

CHAPTER 42

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 02-1093

BY REPRESENTATIVE(S) Alexander, Borodkin, Boyd, Cloer, Coleman, Daniel, Garcia, Groff, Hodge, Jahn, Kester, King, Mace, Marshall, Ragsdale, Romanoff, Sanchez, Scott, Snook, Stafford, Tochtrop, Weddig, and Williams S.;
also SENATOR(S) Hernandez, Isgar, and Nichol.

AN ACT**CONCERNING THE RECOVERY OF OVERPAYMENTS OF PUBLIC ASSISTANCE.**

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

SECTION 1. 26-2-128 (4), Colorado Revised Statutes, is amended to read:

26-2-128. Recovery from recipient - estate. (4) Notwithstanding subsections (1), (2), and (3) of this section, in any assistance case ~~other than one in which a grant for aid to families with dependent children has been made;~~ in which more than the correct amount of payment has been made, there shall be no adjustment of payments to the county or state department or recovery by the county or state department from any person who is without fault and who has reported to the state department any increase in income or changes in resources or property, if such adjustment or recovery would deprive a person of income required for ordinary and necessary living expenses or would be against equity and good conscience. Overpayments in all cases involving a grant of aid to families with dependent children shall be recovered ~~regardless of fault~~ FROM THE CARETAKER RELATIVE IN THE ASSISTANCE UNIT WHO FRAUDULENTLY OBTAINED THE PUBLIC ASSISTANCE OR WHO WAS THE DIRECT PAYEE OF THE OVERPAYMENTS OR FROM SUCH INDIVIDUAL'S ESTATE. THE STATE DEPARTMENT AND THE COUNTY DEPARTMENTS SHALL PURSUE ALL AVAILABLE OVERPAYMENT RECOVERY OPTIONS AGAINST THE CARETAKER RELATIVE IN THE ASSISTANCE UNIT FIRST AND DURING THIS TIME ALL OVERPAYMENT COLLECTION ACTIVITIES AGAINST THE OTHER OVERPAID MEMBERS OF THE ASSISTANCE UNIT SHALL BE SUSPENDED. UPON THE EFFECTIVE DATE OF THIS SUBSECTION (4), AS AMENDED, THE STATE DEPARTMENT AND THE COUNTY DEPARTMENTS SHALL CEASE ANY COLLECTION EFFORTS BEING MADE AGAINST THE CHILDREN OF AN ASSISTANCE UNIT IN WHICH PUBLIC ASSISTANCE WAS OVERPAID OR FRAUDULENTLY OBTAINED BY A CARETAKER RELATIVE IF THE CARETAKER RELATIVE HAS BEEN LOCATED. THE STATE AND THE COUNTY

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

DEPARTMENTS MAY ELECT NOT TO ATTEMPT RECOVERY OF AN OVERPAYMENT FROM AN INDIVIDUAL NO LONGER RECEIVING PUBLIC ASSISTANCE WHERE THE OVERPAYMENT AMOUNT IS LESS THAN THIRTY-FIVE DOLLARS. WHERE THE OVERPAYMENT AMOUNT OWED BY AN INDIVIDUAL NO LONGER RECEIVING PUBLIC ASSISTANCE IS THIRTY-FIVE DOLLARS OR MORE, THE STATE DEPARTMENT AND THE COUNTY DEPARTMENTS MAY DETERMINE, CONSISTENT WITH THE SIX-YEAR TIME LIMITATION FOR THE EXECUTION ON JUDGMENTS INVOLVING STATE DEBT, THAT IT IS NO LONGER COST-EFFECTIVE TO CONTINUE TO PURSUE RECOVERY OF THE OVERPAYMENT. THE STATE DEPARTMENT AND THE COUNTY DEPARTMENTS SHALL NOT PURSUE OVERPAYMENT COLLECTION ACTIVITIES AGAINST CHILDREN WHO HAVE BEEN PART OF A COLORADO WORKS PROGRAM ASSISTANCE UNIT.

SECTION 2. 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: March 26, 2002