

## CHAPTER 324

---

**HUMAN SERVICES - MENTAL HEALTH**


---

**SENATE BILL 07-230**

BY SENATOR(S) Keller, Boyd, Fitz-Gerald, Groff, Isgar, Morse, Sandoval, Shaffer, Tapia, Tochtrop, Tupa, Williams, and Windels;  
also REPRESENTATIVE(S) Frangas and Kerr J., Buescher, Casso, Gibbs, Hodge, Kefalas, McGihon, Rice, Roberts, Stafford, and Todd.

**AN ACT**

**CONCERNING REVISIONS TO THE CHILDREN'S MENTAL HEALTH TREATMENT ACT, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

**SECTION 1.** 27-10.3-102 (2), Colorado Revised Statutes, is amended to read:

**27-10.3-102. Legislative declaration.** (2) The general assembly finds that it is desirable to assist children with mental health needs and ~~such children's~~ THEIR families. The general assembly further finds that it is desirable to make mental health services more available to ~~these families desiring such~~ WHO WANT treatment for their children. The general assembly finds that, although the mental health agencies are responsible for providing the full range of mental health treatment services, including residential care, for those children who have been found to be categorically eligible for medicaid, there remains a population of children in need of ~~such~~ MENTAL HEALTH services who are not categorically eligible for medicaid. Accordingly, the general assembly determines that it is appropriate to adopt a program pursuant to which A CONTINUUM OF services would be provided to ~~such~~ THESE children.

**SECTION 2.** 27-10.3-103 (1), (2), and (4), Colorado Revised Statutes, are amended to read:

**27-10.3-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Child at risk of out-of-home placement" means a child who, ALTHOUGH NOT

---

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

OTHERWISE CATEGORICALLY ELIGIBLE FOR MEDICAID, MEETS THE FOLLOWING CRITERIA:

(a) Has been diagnosed as having a mental illness, as defined in section ~~27-10-102 (7)~~ and who 27-10-102 (8.5);

(b) Requires ~~the~~ A level of care THAT IS provided in a residential child care facility pursuant to section 25.5-5-306, C.R.S., ~~and who, although not otherwise categorically eligible for medicaid, is determined to be eligible for social security income and therefore medicaid-eligible because of the child's need for mental health services and for whom it is not appropriate or warranted to file an action in dependency or neglect pursuant to article 3 of title 19, C.R.S.~~ OR THAT IS PROVIDED THROUGH IN-HOME OR COMMUNITY-BASED PROGRAMS AND WHO, WITHOUT SUCH CARE, IS AT RISK OF OUT-OF-HOME PLACEMENT;

(c) IF DETERMINED TO BE IN NEED OF PLACEMENT IN A RESIDENTIAL CHILD CARE FACILITY, IS DETERMINED TO BE ELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME; AND

(d) FOR WHOM IT IS INAPPROPRIATE OR UNWARRANTED TO FILE AN ACTION IN DEPENDENCY OR NEGLECT PURSUANT TO ARTICLE 3 OF TITLE 19, C.R.S.

(2) "Community mental health center" means either a physical ~~facility~~ PLANT or a group of ~~service providers~~ SERVICES under unified administration or ~~otherwise~~ affiliated with one another ~~that provides, at a minimum,~~ AND INCLUDES AT LEAST the following services PROVIDED for the prevention and treatment of mental illness in persons residing in a particular community in or near the facility or group so situated:

- (a) Inpatient services;
- (b) Outpatient services;
- (c) Partial hospitalization;
- (d) ~~Residential treatment;~~
- (e) Emergency services; and
- (f) Consultative and educational services.

(4) "Mental health agency" means the community mental health center serving children in a particular geographic area or the ~~mental health assessment and services agency~~ BEHAVIORAL HEALTH ORGANIZATION serving children in a particular geographic area who are receiving medicaid.

**SECTION 3.** 27-10.3-104, Colorado Revised Statutes, is amended to read:

**27-10.3-104. Provision of mental health treatment services for youth.**

(1) (a) A parent or guardian may apply to a mental health agency on behalf of his or her minor child for mental health treatment services for the child pursuant to this

section, whether the child is categorically eligible for medicaid under the capitated mental health system described in section 25.5-5-411, C.R.S., or whether the parent believes his or her child is a child at risk of out-of-home placement. ~~as defined in section 27-10.3-103 (1).~~ In such circumstances, it shall be the responsibility of the mental health agency to evaluate the child and to clinically assess the child's need for mental health services and, when warranted, to provide treatment services as ~~may be~~ necessary and in the best interests of the child and the child's family. Subject to available state appropriations, the mental health agency shall be responsible for ~~providing~~ THE PROVISION OF the treatment services AND CARE MANAGEMENT, including any in-home family mental health treatment, other family preservation services, residential treatment, or any post-residential follow-up services that may be appropriate for the child's or family's needs. FOR THE PURPOSES OF THIS SECTION, THE TERM "CARE MANAGEMENT" INCLUDES, BUT IS NOT LIMITED TO, CONSIDERATION OF THE CONTINUITY OF CARE AND ARRAY OF SERVICES NECESSARY FOR APPROPRIATELY TREATING THE CHILD AND THE DECISION-MAKING AUTHORITY REGARDING A CHILD'S PLACEMENT IN AND DISCHARGE FROM MENTAL HEALTH SERVICES. A dependency or neglect action pursuant to article 3 of title 19, C.R.S., shall not be required in order to allow a family access to residential mental health treatment services for a child.

(b) At the time of the assessment by the mental health agency, if residential services are denied, OR AT THE TIME WHEN THE MENTAL HEALTH AGENCY HAS RECOMMENDED THAT THE CHILD BE DISCHARGED FROM SERVICES, the mental health agency shall advise the family, both orally and in writing, of the appeal process available to them. The mental health agency shall have two working days within which to complete any internal appeal process. ~~should the mental health agency deny requested residential services.~~ Within five working days after the mental health agency's final denial OR RECOMMENDATION FOR DISCHARGE, a parent or guardian may request an objective third party at the state department who is a professional person, as that term is defined in section 27-10-102 (11), to review the action of the mental health agency. ~~Such~~ THE review shall occur within three working days of the parent's or guardian's request.

(2) ~~In assessing the minor child,~~ If AT ANY TIME the mental health agency determines pursuant to section 19-3-304, C.R.S., that there is reasonable cause to know or suspect that a child has been subjected to abuse or neglect, then the mental health agency shall immediately contact the appropriate county department. Within ten days after the referral to the county department, the mental health agency shall meet with the county department and the family. Upon referral to the county department, the county department shall proceed with an assessment to determine whether there is a sufficient basis to believe that physical or sexual abuse or neglect or some other form of abuse or neglect of a child's physical well-being has occurred warranting a dependency or neglect action.

**SECTION 4.** 27-10.3-105 (1), Colorado Revised Statutes, is amended to read:

**27-10.3-105. Monitoring - report.** (1) On or before September 1, 2004, and by September 1 of each year thereafter, each mental health agency shall report to the state department the following information:

(a) The number of children, both those children who are categorically eligible for

medicaid under the capitated mental health system described in section 25.5-5-411, C.R.S., and those children who are at risk of out-of-home placement, ~~as defined in section 27-10.3-103 (1)~~; to whom the following services were provided:

(I) AN ASSESSMENT PURSUANT TO SECTION 27-10.3-104 (1) (a);

~~(II)~~ (II) In-home family mental health treatment;

(III) COMMUNITY-BASED TREATMENT, INCLUDING BUT NOT LIMITED TO THERAPEUTIC FOSTER CARE SERVICES;

~~(IV)~~ (IV) Family preservation services;

~~(V)~~ (V) Residential treatment; and

~~(VI)~~ (VI) Post-residential follow-up services.

(b) The number of children, both those children who are categorically eligible for medicaid under the capitated mental health system described in section 25.5-5-411, C.R.S., and those children who are at risk of out-of-home placement, ~~as defined in section 27-10.3-103 (1)~~; referred to the county department for a dependency or neglect investigation pursuant to section 27-10.3-104 (2), and the reasons therefor;

(c) THE NUMBER OF CHILDREN FOR WHOM EITHER:

(I) AN ASSESSMENT WAS REQUESTED BUT NOT PERFORMED, AND THE REASONS THAT THE ASSESSMENT WAS NOT PERFORMED; OR

(II) AN ASSESSMENT WAS PERFORMED BUT THE MENTAL HEALTH AGENCY DID NOT PROVIDE SERVICES UNDER THIS ARTICLE, AND THE REASONS THAT SERVICES WERE NOT PROVIDED, INCLUDING WHETHER THE FAMILY REFUSED THE SERVICES OFFERED;

~~(d)~~ (d) The costs associated with the provision of the mental health treatment services;

~~(e)~~ (e) The profiles of the children and families served;

(f) THE OUTCOMES OF TREATMENT FOR THE CHILDREN SERVED, AS DETERMINED BY THE STATE DEPARTMENT IN CONSULTATION WITH MENTAL HEALTH AGENCIES, SERVICE PROVIDERS, AND FAMILIES;

~~(g)~~ (g) If residential services were provided, the length of stay; and

~~(h)~~ (h) The aggregate number of complaints submitted pursuant to the dispute resolution process described in section 27-10.3-107, the nature of the complaints, and the general disposition of ~~such~~ THE cases.

**SECTION 5.** 27-10.3-106 (1) and (3), Colorado Revised Statutes, are amended to read:

**27-10.3-106. Funding - rules.** (1) In order to make mental health treatment

available, it is the intent of the general assembly that mental health treatment provided pursuant to this article to each child described in section 27-10.3-103 (1) ~~who is eligible for medicaid based on the child's placement in a residential child care facility pursuant to section 25.5-5-306, C.R.S., and who is determined to be eligible for supplemental security income by the federal social security administration,~~ be provided by mental health agencies.

(3) The state board of human services, in consultation with the department of health care policy and financing, shall promulgate rules implementing a sliding scale for the payment of services, including mental health treatment and room and board, that are not covered by private insurance or federal medicaid funding. It is the intent of the general assembly that the portion of such expenses paid from general fund moneys shall not exceed the general fund appropriations made for such purpose in any given fiscal year. It is the further intent of the general assembly that subsidies provided by the state through general fund moneys shall be used to assist the lowest income families TO ENSURE THE MAXIMUM USE OF APPROPRIATE LEAST RESTRICTIVE TREATMENT SERVICES AND TO PROVIDE ACCESS TO THE GREATEST NUMBER OF CHILDREN.

**SECTION 6. Appropriation - adjustments to the 2007 long bill.** (1) 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 human services, mental health and alcohol and drug abuse services, administration, for the fiscal year beginning July 1, 2007, the sum of seventy-seven thousand six hundred sixty-seven dollars (\$77,667) and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2007, shall be adjusted as follows: The appropriation, from the general fund, to the department of human services, mental health and alcohol and drug abuse services, for residential treatment for youth (H.B. 99-1116), is decreased by seventy-seven thousand six hundred sixty-seven dollars (\$77,667).

**SECTION 7. 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: May 30, 2007