED FOR THE PURPOSES OF IMPLEMENTING THIS ARTICLE.

SECTION 2. 2-3-1203 (3), Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(s) JULY 1, 2006: THE DENTAL ADVISORY COMMITTEE, APPOINTED PURSUANT TO SECTION 25-21.5-106, C.R.S.

SECTION 3. 10-16-104 (7) (a) (I) (A), Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

10-16-104. Mandatory coverage provisions. (7) Reimbursement of providers. (a) Sickness and accident insurance. (I) (A) Notwithstanding any provisions of any policy of sickness and accident insurance issued by an entity subject to the provisions of part 2 of this article OR A PREPAID DENTAL CARE PLAN SUBJECT TO THE PROVISIONS OF PART 5 OF THIS ARTICLE, whenever any such policy OR PLAN provides for reimbursement for any service ~~which~~ THAT may be lawfully performed by a person licensed in this state for the practice of osteopathy, medicine, dentistry, DENTAL HYGIENE, optometry, psychology, chiropractic, or podiatry, reimbursement under such policy OR PLAN shall not be denied when such service is rendered by a person so licensed. Nothing in this part 1 or ~~part~~ PARTS 2 OR 5 of this article shall preclude an insurance company from setting different fee schedules in an insurance policy for different services performed by different professions, but the same fee schedule shall be used for those portions of health services ~~which~~ THAT are substantially identical although performed by different professions.

SECTION 4. Appropriation. (1) (a) In addition to any other appropriation, there is hereby appropriated, out of the children's dental plan cash fund created in section 25-21.5-105, Colorado Revised Statutes, to the department of public health and environment, for the fiscal year beginning July 1, 1997, the sum of one hundred

twenty-three thousand dollars (\$123,000), or so much thereof as may be necessary, to be allocated as follows:

(I) Eighty-eight thousand dollars (\$88,000) for the dental assistance program for children;

(II) Ten thousand dollars (\$10,000) for donated dental services pursuant to section 25-21.5-107, Colorado Revised Statutes; and

(III) Twenty-five thousand dollars (\$25,000) for the grant program for fluoridation of community water supplies pursuant to section 25-21.5-108, Colorado Revised Statutes.

(b) Of the amount appropriated pursuant to this subsection (1), twenty-three thousand dollars (\$23,000) shall be from cash funds collected pursuant to section 25-21.5-105, Colorado Revised Statutes, and one hundred thousand dollars (\$100,000) shall be from gifts and donations received from private or public sources.

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