

CHAPTER 230

HUMAN SERVICES - SOCIAL SERVICES

SENATE BILL 97-147

BY SENATORS Linkhart, Hopper, Bishop, Pascoe, and Rupert;
also REPRESENTATIVES Owen, G. Berry, and Chavez.

AN ACT

CONCERNING THE COLORADANS WITH DISABILITIES WORK INCENTIVE PROGRAM.

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:

26-4-511.3. Disabled work incentive program - repeal. (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT SOME PERSONS WITH DISABILITIES WHO COULD WORK DO NOT WORK BECAUSE OF THE FEAR OF THE LOSS OF MEDICAL INSURANCE OR ASSISTANCE. FOLLOWING THE ENACTMENT OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990" AND BREAKTHROUGHS IN MEDICAL SUPPORT AND WORKPLACE TECHNOLOGIES, MANY DISABILITIES THAT PREVIOUSLY PREVENTED PERSONS FROM WORKING MAY NOW BE ACCOMMODATED. HOWEVER, MANY EMPLOYERS OFFER NO HEALTH INSURANCE COVERAGE, OFFER COVERAGE BENEFITS THAT ARE LESS COMPREHENSIVE THAN THOSE PROVIDED UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", OR AVOID HIRING PERSONS WITH DISABILITIES FOR FEAR OF INCREASING HEALTH INSURANCE PREMIUMS FOR OTHER PERSONS IN THE EMPLOYEE GROUP. THE GENERAL ASSEMBLY FINDS THAT IT WOULD BENEFIT THE CITIZENS OF THE STATE TO REMOVE LEGISLATIVE DISINCENTIVES TO WORK BY ASSURING PERSONS WITH DISABILITIES THAT MEDICAL ASSISTANCE WILL BE AVAILABLE FOR THEM AT A REASONABLE COST EVEN IF THEY GO TO WORK.

(2) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "ELIGIBLE PERSON WITH A DISABILITY" MEANS A PERSON:

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

(a) WHOSE DISABILITY IS PERMANENT IN NATURE;

(b) WHO IS CURRENTLY RECEIVING SUPPLEMENTAL SECURITY INCOME AND MEDICAID OR SOCIAL SECURITY DISABILITY INCOME AND MEDICAID; AND

(c) WHO IS UNEMPLOYED.

(3) SUBJECT TO THE RECEIPT OF WAIVERS FROM THE FEDERAL GOVERNMENT, THERE IS HEREBY ESTABLISHED IN THE STATE DEPARTMENT A PILOT PROGRAM, REFERRED TO IN THIS SECTION AS THE "PROGRAM". THE PROGRAM SHALL ASSURE THAT AN ELIGIBLE PERSON WITH A DISABILITY WHO BECOMES EMPLOYED CONTINUES TO BE ELIGIBLE FOR MEDICAID COVERAGE EVEN IF THE PERSON'S INCOME OR ASSETS EXCEED THE LIMITS OTHERWISE ESTABLISHED UNDER THIS ARTICLE. THE PROGRAM MAY PROVIDE THAT THE ELIGIBLE PERSON WITH A DISABILITY OR THE PERSON'S EMPLOYER IS RESPONSIBLE FOR THE PAYMENT OF ALL OR A PORTION OF THE PREMIUMS OR CHARGES FOR MEDICAID COVERAGE DEPENDING ON THE INCOME LEVEL AND RESOURCES OF THE ELIGIBLE PERSON WITH A DISABILITY. IN ADDITION, THE PROGRAM SHALL REQUIRE AN ELIGIBLE PERSON WITH A DISABILITY TO PURCHASE THE MEDICAID BENEFIT PACKAGE AS A WRAP-AROUND TO THE PERSON'S PRIVATE HEALTH INSURANCE COVERAGE. THE PROGRAM SHALL BE LIMITED TO ONE HUNDRED FIFTY ELIGIBLE PERSONS WITH DISABILITIES. THE STATE DEPARTMENT SHALL REQUEST ALL NECESSARY WAIVERS FROM THE FEDERAL GOVERNMENT FOR THE PROGRAM TO QUALIFY FOR FEDERAL FINANCIAL PARTICIPATION.

(4) ALL ELIGIBLE PERSONS WITH DISABILITIES WHO PARTICIPATE IN THE PROGRAM SHALL MAINTAIN THEIR MEDICAID ELIGIBILITY EVEN IF THE PROGRAM IS TERMINATED SO LONG AS:

(a) A MEDICAID PROGRAM CONTINUES IN THE STATE; AND

(b) THE ELIGIBLE PERSON WITH A DISABILITY CONTINUES TO MEET THE ELIGIBILITY AND PARTICIPATION REQUIREMENTS OF THE PROGRAM AS THEY EXISTED IMMEDIATELY PRIOR TO TERMINATION OF THE PROGRAM.

(5) THE MEDICAL SERVICES BOARD SHALL ADOPT RULES TO IMPLEMENT THE PROGRAM CONSISTENT WITH WAIVERS RECEIVED FROM THE FEDERAL GOVERNMENT THAT SHALL INCLUDE BUT NEED NOT BE LIMITED TO:

(a) THE AMOUNT OF PREMIUMS OR OTHER CHARGES TO BE COLLECTED FROM AN ELIGIBLE PERSON WITH A DISABILITY OR THE PERSON'S EMPLOYER; AND

(b) A SLIDING SCALE OF FEES STIPULATING THE PORTION OF THE MONTHLY INCOME OR TOTAL RESOURCES AN ELIGIBLE PERSON WITH A DISABILITY SHALL SPEND ON MEDICAL ASSISTANCE.

(6) THE STATE DEPARTMENT, IN COOPERATION WITH THE VOCATIONAL REHABILITATION PROGRAM IN THE DEPARTMENT OF HUMAN SERVICES, SHALL STUDY THE COST-EFFECTIVENESS OF THE PROGRAM. THE STATE DEPARTMENT IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, AND DONATIONS FROM ANY PRIVATE ENTITY TO IMPLEMENT THE PROGRAM AND STUDY THE COST-EFFECTIVENESS OF THE PROGRAM. THE MONEYS COLLECTED SHALL BE TRANSMITTED TO THE STATE TREASURER WHO

SHALL CREDIT THE SAME TO THE DISABLED WORK INCENTIVE FUND, WHICH FUND IS HEREBY CREATED. THE MONEYS IN THE FUND SHALL BE AVAILABLE TO THE STATE DEPARTMENT WITHOUT THE NEED FOR APPROPRIATION BY THE GENERAL ASSEMBLY IN AMOUNTS NOT TO EXCEED THE FUND BALANCE FOR THE SOLE PURPOSE OF IMPLEMENTING AND STUDYING THE EFFECTS OF THE PROGRAM. ANY MONEYS REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND. ANY MONEYS REMAINING IN THE FUND AFTER THE PROGRAM HAS BEEN TERMINATED SHALL REVERT TO THE GENERAL FUND.

(7) NO LATER THAN OCTOBER 1, 2000, THE STATE DEPARTMENT SHALL SUBMIT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY A REPORT ON THE RESULTS OF THE PROGRAM AND MAKE A RECOMMENDATION CONCERNING ITS CONTINUANCE.

(8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2001.

SECTION 2. 26-4-301 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

26-4-301. Optional provisions - optional groups. (1) The federal government allows the state to select optional groups to receive medical assistance. Pursuant to federal law, any person who is eligible for medical assistance under the optional groups specified in this section shall receive both the mandatory services specified in sections 26-4-202 and 26-4-203 and the optional services specified in sections 26-4-302 and 26-4-303. Subject to the availability of federal financial aid funds, the following are the individuals or groups which Colorado has selected as optional groups to receive medical assistance pursuant to this article:

(k) (I) CERTAIN INDIVIDUALS WITH PERMANENT DISABILITIES WHO ARE PARTICIPATING IN THE DISABLED WORK INCENTIVE PROGRAM ESTABLISHED IN SECTION 26-4-511.3.

(II) THIS PARAGRAPH (k) IS REPEALED, EFFECTIVE JULY 1, 2001.

SECTION 3. Effective date. This act shall take effect July 1, 1998; except that this act shall not take effect unless moneys are appropriated to the department of health care policy and financing for a disabled work incentive program as specified in the annual general appropriations act or in any other act making an appropriation for the fiscal year beginning July 1, 1998.

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: May 28, 1997