

CHAPTER 90

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 04-1265

BY REPRESENTATIVE(S) Witwer, Plant, Young, Hefley, Hoppe, McGihon, Rose, Weddig, Boyd, Coleman, and Williams S.;
also SENATOR(S) Reeves, Owen, and Teck.

AN ACT

CONCERNING THE TRANSFER OF THE ADMINISTRATION OF COMMUNITY MENTAL HEALTH SERVICES TO SPECIFIED MEDICAL ASSISTANCE RECIPIENTS FROM THE DEPARTMENT OF HUMAN SERVICES TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 26-4-123, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

26-4-123. Medicaid community mental health services - administration - rules. (1) EXCEPT AS PROVIDED FOR IN SUBSECTION (3) OF THIS SECTION, THE STATE DEPARTMENT SHALL ADMINISTER ALL MEDICAID COMMUNITY MENTAL HEALTH SERVICES FOR MEDICAL ASSISTANCE RECIPIENTS INCLUDING BUT NOT LIMITED TO THE PREPAID CAPITATED SINGLE ENTRY POINT SYSTEM FOR MENTAL HEALTH SERVICES, THE FEE-FOR-SERVICE MENTAL HEALTH SERVICES, AND ALTERNATIVES TO INSTITUTIONALIZATION. THE ADMINISTRATION OF MEDICAID COMMUNITY MENTAL HEALTH SERVICES SHALL INCLUDE BUT SHALL NOT BE LIMITED TO PROGRAM APPROVAL, PROGRAM MONITORING, AND DATA COLLECTION.

(2) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK FEDERAL APPROVAL FOR ANY NECESSARY CHANGES TO THE STATE'S WAIVER THAT AUTHORIZES THE STATEWIDE SYSTEM OF COMMUNITY MENTAL HEALTH CARE TO REFLECT THE PROVISIONS OF THIS SECTION. THE STATE DEPARTMENT IS AUTHORIZED TO LIMIT A RECIPIENT'S FREEDOM OF CHOICE WITH RESPECT TO A PROVIDER OF MENTAL HEALTH SERVICES AND TO RESTRICT REIMBURSEMENTS TO MENTAL HEALTH SERVICES TO DESIGNATED AND CONTRACTED AGENCIES IN SUCH WAIVER.

(3) THE ADMINISTRATION OF THE PROVISION OF MENTAL HEALTH SERVICES TO

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

PERSONS RECEIVING SERVICES PURSUANT TO *AREVALO V. COLORADO DEPARTMENT OF HUMAN SERVICES*, CASE NO. 81 CV 6961, IN THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER, AND THE ADMINISTRATION OF THE MENTAL HEALTH INSTITUTES SHALL REMAIN THE RESPONSIBILITY OF THE DEPARTMENT OF HUMAN SERVICES.

(4) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (4), ALL POSITIONS OF EMPLOYMENT IN THE DEPARTMENT OF HUMAN SERVICES CONCERNING THE POWERS, DUTIES, AND FUNCTIONS OF ADMINISTERING ALL MEDICAID COMMUNITY MENTAL HEALTH SERVICES FOR MEDICAL ASSISTANCE RECIPIENTS TRANSFERRED TO THE STATE DEPARTMENT PURSUANT TO THIS SECTION AND DETERMINED TO BE NECESSARY TO CARRY OUT THE PURPOSES OF THIS SECTION BY THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL BE TRANSFERRED TO THE STATE DEPARTMENT AND SHALL BECOME EMPLOYMENT POSITIONS THEREIN.

(5) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (5), ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, COMPUTERS AND SOFTWARE, BOOKS, DOCUMENTS, AND RECORDS OF THE DEPARTMENT OF HUMAN SERVICES PERTAINING TO THE DUTIES AND FUNCTIONS OF ADMINISTERING ALL MEDICAID COMMUNITY MENTAL HEALTH SERVICES FOR MEDICAL ASSISTANCE RECIPIENTS ARE TRANSFERRED TO THE STATE DEPARTMENT AND SHALL BECOME THE PROPERTY THEREOF.

(6) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (6), FOR STATE FISCAL YEAR 2003-04, THE STATE DEPARTMENT MAY BILL THE DEPARTMENT OF HUMAN SERVICES MEDICAID-FUNDED PROGRAMS DIVISION APPROPRIATION WITHIN THE STATE DEPARTMENT'S APPROPRIATION FOR PROVISION OF MEDICAID COMMUNITY MENTAL HEALTH SERVICES AS AUTHORIZED IN THIS SECTION.

(7) ON OR BEFORE JULY 1, 2004, THE STATE DEPARTMENT AND THE DEPARTMENT OF HUMAN SERVICES SHALL JOINTLY PRODUCE A DOCUMENT TO ASSIST MENTAL HEALTH CONSUMERS AND ADVOCATES AND PROVIDERS THAT PARTICIPATE IN COLORADO'S PUBLICLY FUNDED MENTAL HEALTH SYSTEM TO UNDERSTAND THE RESPECTIVE ROLES OF EACH DEPARTMENT IN THE PROVISION OF MENTAL HEALTH SERVICES AND EACH DEPARTMENT'S ABILITY TO PROVIDE HIGH QUALITY AND ACCESSIBLE MENTAL HEALTH SERVICES. THE STATE DEPARTMENT AND THE DEPARTMENT OF HUMAN SERVICES SHALL MAKE THE DOCUMENT AVAILABLE TO THE PUBLIC AND SHALL SEND AT LEAST ONE COPY TO EACH COMMUNITY MENTAL HEALTH CENTER, STATEWIDE MENTAL HEALTH ADVOCACY ORGANIZATION, AND MENTAL HEALTH ASSESSMENT AND SERVICES AGENCY. THE INFORMATION CONTAINED IN THE DOCUMENT SHALL BE MADE AVAILABLE ON EACH DEPARTMENT'S INTERNET WEBSITE. THE STATE DEPARTMENT AND THE DEPARTMENT OF HUMAN SERVICES ARE ENCOURAGED TO CONSULT WITH REPRESENTATIVES OF MENTAL HEALTH CONSUMER AND PROVIDER ORGANIZATIONS IN THE DEVELOPMENT OF THE DOCUMENT TO ENSURE THAT IT BENEFITS CONSUMERS SEEKING MENTAL HEALTH SERVICES AND CONSUMERS WHO NEED TO EXPRESS CONCERNS OR COMPLAINTS REGARDING THE QUALITY, AVAILABILITY, OR ACCESSIBILITY OF MENTAL HEALTH SERVICES.

(8) WHEN THE STATE AUDITOR CONDUCTS AN AUDIT OF THE STATEWIDE MENTAL HEALTH SYSTEM, THE STATE AUDITOR SHALL EVALUATE THE COORDINATION OF SERVICES BETWEEN THE STATE DEPARTMENT AND THE DEPARTMENT OF HUMAN SERVICES AND THE IMPACT OF THE ADMINISTRATION OF THE MENTAL HEALTH SYSTEM

ON THE QUALITY OF CARE WITHIN THE STATEWIDE MENTAL HEALTH SYSTEM.

(9) THE STATE BOARD SHALL ADOPT ANY RULES NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION. IN ADOPTING RULES CONCERNING MEDICAID COMMUNITY MENTAL HEALTH SERVICES, THE STATE BOARD SHALL CONSIDER THE EFFECT THE RULES MAY HAVE ON THE STATEWIDE MENTAL HEALTH SYSTEM.

SECTION 2. Adjustments to the 2003 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2003, shall be adjusted as follows:

(a) The appropriation to the department of health care policy and financing, executive director's office, is increased by two hundred fifty-nine thousand two hundred seventy-four dollars (\$259,274) and 2.3 FTE. Of said sum, one hundred twelve thousand four hundred fifteen dollars (\$112,415) shall be from the general fund and one hundred forty-six thousand eight hundred fifty-nine dollars (\$146,859) shall be from federal funds.

(b) The appropriation to the department of health care policy and financing, department of human services medicaid-funded programs, is decreased by two hundred fifty-nine thousand two hundred seventy-four dollars (\$259,274). Of said sum, one hundred twelve thousand four hundred fifteen dollars (\$112,415) shall be from the general fund and one hundred forty-six thousand eight hundred fifty-nine dollars (\$146,859) shall be from federal funds.

(c) The appropriation to the department of human services, mental health and alcohol and drug abuse services, administration, is decreased by two hundred fifty-nine thousand two hundred seventy-four dollars (\$259,274) and 2.3 FTE. Said sum shall be from cash funds exempt medicaid funds transferred from the department of health care policy and financing.

SECTION 3. 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: April 6, 2004