

## CHAPTER 85

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**HUMAN SERVICES - SOCIAL SERVICES**

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**HOUSE BILL 03-1246**

BY REPRESENTATIVE(S) Lundberg, Butcher, and Frangas;  
also SENATOR(S) Johnson S. and Hanna.

**AN ACT**

**CONCERNING SPECIFICATION OF THE ELIGIBILITY REQUIREMENTS FOR THE COLORADO WORKS PROGRAM, AND, IN CONNECTION THEREWITH, REPLACING OUTDATED REFERENCES TO THE FORMER AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM ELIGIBILITY WITH THE ACTUAL ELIGIBILITY STANDARDS AND REQUIREMENTS AND DIRECTING THE STATE BOARD OF HUMAN SERVICES TO ADOPT RULES RELATING TO ELIGIBILITY DETERMINATIONS.**

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

**SECTION 1.** 26-2-703, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**26-2-703. Definitions.** As used in this part 7, unless the context otherwise requires:

(5.7) "COUNTABLE INCOME" MEANS THE RECEIPT BY AN INDIVIDUAL OF A GAIN OR BENEFIT IN CASH OR IN KIND DURING A CALENDAR MONTH THAT IS USED TO DETERMINE ELIGIBILITY AND THE BENEFIT AMOUNT FOR THE COLORADO WORKS PROGRAM AS SPECIFIED BY THE STATE BOARD.

(10.5) "INCOME" MEANS ANY CASH, PAYMENTS, WAGES, IN-KIND RECEIPTS, INHERITANCE, GIFTS, PRIZES, RENTS, DIVIDENDS, INTEREST, AND OTHER GAIN OR BENEFIT IN CASH OR IN KIND RECEIVED BY MEMBERS OF AN ASSISTANCE UNIT.

(17.7) "QUALIFIED ALIEN" MEANS AN ALIEN WHO, AT THE TIME THE ALIEN APPLIES FOR, RECEIVES, OR ATTEMPTS TO RECEIVE A FEDERAL PUBLIC BENEFIT, IS:

(a) AN ALIEN WHO IS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE UNDER THE FEDERAL "IMMIGRATION AND NATIONALITY ACT";

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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.*

(b) AN ALIEN WHO IS GRANTED ASYLUM UNDER SECTION 208 OF THE FEDERAL "IMMIGRATION AND NATIONALITY ACT";

(c) A REFUGEE WHO IS ADMITTED TO THE UNITED STATES UNDER SECTION 207 OF THE FEDERAL "IMMIGRATION AND NATIONALITY ACT";

(d) AN ALIEN WHO IS PAROLED INTO THE UNITED STATES UNDER SECTION 212 (d) (5) OF THE FEDERAL "IMMIGRATION AND NATIONALITY ACT" FOR A PERIOD OF AT LEAST ONE YEAR;

(e) AN ALIEN WHOSE DEPORTATION IS BEING WITHHELD UNDER SECTION 243 (h) OR SECTION 241 (b) (3) OF THE FEDERAL "IMMIGRATION AND NATIONALITY ACT"; OR

(f) AN ALIEN WHO IS GRANTED CONDITIONAL ENTRY PURSUANT TO SECTION 203 (a) (7) OF THE FEDERAL "IMMIGRATION AND NATIONALITY ACT" AS IN EFFECT PRIOR TO APRIL 1, 1980.

(17.8) "RECEIPT" OR "RECEIPT OF INCOME" MEANS THE DATE ON WHICH INCOME IS ACTUALLY RECEIVED BY OR BECOMES LEGALLY AVAILABLE TO A MEMBER OF AN ASSISTANCE UNIT.

(18.3) "SPECIFIED CARETAKER RELATIVE" MEANS ANY RELATION BY BLOOD, MARRIAGE, OR ADOPTION WHO IS WITHIN THE FIFTH DEGREE OF KINSHIP TO A DEPENDENT CHILD AND WHO EXERCISES RESPONSIBILITY FOR THE CARE AND CONTROL OF THE DEPENDENT CHILD.

**SECTION 2.** 26-2-706 (1) (a), the introductory portion to 26-2-706 (2), and 26-2-706 (2) (b) and (4), Colorado Revised Statutes, are amended, and the said 26-2-706 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**26-2-706. Target populations.** (1) (a) Subject to the provisions of this section and restrictions in the federal law, and except as provided in section 26-2-709 (1) (a.5), ~~any person or family eligible to receive AFDC in Colorado based upon eligibility criteria in effect on July 16, 1996,~~ THOSE PERSONS OR FAMILIES WHO may receive assistance under the Colorado works program INCLUDE:

(I) DEPENDENT CHILDREN UNDER THE AGE OF EIGHTEEN;

(II) (A) DEPENDENT CHILDREN BETWEEN THE AGES OF EIGHTEEN AND NINETEEN WHO ARE FULL-TIME STUDENTS IN A SECONDARY SCHOOL, HOME SCHOOL, OR IN THE EQUIVALENT LEVEL OF VOCATIONAL OR TECHNICAL TRAINING AND EXPECTED TO COMPLETE THE PROGRAM BEFORE AGE NINETEEN. SUCH CHILDREN ARE ELIGIBLE FOR ASSISTANCE THROUGH THE END OF THE MONTH IN WHICH THEY COMPLETE THE PROGRAM. A DEPENDENT CHILD IS STILL CONSIDERED TO BE A STUDENT IN REGULAR ATTENDANCE DURING OFFICIAL SCHOOL OR TRAINING PROGRAM VACATION PERIODS, ABSENCES DUE TO ILLNESS, CONVALESCENCE, OR FAMILY EMERGENCY, OR THE MONTH IN WHICH THE CHILD COMPLETES A SCHOOL OR TRAINING PROGRAM.

(B) FOR PURPOSES OF THIS SUBPARAGRAPH (II), "REGULAR ATTENDANCE" MEANS THAT THE STUDENT IS ENROLLED IN A PROGRAM OF STUDY OR TRAINING LEADING TO

A CERTIFICATE OR DIPLOMA AND IS PHYSICALLY ATTENDING SUCH PROGRAM OR TRAINING; "FULL-TIME ATTENDANCE" MEANS THAT THE STUDENT IS ATTENDING SCHOOL FOR A MINIMUM OF TWENTY-FIVE HOURS PER WEEK, OR AN AMOUNT OF TIME AS SPECIFIED BY THE SCHOOL; AND "HALF-TIME ATTENDANCE" MEANS THAT THE STUDENT IS ATTENDING SCHOOL FOR A MINIMUM OF TWELVE HOURS PER WEEK, OR AN AMOUNT OF TIME AS SPECIFIED BY THE SCHOOL; AND

(III) THE PARENTS OF A DEPENDENT CHILD, INCLUDING EXPECTANT PARENTS COMMENCING WITH THE SIXTH MONTH OF PREGNANCY, OR A SPECIFIED CARETAKER RELATIVE WITH WHOM THE DEPENDENT CHILD IS LIVING.

(1.5) TO PARTICIPATE IN THE COLORADO WORKS PROGRAM AN APPLICANT OR PERSON SHALL:

(a) BE A RESIDENT OF COLORADO;

(b) BE A CITIZEN OF THE UNITED STATES, A QUALIFIED ALIEN WHO ENTERED THE UNITED STATES PRIOR TO AUGUST 22, 1996, OR A QUALIFIED ALIEN WHO ENTERED THE UNITED STATES ON OR AFTER AUGUST 22, 1996, WHO HAS LIVED IN THE UNITED STATES FOR OVER FIVE YEARS OR, IF LESS THAN FIVE YEARS, IS IN A FEDERAL EXEMPT CATEGORY PURSUANT TO THE FEDERAL "PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996", PUBLIC LAW 104-193, AS AMENDED;

(c) NOT BE RECEIVING FINANCIAL ASSISTANCE FROM OTHER FINANCIAL ASSISTANCE PROGRAMS ADMINISTERED BY THE STATE OF COLORADO;

(d) NOT BE AN INMATE OF A PUBLIC INSTITUTION, EXCEPT AS A PATIENT IN A PUBLIC MEDICAL INSTITUTION;

(e) NOT BE AN INMATE OF ANY INSTITUTION AS A PATIENT ADMITTED FOR TUBERCULOSIS OR MENTAL DISEASE, UNLESS THE PERSON IS A CHILD UNDER THE AGE OF TWENTY-ONE YEARS RECEIVING PSYCHIATRIC CARE UNDER MEDICAID;

(f) NOT BE PARTICIPATING IN A LABOR STRIKE;

(g) PROVIDE A SOCIAL SECURITY NUMBER OR PROOF OF APPLICATION FOR A SOCIAL SECURITY NUMBER IF THE SOCIAL SECURITY NUMBER IS UNKNOWN OR IF THE APPLICANT DOES NOT HAVE A SOCIAL SECURITY NUMBER;

(h) VERIFY EARNED INCOME RECEIVED IN THE THIRTY DAYS IMMEDIATELY PRIOR TO THE DATE OF APPLICATION; AND

(i) VERIFY PREGNANCY, IF APPLICABLE OR IF NOT OBSERVABLE. A COUNTY DEPARTMENT OF SOCIAL SERVICES MAY REQUIRE ADDITIONAL VERIFICATION IF THE INFORMATION PROVIDED BY THE APPLICANT IS QUESTIONABLE OR INCONSISTENT.

(2) The state board shall promulgate rules to identify with specificity who may be a participant in the works program, THE RESOURCE LIMITS FOR PARTICIPATION IN THE WORKS PROGRAM, AND THE INCOME REQUIREMENTS FOR PARTICIPATION IN THE WORKS PROGRAM. The rules shall:

(b) Exempt a maximum resource level for an applicant that shall be not less than one thousand dollars per family nor greater than two thousand dollars per family or the resource level for the food stamp program, whichever is greater. THE STATE BOARD SHALL PROMULGATE RULES TO SPECIFY WHICH RESOURCES ARE COUNTABLE RESOURCES AND WHICH RESOURCES ARE EXCLUDED AS EXEMPT RESOURCES FOR PURPOSES OF DETERMINING THE MAXIMUM RESOURCE LEVEL FOR AN APPLICANT.

(4) The state board shall promulgate rules to simplify the requirements ~~that were in effect for the AFDC program on July 16, 1996,~~ relating to determination and verification of eligibility criteria. Nothing in this subsection (4) shall authorize the state board to amend or delete eligibility criteria for participation in the works program that the board is not otherwise authorized to amend or delete.

**SECTION 3.** 26-2-706 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**26-2-706. Target populations.** (1) (a.5) IN ADDITION TO THE ELIGIBILITY REQUIREMENTS SET FORTH IN PARAGRAPH (a) OF THIS SUBSECTION (1), IN ORDER TO RECEIVE COLORADO WORKS BENEFITS AND ASSISTANCE, THE ASSISTANCE UNIT SHALL INCLUDE A DEPENDENT CHILD WHO LIVES IN THE HOME OF A PARENT OR A SPECIFIED CARETAKER RELATIVE. A DEPENDENT CHILD IS CONSIDERED TO BE LIVING IN THE HOME OF A CARETAKER RELATIVE AS LONG AS THE PARENT OR SPECIFIED CARETAKER RELATIVE EXERCISES RESPONSIBILITY FOR THE CARE AND CONTROL OF THE CHILD EVEN THOUGH ONE OR MORE OF THE FOLLOWING OCCURS:

(I) THE CHILD IS UNDER THE JURISDICTION OF THE COURT; OR

(II) LEGAL CUSTODY IS HELD BY AN AGENCY THAT DOES NOT HAVE PHYSICAL POSSESSION OF THE CHILD; OR

(III) THE CHILD IS IN REGULAR ATTENDANCE AT SCHOOL AWAY FROM HOME; OR

(IV) EITHER THE CHILD OR THE CARETAKER RELATIVE IS TEMPORARILY ABSENT FROM THE HOME TO RECEIVE MEDICAL TREATMENT; OR

(V) THE CHILD IS IN A VOLUNTARY FOSTER CARE PLACEMENT FOR A PERIOD NOT EXPECTED TO EXCEED THREE MONTHS.

**SECTION 4.** 26-2-709 (1) (a) and (1) (a.5), Colorado Revised Statutes, are amended, and the said 26-2-709 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**26-2-709. Benefits - cash assistance - programs. (1) Basic assistance grant. (a) (I)** THE STATE BOARD SHALL PROMULGATE RULES DEFINING WHAT CONSTITUTES COUNTABLE INCOME AND WHAT CONSTITUTES EXCLUDABLE INCOME FOR THE PURPOSES OF DETERMINING THE AMOUNT OF A PARTICIPANT'S BASIC ASSISTANCE GRANT. Except as provided in this part 7 and subject to available appropriations, a participant shall receive a basic assistance grant in the amount of the AFDC cash grant that such participant would have received under rules governing the AFDC program in Colorado that were in effect on July 16, 1996, except for the child care disregard which shall be paid pursuant to the provisions of part 8 of this article. BASED ON THE FOLLOWING STANDARD OF NEED:

STANDARD OF NEED

Number of Caretaker Relatives	Number of Dependent Children											Each additional child
	0	1	2	3	4	5	6	7	8	9	10	
None	--	\$117	\$245	\$368	\$490	\$587	\$678	\$755	\$830	\$904	\$977	\$67
One	\$253	\$331	\$421	\$510	\$605	\$697	\$770	\$844	\$920	\$992	\$1065	\$67
Two	\$357	\$439	\$533	\$628	\$716	\$787	\$861	\$937	\$1009	\$1082	\$1155	\$67

(II) IN DETERMINING WHETHER AN APPLICANT IS ELIGIBLE TO RECEIVE A BASIC ASSISTANCE GRANT, THE NEED STANDARD FOR THE HOUSEHOLD SIZE AS SET FORTH IN THE TABLE IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL BE MULTIPLIED BY ONE HUNDRED EIGHTY-FIVE PERCENT. THAT CALCULATION SHALL BE COMPARED TO THE GROSS COUNTABLE INCOME OF THE ASSISTANCE UNIT. IF THE GROSS COUNTABLE INCOME OF THE ASSISTANCE UNIT EXCEEDS ONE HUNDRED EIGHTY-FIVE PERCENT OF THE NEED STANDARD FOR THE HOUSEHOLD SIZE, THE ASSISTANCE UNIT IS NOT ELIGIBLE FOR CASH ASSISTANCE. IF THE GROSS COUNTABLE INCOME OF THE ASSISTANCE UNIT IS EQUAL TO OR LESS THAN ONE HUNDRED EIGHTY-FIVE PERCENT OF THE NEED STANDARD FOR HOUSEHOLD SIZE, AN EARNINGS INCOME DISREGARD OF NINETY DOLLARS SHALL BE DEDUCTED FROM THE EARNED INCOME OF EACH EMPLOYED MEMBER IN THE ASSISTANCE UNIT AND THE REMAINING AMOUNT SHALL BE THE NET COUNTABLE EARNED INCOME OF THE ASSISTANCE UNIT. THE NET COUNTABLE EARNED INCOME OF THE ASSISTANCE UNIT PLUS UNEARNED INCOME RECEIVED BY OR EXPECTED TO BE RECEIVED BY MEMBERS OF THE ASSISTANCE UNIT SHALL BE TOTALED TO DETERMINE THE NET COUNTABLE INCOME OF THE ASSISTANCE UNIT. IF THE NET COUNTABLE INCOME OF THE ASSISTANCE UNIT DOES NOT EQUAL OR EXCEED THE NEED STANDARD FOR THE HOUSEHOLD SIZE, THE ASSISTANCE UNIT IS ELIGIBLE FOR CASH ASSISTANCE. IN SUCH CIRCUMSTANCE, THE AMOUNT OF THE BASIC ASSISTANCE GRANT SHALL BE CALCULATED PURSUANT TO THE PROVISIONS OF SUBPARAGRAPHS (III) AND (IV) OF THIS PARAGRAPH (a).

(III) AN EARNINGS INCOME DISREGARD SHALL BE APPLIED TO THE GROSS COUNTABLE EARNED INCOME OF PARTICIPANTS WHO ARE EMPLOYED. TO DETERMINE THE NET COUNTABLE EARNED INCOME, the earnings income disregard for Colorado works shall be two-thirds of the participant's gross COUNTABLE EARNED income and shall be applied for twelve cumulative months. The gross income test shall not apply to a participant of Colorado works during those months. After the receipt of twelve cumulative months of disregard, the EARNINGS income disregard for Colorado works shall consist of the earnings ~~disregard~~ INCOME DISREGARDS AS ESTABLISHED IN RULES ADOPTED BY THE STATE BOARD WHICH SHALL BE BASED UPON THE AMOUNT a participant would have received under rules governing the FORMER AFDC program in Colorado that were in effect on July 16, 1996, except for the child care disregard which shall be paid pursuant to the provisions of part 8 of this article.

(IV) THE AUTHORIZED GRANT AMOUNT SHALL BE THE NET COUNTABLE EARNED INCOME AS DETERMINED UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH (a) PLUS COUNTABLE UNEARNED INCOME DEDUCTED FROM THE NEED STANDARD FOR THE HOUSEHOLD SIZE AND RATABLY REDUCED BY A FACTOR OF .8475.

(V) No increase in the amount of the basic assistance grant approved by the state board shall take effect unless the funding for such increase is included and identified specifically in the annual general appropriations act or a supplemental appropriations act.

~~(F)~~ (VI) Any county that operates a manual or electronic system for increasing earned income disregards that was in place as of December 31, 2000, may continue with that calculation or shall follow the requirements ~~of subparagraph (F)~~ of this paragraph (a).

(a.5) Subject to available appropriations, a county department may provide to a grandchild who was in foster care, as defined in section 19-1-103 (51.3), C.R.S., and

who exited foster care into the legal custody or legal guardianship of a grandparent, a basic assistance grant, eligibility for which is based on either of the following:

(I) ~~The eligibility criteria that were in effect on July 16, 1996~~ THE STANDARD OF NEED AS SET FORTH IN SUBPARAGRAPH (I) OF PARAGRAPH (a) OF THIS SUBSECTION (1) AND THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (1); or

(II) The financial eligibility criteria for the average foster care home maintenance payment, as defined pursuant to rules promulgated by the state board.

**(1.3) Redetermination of eligibility for persons receiving cash assistance.**  
THE COUNTY DEPARTMENT SHALL PERFORM AN ANNUAL FACE-TO-FACE REDETERMINATION OF ELIGIBILITY FOR ALL ASSISTANCE UNITS RECEIVING CASH ASSISTANCE.

**SECTION 5. 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: March 25, 2003