

CHAPTER 396

HEALTH CARE POLICY AND FINANCING

SENATE BILL 03-022

BY SENATOR(S) Johnson S., Anderson, Kester, and Tapia;
also REPRESENTATIVE(S) Sinclair, Coleman, Jahn, Marshall, McFadyen, Merrifield, and Williams S.

AN ACT

CONCERNING THE ADMINISTRATION OF THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAMS, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 25.5-1-105, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25.5-1-105. Transfer of functions - employees - property - records. (10) ON AND AFTER JULY 1, 2003, THE POWERS, DUTIES, AND FUNCTIONS RELATING TO THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, AS SPECIFIED IN SECTION 26-2-117, C.R.S., ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

SECTION 2. 24-1-119.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

24-1-119.5. Department of health care policy and financing - creation. (4.5) THE POWERS, DUTIES, AND FUNCTIONS RELATING TO THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, AS SPECIFIED IN SECTION 26-2-117, C.R.S., ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

SECTION 3. 25.5-1-201 (1) (l) and (1) (m), Colorado Revised Statutes, are amended, and the said 25.5-1-201 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

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:

(l) The health and medical care program for recipients of aid to the needy disabled, as specified in section 26-2-119.5, C.R.S.; ~~and~~

(m) The "Children's Basic Health Plan Act", as specified in article 19 of title 26, C.R.S.; AND

(n) THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, AS SPECIFIED IN SECTION 26-2-117, C.R.S.

SECTION 4. 25.5-1-303 (4), Colorado Revised Statutes, is amended, and the said 25.5-1-303 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

25.5-1-303. Powers and duties of the board - scope of authority - rules.
(4) ~~The board shall provide advice and consultation to the state board of human services in connection with the administration of the old age pension health and medical care fund established in section 26-2-117, C.R.S.~~

(8) (a) THE BOARD SHALL ADOPT RULES IN CONNECTION WITH THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM ESTABLISHED IN SECTION 26-2-117, C.R.S.

(b) ALL RULES AND ORDERS OF THE DEPARTMENT OF HUMAN SERVICES IN CONNECTION WITH THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM SHALL CONTINUE TO BE EFFECTIVE UNTIL REVISED, AMENDED, REPEALED, OR NULLIFIED PURSUANT TO LAW.

SECTION 5. 26-1-103 (4), (5), and (6), Colorado Revised Statutes, are amended to read:

26-1-103. Definitions. As used in this title, unless the context otherwise requires:

(4) "Executive director" means the executive director of the department of human services; except that "executive director" for the purposes of articles 4 and 15 of this title and in connection with the adult foster care program, the home care allowance program, ~~and~~ the treatment program for high-risk pregnant women, THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM means the executive director of the department of health care policy and financing.

(5) "State board" means the state board of human services authorized to act in accordance with the provisions of section 26-1-107; except that "state board" or "board" for the purposes of articles 4 and 15 of this title and in connection with the adult foster care program, ~~and~~ the home care allowance program, THE OLD AGE

PENSION HEALTH AND MEDICAL CARE PROGRAM, AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM means the medical services board established in part 3 of article 1 of title 25.5, C.R.S.

(6) "State department" means the department of human services; except that "state department" for the purposes of articles 4 and 15 of this title and in connection with the adult foster care program, the home care allowance program, ~~and~~ the treatment program for high-risk pregnant women, THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM means the department of health care policy and financing.

SECTION 6. 26-1-107, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-1-107. State board of human services. (9.5) ON AND AFTER JULY 1, 2003, ANY REFERENCE TO THE STATE BOARD IN CONNECTION WITH THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, THE OLD AGE PENSION HEALTH AND MEDICAL CARE FUND, AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE FUND SHALL BE DEEMED TO REFER TO THE MEDICAL SERVICES BOARD OR THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, WHICHEVER IS APPROPRIATE.

SECTION 7. 26-1-111 (2) (a), Colorado Revised Statutes, is amended to read:

26-1-111. Activities of the state department under the supervision of the executive director - study. (2) The state department, under the supervision of the executive director, shall:

(a) Administer or supervise all forms of public assistance and welfare, including but not limited to assistance payments, food stamps, and social services under programs for old age pensions EXCEPT FOR THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, AND SHALL ALSO ADMINISTER AND SUPERVISE the Colorado works program, aid to the blind, aid to the needy disabled, food stamps supplementation to households not receiving public assistance found eligible for food stamps under rules adopted by the state board, and such other public assistance and welfare activities as may be vested in the state department pursuant to law;

SECTION 8. 26-2-103 (7) and (11), Colorado Revised Statutes, are amended to read:

26-2-103. Definitions. As used in this article, unless the context otherwise requires:

(7) "Public assistance" means assistance payments, food stamps, and social services provided to or on behalf of eligible recipients through programs administered or supervised by the state department, either in cooperation with the federal government or independently without federal aid, pursuant to the provisions of this article. Public assistance includes programs for old age pensions EXCEPT FOR THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM AND THE SUPPLEMENTAL

OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, AND ALSO INCLUDES the Colorado works program, aid to the needy disabled, aid to the blind, child welfare services, food stamps supplementation to households not receiving public assistance found eligible for food stamps under rules adopted by the state board, expenses of treatment to prevent blindness or restore eyesight as defined in section 26-2-121, and funeral and burial expenses as defined in section 26-2-129.

(11) "Social services" means services and payments for services (other than medical services covered by the "Colorado Medical Assistance Act" OR THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM OR THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM) available, directly or indirectly, through the staff of the state department of human services and county departments of social services or through state designated agencies, where applicable, for the benefit of eligible persons, which services are provided pursuant to rules and regulations adopted by the state department. "Social services" may include but need not be limited to day care, homemaker services, foster care, and other services to individuals or families for the purpose of attaining or retaining capabilities for maximum self-care, self-support, and personal independence and services to families or members of families for the purpose of preserving, rehabilitating, reuniting, or strengthening the family. At such time as Title XX of the social security act becomes effective with respect to federal reimbursements, "social services" may include but need not be limited to child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services, and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, persons with physical disabilities, and alcoholics and drug addicts.

SECTION 9. 26-2-117, Colorado Revised Statutes, is amended to read:

26-2-117. Old age pension health and medical care fund - supplemental old age pension health and medical care fund. (1) The general assembly hereby finds that when the old age pension program was established in 1936, it served both the middle-income and indigent elderly population and that there were no federal programs available to assist the elderly impoverished population. The general assembly finds that the population currently served by the old age pension is the indigent elderly population only and that there are significant federal assistance programs for the elderly in this country that did not exist when the old age pension program was created. Moreover, the general assembly finds that the health and medical care fund created in the state constitution now serves only those old age pension recipients who do not qualify for social security benefits and therefore are not medicaid-eligible. The general assembly also finds that the constitutional limitation on costs that may be annually incurred by the old age pension health and medical care program no longer reflect the actual cost of serving this growing population. The general assembly also notes that the state ~~department~~ on several occasions has had to limit the types of medical services available in order to meet this constitutional limit. The general assembly, therefore, finds that there is a need to supplement the funds available for health and medical care for this group of old age pension recipients. The general assembly finds that while the state constitution limits the

costs of the original health and medical care program to ten million dollars annually, it does not preclude the general assembly from creating a supplemental health program. The general assembly also finds that section 2 of article XXIV of the state constitution directs that sales and use taxes be used to fund programs and services for older citizens and establishes a constitutional priority to fund such services and thus, it is fitting that a small portion of the sales and use tax revenue be allocated to fund a separate supplemental health and medical care program to serve the needs of the old age pension recipients who qualify for the health and medical care program.

(2) Any moneys remaining in the state old age pension fund after full payment of basic minimum awards to qualified old age pension recipients and after establishment and maintenance of the old age pension stabilization fund in the amount of five million dollars shall be transferred to a fund to be known as the old age pension health and medical care fund, which is hereby created. The ~~state~~ department OF HEALTH CARE POLICY AND FINANCING shall establish and promulgate rules ~~and regulations~~ for administration of a program to provide health and medical care to persons who qualify to receive old age pensions and who are not patients in an institution for tuberculosis or mental diseases. The costs of such program, not to exceed ten million dollars in any fiscal year, shall be defrayed from such health and medical care fund, but all moneys available, accrued or accruing, received or receivable, in said health and medical care fund in excess of ten million dollars in any fiscal year shall be transferred to the general fund of the state to be used pursuant to law. Moneys in the old age pension health and medical care fund shall be subject to annual appropriation by the general assembly.

(3) There is hereby established in the ~~state~~ department OF HEALTH CARE POLICY AND FINANCING a supplemental health and medical care program to provide health and medical care to persons who qualify to receive old age pensions and who are not patients in an institution for tuberculosis or mental diseases. The ~~state~~ department OF HEALTH CARE POLICY AND FINANCING shall promulgate rules for administration of the supplemental health and medical care program, which shall be based upon and shall provide the same types of services that are provided pursuant to the rules for administration of the health and medical care program described in subsection (2) of this section. When the costs of providing health and medical care in a particular fiscal year to such old age pension recipients exceed the amount available in that fiscal year from the old age pension health and medical care fund created in subsection (2) of this section, the medical care for such recipients shall be provided by the supplemental health and medical care program. The costs of the supplemental health and medical care program shall be paid out of the supplemental old age pension health and medical care fund, which is hereby created in the state treasury. The supplemental old age pension health and medical care fund, herein referred to as the "supplemental fund", shall consist of state sales and use tax revenues allocated to the supplemental fund pursuant to the provisions of section 39-26-123 (3), C.R.S., and any moneys appropriated to the supplemental fund by the general assembly. The general assembly may make annual appropriations or supplemental appropriations to the supplemental fund if it determines that the moneys in the old age pension health and medical care fund created in subsection (2) of this section will be insufficient to meet the health and medical needs of old age pension recipients for a particular fiscal year. Moneys in the supplemental fund shall be subject to annual appropriation by the general assembly. At the end of any fiscal year, any unexpended and unencumbered moneys remaining in the supplemental fund shall remain therein and

shall not be credited or transferred to the general fund or any other fund. The supplemental health and medical care program and the supplemental fund shall be effective in fiscal year 2002-03.

SECTION 10. Transfer of appropriations. (1) From the appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2003, from the old age pension health and medical care fund, created in section 26-2-117 (2), Colorado Revised Statutes, to the department of human services, adult assistance programs, old age pension program, old age pension health and medical care program, is hereby transferred to the department of health care policy and financing, medical services premiums, for the implementation of this act.

(2) From the appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2003, from the supplemental old age pension health and medical care fund, created in section 26-2-117 (3), Colorado Revised Statutes, to the department of human services, adult assistance programs, old age pension program, old age pension supplemental health and medical care program, is hereby transferred to the department of health care policy and financing, medical services premiums, for the implementation of this act.

SECTION 11. Effective date. This act shall take effect July 1, 2003.

SECTION 12. 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: June 5, 2003