

CHAPTER 218

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 98-1137

BY REPRESENTATIVES Kreutz, Lawrence, Bacon, Epps, and Reeser;
also SENATORS Coffman, Norton, Phillips, Reeves, and Rupert.

AN ACT

CONCERNING AUTHORIZATION OF COUNTY TRANSFERS OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES FUNDS TO PROGRAMS FUNDED BY TITLE XX OF THE FEDERAL "SOCIAL SECURITY ACT".

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

SECTION 1. 26-2-714, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-2-714. County block grants formula - use of moneys. (9) (a) FOR STATE FISCAL YEAR 1997-98, AND FOR EACH STATE FISCAL YEAR THEREAFTER, A COUNTY MAY MAKE TRANSFERS TO PROGRAMS FUNDED BY TITLE XX OF THE FEDERAL SOCIAL SECURITY ACT PURSUANT TO THIS SECTION. THE AMOUNT THAT A COUNTY MAY TRANSFER SHALL NOT EXCEED TEN PERCENT OF THAT PORTION OF THE COUNTY BLOCK GRANT FOR THAT STATE FISCAL YEAR, AS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THAT IS DESIGNATED AS FEDERAL FUNDS AND THAT IS SPECIFIED BY THE STATE DEPARTMENT AS BEING AVAILABLE FOR TRANSFER WITHIN THE LIMITATION IMPOSED BY THE FEDERAL LAW ON TRANSFERS OF FEDERAL FUNDS FROM THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT TO PROGRAMS FUNDED BY TITLE XX OF THE FEDERAL SOCIAL SECURITY ACT.

(b) A COUNTY MAY MAKE THE TRANSFER AUTHORIZED BY PARAGRAPH (a) OF THIS SUBSECTION (9) ONLY FOR EXPENDITURES THAT ARE ALLOWABLE UNDER PROGRAMS FUNDED BY TITLE XX OF THE FEDERAL SOCIAL SECURITY ACT, SUBJECT TO THE FOLLOWING PROVISIONS:

(I) IF THE FUNDS TRANSFERRED ARE USED FOR THE PROVISION OF CHILD WELFARE

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

SERVICES AS DEFINED IN SECTION 26-5-101 (3), THE COUNTY MAY ONLY MAKE THE TRANSFER:

(A) AFTER THE COUNTY HAS MADE ALLOWABLE EXPENDITURES OF ALL FUNDS IN THE COUNTY'S CAPPED OR TARGETED ALLOCATION OR ALLOCATIONS FOR CHILD WELFARE SERVICES, OTHER THAN FOR CORE SERVICES AS REFERRED TO IN SECTION 26-5-101 (3) (f); AND

(B) FOR THE EXPENDITURES FOR CHILD WELFARE SERVICES OTHER THAN OUT-OF-HOME PLACEMENT SERVICES AS DESCRIBED IN SECTION 26-5-101 (3) (i).

(II) A COUNTY SHALL NOT BE REQUIRED TO APPROPRIATE FUNDS TO PROVIDE A COUNTY MATCH PURSUANT TO THE PROVISIONS OF SECTION 26-1-122 FOR ANY FUNDS TRANSFERRED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (9).

(III) A COUNTY SHALL NOT BE AUTHORIZED TO USE FUNDS TRANSFERRED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (9) FOR THE PURPOSE OF SUPPLANTING FUNDS THAT:

(A) THE COUNTY WOULD OTHERWISE BE REQUIRED TO APPROPRIATE PURSUANT TO SECTION 26-1-122 IN ORDER TO PROVIDE A COUNTY MATCH FOR PUBLIC ASSISTANCE PROGRAMS; OR

(B) THE COUNTY WOULD OTHERWISE APPROPRIATE IN ORDER TO CONTINUE THE PROVISION OF SERVICES UNDER A PROGRAM OF PUBLIC ASSISTANCE ADMINISTERED WITH COUNTY ONLY FUNDS IN THE PRIOR FISCAL YEAR.

(C) THE STATE BOARD SHALL PROMULGATE RULES GOVERNING PROCEDURES FOR TRANSFERS AUTHORIZED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (9).

SECTION 2. 26-5-101 (1) and (2), Colorado Revised Statutes, are amended, and the said 26-5-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

26-5-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "Capped allocation" means a capped amount of funds distributed to counties or a group of counties for the purpose of providing ALL OR A PORTION OF THE child welfare services as defined in subsection (3) of this section.

(1.5) "CASELOAD" MEANS THE NUMBER OF CHILDREN WHO ARE ELIGIBLE FOR CHILD WELFARE SERVICES THAT ARE DEFINED IN SUBSECTION (3) OF THIS SECTION AND WHO ARE CURRENTLY RECEIVING SUCH CHILD WELFARE SERVICES ON A REGULAR BASIS FROM A COUNTY.

(2) "Child welfare allocations committee" means a committee that ~~consists of four county commissioners appointed by a statewide association of counties and four members appointed by the state department, which committee shall develop its own organizational rules~~ IS ORGANIZED AND AUTHORIZED PURSUANT TO THE PROVISIONS OF SECTION 26-5-103.5.

SECTION 3. 26-5-102, Colorado Revised Statutes, is amended to read:

26-5-102. Provision of child welfare services. (1) The state department shall adopt rules ~~and regulations~~ to establish a program of child welfare services, administered by the state department or supervised by the state department and administered by the county departments, and, where applicable, in accordance with the conditions accompanying available federal funds for such purpose. ~~Said~~ THE rules ~~and regulations~~ shall establish a fee based upon the child support guidelines set forth in section 14-10-115, C.R.S., requiring those persons legally responsible for the child to pay for all or a portion of the services provided under this article. THE STATE DEPARTMENT IS AUTHORIZED TO PROMULGATE RULES TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE RELATING TO THE ALLOCATION OF FUNDS TO COUNTIES FOR THE DELIVERY OF CHILD WELFARE SERVICES. Upon appropriate request and within available appropriations, child welfare services shall be provided for any child residing or present in the state of Colorado who is in need of such services.

(2) Foster care fees shall be considered child support obligations, and all remedies for the enforcement and collection of child support shall apply. Foster care fees established pursuant to section 14-10-115, C.R.S., may be collected pursuant to the administrative procedures to establish child support enforcement set forth in article 13.5 of this title. Due process is guaranteed in all actions regarding any such administrative process concerning foster care fees, and a court hearing of the matter before the district court may be obtained in the manner prescribed in section 26-13.5-105. Nothing contained in article 13.5 of this title shall be construed to deprive a court of competent jurisdiction from determining the duty of support of any obligor against whom an administrative order is issued pursuant to this article.

SECTION 4. Article 5 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-5-103.5. Child welfare allocations committee - organization - advisory duties. (1) A CHILD WELFARE ALLOCATIONS COMMITTEE SHALL BE CONVENED BY THE STATE DEPARTMENT AS NECESSARY IN ORDER TO MAKE ADVISORY RECOMMENDATIONS AS DESCRIBED IN THIS ARTICLE.

(2) THE CHILD WELFARE ALLOCATIONS COMMITTEE SHALL CONSIST OF EIGHT MEMBERS, FOUR OF WHOM SHALL BE APPOINTED BY A STATEWIDE ASSOCIATION OF COUNTIES AND FOUR OF WHOM SHALL BE APPOINTED BY THE STATE DEPARTMENT. THE APPOINTING AUTHORITIES SHALL CONSULT WITH EACH OTHER TO ENSURE THAT THE CHILD WELFARE ALLOCATIONS COMMITTEE IS REPRESENTATIVE OF THE COUNTIES IN THE STATE. IF A STATEWIDE ASSOCIATION OF COUNTIES DOES NOT APPOINT A REPRESENTATIVE FROM THE COUNTY THAT HAS THE GREATEST PERCENTAGE OF THE STATE'S CHILD WELFARE CASELOAD, THE STATE DEPARTMENT SHALL APPOINT SUCH A REPRESENTATIVE FROM SUCH COUNTY.

(3) THE CHILD WELFARE ALLOCATIONS COMMITTEE SHALL DEVELOP ITS OWN OPERATING PROCEDURES.

(4) NO LATER THAN JANUARY 15, 1999, THE STATE DEPARTMENT, WITH INPUT FROM THE CHILD WELFARE ALLOCATIONS COMMITTEE, SHALL MAKE RECOMMENDATIONS TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY

FOR A DEFINITION OF WHAT SHALL CONSTITUTE ADMINISTRATION AND SUPPORT FUNCTIONS AS REFERRED TO IN SECTION 26-5-101 (3) (m) AND A METHOD FOR IDENTIFYING COSTS FOR SUCH FUNCTIONS.

SECTION 5. 26-5-104 (1), (3), and (4), Colorado Revised Statutes, are amended, and the said 26-5-104 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

26-5-104. Funding of child welfare services. (1) Reimbursement. The state department shall, within the limits of available appropriations, reimburse the county departments eighty percent of amounts expended by county departments for child welfare services, up to the amount of the county's allocation as determined pursuant to the provisions of this section, EXCEPT AS OTHERWISE AUTHORIZED IN ACCORDANCE WITH THE CLOSE-OUT PROCESS DESCRIBED IN SUBSECTION (7) OF THIS SECTION.

(3) **Allocation formula.** (a) For state fiscal year 1997-98, AND FOR EACH STATE FISCAL YEAR THEREAFTER, the state department, after input from the child welfare allocations committee, shall develop formulas for capped and targeted allocations ~~that take into account such factors as:~~ THAT SHALL INCLUDE, EFFECTIVE FOR STATE FISCAL YEAR 1998-1999, THE ESTIMATED CASELOAD FOR THE DELIVERY OF THOSE SPECIFIC CHILD WELFARE SERVICES TO BE FUNDED BY THE MONEYS IN SUCH CAPPED OR TARGETED ALLOCATIONS. IF A COUNTY RECEIVES MORE THAN ONE CAPPED OR TARGETED ALLOCATION FOR THE DELIVERY OF CHILD WELFARE SERVICES, THE FORMULA SHALL IDENTIFY THE SPECIFIC CASELOAD ESTIMATE ATTRIBUTABLE TO EACH CAPPED OR TARGETED ALLOCATION. THE DETERMINATION OF THE FORMULAS PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (3) SHALL ALSO TAKE INTO CONSIDERATION SUCH FACTORS AS:

(I) ~~County spending on child welfare services in calendar year 1996;~~

(II) The county's allocations and expenditures for child welfare services in THE THREE PREVIOUS state fiscal years ~~1995-96, 1994-95, and 1993-94~~ and a comparison of the spending in those prior years with the caseloads in the respective prior state fiscal years; AND

(III) ~~The county's current child welfare caseload; and~~

(IV) Other factors determined by the state department and the child welfare allocations committee that directly affect the population of children in need of child welfare services in a county.

(b) In the event that the state department and the child welfare allocations committee do not reach an agreement on the allocation formula on or before ~~June 15, 1997~~, JUNE 15 OF ANY STATE FISCAL YEAR FOR THE SUCCEEDING STATE FISCAL YEAR, the state department and the CHILD WELFARE ALLOCATIONS committee shall submit alternatives to the joint budget committee of the general assembly from which such joint budget committee shall select an allocation formula before ~~July 1, 1997~~ THE BEGINNING OF SUCH SUCCEEDING STATE FISCAL YEAR.

(c) The formulas developed by the state department, after input from the child welfare allocations committee, shall identify the portion of the amounts appropriated

for child welfare services that shall be allocated to the counties for the provision of child welfare services.

(d) A COUNTY'S ELECTION TO MAKE A TRANSFER OF FEDERAL FUNDS PURSUANT TO SECTION 26-2-714 (9) FOR THE PROVISION OF CHILD WELFARE SERVICES SHALL NOT BE THE BASIS OF AN ADJUSTMENT TO THE FORMULA FOR DEVELOPING SUCH COUNTY'S CAPPED OR TARGETED ALLOCATION UNDER THE PROVISIONS OF THIS ARTICLE 5.

(4) **Allocations.** (a) For state fiscal year 1997-98, and FOR EACH STATE FISCAL YEAR thereafter, all counties shall receive capped allocations for child welfare services. A COUNTY MAY RECEIVE ONE OR MORE CAPPED ALLOCATIONS FOR THE PROVISION OF CHILD WELFARE SERVICES. The counties may use capped allocation moneys for child welfare services without category restriction WITHIN A SPECIFIC CAPPED ALLOCATION if not prohibited by federal law.

(b) (I) The state department shall make capped allocations for counties serving at least eighty percent of the total child welfare services population.

(II) For the balance of the state, the state department shall create one capped allocation OR A SERIES OF CAPPED ALLOCATIONS FOR THE PROVISION OF CHILD WELFARE SERVICES IN THE BALANCE OF THE STATE. The state department shall establish a targeted allocation for each county in such group of counties designated for the purpose of such capped allocation OR CAPPED ALLOCATIONS.

(c) The state department, in consultation with the child welfare allocations committee, shall adopt rules for when a county may exceed its capped or targeted allocation OR 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.

(e) A county's allocation OR ALLOCATIONS may be amended due to caseload growth, SUBJECT TO THE PROVISIONS OF SUBSECTION (7) OF THIS SECTION, or changes in federal law or federal funding.

(7) **Close-out process for county allocations.** (a) FOR STATE FISCAL YEAR 1998-1999, AND FOR EACH STATE FISCAL YEAR THEREAFTER, AND SUBJECT TO THE LIMITATIONS SET FORTH IN THIS SUBSECTION (7), THE STATE DEPARTMENT MAY, AT THE END OF A STATE FISCAL YEAR BASED UPON THE RECOMMENDATIONS OF THE CHILD WELFARE ALLOCATIONS COMMITTEE, ALLOCATE ANY UNEXPENDED CAPPED FUNDS FOR THE DELIVERY OF SPECIFIC CHILD WELFARE SERVICES TO ANY ONE OR MORE COUNTIES WHOSE SPENDING HAS EXCEEDED A CAPPED ALLOCATION FOR SUCH SPECIFIC CHILD WELFARE SERVICES.

(b) A COUNTY MAY ONLY RECEIVE FUNDS PURSUANT TO THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (7) IF THE REQUIREMENTS OF SECTION 26-5-103.5 (4) HAVE BEEN SATISFIED, FOR EXPENDITURES OTHER THAN THOSE ATTRIBUTABLE TO ADMINISTRATIVE AND SUPPORT FUNCTIONS AS REFERRED TO IN SECTION 26-5-101 (3) (m), AS DEFINED IN ACCORDANCE WITH THE PROVISIONS OF

SECTION 26-5-103.5 (4), AND FOR AUTHORIZED EXPENDITURES ATTRIBUTABLE TO CASELOAD INCREASES BEYOND THE CASELOAD ESTIMATE ESTABLISHED PURSUANT TO SUBSECTION (3) OF THIS SECTION FOR A SPECIFIC CAPPED ALLOCATION.

(c) A COUNTY MAY NOT RECEIVE FUNDS PURSUANT TO THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (7) FOR AUTHORIZED EXPENDITURES ATTRIBUTABLE TO CASELOAD INCREASES FOR SERVICES IN ONE CAPPED ALLOCATION FROM UNEXPENDED CAPPED FUNDS IN ANOTHER CAPPED ALLOCATION.

(d) AS USED IN THIS SECTION, "UNEXPENDED CAPPED FUNDS" MEANS FUNDS THAT HAVE BEEN APPROPRIATED FOR CHILD WELFARE SERVICES, ALLOCATED TO A COUNTY OR GROUP OF COUNTIES AS A CAPPED ALLOCATION OR ALLOCATIONS PURSUANT TO THE PROVISIONS OF SUBSECTION (4) OF THIS SECTION, BUT NOT SPENT BY SUCH COUNTY OR GROUP OF COUNTIES OR SUBJECT TO THE PROVISIONS OF SECTION 26-5-105.5 (3).

SECTION 6. 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 22, 1998