

## CHAPTER 274

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**HEALTH CARE POLICY AND FINANCING**

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**HOUSE BILL 01-1271**

BY REPRESENTATIVE(S) Ragsdale, Bacon, Borodkin, Boyd, Chavez, Coleman, Fairbank, Garcia, Groff, Hodge, Jahn, Jameson, Mace, Madden, Marshall, Miller, Plant, Romanoff, Sanchez, Stafford, Tapia, Tochtrop, Veiga, Vigil, Weddig, Williams S., and Williams T.;  
also SENATOR(S) Owen, Entz, Fitz-Gerald, Hagedorn, Hanna, Hernandez, Linkhart, Nichol, Pascoe, Reeves, Tate, and Windels.

**AN ACT**

CONCERNING EMPLOYMENT INCENTIVES FOR PEOPLE WITH DISABILITIES THROUGH A MEDICAID BUY-IN PROGRAM, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

**SECTION 1.** Article 4 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

**PART 12  
MEDICAID BUY-IN**

**26-4-1201. Legislative declaration.** THE GENERAL ASSEMBLY HEREBY DECLARES ITS SUPPORT FOR FULL EMPLOYMENT FOR PEOPLE WITH DISABILITIES. IT IS THE GENERAL ASSEMBLY'S INTENT TO ENACT THIS ARTICLE FOR THE PURPOSE OF ALLOWING INDIVIDUALS WITH DISABILITIES TO PURCHASE MEDICAID COVERAGE THAT WILL ENABLE THOSE INDIVIDUALS TO MAINTAIN EMPLOYMENT WITHOUT LOSING THEIR MEDICAID BENEFITS. THE GENERAL ASSEMBLY ALSO STATES THAT IT IS THE REQUIREMENT, OF THE GENERAL ASSEMBLY THAT THIS PROGRAM SHALL BE BUDGET-NEUTRAL.

**26-4-1202. Definitions.** AS USED IN THIS PART 12, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "BASIC COVERAGE GROUP" MEANS THE CATEGORY OF ELIGIBILITY UNDER THE "TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999", P.L. 106-170, THAT PROVIDES AN OPPORTUNITY TO BUY INTO MEDICAID CONSISTENT WITH SECTION 1902 (a) (10) (A) (ii) (XV) OF THE FEDERAL "SOCIAL SECURITY ACT" FOR

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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.*

WORKERS WITH DISABILITIES AT LEAST SIXTEEN YEARS OF AGE BUT LESS THAN SIXTY-FIVE YEARS OF AGE WHO, EXCEPT FOR EARNINGS, WOULD BE ELIGIBLE FOR THE SUPPLEMENTAL SECURITY INCOME PROGRAM. A PERSON WHO IS ELIGIBLE UNDER THE BASIC COVERAGE GROUP MAY ALSO BE A HOME AND COMMUNITY-BASED SERVICES WAIVER RECIPIENT.

(2) "FAMILY" MEANS AN INDIVIDUAL, THE INDIVIDUAL'S SPOUSE, AND ANY DEPENDENT CHILD OF THE INDIVIDUAL.

(3) "HEALTH INSURANCE" MEANS SURGICAL, MEDICAL, HOSPITAL, MAJOR MEDICAL, OR OTHER HEALTH SERVICE COVERAGE, INCLUDING A SELF-INSURED HEALTH PLAN, BUT DOES NOT INCLUDE HOSPITAL INDEMNITY POLICIES OR ANCILLARY COVERAGES SUCH AS INCOME CONTINUATION, LOSS OF TIME, OR ACCIDENT BENEFITS.

(4) "MEDICAID BUY-IN PROGRAM" MEANS A PROGRAM THAT GIVES DISABLED PERSONS THE OPPORTUNITY TO BUY INTO MEDICAID IF THE PERSON MEETS THE ELIGIBILITY CRITERIA SPECIFIED IN SECTION 26-4-1204.

(5) "MEDICAL IMPROVEMENT GROUP" MEANS THE CATEGORY OF ELIGIBILITY UNDER THE "TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999", P.L. 106-170, THAT PROVIDES AN OPPORTUNITY TO BUY INTO MEDICAID CONSISTENT WITH SECTION 1902 (a) (10) (A) (ii) (XVI) OF THE FEDERAL "SOCIAL SECURITY ACT" FOR WORKERS WITH A MEDICALLY IMPROVED DISABILITY WHO ARE AT LEAST SIXTEEN YEARS OF AGE BUT LESS THAN SIXTY-FIVE YEARS OF AGE WHO WERE PREVIOUSLY IN THE BASIC COVERAGE GROUP AND ARE NO LONGER ELIGIBLE FOR THE BASIC COVERAGE GROUP DUE TO MEDICAL IMPROVEMENT. A PERSON WHO IS ELIGIBLE UNDER THE MEDICAL IMPROVEMENT GROUP MAY ALSO BE A HOME AND COMMUNITY-BASED SERVICES WAIVER RECIPIENT.

**26-4-1203. Waivers and amendments.** THE STATE DEPARTMENT SHALL SUBMIT TO THE FEDERAL HEALTH CARE FINANCING ADMINISTRATION AN AMENDMENT TO THE STATE MEDICAL ASSISTANCE PLAN, AND SHALL REQUEST ANY NECESSARY WAIVERS FROM THE SECRETARY OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES, TO PERMIT THE STATE DEPARTMENT TO EXPAND MEDICAL ASSISTANCE ELIGIBILITY AS PROVIDED IN THIS PART 12 FOR THE PURPOSE OF IMPLEMENTING A MEDICAID BUY-IN PROGRAM FOR PEOPLE WITH DISABILITIES WHO ARE IN THE BASIC COVERAGE GROUP OR THE MEDICAL IMPROVEMENT GROUP. IN ADDITION, THE STATE DEPARTMENT SHALL APPLY TO THE SECRETARY OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR A MEDICAID INFRASTRUCTURE GRANT TO DEVELOP AND IMPLEMENT THE "TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999". IF THE STATE PLAN AMENDMENT AND ALL NECESSARY WAIVERS ARE APPROVED AND IN EFFECT AND THE STATE DEPARTMENT HAS RECEIVED A MEDICAID INFRASTRUCTURE GRANT, THE STATE DEPARTMENT SHALL IMPLEMENT THE MEDICAL ASSISTANCE ELIGIBILITY EXPANSION UNDER THIS PART 12 NOT LATER THAN JULY 1, 2002, OR THREE MONTHS AFTER FULL FEDERAL APPROVAL, WHICHEVER IS LATER. IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE MEDICAID BUY-IN PROGRAM OUTLINED IN THIS PART 12 SHALL NOT BE IMPLEMENTED IF THE STATE DEPARTMENT DOES NOT RECEIVE A MEDICAID INFRASTRUCTURE GRANT.

**26-4-1204. Medicaid buy-in - eligibility - premiums - medicaid buy-in cash fund - report.** (1) **Eligibility.** AN INDIVIDUAL IS ELIGIBLE FOR AND SHALL RECEIVE

MEDICAID UNDER THIS PART 12 THROUGH A MEDICAID BUY-IN PROGRAM WITHOUT LOSING ELIGIBILITY FOR MEDICAID IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(a) THE INDIVIDUAL MEETS THE REQUIREMENTS FOR THE BASIC COVERAGE GROUP OR THE INDIVIDUAL WAS PREVIOUSLY IN THE BASIC COVERAGE GROUP AND NOW MEETS THE REQUIREMENTS FOR THE MEDICAL IMPROVEMENT GROUP;

(b) THE INDIVIDUAL MAINTAINS PREMIUM PAYMENTS CALCULATED BY THE STATE DEPARTMENT IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION, UNLESS THE INDIVIDUAL IS EXEMPTED FROM PREMIUM PAYMENTS UNDER RULES PROMULGATED BY THE MEDICAL SERVICES BOARD;

(c) THE INDIVIDUAL MEETS ALL OTHER REQUIREMENTS ESTABLISHED BY THE MEDICAL SERVICES BOARD BY RULE.

(2) THERE IS NO INCOME OR EARNED ASSET LIMITATION FOR THE MEDICAID BUY-IN PROGRAM. IN ADDITION, THERE IS NO INCOME OR EARNED ASSET LIMITATION FOR AN INDIVIDUAL WHO PARTICIPATES IN THE MEDICAID BUY-IN PROGRAM AND ALSO RECEIVES HOME AND COMMUNITY-BASED SERVICES.

(3) **Premiums.** AN INDIVIDUAL WHO IS ELIGIBLE FOR MEDICAID UNDER SUBSECTION (1) OF THIS SECTION AND WHO RECEIVES MEDICAID SHALL PAY A PREMIUM PURSUANT TO A PAYMENT SCHEDULE ESTABLISHED BY THE STATE DEPARTMENT. THE AMOUNT OF THE PREMIUM SHALL BE BASED ON A SLIDING FEE SCHEDULE ADOPTED BY RULE OF THE MEDICAL SERVICES BOARD AND SHALL BE BASED ON A PERCENTAGE OF THE INDIVIDUAL'S INCOME ADJUSTED FOR FAMILY SIZE, AND ON ANY IMPAIRMENT-RELATED WORK EXPENSES; EXCEPT THAT CONSISTENT WITH FEDERAL LAW, IF THE AMOUNT OF THE INDIVIDUAL'S ADJUSTED GROSS INCOME EXCEEDS SEVENTY-FIVE THOUSAND DOLLARS, THE INDIVIDUAL SHALL BE RESPONSIBLE FOR PAYING ONE HUNDRED PERCENT OF THE PREMIUM. SUCH RULES SHALL SPECIFY THE AMOUNT OF UNEARNED INCOME THE STATE DEPARTMENT SHALL DISREGARD IN CALCULATING THE INDIVIDUAL'S EARNED INCOME. THE RULES SETTING THE PREMIUMS AND THE SLIDING FEE SCALE SHALL BE BASED ON AN ACTUARIAL STUDY OF THE DISABLED POPULATION IN THIS STATE. THE EXPENSES OF CONDUCTING THE ACTUARIAL STUDY SHALL BE PAID OUT OF THE FEDERAL MEDICAID INFRASTRUCTURE GRANT OR OTHER GIFTS, GRANTS, AND DONATIONS RECEIVED BY THE STATE DEPARTMENT FOR SUCH PURPOSE. SUCH GIFTS, GRANTS, AND DONATIONS, THE FEDERAL MEDICAID INFRASTRUCTURE GRANT, AND ANY PREMIUMS SHALL BE CREDITED TO THE MEDICAID BUY-IN CASH FUND, WHICH FUND IS HEREBY CREATED IN THE STATE TREASURY. MONEYS IN THE MEDICAID BUY-IN CASH FUND SHALL BE APPROPRIATED BY THE GENERAL ASSEMBLY AND EXPENDED BY THE STATE DEPARTMENT FOR THE PURPOSE OF CONDUCTING IMPLEMENTATION ACTIVITIES AS DETERMINED BY THE STATE DEPARTMENT, INCLUDING CONDUCTING THE ACTUARIAL STUDY. PREMIUMS SHALL BE CREDITED TO THE FUND FOR THE PURPOSE OF OFFSETTING PROGRAM COSTS OR TO OTHERWISE ASSURE BUDGET NEUTRALITY. THE STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE ON NOVEMBER 1, 2004, ON THE RESULTS OF THE ACTUARIAL STUDY AND THE FISCAL ANALYSIS OF THE PREMIUMS BASED UPON THE STUDY AND RULES ADOPTED PURSUANT TO THIS SECTION.

(4) **Private health insurance.** THE STATE DEPARTMENT SHALL, ON THE PART OF

AN INDIVIDUAL WHO IS ELIGIBLE FOR MEDICAID UNDER SUBSECTION (1) OF THIS SECTION, PAY PREMIUMS FOR OR PURCHASE INDIVIDUAL COVERAGE OFFERED BY THE INDIVIDUAL'S EMPLOYER IF THE STATE DEPARTMENT DETERMINES THAT PAYING THE PREMIUMS OR PURCHASING THE COVERAGE WILL NOT BE MORE COSTLY THAN PROVIDING MEDICAID.

(5) **Medicare.** IF FEDERAL FINANCIAL PARTICIPATION IS AVAILABLE, SUBJECT TO AVAILABLE APPROPRIATIONS, THE STATE DEPARTMENT MAY PAY MEDICARE PART A AND PART B PREMIUMS FOR INDIVIDUALS WHO ARE ELIGIBLE FOR MEDICARE AND FOR MEDICAID UNDER SUBSECTION (1) OF THIS SECTION.

**26-4-1205. Rule-making authority.** (1) THE MEDICAL SERVICES BOARD IS AUTHORIZED TO PROMULGATE RULES NECESSARY TO:

(a) IMPLEMENT AND TO ADMINISTER THE MEDICAID BUY-IN PROGRAM CREATED IN THIS PART 12, INCLUDING THE ESTABLISHMENT OF APPROPRIATE PREMIUM AND COST-SHARING CHARGES ON A SLIDING SCALE BASED ON INCOME. SUCH PREMIUMS AND COST-SHARING CHARGES SHALL BE BASED UPON AN ACTUARIAL STUDY OF THE DISABLED POPULATION IN THIS STATE.

(b) SET PARAMETERS FOR THE PROGRAM SO THAT IT SHALL BE BUDGET-NEUTRAL.

(2) ANY RULES ADOPTED BY THE MEDICAL SERVICES BOARD SHALL BE CONSISTENT WITH THE FEDERAL "TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999", P.L. 106-170.

**26-4-1206. Availability of federal financial assistance under medical assistance.** NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS SECTION SHALL BE IMPLEMENTED ONLY IF, AND TO THE EXTENT THAT, THE STATE DEPARTMENT DETERMINES THAT FEDERAL FINANCIAL PARTICIPATION IS AVAILABLE UNDER THE MEDICAID PROGRAM.

**SECTION 2.** 26-4-301 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**26-4-301. Optional provisions - optional groups - repeal.** (1) The federal government allows the state to select optional groups to receive medical assistance. Pursuant to federal law, any person who is eligible for medical assistance under the optional groups specified in this section shall receive both the mandatory services specified in sections 26-4-202 and 26-4-203 and the optional services specified in sections 26-4-302 and 26-4-303. Subject to the availability of federal financial aid funds, the following are the individuals or groups which Colorado has selected as optional groups to receive medical assistance pursuant to this article:

(p) INDIVIDUALS WITH DISABILITIES WHO ARE PARTICIPATING IN THE MEDICAID BUY-IN PROGRAM ESTABLISHED IN PART 12 OF THIS ARTICLE.

**SECTION 3. Appropriation.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medicaid buy-in cash fund created in section 26-4-1204 (3), Colorado Revised Statutes, to the department of health care policy and financing, for the fiscal year beginning July 1, 2001, the sum of eighty

thousand dollars (\$80,000), or so much thereof as may be necessary, for the implementation of this act. The source of funding for the medicaid buy-in cash fund shall gifts, grants, and donations. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2001, the department of health care policy and financing will receive the sum of one hundred twenty-nine thousand four hundred dollars (\$129,400) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of human services, office of information technology services, for the client-oriented information network, for the fiscal year beginning July 1, 2001, the sum of twenty-four thousand dollars (\$24,000), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from cash funds exempt received from the department of health care policy and financing out of the appropriation made in subsection (1) of this section.

**SECTION 4. 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 5, 2001