

CHAPTER 116

HUMAN SERVICES - SOCIAL SERVICES

SENATE BILL 00-088

BY SENATORS Epps, Hernandez, and Weddig;
also REPRESENTATIVES Alexander, Coleman, Mace, Morrison, Tapia, Tochtrop, and S. Williams.

AN ACT

CONCERNING THE COLORADO MEDICAID PROGRAM.

*Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** 26-4-113 (1) (a), Colorado Revised Statutes, is amended to read:**26-4-113. Statewide managed care system - implementation required.**

(1) **Rules.** (a) Except as provided in subsection (5) of this section, the state department shall adopt rules to implement a managed care system for seventy-five percent of the Colorado medical assistance population on a statewide basis pursuant to the provisions of this article. The managed care system implemented pursuant to this article shall not include the services delivered under the residential child health care program described in section 26-4-527; EXCEPT IN THOSE COUNTIES IN WHICH THERE IS A WRITTEN AGREEMENT BETWEEN THE COUNTY DEPARTMENT OF SOCIAL SERVICES, THE DESIGNATED AND CONTRACTED MENTAL HEALTH ASSESSMENT AND SERVICES AGENCY SELECTED PURSUANT TO SECTION 26-4-123, AND THE STATE DEPARTMENT. The rules shall include a plan to implement the statewide managed care system over a three-year period pursuant to the provisions of subsection (2) of this section.

SECTION 2. 26-4-529 (3), (4), (6), and (7), Colorado Revised Statutes, are amended to read:**26-4-529. Home health services - pilot program - advisory committee - repeal.**

(3) (a) In order for the department to develop and implement the pilot program with sufficient input from persons impacted by the program, there is hereby created an advisory committee to be appointed by the executive director. The committee consists of nine members who represent the following populations:

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

- (I) Advocacy groups representing persons with disabilities and the frail elderly;
- (II) Medical assistance recipients described in subsection (1) of this section who receive nursing services;
- (III) The home health agency providers association;
- (IV) The professional nurses' association;
- (V) The state board of nursing;
- (VI) Assisted living facilities;
- (VII) The department of public health and environment;
- (VIII) The medical assistance long-term care advisory committee.

(b) The executive director of the department, in the development and implementation of the pilot program, shall, on a regular basis, consult fully with the members of the advisory committee created in paragraph (a) of this subsection (3).

(c) (I) This subsection (3) is repealed, effective July 1, ~~2000~~ 2003.

(II) Prior to said repeal, the advisory committee shall be reviewed, as provided in section 2-3-1203 (3), C.R.S.

(4) The department shall contract with a public or private entity to conduct an independent evaluation of the pilot program. On or before October 1, 1996, AND ON OR BEFORE OCTOBER 1, 2002, the department shall provide a written ~~report~~ REPORTS to the general assembly, based on the independent evaluation. The department shall include in the report the independent evaluator's assessment of the cost-efficiency, which includes identifying any cost-savings to the medical assistance program and any other public benefits programs, benefit, impact on the quality of care and client outcomes, and impact upon recipients' ability to live independently as a result of the provision of nursing services to medical assistance recipients by home health aides. In addition, the department shall include in the ~~report~~ REPORTS recommendations for implementation of any model or proposed program modification.

(6) The pilot program shall terminate on July 1, ~~2000~~ 2003, unless extended by the general assembly.

(7) This section is repealed, effective July 1, ~~2000~~ 2003.

SECTION 3. 26-4-804, Colorado Revised Statutes, is amended to read:

26-4-804. Reports. The department shall provide a ~~report~~ REPORTS to the general assembly no later than July 1, 1997, AND NO LATER THAN SEPTEMBER 1, 2002, demonstrating the effectiveness of the pilot program AND EVALUATING WHETHER THE PILOT PROGRAM SHOULD BE CONTINUED.

SECTION 4. 26-4-805, Colorado Revised Statutes, is amended to read:

26-4-805. Repeal of part. This part 8 is repealed, effective July 1, ~~2000~~ 2003.

SECTION 5. 26-4-903 (1), (6), and (8), Colorado Revised Statutes, are amended to read:

26-4-903. Pilot program - consumer-directed attendant support. (1) The general assembly authorizes the state department, in cooperation with the department of human services, to implement a pilot program that would allow as many as one hundred fifty persons with disabilities to self-direct their attendant support. The pilot program shall begin no later than July 1, 1997, and shall end July 1, ~~2000~~ 2003, unless extended by the general assembly acting by bill. The departments shall design and implement a program with input from an advisory committee that shall include consumers of attendant support. The departments are authorized to seek any federal waivers that may be necessary to implement this part 9.

(6) The state department and the department of human services shall conduct an independent evaluation of the pilot program to be completed by the end of the third year AND BY THE END OF THE SIXTH YEAR of the program, and a report of such evaluation shall be provided to the general assembly by September 1, 2000, AND BY SEPTEMBER 1, 2002. The departments shall report to the general assembly by September 1, ~~1998~~ 2000, and by September 1 of each year thereafter concerning the following:

- (a) The number of persons with disabilities participating in the pilot program;
- (b) The cost-effectiveness of the pilot program;
- (c) Feedback from consumers, the state department, and the department of human services concerning the progress and success of the program;
- (d) Any changes to the health status or health outcomes of the participating recipients;
- (e) Other information relevant to the successes and problems of the pilot program; and
- (f) Recommendations concerning the feasibility of continuing the program beyond the pilot stage and changes, if any, that are needed.

(8) Section 12-38.1-117 (1) (b), C.R.S., and section 12-38.1-102 (5), C.R.S., SECTION 12-38-123 (1) (a), C.R.S., SECTION 12-38-103 (8), C.R.S., AND SECTION 12-38-103 (11), C.R.S., shall not apply to a person who is directly employed by an individual participating in the pilot program pursuant to this section and who is acting within the scope and course of such employment. However, such person may not represent himself or herself to the public as a licensed nurse, ~~or~~ a certified nurse aide, A LICENSED PRACTICAL OR PROFESSIONAL NURSE, A REGISTERED NURSE, OR A REGISTERED PROFESSIONAL NURSE. This exclusion shall not apply to any person who has had his or her license as a nurse or certification as a nurse aide suspended or revoked or his or her application for such license or certification denied.

SECTION 6. 26-4-904, Colorado Revised Statutes, is amended to read:

26-4-904. Repeal of part. This part 9 is repealed, effective July 1, ~~2000~~ 2003.

SECTION 7. 26-4-124 (6), Colorado Revised Statutes, is amended to read:

26-4-124. Program of all-inclusive care for the elderly - services - eligibility.

(6) For purposes of this section, "eligible person" means a frail elderly individual who voluntarily enrolls in the PACE program and whose gross income does not exceed three hundred percent of the current federal supplemental security income benefit level, whose resources do not exceed the limit established by the state department of human services for individuals receiving a mandatory minimum state supplementation of SSI benefits pursuant to section 26-2-204, or in the case of a person who is married, do not exceed the amount authorized in section 26-4-506, and for whom a physician licensed pursuant to article 36 of title 12, C.R.S., certifies that such a program provides an appropriate alternative to institutionalized care. The term "frail elderly" means an individual who meets functional eligibility requirements, as established by the state department, for nursing home care and who is ~~sixty-five~~ FIFTY-FIVE years of age or older.

SECTION 8. 26-4-403.3, Colorado Revised Statutes, is amended to read:

26-4-403.3. Recovery of assets. (1) The general assembly hereby finds, determines, and declares that the cost of providing medical assistance to qualified recipients throughout the state has increased significantly in recent years; that such increasing costs have created an increased burden on state revenues while reducing the amount of such revenues available for other state programs; that recovering some of the medical assistance from the estates of medical assistance recipients would be a viable mechanism for such recipients to share in the cost of such assistance; and that such an estate recovery program would be a cost-efficient method of offsetting medical assistance costs in an equitable manner. THE GENERAL ASSEMBLY ALSO DECLARES THAT IN ORDER TO ENSURE THAT MEDICAID IS AVAILABLE FOR LOW-INCOME INDIVIDUALS REASONABLE RESTRICTIONS CONSISTENT WITH FEDERAL LAW SHOULD BE PLACED ON THE ABILITY OF PERSONS TO BECOME ELIGIBLE FOR MEDICAID BY MEANS OF MAKING TRANSFERS OF PROPERTY WITHOUT FAIR AND VALUABLE CONSIDERATION.

(2) (a) Medical assistance paid on behalf of any individual who was fifty-five years of age or older when the individual received such assistance may be recovered by the state department from the estate of such individual in accordance with paragraph (c) of this subsection (2).

(b) Medical assistance paid on behalf of any individual who is institutionalized may be recovered by the state department from the estate of such individual in accordance with paragraph (c) of this subsection (2).

(c) The state department shall establish an estate recovery program only insofar as such program is in accordance with Title XIX of the federal "Social Security Act", 42 U.S.C. sec. 1396p, as amended, and shall not take any action to recover medical assistance when the amount of assistance to be recovered is economically inappropriate in relation to expenses of recovery.

(3) The state department is authorized to file liens against any property of an

individual who is institutionalized and from whom the state department may recover medical assistance pursuant to paragraph (b) of subsection (2) of this section.

(4) The state department may compromise, settle, or waive any recovery of medical assistance authorized pursuant to subsection (2) of this section upon good cause shown.

(5) Subject to any limitation concerning estate recovery in Title XIX of the federal "Social Security Act", 42 U.S.C. sec. 1396p, as amended, the amount of any medical assistance paid pursuant to the provisions of this article is a claim against the estate pursuant to the provisions of section 15-12-805 (1), C.R.S.

(6) The state department shall promulgate rules ~~and regulations~~ to implement the provisions of this section, INCLUDING RULES LIMITING THE ELIGIBILITY FOR MEDICAL ASSISTANCE IF THE PERSON MADE A VOLUNTARY ASSIGNMENT OR TRANSFER OF PROPERTY WITHOUT FAIR AND VALUABLE CONSIDERATION PRIOR TO APPLYING FOR MEDICAL ASSISTANCE. A CONTRACT FOR AN EXEMPT BURIAL FUND FOR AN INDIVIDUAL SHALL INCLUDE A PROVISION RESTRICTING THE FULL AMOUNT TO THE COST OF THE BURIAL AND STATING THAT ANY PORTION NOT EXPENDED FOR THE BURIAL COSTS SHALL BE REFUNDED TO THE COLORADO DEPARTMENT OF HEALTH CARE POLICY AND FINANCING BY THE MORTUARY AS REIMBURSEMENT FOR THE COST OF MEDICAL ASSISTANCE PROVIDED TO THE INDIVIDUAL. Said rules ~~and regulations~~ shall be in accordance with Title XIX of the federal "Social Security Act", 42 U.S.C. sec. 1396p, as amended.

(7) (Deleted by amendment, L. 94, p. 1601, § 8, effective July 1, 1994.)

(8) Effective upon the implementation of a private-public partnership program for financing long-term care pursuant to section 26-4-506.7, this section shall apply to participants of such program only after excluding from the amount that may otherwise be recovered from such person's estate an amount allowed by rules adopted by the medical services board in accordance with section 26-4-506.7.

SECTION 9. 25.5-1-304, Colorado Revised Statutes, is amended to read:

25.5-1-304. Repeal of part. This part 3 is repealed, effective July 1, ~~2000~~ 2007.

SECTION 10. 2-3-1203 (3) (m) (III) and (3) (p), Colorado Revised Statutes, are amended 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:

(m) July 1, 2000:

(III) ~~The advisory committee in the department of health care policy and financing created in section 26-4-529 (3), C.R.S.;~~

(p) JULY 1, 2003: THE ADVISORY COMMITTEE IN THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING CREATED IN SECTION 26-4-529 (3), C.R.S.;

SECTION 11. 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: April 13, 2000