

CHAPTER 255

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 01-1331

BY REPRESENTATIVE(S) Saliman, Young, Berry, Boyd, Coleman, Daniel, Groff, Grossman, Jahn, Lawrence, Marshall, Plant, Romanoff, Stafford, Tochtrop, Veiga, Vigil, and Williams S.;
also SENATOR(S) Owen, Reeves, Tate, and Tupa.

AN ACT

CONCERNING ADMINISTRATION OF THE CHILDREN'S BASIC HEALTH CARE PLAN, AND, IN CONNECTION THEREWITH, PLACING THE RULE-MAKING AUTHORITY WITH THE MEDICAL SERVICES BOARD AND PLACING THE ADMINISTRATIVE OVERSIGHT WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND AUTHORIZING AND STUDYING SEVERAL ADMINISTRATIVE CHANGES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

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

26-19-102. Legislative declaration. (1) The general assembly hereby finds and declares that a significant percentage of children are uninsured. This lack of health insurance coverage decreases children's access to preventive health care services, compromises the productivity of the state's future workforce, and results in avoidable expenditures for emergency and remedial health care. Health care providers, health care facilities, and all purchasers of health care, including the state, bear the costs of this uncompensated care.

(2) The general assembly further finds and declares that the coordination and consolidation of funding sources currently available to provide services to uninsured children such as ~~the children's health plan created in article 17 of this title;~~ the Colorado indigent care program pursuant to article 15 of this title, THE CHILDREN'S BASIC HEALTH PLAN, and other children's health programs would efficiently and effectively meet the health care needs of uninsured children and would help to reduce the volume of uncompensated care in the state.

(3) (a) It is the intent of the general assembly to make health insurance coverage AVAILABLE AND affordable and to support employers in their efforts to provide their

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

employees and their dependents with health insurance coverage AND TO SUPPORT INCREASED AVAILABILITY OF AFFORDABLE HEALTH INSURANCE IN THE INDIVIDUAL MARKET.

(b) It is the intent of the general assembly that the 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 should be identified.

(4) It is not the intent of the general assembly to create an entitlement for health insurance coverage.

(5) The general assembly hereby declares that the following principles shall be used in implementing the children's basic health plan set forth in this article:

(a) ~~The children's basic health plan policy board created in this article~~ DEPARTMENT shall establish and maintain a goal of inter-program communication in order to maximize existing state appropriations for the population served in the program;

(b) There shall be efficient program utilization through inter-program coordination and program consolidation, and where appropriate, through contracting with the private sector and with essential community providers;

(c) The policies enacted in House Bill 97-1304 regarding a strong managed care direction shall be emphasized;

(d) The private sector shall be involved to the greatest possible degree;

(e) There shall be ~~a strong~~ MAXIMUM emphasis on coordination with local and state public health programs and initiatives for children.

(6) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES:

(a) THAT THE GOAL OF THE "CHILDREN'S BASIC HEALTH PLAN ACT" IS TO SUPPORT LOW-INCOME, WORKING PARENTS AND FAMILIES IN OVERCOMING BARRIERS IN OBTAINING GOOD QUALITY, AFFORDABLE HEALTH CARE SERVICES FOR THEIR CHILDREN;

(b) THAT THE HEALTH SERVICES THAT LOW-INCOME CHILDREN RECEIVE THROUGH THE CHILDREN'S BASIC HEALTH PLAN SHOULD BE COST-EFFECTIVE, OF HIGH QUALITY, AND PROMOTE POSITIVE HEALTH OUTCOMES FOR ENROLLED CHILDREN;

(c) THAT THE CHILDREN'S BASIC HEALTH PLAN WAS DESIGNED AS, AND SHOULD CONTINUE TO BE, A PRIVATE-PUBLIC PARTNERSHIP THAT ENCOURAGES ENROLLMENT AND SEEKS EVERY OPPORTUNITY TO OPERATE WITH THE EFFICIENCY AND CREATIVITY THAT IS FOUND IN UTILIZING PRIVATE SECTOR SYSTEMS AND BUSINESS PRACTICES WHILE MAINTAINING THE HIGHEST LEVEL OF ACCOUNTABILITY TO THE GENERAL ASSEMBLY, THE EXECUTIVE BRANCH, AND THE PUBLIC THROUGH ADMINISTRATION OF THE PLAN BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING;

(d) THAT THE CHILDREN'S BASIC HEALTH PLAN WAS DESIGNED AS, AND SHOULD CONTINUE TO BE, A COMMUNITY-BASED PROGRAM THAT ENCOURAGES LOCAL PARTICIPATION IN ENROLLING CHILDREN IN AND SUPPORTING ITS GOALS.

SECTION 2. 26-19-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

(6.4) "MEDICAL SERVICES BOARD" MEANS THE MEDICAL SERVICES BOARD CREATED IN SECTION 25.5-1-301, C.R.S.

SECTION 3. Repeal. 26-19-103 (6.5), Colorado Revised Statutes, is repealed as follows:

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

~~(6.5) "Policy board" means the children's basic health plan policy board created in section 26-19-104.5.~~

SECTION 4. 26-19-104, Colorado Revised Statutes, is amended to read:

26-19-104. Children's basic health plan - rules. The ~~policy~~ MEDICAL SERVICES board is authorized to adopt rules to implement the children's basic health plan to provide health insurance coverage to children on a statewide basis pursuant to the provisions of this article. ANY RULES ADOPTED BY THE CHILDREN'S BASIC HEALTH PLAN POLICY BOARD IN ACCORDANCE WITH THE REQUIREMENTS OF THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., SHALL BE ENFORCEABLE AND SHALL BE VALID UNTIL AMENDED OR REPEALED BY THE MEDICAL SERVICES BOARD.

SECTION 5. Repeal. 26-19-104.5, Colorado Revised Statutes, is repealed as follows:

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. 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.~~

~~(2) The appointed members of the policy board shall serve terms of four years; except that the initial terms of one of the business representatives and one of the health care industry members shall be three years. Whenever a vacancy exists, the governor shall appoint a member for the remaining portion of the unexpired term created by the vacancy. The governor may remove any appointed member of the policy board for any cause that renders such a member incapable or unfit to discharge the duties of the office.~~

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

SECTION 6. Repeal. 26-19-104.6, Colorado Revised Statutes, is repealed as follows:

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 any barriers related to enrollment, utilization, and quality.~~

~~(2) (Deleted by amendment, L. 2000, p. 2007, § 5, effective June 3, 2000.)~~

~~(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 7. Repeal. 26-19-104.7, Colorado Revised Statutes, is repealed as

follows:

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 8. 26-19-107 (1) (a), (1) (d), (1) (h), and (2), Colorado Revised Statutes, are amended, and the said 26-19-107 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, 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) (I) 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~~ MEDICAL SERVICES board for approval or modification. The schedule of health care services as proposed by the department and approved by the ~~policy~~ MEDICAL SERVICES 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 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 the standard health benefit plans to meet specific federal requirements or to accommodate those changes necessary for a program designed specifically for children.

(II) In addition to the items specified in subparagraph (I) of this paragraph (a) and any additional items approved by the ~~policy~~ MEDICAL SERVICES board, on and after January 1, 2001, the ~~policy~~ MEDICAL SERVICES board shall include dental services in the schedule of health care services upon a finding by the board that:

(A) An adequate number of dentists are willing to provide services to eligible children; and

(B) The financial resources available to the program are sufficient to fund such services.

(d) To design and propose to the ~~policy~~ MEDICAL SERVICES board for adoption detailed rules of eligibility and enrollment processes for the plan;

(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.~~

(i) TO CONDUCT PILOT PROJECTS INCLUDING, BUT NOT LIMITED TO, TESTING MODELS OF MARKETING, ENROLLMENT, ELIGIBILITY DETERMINATION, AND PREMIUM STRUCTURES, TO BE IMPLEMENTED WHERE APPROPRIATE AND AS APPROVED BY THE JOINT BUDGET COMMITTEE;

(j) TO CONDUCT A STUDY ON THE CONSOLIDATION OF STATE HEALTH CARE PROGRAMS FOR CHILDREN. THE DEPARTMENT SHALL SUBMIT A WRITTEN REPORT OF ITS EVALUATION AND RECOMMENDATIONS ON OR BEFORE SEPTEMBER 1, 2002, TO THE JOINT BUDGET COMMITTEE AND TO THE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND TO THE HEALTH, ENVIRONMENT, CHILDREN AND FAMILIES COMMITTEE OF 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~~ MEDICAL SERVICES board to administer all or a portion of the children's basic health plan according to section 26-19-111. The 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 9. 26-19-108 (1), Colorado Revised Statutes, is amended to read:

26-19-108. Financial management. (1) The department shall propose rules for approval by the ~~policy~~ MEDICAL SERVICES 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. THE DEPARTMENT SHALL DEVELOP AND USE QUALITY ASSURANCE MEASURES, SUCH AS THE HEALTH EMPLOYER DATA INFORMATION SET (HEDIS) REPORTS REGARDING PROVIDER COMPENSATION, ADAPTED TO CHILDREN'S NEEDS, TO ENSURE THAT APPROPRIATE HEALTH CARE OUTCOMES ARE MET AND TO JUSTIFY THE CONTINUED USE OF TAXPAYER DOLLARS FOR THE PLAN. THE DEPARTMENT SHALL IMPLEMENT PERFORMANCE-BASED CONTRACTING BASED ON SUCH QUALITY ASSURANCE MEASURES.

SECTION 10. Article 19 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-19-113. Reports by contractors to medical services board. ANY PERSONAL SERVICES CONTRACTOR THAT CONTRACTS WITH THE STATE DEPARTMENT TO PROVIDE SERVICES UNDER THIS ARTICLE SHALL PROVIDE QUARTERLY REPORTS TO THE MEDICAL SERVICES BOARD RELATING TO THE FUNCTIONS PERFORMED BY THE CONTRACTOR, INCLUDING REPORTS ON ENROLLMENT, UTILIZATION, MARKETING, AND ANY CONCERNS OR RECOMMENDATIONS RELATING TO IMPROVING THE ADMINISTRATION OF OR THE QUALITY OF THE PROGRAM. IN ADDITION, ANY CONTRACTOR SHALL SUBMIT ANY DATA REQUESTED BY THE MEDICAL SERVICES BOARD RELATING TO THE CHILDREN'S BASIC HEALTH PLAN AND THE FUNCTIONS PROVIDED BY THAT CONTRACTOR.

SECTION 11. 25.5-1-201 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25.5-1-201. Programs to be administered by the department of health care policy and financing. (1) Programs to be administered and functions to be performed by the department of health care policy and financing shall be as follows:

(m) THE "CHILDREN'S BASIC HEALTH PLAN ACT", AS SPECIFIED IN ARTICLE 19 OF TITLE 26, C.R.S.

SECTION 12. 25.5-1-301 (1) and (2), Colorado Revised Statutes, are amended to read:

25.5-1-301. Medical services board - creation. (1) There is hereby created in the department of health care policy and financing a medical services board, referred to in this part 3 as the "board", which shall consist of ~~nine~~ ELEVEN members appointed by the governor with the consent of the senate. The governor shall appoint persons to the board who have knowledge of medical assistance programs, and one or more of the appointments may include a person or persons who have received services through programs administered by the department within two years of the date of appointment. No more than ~~five~~ SIX members of the board shall be members of the same political party. Of the ~~nine~~ ELEVEN members appointed to the board, at least one shall be appointed from each congressional district.

(2) Members shall serve at the pleasure of the governor for a term of four years; except that, of the members first appointed, three shall serve for a term of two years and three shall serve for a term of three years. ON JULY 1, 2001, THE GOVERNOR SHALL APPOINT ONE MEMBER FROM THE PRIVATE SECTOR TO THE BOARD WHO SHALL HAVE EXPERIENCE WITH THE DELIVERY OF HEALTH CARE, WHO SHALL BE APPOINTED FOR A TERM OF TWO YEARS, AND ONE MEMBER WHO SHALL HAVE EXPERIENCE OR EXPERTISE IN CARING FOR MEDICALLY UNDERSERVED CHILDREN, WHO SHALL BE APPOINTED FOR A TERM OF THREE YEARS.

SECTION 13. 25.5-1-303 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25.5-1-303. Powers and duties of the board - scope of authority - rules. (1) The board shall have the authority set forth in subsection (3) of this section over the following programs administered by the department:

(f) THE "CHILDREN'S BASIC HEALTH PLAN ACT", AS SPECIFIED IN ARTICLE 19 OF TITLE 26, C.R.S.

SECTION 14. 25.5-1-303, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25.5-1-303. Powers and duties of the board - scope of authority - rules.

(7) THE BOARD SHALL REPORT ANNUALLY TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY AND THE HEALTH, ENVIRONMENT, CHILDREN AND FAMILIES COMMITTEE OF THE SENATE AND THE HEALTH, ENVIRONMENT, WELFARE, AND INSTITUTIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES ON THE IMPLEMENTATION AND PERFORMANCE OF THE CHILDREN'S BASIC HEALTH PLAN PROGRAM, INCLUDING BUT NOT LIMITED TO THE EXTENT TO WHICH PRIVATE SECTOR STRATEGIES AND RESOURCES ARE EFFECTIVELY USED AS PART OF THE PROGRAM.

SECTION 15. Repeal. 24-1-119.5 (7), Colorado Revised Statutes, is repealed as follows:

24-1-119.5. Department of health care policy and financing - creation.

(7) ~~The children's basic health plan policy board created in section 26-19-104.6, C.R.S., and its powers, duties, and functions are transferred by a type 1 transfer to the department of health care policy and financing.~~

SECTION 16. Adjustment to the 2001 long bill. For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2001, shall be adjusted as follows: The appropriation to the department of health care policy and financing, indigent care program, children's basic health plan administration, is decreased by eighteen thousand seven hundred fifty dollars (\$18,750). Of said sum, six thousand five hundred sixty-two dollars (\$6,562) shall be from cash funds exempt from the children's basic health plan trust. In addition, the general assembly anticipates that twelve thousand one hundred eighty-eight dollars (\$12,188) from federal funds will not be received for this purpose. Although such federal funds are not appropriated, the associated change in anticipated federal funds is noted herein for the purpose of indicating the assumptions used relative to these funds.

SECTION 17. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: June 4, 2001