

## CHAPTER 41

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**HEALTH CARE POLICY AND FINANCING**


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**SENATE BILL 05-162**

BY SENATOR(S) Keller, Tapia, Owen, Hanna, Shaffer, Tochtrop, and Williams;  
also REPRESENTATIVE(S) Hall, Plant, and Buescher.

**AN ACT**

**CONCERNING PRESCRIPTION DRUG BENEFITS UNDER THE MEDICAL ASSISTANCE PROGRAM FOR A PERSON WHO IS ENROLLED IN A PRESCRIPTION DRUG BENEFITS PROGRAM UNDER MEDICARE.**

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

**SECTION 1.** 26-4-406.5, Colorado Revised Statutes, is amended to read:

**26-4-406.5. Prescription drug benefits - authorization - dual-eligible participation.** (1) The state department is authorized to ensure the participation of Colorado medical assistance recipients, who are also eligible for medicare, in any federal prescription drug benefit enacted for medicare recipients.

(2) PRESCRIBED DRUGS SHALL NOT BE A COVERED BENEFIT UNDER THE MEDICAL ASSISTANCE PROGRAM FOR A RECIPIENT WHO IS ENROLLED IN A PRESCRIPTION DRUG BENEFIT PROGRAM UNDER MEDICARE; EXCEPT THAT, IF A PRESCRIBED DRUG IS NOT A COVERED PART D DRUG AS DEFINED IN THE "MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003", P.L. 108-173, THE PRESCRIBED DRUG MAY BE A COVERED BENEFIT IF IT IS OTHERWISE COVERED UNDER THE MEDICAL ASSISTANCE PROGRAM AND FEDERAL FINANCIAL PARTICIPATION IS AVAILABLE.

**SECTION 2.** 26-4-302 (1) (a), Colorado Revised Statutes, is amended to read:

**26-4-302. Basic services for the categorically needy - optional services.** (1) Subject to the provisions of subsection (2) of this section, the following are services for which federal financial participation is available and which Colorado has selected to provide as optional services under the medical assistance program:

(a) (I) Prescribed drugs.

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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.*

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), PURSUANT TO THE PROVISIONS OF SECTION 26-4-406.5, PRESCRIBED DRUGS SHALL NOT BE A COVERED BENEFIT UNDER THE MEDICAL ASSISTANCE PROGRAM FOR A RECIPIENT WHO IS ENROLLED IN A PRESCRIPTION DRUG BENEFIT PROGRAM UNDER MEDICARE; EXCEPT THAT, IF A PRESCRIBED DRUG IS NOT A COVERED PART D DRUG AS DEFINED IN THE "MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003", P.L. 108-173, THE PRESCRIBED DRUG MAY BE A COVERED BENEFIT IF IT IS OTHERWISE COVERED UNDER THE MEDICAL ASSISTANCE PROGRAM AND FEDERAL FINANCIAL PARTICIPATION IS AVAILABLE.

**SECTION 3. 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 (August 10, 2005, if adjournment sine die is on May 11, 2005); 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: April 5, 2005