

CHAPTER 276

**INSURANCE**

**SENATE BILL 99-006**

BY SENATORS Wham, Andrews, Linkhart, Powers, Reeves, and Rupert;  
also REPRESENTATIVES Tool, Alexander, Chavez, Clarke, Coleman, Fairbank, Hagedorn, Kaufman, Keller, Leyba, Mace,  
Morrison, Plant, Takis, Tochtrop, Tupa, Veiga, and S. Williams.

**AN ACT**

CONCERNING PAYMENTS FOR CONTINUING CARE.

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

**SECTION 1.** Part 4 of article 16 of title10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-16-413.5. Return to home - legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS THAT:

(a) AS INDIVIDUALS "AGE-IN-PLACE" IN THEIR OWN HOMES OR OTHER SETTINGS, THEY FREQUENTLY CONTRACT WITH CONTINUING CARE RETIREMENT COMMUNITIES OR ASSISTED LIVING, NURSING, OR ALZHEIMER FACILITIES TO RECEIVE THE SERVICES THEY NEED IN ORDER TO MAXIMIZE THEIR INDEPENDENCE;

(b) ELDERLY AND DISABLED PERSONS SELECT PARTICULAR FACILITIES BECAUSE OF PROXIMITY TO FAMILY AND FRIENDS, RELIGIOUS AFFILIATION, REPUTATION IN THE COMMUNITY, OR THE SECURITY OFFERED IN A PARTICULAR SETTING;

(c) SOME HEALTH CARE SERVICE PLAN CONTRACTS REQUIRE THAT AN ENROLLEE BE PLACED IN A SKILLED NURSING FACILITY PARTICIPATING IN THE PLAN;

(d) REQUIRING AN ELDERLY OR DISABLED PERSON TO MOVE INTO AN UNFAMILIAR ENVIRONMENT CAN BE TRAUMATIC AND HAVE AN ADVERSE EFFECT ON THE PERSON'S PSYCHOLOGICAL, SOCIAL, AND PHYSICAL WELL-BEING;

(e) ELDERLY AND DISABLED PERSONS WHO REQUIRE HOSPITALIZATION NEED TO BE ABLE TO "RETURN TO HOME" WITHOUT INTERFERENCE FROM HEALTH CARE COVERAGE

---

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

PROVIDERS, IF THE FACILITY IS ABLE TO PROVIDE THE NEEDED SERVICES AND IS WILLING TO ACCEPT PAYMENT ON THE SAME TERMS AS A NETWORK PROVIDER.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONTINUING CARE" MEANS FURNISHING, PURSUANT TO AN AGREEMENT, SHELTER, FOOD, AND EITHER NURSING CARE OR PERSONAL SERVICES WHETHER SUCH NURSING CARE OR PERSONAL SERVICES ARE PROVIDED IN A FACILITY OR ANOTHER SETTING DESIGNATED BY THE AGREEMENT FOR CONTINUING CARE, NURSING CARE, OR PERSONAL CARE SERVICES, TO AN INDIVIDUAL NOT RELATED BY CONSANGUINITY OR AFFINITY TO THE PROVIDER FURNISHING CARE UPON PAYMENT OF AN ENTRANCE OR RENTAL FEE.

(b) "ENROLLEE" MEANS AN INDIVIDUAL WHO IS ELIGIBLE FOR HEALTH CARE BENEFITS UNDER A CONTRACT WITH A CARRIER.

(3) ON AND AFTER JANUARY 1, 2000, NO CARRIER, INCLUDING A CARRIER THAT OFFERS A MEDICARE SUPPLEMENT POLICY PURSUANT TO ARTICLE 18 OF THIS TITLE, SHALL DENY PAYMENT FOR CONTINUING CARE PROVIDED TO AN ENROLLEE EVEN IF THE PROVIDER IS NOT UNDER CONTRACT WITH THE CARRIER IF ALL OF THE FOLLOWING APPLY:

(a) THE SERVICE IS A COVERED BENEFIT UNDER THE TERMS OF THE CONTRACT COVERING THE ENROLLEE;

(b) THE ENROLLEE:

(I) PRIOR TO BEING HOSPITALIZED, RESIDED WHERE THE CONTINUING CARE SERVICES ARE TO BE PROVIDED;

(II) HAD A CONTRACTUAL OR OTHER RIGHT TO RETURN TO SUCH LOCATION; AND

(III) RETURNED TO SUCH LOCATION REGARDLESS OF WHETHER HE OR SHE RETURNED TO A DIFFERENT PART OF A FACILITY IN WHICH HE OR SHE RESIDED PRIOR TO HOSPITALIZATION;

(c) THE LEVEL OF CARE THAT THE ENROLLEE NEEDS MAY BE PROVIDED AT THE LOCATION WHERE THE CONTINUING CARE SERVICES ARE TO BE PROVIDED AND THE LOCATION IS LICENSED BY THE STATE OF COLORADO AS A SKILLED NURSING FACILITY AND CERTIFIED AS PARTICIPATING IN MEDICARE; AND

(d) WITH RESPECT TO AN ENROLLEE RETURNING TO THE LOCATION WHERE THE CONTINUING CARE SERVICES ARE TO BE PROVIDED PURSUANT TO THIS SECTION, THE PROVIDER OF CONTINUING CARE SERVICES AGREES TO ABIDE BY THE SAME TERMS AND CONDITIONS THAT APPLY TO PARTICIPATING PROVIDERS UNDER CONTRACT WITH THE CARRIER, INCLUDING BUT NOT LIMITED TO:

(I) UTILIZATION REVIEW, QUALITY ASSURANCE, PEER REVIEW, AND ACCESS TO HEALTH CARE SERVICES; AND

(II) MANAGEMENT AND ADMINISTRATIVE PROCEDURES INCLUDING DATA AND

FINANCIAL REPORTING PROCEDURES THAT MAY BE REQUIRED BY THE CARRIER.

(4) THE CARRIER SHALL PAY THE PROVIDER OF CONTINUING CARE SERVICES FOR COVERED BENEFITS AT THE SAME RATE FOR THE SAME LEVEL AND INTENSITY OF SERVICES AS PROVIDERS UNDER CONTRACT WITH THE CARRIER.

(5) THE ENROLLEE SHALL HAVE A CAUSE OF ACTION AGAINST THE CARRIER FOR A VIOLATION OF THIS SECTION. THE ACTION MAY BE COMMENCED BY THE ENROLLEE OR ON BEHALF OF THE ENROLLEE BY AN ADULT RELATIVE, FRIEND, OR GUARDIAN OF THE ENROLLEE WHO HAS AN INTEREST IN OR THE RESPONSIBILITY FOR THE ENROLLEE'S WELFARE.

**SECTION 2.** 10-18-103 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**10-18-103. Standards for policy provisions.** (2) The commissioner shall issue reasonable regulations to establish specific standards for policy provisions of medicare supplement policies and certificates. Such standards shall be in addition to and in accordance with all applicable laws under this title. No requirement of this title relating to minimum required policy benefits, other than the minimum standards contained in this article, shall apply to medicare supplement policies. The standards shall include, but need not be limited to:

(j) CONTINUING CARE COVERAGE AS REQUIRED BY SECTION 10-16-413.5.

**SECTION 3. 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 1, 1999