

CHAPTER 138

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 08-1221

BY REPRESENTATIVE(S) Buescher, Pommer, White, Kerr A., Merrifield, Todd, and Summers;
also SENATOR(S) Keller, Morse, and Johnson.

AN ACT

**CONCERNING CHANGES TO CLARIFY EXISTING POLICY IN PROGRAMS ADMINISTERED BY THE
DEPARTMENT OF HUMAN SERVICES FOR PEOPLE WHO QUALIFY FOR PUBLIC ASSISTANCE.**

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

SECTION 1. 25.5-6-104 (3) (b), Colorado Revised Statutes, is amended to read:

25.5-6-104. Long-term care placements - comprehensive and uniform client assessment instrument - long-term care access study - legislative declaration - definitions - repeal. (3) (b) Participation in the process shall be mandatory for clients of publicly funded long-term care programs, including, but not limited to, the following:

(I) Nursing facilities;

(II) Home- and community-based services for the elderly, the blind, and the disabled;

(III) Alternative care facilities;

(IV) ~~Home care allowance;~~

(V) ~~Adult foster care;~~

(VI) ~~In-home services under the federal "Older Americans Act of 1965", as amended, 42 U.S.C. sec. 3001;~~

(VII) Home health services for long-term care clients; AND

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

(VIII) Home- and community-based services for persons living with acquired immune deficiency syndrome (AIDS).

SECTION 2. 26-2-122.3 (1), Colorado Revised Statutes, is amended to read:

26-2-122.3. Adult foster care and home care allowance as services under certain public assistance programs - administered by department of human services. (1) (a) (I) In addition to the amount of assistance available pursuant to the provisions of this article, the state board in the state department, with the consent of the general assembly and subject to available funds, may provide adult foster care for persons eligible to receive old age pension, aid to the needy disabled, or aid to the blind. For purposes of this paragraph (a), "adult foster care" means ~~that~~ care and ~~service which~~ SERVICES THAT, in addition to room and board, may include, but ~~is~~ ARE not limited to, personal services, recreational opportunities, transportation, utilization of volunteer services, and special diets. Such care ~~is~~ AND SERVICES ARE provided to recipients of federal supplemental security income benefits who are also eligible for the Colorado supplement program for aid to the needy disabled or aid to the blind and who do not require skilled nursing care or intermediate health care and cannot remain in or return to their residences but who need to reside in a supervised nonmedical setting on a twenty-four-hour basis. Those persons with developmental disabilities as defined in section 27-10.5-102, C.R.S., or who are receiving or ARE eligible to receive services pursuant to any provision of title 27, C.R.S., do not qualify for adult foster care under this paragraph (a).

(II) Adult foster care facilities shall be ~~certified by the single entry point agency in the single entry point district in which they are located, except that each county department of social services shall certify adult foster care facilities located in such county until a single entry point agency has been established pursuant to section 25.5-6-106, C.R.S.~~ LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-27-105, C.R.S.

(b) In addition to the amount of assistance available pursuant to paragraph (a) of this subsection (1), the state board in the state department, with the consent of the general assembly and subject to available funds, may provide a home care allowance for persons eligible to receive old age pension, aid to the needy disabled, or aid to the blind. For the purposes of this paragraph (b), "home care allowance" is a program that provides payments, subject to available appropriations, to functionally impaired persons who are, or who would be but for their income, eligible to receive old age pension pursuant to section 26-2-114, aid to the needy disabled pursuant to section 26-2-119, or aid to the blind pursuant to section 26-2-120. To be eligible for a home care allowance, a person's monthly gross income shall be less than the applicable monthly grant standard for the old age pension, aid to the needy disabled, or aid to the blind programs, plus the person's authorized monthly home care allowance grant, as determined in accordance with rules promulgated pursuant to this paragraph (b). ~~The home care allowance grant shall not exceed the equivalent of four hundred twenty-nine service units per year for a member of the eligible person's family.~~ The payments allow recipients who are in need of long-term care to purchase community-based services as defined in section 25.5-6-104 (2) (c), C.R.S. ~~Such~~ THESE services may include, but need not be limited to, the supervision of self-administered medications, assistance with activities of daily living as defined in section 25.5-6-104 (2) (a), C.R.S., and

assistance with instrumental activities of daily living as defined in section 25.5-6-104 (2) (g), C.R.S. The rules adopted by the state board shall specify, in accordance with the provisions of this section, the services available under the program and shall specify eligibility criteria for the home care allowance program, which shall be in addition to the eligibility criteria for the old age pension, aid to the needy disabled, or aid to the blind programs. In addition, the rules shall specifically provide for a determination as to the person's functional impairment and the person's unmet need for paid care and shall address amounts awarded to persons eligible for home care allowance. The state board shall specify in the rules the methods for determining the unmet need for paid care and the amount of a home care allowance that may be awarded to eligible persons. ~~The amount of the home care allowance shall not exceed the equivalent of four hundred twenty-nine service units per year for a member of the eligible person's family.~~ Such methods may be based on how often a person experiences unmet need for paid care or any other method that the state board determines is valid in correlating unmet need for paid care with an amount of a home care allowance award. The state board shall require that eligibility and unmet need for paid care be determined through the use of a comprehensive and uniform client assessment instrument ~~as described in section 25.5-6-104, C.R.S.~~ PRESCRIBED BY THE STATE DEPARTMENT. The state board may adjust income eligibility criteria, including any functional impairment standard, or the amounts awarded to eligible persons or may limit or suspend enrollments as necessary to manage the home care allowance program within the funds appropriated by the general assembly. In addition, the state board may adjust which services are available under the program; except that ~~such~~ THE adjustment shall be consistent with the provisions of this subsection (1).

(c) The state department is authorized to implement pilot programs that it deems feasible to assess the overall impact, if any, of using alternatives to the method described in paragraph (b) of this subsection (1) for determining AN eligible person's unmet need for paid care and the amount of a home care allowance awarded to an eligible person.

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 6, 2008, if adjournment sine die is on May 7, 2008); 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 14, 2008