

## CHAPTER 1

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**HEALTH CARE POLICY AND FINANCING**

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**HOUSE BILL 05-1086**

BY REPRESENTATIVE(S) Plant, Buescher, Hall, Benefield, Borodkin, Boyd, Butcher, Cerbo, Cloer, Coleman, Frangas, Gallegos, Green, Hodge, Jahn, Judd, Lindstrom, Marshall, McGihon, Merrifield, Paccione, Pommer, Ragsdale, Riesberg, Solano, Soper, Todd, Vigil, and Romanoff;  
also SENATOR(S) Tapia, Keller, Owen, Bacon, Fitz-Gerald, Gordon, Groff, Grossman, Hagedorn, Hanna, Isgar, Sandoval, Shaffer, Takis, Tochtrop, Tupa, Veiga, Williams, and Windels.

**AN ACT**

**CONCERNING THE REINSTATEMENT OF MEDICAL ASSISTANCE ELIGIBILITY TO SPECIFIED LEGAL IMMIGRANTS, AND, IN CONNECTION THEREWITH, REPEALING THE STATE NURSING FACILITY SERVICE PROGRAM, AND MAKING AN APPROPRIATION THEREFOR.**

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

**SECTION 1.** 26-4-301, Colorado Revised Statutes, is amended to read:

**26-4-301. Optional provisions - optional groups.** (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:

- (a) Individuals who would be eligible for but are not receiving cash assistance;
- (b) Individuals who would be eligible for cash assistance except for their institutionalized status;
- (c) Individuals receiving home- and community-based services as specified in part 6 of this article;
- (d) Individuals who would be eligible for aid to families with dependent children

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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.*

if child care were paid from earnings;

(e) Individuals under the age of twenty-one who would be eligible for aid to families with dependent children but do not qualify as dependent children;

(f) Individuals receiving only optional state supplement;

(g) Individuals in institutions who are eligible under a special income level. Colorado's program for citizens sixty-five years of age or older or physically disabled or blind, whose gross income does not exceed three hundred percent of the current federal supplemental security income benefit level, qualifies for federal funding under this provision.

(h) Repealed.

(i) Individuals who are sentenced to the custody of the executive director of the department of corrections and are confined in a state correctional facility as set forth in section 26-4-530;

(j) Infants born to females who are in the custody of the executive director of the department of corrections as set forth in section 26-4-530;

(k) to (m) Repealed.

(n) Individuals transitioning between public assistance and self-sufficiency in the buy-in program established in section 26-4-110.5;

(o) Persons who are eligible for cash assistance under the works program pursuant to section 26-2-706;

(p) Individuals with disabilities who are participating in the medicaid buy-in program established in part 12 of this article;

(q) The breast and cervical cancer prevention and treatment program pursuant to section 26-4-532;

(r) INDIVIDUALS WHO ARE QUALIFIED ALIENS AND WERE OR WOULD HAVE BEEN ELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME AS A RESULT OF A DISABILITY BUT ARE NOT ELIGIBLE FOR SUCH SUPPLEMENTAL SECURITY INCOME AS A RESULT OF THE PASSAGE OF THE FEDERAL "PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996", PUBLIC LAW 104-193;

(s) OTHER QUALIFIED ALIENS WHO ENTERED OR WERE PRESENT IN THE UNITED STATES BEFORE AUGUST 22, 1996.

(2) to (4) Repealed.

~~(5) A qualified alien shall not be eligible for services under this article except as provided for in sections 26-4-201 (2) and 26-4-203 (3). Qualified aliens who are not eligible for services pursuant to section 26-4-201 (2) shall not be an optional group.~~

(6) A QUALIFIED ALIEN, WHO ENTERED THE UNITED STATES ON OR AFTER AUGUST 22, 1996, SHALL NOT BE ELIGIBLE FOR BENEFITS UNDER THIS ARTICLE, EXCEPT AS PROVIDED IN SECTION 26-4-203 (3), FOR FIVE YEARS AFTER THE DATE OF ENTRY INTO THE UNITED STATES UNLESS HE OR SHE MEETS THE EXCEPTIONS DESCRIBED IN THE FEDERAL "PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996", PUBLIC LAW 104-193, AS AMENDED. AFTER FIVE YEARS, SUCH QUALIFIED ALIEN SHALL BE ELIGIBLE FOR BENEFITS UNDER THIS ARTICLE BUT SHALL HAVE SPONSOR INCOME AND RESOURCES DEEMED TO THE INDIVIDUAL OR FAMILY UNDER RULES ESTABLISHED BY THE STATE BOARD PURSUANT TO SECTION 26-2-137.

(7) A LEGAL IMMIGRANT WHO IS RECEIVING MEDICAID NURSING FACILITY CARE OR HOME- AND COMMUNITY-BASED SERVICES ON JULY 1, 1997, SHALL CONTINUE TO RECEIVE SUCH SERVICES AS LONG AS HE OR SHE MEETS THE ELIGIBILITY REQUIREMENTS OTHER THAN CITIZEN STATUS. STATE GENERAL FUNDS MAY BE USED TO REIMBURSE SUCH CARE IN THE EVENT THAT FEDERAL FINANCIAL PARTICIPATION IS NOT AVAILABLE.

(8) A PREGNANT LEGAL IMMIGRANT SHALL BE ELIGIBLE TO RECEIVE PRENATAL AND MEDICAL SERVICES FOR LABOR AND DELIVERY AS LONG AS SHE MEETS ELIGIBILITY REQUIREMENTS OTHER THAN CITIZEN STATUS. STATE GENERAL FUNDS MAY BE USED TO REIMBURSE SUCH CARE IN THE EVENT THAT FEDERAL FINANCIAL PARTICIPATION IS NOT AVAILABLE.

**SECTION 2.** Part 1 of article 4 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**26-4-105.7. State plan amendment - authorization - repeal.** (1) THE STATE DEPARTMENT SHALL AMEND THE STATE PLAN FOR MEDICAL ASSISTANCE TO REFLECT THE ADDITION OF SECTION 26-4-301 (1) (r), (1) (s), (6), (7), AND (8) AND THE REPEAL OF SECTION 26-4-301 (5).

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2006.

**SECTION 3. Repeal.** 26-19-109 (6), Colorado Revised Statutes, is repealed as follows:

~~**26-19-109. Eligibility - children - pregnant women.** (6) The state department shall provide a child who is no longer eligible for the state's medicaid program due to the implementation of Senate Bill 03-176, as enacted at the first regular session of the sixty-fourth general assembly, with the appropriate notice of the opportunity to choose to be enrolled in the plan prior to the child's disenrollment from medicaid. If the child's parent or legal guardian chooses to have the child enrolled in the plan, affirms income eligibility, and agrees to any applicable cost-sharing, the state department shall enroll the child in the plan with no lapse of coverage between the child's enrollment in medicaid and the child's enrollment in the plan. The child shall be eligible for the plan for a period of twelve months consistent with the provisions of subsection (4) of this section.~~

**SECTION 4. Repeal.** Part 2 of article 15 of title 26, Colorado Revised Statutes, is repealed.

**SECTION 5. Repeal.** 24-34-104 (39) (b) (XX), Colorado Revised Statutes, is repealed as follows:

**24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment.** (39) (b) The following agencies, functions, or both, shall terminate on July 1, 2008:

~~(XX) The state nursing facility service program implemented by the department of health care policy and financing pursuant to part 2 of article 15 of title 26, C.R.S.;~~

**SECTION 6.** 26-4-403, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**26-4-403. Recoveries - overpayments - penalties - interest - adjustments - liens - review or audit procedures.** (12) TO THE EXTENT ALLOWABLE UNDER FEDERAL LAW, THE STATE DEPARTMENT SHALL RECOVER FROM A LEGAL IMMIGRANT'S SPONSOR ALL MEDICAL ASSISTANCE PAID ON BEHALF OF A SPONSORED LEGAL IMMIGRANT WHO IS ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM.

**SECTION 7.** 17-1-113.5 (1) (a) and (4) (c), Colorado Revised Statutes, are amended to read:

**17-1-113.5. Inmates held in correctional facilities - medical benefits application assistance - county of residence - repeal.** (1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), on and after January 1, 2003, any person who is sentenced to a term of imprisonment in a correctional facility who was receiving medical assistance pursuant to section 26-4-201 (1) (i) OR 26-4-301 (1) (r), C.R.S., immediately prior to entering the correctional facility, or who is reasonably expected to meet eligibility criteria pursuant to section 26-4-201 (1) (i) OR 26-4-301 (1) (r), C.R.S., upon release, shall receive assistance from correctional facility personnel in applying for such medical assistance at least ninety days prior to release.

(4) (c) On or before January 1, 2003, the department of corrections shall attempt to enter into prerelease agreements with local social security administration offices, and, if appropriate, the county departments of social services, the department of human services, or the department of health care policy and financing to simplify the processing of applications for medicaid or for supplemental security income to enroll inmates who are eligible for medical assistance pursuant to section 26-4-201 (1) (i) OR 26-4-301 (1) (r), C.R.S., effective upon release and to provide such inmates with the information and paperwork necessary to access medical assistance immediately upon release.

**SECTION 8.** 17-27-105.7 (1) (a) and (4) (c), Colorado Revised Statutes, are amended to read:

**17-27-105.7. Offenders held in community corrections programs - medical benefits application assistance - county of residence - repeal.** (1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), on and after January 1, 2003, any person who is sentenced to a community corrections program and who was receiving medical assistance pursuant to section 26-4-201 (1) (i) OR 26-4-301 (1) (r), C.R.S., immediately prior to entering the community corrections program, or who is

reasonably expected to meet eligibility criteria pursuant to section 26-4-201 (1) (i) OR 26-4-301 (1) (r), C.R.S., upon release, shall receive assistance from community corrections program agents in applying for such medical assistance at least ninety days prior to release.

(4) (c) On or before January 1, 2003, each community corrections program shall attempt to enter into prerelease agreements with local social security administration offices, and, if appropriate, the county departments of social services, the department of human services, or the department of health care policy and financing to simplify the processing of applications for medicaid or for supplemental security income to enroll offenders who are eligible for medical assistance pursuant to section 26-4-201 (1) (i) OR 26-4-301 (1) (r), C.R.S., effective upon release and to provide such offenders with the information and paperwork necessary to access medical assistance immediately upon release.



	72,914,310	
Services for 10,353 Qualified Medicare Beneficiaries (QMBs) and Special Low-Income Medicare Beneficiaries (SLIMBs) at an average cost of \$979.99	10,145,840	
Services for <del>46,226</del> 46,576 Supplemental Security Income Disabled Individuals at an average cost of <del>\$12,606.79</del> \$12,547.43	<del>582,761,330</del> 584,409,267	
Services for <del>49,019</del> 49,357 Categorically Eligible Low-income Adults at an average cost of <del>\$3,639.65</del> \$3,626.04	<del>178,410,002</del> 178,970,219	
Services for <del>8,026</del> 8,156 Baby Care Program Adults at an average cost of <del>\$6,111.71</del> \$6,036.11	<del>49,052,569</del> 49,230,476	

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
Services for 176 S.B. 01S2-12 Breast and Cervical Cancer Treatment Clients at an Average Cost of \$32,956.11	5,800,275					
Services for <del>202,001</del> 202,429 Eligible Children at an average cost of <del>\$1,416.32</del> \$1,417.84	<del>286,097,561</del> 287,011,681					
Services for <del>15,130</del> 15,176 Foster Children at an average cost of <del>\$2,927.09</del> \$2,927.76	<del>44,286,809</del> 44,431,753					
Services for 4,784 Non-Citizens at an Average Cost of \$11,433.08	<u>54,695,848</u>					
	<del>1,934,724,208</del>	937,325,584(M)		813,076 <sup>a</sup>	<del>29,166,690<sup>b</sup></del>	<del>967,418,858</del>

1,939,866,225

31,805,033<sup>b</sup>

969,922,532

<sup>a</sup> Of this amount, \$740,896 shall be from the Children's Home- and Community-based Services Cash Fund created in Section 26-4-424 (5), C.R.S., and \$72,180 shall be from service fees from privately owned intermediate care facilities for the mentally retarded, pursuant to Section 26-4-410 (1) (d) (I), C.R.S.

<sup>b</sup> Of this amount, \$28,151,642 represents public funds certified as representing expenditures incurred by public nursing homes and hospitals that are eligible for federal financial participation under the Medicaid program, ~~and~~ \$1,015,048 shall be from the Breast and Cervical Cancer Prevention and Treatment Fund created in Section 26-4-532 (7), C.R.S, AND \$2,638,343 SHALL BE FROM THE IMPOSITION OF ADDITIONAL STATE CIGARETTE AND TOBACCO TAXES PURSUANT TO SECTION 21 OF ARTICLE X OF THE CONSTITUTION OF COLORADO.

**(4) INDIGENT CARE PROGRAM**

Safety Net Provider					
Payments <sup>40</sup>	249,688,322	9,432,484(M)		115,400,000 <sup>a</sup>	124,855,838
The Children's Hospital, Clinic Based Indigent Care	6,119,760	3,059,880(M)			3,059,880
H.B. 97-1304 Children's Basic Health Plan Trust	20,983,142	3,296,346	210,400 <sup>b</sup>	17,476,396 <sup>c</sup>	
Children's Basic Health Plan Administration	4,325,385			1,997,552 <sup>d</sup>	2,327,833
Children's Basic Health Plan Premium Costs <sup>41</sup>	<del>58,701,708</del>			<del>20,545,598<sup>d</sup></del>	<del>38,156,110</del>
	58,569,692			20,499,392 <sup>d</sup>	38,070,300
Children's Basic Health Plan Dental Benefit Costs	<del>5,620,437</del>			<del>1,967,153<sup>d</sup></del>	<del>3,653,284</del>
	5,606,150			1,962,153 <sup>d</sup>	3,643,997

APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
Comprehensive Primary and Preventive Care Fund	5,239,789				5,239,789 <sup>e</sup>	
Comprehensive Primary and Preventive Care Grants Program	<u>5,239,789</u>				5,239,789 <sup>f</sup>	
	<del>355,918,332</del>					
	355,772,029					

<sup>a</sup> This amount represents public funds certified as representing expenditures incurred by hospitals that are eligible for federal financial participation under the Medicaid Major Teaching Hospital Program, Medicaid, and the Medicaid Disproportionate Share Payments to Hospitals Program.

<sup>b</sup> This amount shall be from annual premiums paid by participating families.

<sup>c</sup> This amount shall be from the Tobacco Litigation Settlement Cash Fund created in Section 24-22-115, C.R.S., pursuant to Section 24-75-1104 (1) (b), C.R.S.

<sup>d</sup> These amounts shall be from the Children's Basic Health Plan Trust created in Section 26-19-105, C.R.S.

<sup>e</sup> This amount shall be from the Tobacco Litigation Settlement Cash Fund created in Section 24-22-115, C.R.S., pursuant to Section 24-75-1104 (1) (g), C.R.S.

<sup>f</sup> This amount shall be from the Comprehensive Primary and Preventive Care Fund created in Section 26-4-1007, C.R.S., pursuant to Section 24-75-1104 (1) (g), C.R.S.

**TOTALS PART V**

**(HEALTH CARE**

**POLICY AND**

**FINANCING)<sup>1,2</sup>**

	<del>\$3,014,504,655</del>	\$1,258,466,091		\$12,265,645	<del>\$265,610,328*</del>	<del>\$1,478,162,591</del>
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\$3,019,500,369

\$268,197,465<sup>a</sup>

\$1,480,571,168

<sup>a</sup> Of this amount, \$43,825,250 contains an (T) notation, and \$551,894 contains a (L) notation.

**SECTION 10. Repeal.** Section 3 of chapter 185, Session Laws of Colorado 2004, is repealed as follows:

~~Section 3. **Appropriation.** In addition to any other appropriation, there is hereby appropriated out of any moneys in the general fund not otherwise appropriated, to the department of health care policy and financing, for the state nursing facility service program created in section 26-15-202 (1), Colorado Revised Statutes, for the fiscal year beginning July 1, 2004, eight hundred thirty-eight thousand five hundred twenty-eight dollars (\$838,528), or so much thereof as may be necessary, for the implementation of this act.~~

**SECTION 11. Repeal.** Section 4 of chapter 376, Session Laws of Colorado 2004, is repealed as follows:

~~Section 4. **Appropriation - adjustments to the 2004 long bill.** (1) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2004, to the department of health care policy and financing, division of indigent care, shall be adjusted as follows:~~

~~(a) The appropriation to children's basic health plan administration is increased by six thousand four hundred fifty-five dollars (\$6,455). Of said sum, two thousand two hundred sixty dollars (\$2,260) shall be cash funds exempt and four thousand one hundred ninety-five dollars (\$4,195) shall be from federal funds. The cash funds exempt amount shall be from the children's basic health plan trust created in section 26-19-105, Colorado Revised Statutes.~~

~~(b) The appropriation to children's basic health plan premium costs is increased by three hundred nine thousand eight hundred fifty-five dollars (\$309,855). Of said sum, one hundred eight thousand four hundred forty-nine dollars (\$108,449) shall be cash funds exempt and two hundred one thousand four hundred six dollars (\$201,406) shall be from federal funds. The cash funds exempt amount shall be from the children's basic health plan trust created in section 25-19-105, Colorado Revised Statutes.~~

~~(c) The appropriation to children's basic health plan dental benefit costs is increased by thirty-eight thousand five hundred forty-four dollars (\$38,544). Of said sum, thirteen thousand four hundred ninety-one dollars (\$13,491) shall be cash funds exempt and twenty-five thousand fifty-three dollars (\$25,053) shall be from federal funds. The cash funds exempt amount shall be from the children's basic health plan trust created in section 26-19-105, Colorado Revised Statutes.~~

**SECTION 12. Effective date.** (1) Except as provided in subsection (2) of this section, this act shall take effect January 1, 2005.

(2) Section 4 of this act shall not take effect until:

(a) The department of health care policy and financing implements section 1 of this act; and

(b) The executive director of the department of health care policy and financing files written notice with the revisor of statutes that section 1 of this act has been

implemented.

**SECTION 13. 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: February 2, 2005