

## CHAPTER 385

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**HUMAN SERVICES - SOCIAL SERVICES**

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## SENATE BILL 00-223

BY SENATORS Owen, Lacy, Tanner, Dyer, Hernandez, Martinez, Pascoe, Reeves, Rupert, and Wham;  
also BY REPRESENTATIVES Saliman, Berry, Tool, Clarke, Gordon, Grossman, Hagedorn, Keller, Plant, Tapia, Tate, Tochtrop,  
Tupa, and S. Williams.

**AN ACT**

CONCERNING CHANGES TO THE NON-MEDICAID STATE-SUBSIDIZED INSURANCE PROGRAM KNOWN AS THE  
"CHILDREN'S BASIC HEALTH PLAN", AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

**SECTION 1.** 26-19-102 (3), Colorado Revised Statutes, is amended to read:

**26-19-102. Legislative declaration.** (3) (a) It is the intent of the general assembly to make health insurance coverage affordable and to support employers in their efforts to provide their employees and their dependents with health insurance coverage.

(b) It is the intent of the general assembly that the ~~children's basic health plan created by this article be primarily funded through~~ savings and efficiencies realized through actual reductions in administrative and programmatic costs associated with the implementation of this article and achieved in CONSOLIDATING other health care programs ~~and not decreases in the number of caseloads of such programs~~ SHOULD BE IDENTIFIED.

**SECTION 2.** 26-19-103 (2) and (4), Colorado Revised Statutes, are amended to read:

**26-19-103. Definitions.** As used in this article, unless the context otherwise requires:

(2) "Children's basic health plan" or "plan" means the SUBSIDIZED health insurance product designed by the department of health care policy and financing and provided to enrollees, as defined in this section.

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

(4) "Eligible person" means a person who is less than nineteen years of age, whose ~~gross~~ family income does not exceed one hundred eighty-five percent of the federal poverty level, adjusted for family size.

**SECTION 3.** 26-19-104, Colorado Revised Statutes, is amended to read:

**26-19-104. Children's basic health plan - rules.** The policy board is authorized to adopt rules to implement ~~and administer~~ the children's basic health plan to provide health insurance coverage to children on a statewide basis pursuant to the provisions of this article.

**SECTION 4.** 26-19-104.5 (1) and (3), Colorado Revised Statutes, are amended to read:

**26-19-104.5. Policy board - creation - repeal.** (1) There is hereby created in the department of health care policy and financing the children's basic health plan policy board which shall exercise its powers and perform its duties and functions as if it were transferred to said department by a **type 1** transfer, AS SUCH TRANSFER IS DEFINED IN THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", ARTICLE 1 OF TITLE 24, C.R.S. The policy board shall consist of eleven members. Four members of the policy board shall be the executive directors of the departments of public health and environment, health care policy and financing, education, and human services. ~~or their designees.~~ Seven members of the policy board shall be appointed by the governor, with the consent of the senate, and shall represent the following: Two members shall represent small business or other businesses in the state; three members shall represent the health care industry, including one who is a managed care expert not affiliated with a managed care organization under contract to provide services under the children's basic health plan; one member shall be a representative of an essential community provider; and one member shall be a consumer.

(3) This section is repealed, effective July 1, ~~2000~~ 2004.

**SECTION 5.** 26-19-104.6, Colorado Revised Statutes, is amended to read:

**26-19-104.6. Policy board - power and duties - reports.** (1) In addition to any other powers enumerated in this article, the policy board shall have the following powers and duties:

(a) To report periodically to the joint budget committee on the progress made in inter-program coordination and program consolidation with existing health care programs and on the efficiencies achieved in utilizing existing health care programs pursuant to this article;

(b) To report on matters the policy board deems to be of interest to the general assembly regarding the implementation and administration of the children's basic health plan; and

(c) To report ON OR BEFORE OCTOBER 15, 2000, AND ON OR BEFORE EVERY OCTOBER 1 THEREAFTER, TO THE JOINT BUDGET COMMITTEE AND THE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEES OF THE HOUSE OF

REPRESENTATIVES AND THE SENATE on enrollment, utilization and quality of health care services provided through the children's basic health plan; STREAMLINING OF CHILDREN'S PROGRAM OPERATIONS; CONCERNS AND RECOMMENDATIONS; and identify ANY barriers related to enrollment, utilization, and quality.

~~(2) In addition to the reports submitted to the joint budget committee pursuant to subsection (1) of this section, the policy board shall conduct an evaluation of the contracting and administrative functions and the methodology used by the department in implementing the children's basic health plan and shall make recommendations regarding any necessary changes to the program or the statutes, including any recommendations regarding further privatization of these functions. Such evaluation shall include state fiscal years 1997-98 and 1998-99. The policy board shall submit a written report of its evaluation and recommendations on or before October 1, 1999, to the joint budget committee and to the health, environment, welfare, and institutions committees of the house of representatives and the senate.~~

(2.5) IF SUFFICIENT PRIVATE DONATIONS ARE RECEIVED, THE POLICY BOARD SHALL CONTRACT WITH AN INDEPENDENT ENTITY TO STUDY THE OPTIONS, BENEFITS, AND MERITS OF CHANGING THE ADMINISTRATIVE STRUCTURE OF THE CHILDREN'S BASIC HEALTH PLAN, INCLUDING CONSIDERATION OF CREATING AN ADMINISTRATIVE ENTITY AS A SEPARATE INSTRUMENTALITY OF THE STATE TO ADMINISTER THE CHILDREN'S BASIC HEALTH PLAN. THE POLICY BOARD IS AUTHORIZED TO ACCEPT PRIVATE DONATIONS FOR THE PURPOSES OF FUNDING THE INDEPENDENT STUDY. A REPORT ON THE RESULTS OF THE STUDY SHALL BE SUBMITTED TO THE JOINT BUDGET COMMITTEE AND THE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE ON OR BEFORE OCTOBER 15, 2000.

(3) The department shall submit to the policy board any information concerning the implementation and administration of the children's basic health plan that is requested by the policy board in connection with its reporting and evaluation duties outlined in this section.

**SECTION 6.** 26-19-104.7, Colorado Revised Statutes, is amended to read:

**26-19-104.7. Advisory board - appointment - repeal.** (1) The executive director of the department of health care policy and financing may appoint an advisory board for the purpose of advising the policy board and the department on the implementation and administration of the children's basic health plan. The number of persons appointed to serve on the advisory board shall be determined by the executive director.

(2) This section is repealed, effective July 1, 2004.

**SECTION 7.** 26-19-105 (3) and (4), Colorado Revised Statutes, are amended to read:

**26-19-105. Trust - created.** (3) Beginning in fiscal year 1998, appropriations to the trust may be made by the general assembly based on the savings achieved through reforms, consolidations, and streamlining of health care programs realized through actual reductions in administrative and programmatic costs associated with the implementation of this article and not decreases in the number of caseloads of

such programs. Beginning with and subsequent to fiscal year 1999, ~~these appropriations may be based on the annual savings report described in section 26-19-106.~~ 2000-01, THE GENERAL ASSEMBLY MAY MAKE ANNUAL APPROPRIATIONS TO THE TRUST.

(4) As part of its annual savings report to the general assembly on November 1 of each year, the department may identify efficiencies and consolidations that produce savings in the department's annual budget request that result in actual reductions in administrative and programmatic costs associated with the implementation of this article and not decreases in the number of caseloads of such programs. These identified savings shall not duplicate the savings reported in the annual savings report described in section 26-19-106. ~~If the general assembly determines that the savings identified pursuant to this subsection (4) are valid, it is the intent of the general assembly that such savings may be appropriated to the children's basic health plan trust.~~

**SECTION 8. Repeal.** 26-19-106 (5), Colorado Revised Statutes, is repealed as follows:

**26-19-106. Annual savings report.** (5) ~~The general assembly shall make appropriations to the trust based on the savings calculated in paragraph (b) of subsection (2) of this section twelve months after the plan begins providing a benefit package that includes inpatient care and annually thereafter.~~

**SECTION 9.** 26-19-107 (1) (a), (1) (b), and (2), Colorado Revised Statutes, are amended, and the said 26-19-107 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**26-19-107. Duties of the department - schedule of services - premiums - copayments - subsidies.** (1) In addition to any other duties pursuant to this article, the department shall have the following duties:

(a) To design, on or after April 21, 1998, and from time to time revise, a schedule of health care services included in the plan and to propose said schedule to the policy board for approval or modification. The schedule of health care services as proposed by the department and approved by the policy board, shall include, but shall not be limited to, preventive care, physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be medically necessary for the health of enrollees. The department shall design and revise this schedule of health care services included in the plan to be ~~similar to~~ BASED UPON the basic and standard health benefit plans defined in section 10-16-102 (4) and (42), C.R.S.; EXCEPT THAT THE DEPARTMENT MAY MODIFY THE BASIC AND STANDARD HEALTH BENEFIT PLANS TO MEET SPECIFIC FEDERAL REQUIREMENTS OR TO ACCOMMODATE THOSE CHANGES NECESSARY FOR A PROGRAM DESIGNED SPECIFICALLY FOR CHILDREN.

(b) To design and implement a structure of periodic premiums due to the department or to managed care plans from enrollees that is based on a sliding fee scale. The sliding fee scale shall be developed based on the per capita cost of the plan and the enrollee's gross family income. ~~during the previous three months.~~ As permitted by federal and state law, enrollees in the plan may use funds from a medical

savings account to pay premiums. On or before November 1 of each year, the department shall submit for approval to the joint budget committee its proposal for a scale for increasing premiums or service cost sharing for the plan based upon a family's income.

(h) TO EVALUATE THE POSSIBILITY OF ELIMINATING, FOR CHILDREN WHO ARE ELIGIBLE FOR THE CHILDREN'S BASIC HEALTH PLAN, THE OPTION OF ENROLLING IN THE MEDICALLY INDIGENT PROGRAM FOR HEALTH CARE AND TO INSTEAD REQUIRE THAT ELIGIBLE CHILDREN ENROLL IN THE CHILDREN'S BASIC HEALTH PLAN. THE DEPARTMENT SHALL SUBMIT A WRITTEN REPORT OF ITS EVALUATION AND RECOMMENDATIONS ON OR BEFORE NOVEMBER 1, 2000, TO THE JOINT BUDGET COMMITTEE AND TO THE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE.

(2) The department is authorized to institute a program for competitive bidding pursuant to section 24-103-202 or 24-103-203, C.R.S., for providing medical services on a managed care basis for children under this article. The department shall select more than one managed care contractor to serve counties in which there are providers contracting with more than one managed care plan. In counties where there is only one operational managed care plan, the department may contract with that managed care plan to serve children enrolled in the plan. To the extent that the department determines that there is a unique community-based organization that is able to perform the new functions required under this article, the department may select such contractor pursuant to section 24-103-205, C.R.S., and rules promulgated by the policy board to administer all or a portion of the children's basic health plan according to section 26-19-111. ~~In addition to such contractor, the department may enter into contracts, as necessary, with the administrator of the Colorado children's health plan to carry out the purposes of this article.~~ The policy board DEPARTMENT shall assure the utilization of essential community providers for the provision of services including eligibility determination, enrollment, and outreach when reasonable. The department shall contract with managed care organizations for the delivery of health services pursuant to this article. The department may contract with essential community providers for health care services in areas of the state that are not adequately served by managed care organizations.

**SECTION 10.** 26-19-107, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**26-19-107. Duties of the department - schedule of services - premiums - copayments - subsidies.** (3) THE DEPARTMENT MAY CONTRACT FOR BILLING AND PREMIUM COLLECTION FUNCTIONS FOR THE CHILDREN'S BASIC HEALTH PLAN WITH VENDORS WHO PROVIDE BILLING AND PREMIUM COLLECTION FUNCTIONS FOR OTHER STATE INSURANCE PROGRAMS IN ORDER TO CONSOLIDATE BILLING AND PREMIUM COLLECTION FUNCTIONS AMONG MULTIPLE STATE PROGRAMS. SUCH CONTRACTS MAY BE ENTERED INTO IF THE DEPARTMENT DETERMINES THAT THE SCOPE OF WORK PROVIDED BY THE VENDOR IS SIMILAR TO THE WORK REQUIREMENTS FOR THE CHILDREN'S BASIC HEALTH PLAN AND THAT IT WOULD BE MORE EFFICIENT AND COST-EFFECTIVE TO CONTRACT WITH THE SAME VENDOR ON MULTIPLE PROGRAMS.

**SECTION 11.** 26-19-108 (1) and (4), Colorado Revised Statutes, are amended to read:

**26-19-108. Financial management.** (1) The ~~policy board~~ DEPARTMENT shall ~~promulgate~~ PROPOSE rules FOR APPROVAL BY THE POLICY BOARD to implement financial management of the plan. Pursuant to such rules, the department shall adjust benefit levels, eligibility guidelines, and any other measure to ensure that sufficient funds are present to implement the provisions of this article.

(4) Nothing in this article or any rules promulgated pursuant to the plan shall be interpreted to create a legal entitlement in any person to coverage under the plan. Enrollment in the plan shall be limited based upon annual appropriations made out of the trust by the general assembly as described in section 26-19-105 and any grants and donations. The general assembly shall annually establish maximum enrollment figures for subsidized children. Such enrollment caps shall not be exceeded by the department regardless of whether the funding comes from annual appropriations or grants and donations. When enrollment in the plan must be limited pursuant to this subsection (4), the department shall give priority to children who would qualify for medicaid as if there were no asset testing and to children with ~~gross~~ family incomes under one hundred thirty-three percent of the federal poverty level.

**SECTION 12.** 26-19-109 (3), Colorado Revised Statutes, is amended to read:

**26-19-109. Eligibility.** (3) The department may establish procedures such that children with ~~gross~~ family incomes that exceed one hundred eighty-five percent of the federal poverty guidelines may enroll in the plan, but are not eligible for subsidies from the department.

**SECTION 13.** 26-19-110 (5.5), Colorado Revised Statutes, is amended, and the said 26-19-110 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**26-19-110. Participation by managed care plans.** (5.5) In areas of the state in which a participating managed care plan does not have providers, the department may contract with essential community providers and other health care providers to provide health care services under the children's basic health plan using a managed care model. ~~so long as such contract does not result in additional costs to the state.~~

(5.6) THE DEPARTMENT MAY CONTRACT WITH ESSENTIAL COMMUNITY PROVIDERS OR OTHER PROVIDERS OR DEVELOP OTHER ADMINISTRATIVE ARRANGEMENTS TO PROVIDE HEALTH CARE SERVICES UNDER THE CHILDREN'S BASIC HEALTH PLAN TO ENROLLEES PRIOR TO THE EFFECTIVE DATE OF ENROLLMENT IN THE SELECTED MANAGED CARE PLAN.

**SECTION 14.** 26-4-113 (7) and (8), Colorado Revised Statutes, are amended to read:

**26-4-113. Statewide managed care system - implementation required.** (7) **Annual savings report and use of savings.** (a) By October 1 of each year, the state department shall submit to the joint budget committee, the health, environment, welfare, and institutions committee of the senate, the health, environment, welfare, and institutions committee of the house of representatives, and to the office of state planning and budgeting a savings report stating the cost savings realized or anticipated in the previous, current, and subsequent state fiscal years from enrollment

of recipients in managed care programs pursuant to the provisions of this subpart 2. The report shall include an assessment of the extent to which the ~~program described in subsection (8) of this section~~ CHILDREN'S BASIC HEALTH PLAN CREATED IN ARTICLE 19 OF THIS TITLE has reduced providers' uncompensated burdens and an assessment of changes on the financial viability of essential community providers. ~~The report shall also include a recommendation for prioritizing between the subsidized insurance program described in subsection (8) of this section and the grants programs described in subsection (9) of this section, and for prioritizing resources within each of those programs to different populations and regions of the state. These recommendations shall be based upon quantitative and qualitative assessments of needs and on the relative cost-effectiveness of different resource allocations.~~

(b) In calculating cost savings from enrollment of recipients in managed care programs, the state department shall calculate the total annual cost savings from growth in managed care enrollment subsequent to July 1, 1997, and total annual cost savings from actual reductions in administrative and programmatic costs associated with the implementation of this subpart 2. Cost savings for each additional enrollee shall be calculated as the difference in per capita cost between an enrollee in fee-for-service medicaid and a similar enrollee in managed care.

(c) The general assembly shall annually appropriate all savings achieved through implementation of this subpart 2 and described in this subsection (7) to cover the administrative costs of implementing managed care pursuant to the provisions of this subpart 2. ~~and THE GENERAL ASSEMBLY MAY APPROPRIATE SAVINGS ACHIEVED THROUGH IMPLEMENTATION OF THIS SUBPART 2 AND DESCRIBED IN THIS SUBSECTION (7) TO COVER the costs of programs~~ THE PROGRAM provided in ~~subsections (8) and SUBSECTION (9) of this section and any other cost-effective options to expand access to services for the medically indigent population. It is the intent of the general assembly that the mandatory and optional populations and benefits provided by the "Colorado Medical Assistance Act" as of June 30, 1997, are a higher priority for funding than the waived optional programs~~ PROGRAM described in ~~subsections (8) and SUBSECTION (9) of this section. Such appropriations shall include all anticipated cost savings subsequent to July 1, 1997, that are achieved through the implementation of this subpart 2 and described in this subsection (7). Beginning with and subsequent to state fiscal year 1999-2000, such appropriations shall include all of the savings described in the annual savings report described in paragraph (a) of this subsection (7).~~

(d) The state department shall monitor actual managed care savings realized during a particular fiscal year based upon the methodology described in paragraph (b) of this subsection (7). To the extent that the general assembly has appropriated managed care savings pursuant to paragraph (c) of this subsection (7) and the state department determines that it will not realize all of such managed care savings during a particular fiscal year, the state department shall restrict its spending under ~~subsections (8) and SUBSECTION (9) of this section.~~

(e) To implement the provisions of paragraph (d) of this subsection (7), the state department shall submit supplemental appropriation requests during a particular fiscal year to modify appropriations for the ~~programs~~ PROGRAM described in ~~subsections (8) and SUBSECTION (9) of this section.~~

(f) The state department shall not spend moneys from managed care savings on the programs described in subsections (8) and (9) of this section during the fiscal year beginning July 1, 1997.

(8) **Subsidized insurance coverage.** ~~(a) There is hereby created a subsidized insurance program, referred to in this subsection (8) as the "program", that shall provide subsidized insurance coverage for uninsured children under age nineteen. Such program shall be limited to persons with families with incomes less than or equal to one hundred eighty-five percent of the federal poverty level. The state department is hereby authorized to seek the necessary federal waivers to implement the program.~~

~~(b) Nothing in this subsection (8) or any rules promulgated pursuant to the program shall be interpreted to create a legal entitlement in any person to subsidized insurance coverage.~~

~~(c) Enrollment in the program shall be limited based upon annual appropriations by the general assembly as described in paragraph (c) of subsection (7) of this section. The general assembly shall annually establish maximum enrollment figures for children.~~

~~(d) To be eligible for a subsidy under the program, a child must not have currently nor in the three months prior to application for the program have been insured by a comparable health plan through an employer, with the employer contributing at least fifty percent of the premium cost; except that a child who has lost insurance coverage due to a change in or loss of employment shall not be subject to the three-month waiting period.~~

~~(e) In implementing this program, the state department shall contract for managed care services with the same goals and under the same conditions as those described in this subpart 2 and shall seek to privatize administrative functions in the same manner as described in section 26-4-120.~~

~~(f) The state department shall define benefits for this program based upon the standard and basic health benefits plans described in article 16 of title 10, C.R.S.~~

~~(g) The state department may require enrollees in the program to pay a portion of the premium costs for the program and pay for a portion of the cost of services delivered under the program. On or before January 1 of each year, the state department shall submit to the joint budget committee its proposal for a scale for increasing premiums or service cost sharing for the program based upon a family's income.~~

~~(h) The state department shall establish procedures for receiving part or all of the required premium payments under the program from other health care purchasers and shall establish procedures for buying health care insurance with substantially similar benefits to those under the program through other health care purchasers.~~

~~(i) The state department may establish rules under the program for determining eligibility and for enrolling eligible persons in managed care plans that are different from the medical assistance program.~~

~~(j) In implementing the program, the state department shall seek to achieve a distribution of enrollment in the program by county that is as similar as possible to the distribution of enrollment in capitated medicaid managed care programs by county.~~

**SECTION 15. Appropriation.** In addition to any other appropriation, there is hereby appropriated, to the department of health care policy and financing, other medical services, for the fiscal year beginning July 1, 2000, the sum of sixty thousand dollars (\$60,000), or so much thereof as may be necessary, for the implementation of section 26-19-104.6 (2.5), Colorado Revised Statutes. Said sum shall be cash funds exempt from gifts, grants, and donations.

**SECTION 16. 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.

Became Law: June 3, 2000