

## CHAPTER 285

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**HEALTH CARE POLICY AND FINANCING**

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**SENATE BILL 08-230**

BY SENATOR(S) Morse, Keller, Johnson, Hagedorn, Gordon, Isgar, Kester, Mitchell S., Romer, Taylor, Veiga, Williams, Windels, Boyd, Gibbs, Shaffer, and Tupa;  
also REPRESENTATIVE(S) Buescher, Pommer, White, McGihon, Carroll T., Casso, Ferrandino, Frangas, Hodge, Marostica, Marshall, Middleton, Soper, Stafford, Todd, Labuda, and Merrifield.

**AN ACT**

**CONCERNING THE AUTHORITY OF CERTAIN HOSPITAL CARE PROVIDERS AS UNITS OF GOVERNMENT UNDER MEDICAID.**

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

**SECTION 1.** Title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

**ARTICLE 42**  
**Taxing Authority of Unit of**  
**Government Hospital Care Providers**

**25-42-101. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) STATE AND LOCAL GOVERNMENTAL HOSPITAL CARE PROVIDERS FORM A CRITICAL PART OF THE HEALTH CARE DELIVERY SYSTEM IN COLORADO; AND

(b) FEDERAL PROGRAMS REQUIRE THE STATE TO FURTHER DEFINE A UNIT OF GOVERNMENT FOR CERTAIN STATE AND LOCAL GOVERNMENTAL HOSPITAL CARE PROVIDERS.

**25-42-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ELIGIBLE ELECTOR" MEANS AN ELIGIBLE ELECTOR AS DEFINED IN SECTION

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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.*

32-1-103 (5) (a) (I), C.R.S., OF THE TAXING AREA OF A UNIT OF GOVERNMENT HOSPITAL PROVIDER.

(2) "QUALIFIED PURCHASER" MEANS A PERSON DOMICILED IN COLORADO WHO HAS BEEN ISSUED A DIRECT PAYMENT PERMIT NUMBER PURSUANT TO SECTION 39-26-103.5, C.R.S.

(3) "TAXING AREA" MEANS:

(a) IN THE CASE OF THE DENVER HEALTH AND HOSPITAL AUTHORITY, THE CITY AND COUNTY OF DENVER;

(b) IN THE CASE OF A COUNTY HOSPITAL, THE COUNTY IN WHICH THE HOSPITAL IS LOCATED;

(c) IN THE CASE OF A HOSPITAL WITHIN A HEALTH SERVICE DISTRICT, THE HEALTH SERVICE DISTRICT;

(d) IN THE CASE OF THE UNIVERSITY OF COLORADO HOSPITAL AUTHORITY, THE COUNTIES OF ADAMS, ARAPAHOE, BOULDER, DOUGLAS, AND JEFFERSON AND THE CITY AND COUNTY OF BROOMFIELD; AND

(e) IN THE CASE OF A MUNICIPAL HOSPITAL, THE COUNTY IN WHICH THE HOSPITAL IS LOCATED.

(4) "UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER" MEANS:

(a) THE DENVER HEALTH AND HOSPITAL AUTHORITY CREATED PURSUANT TO SECTION 25-29-103;

(b) THE BOARD OF ANY COUNTY HOSPITAL CREATED PURSUANT TO SECTION 25-3-301;

(c) A HEALTH SERVICE DISTRICT WITHIN THE MEANING OF SECTION 32-1-103 (9), C.R.S.;

(d) THE UNIVERSITY OF COLORADO HOSPITAL AUTHORITY, CREATED PURSUANT TO PART 5 OF ARTICLE 21 OF TITLE 23, C.R.S.; OR

(e) A MUNICIPALLY OWNED HOSPITAL CREATED PURSUANT TO SECTION 31-15-711 (1) (e), C.R.S.

**25-42-103. Grant of taxing authority.** (1) EACH UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER, UPON THE AFFIRMATIVE ACTION OF ITS GOVERNING BODY, SHALL HAVE THE AUTHORITY TO LEVY AND COLLECT A SALES TAX AS FOLLOWS:

(a) UPON THE APPROVAL OF THE ELIGIBLE ELECTORS OF THE UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER'S TAXING AREA AT AN ELECTION HELD IN ACCORDANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION AND THIS ARTICLE, THE UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER MAY LEVY A UNIFORM SALES TAX THROUGHOUT ITS ENTIRE TAXING AREA UPON EVERY

TRANSACTION OR OTHER INCIDENT WITH RESPECT TO WHICH A SALES TAX IS LEVIED BY THE STATE PURSUANT TO THE PROVISIONS OF ARTICLE 26 OF TITLE 39, C.R.S.

(b) A SALES TAX IMPOSED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL NOT BE LEVIED ON:

(I) THE SALE OF TANGIBLE PERSONAL PROPERTY DELIVERED BY A RETAILER OR A RETAILER'S AGENT OR TO A COMMON CARRIER FOR DELIVERY TO A DESTINATION OUTSIDE THE TAXING AREA; OR

(II) THE SALE OF TANGIBLE PERSONAL PROPERTY ON WHICH A SPECIFIC OWNERSHIP TAX HAS BEEN PAID OR IS PAYABLE WHEN SUCH SALE MEETS THE FOLLOWING CONDITIONS:

(A) THE PURCHASER DOES NOT RESIDE IN THE TAXING AREA OR THE PURCHASER'S PRINCIPAL PLACE OF BUSINESS IS OUTSIDE THE TAXING AREA; AND

(B) THE PERSONAL PROPERTY IS REGISTERED OR REQUIRED TO BE REGISTERED OUTSIDE THE TAXING AREA UNDER THE LAWS OF THIS STATE.

(c) THE SALES TAX IMPOSED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1) SHALL BE IN ADDITION TO ANY OTHER SALES OR USE TAX IMPOSED PURSUANT TO LAW AND IS EXEMPT FROM THE LIMITATION IMPOSED BY SECTION 29-2-108 (1), C.R.S.

(2) (a) THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF A SALES TAX IMPOSED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE PERFORMED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE IN THE SAME MANNER AS THAT FOR THE COLLECTION, ADMINISTRATION, AND ENFORCEMENT OF THE STATE SALES TAX IMPOSED PURSUANT TO ARTICLE 26 OF TITLE 39, C.R.S., INCLUDING, WITHOUT LIMITATION, THE RETENTION BY A VENDOR OF THE PERCENTAGE OF THE AMOUNT REMITTED TO COVER THE VENDOR'S EXPENSE IN THE COLLECTION AND REMITTANCE OF THE SALES TAX AS PROVIDED IN SECTION 39-26-105, C.R.S. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE SHALL MAKE MONTHLY DISTRIBUTIONS OF SALES TAX COLLECTIONS TO THE UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER. THE UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER SHALL PAY THE NET INCREMENTAL COST INCURRED BY THE DEPARTMENT OF REVENUE IN THE ADMINISTRATION AND COLLECTION OF THE SALES TAX.

(b) (I) A QUALIFIED PURCHASER MAY PROVIDE A DIRECT PAYMENT PERMIT NUMBER ISSUED PURSUANT TO SECTION 39-26-103.5, C.R.S., TO A VENDOR OR RETAILER THAT IS LIABLE AND RESPONSIBLE FOR COLLECTING AND REMITTING ANY SALES TAX LEVIED ON A SALE MADE TO THE QUALIFIED PURCHASER PURSUANT TO THE PROVISIONS OF THIS ARTICLE. A VENDOR OR RETAILER THAT HAS RECEIVED A DIRECT PAYMENT PERMIT NUMBER IN GOOD FAITH FROM A QUALIFIED PURCHASER SHALL NOT BE LIABLE OR RESPONSIBLE FOR COLLECTION AND REMITTANCE OF ANY SALES TAX IMPOSED ON THE SALE THAT IS PAID FOR DIRECTLY FROM THE QUALIFIED PURCHASERS' FUNDS AND NOT THE PERSONAL FUNDS OF ANY INDIVIDUAL.

(II) A QUALIFIED PURCHASER THAT PROVIDES A DIRECT PAYMENT PERMIT NUMBER TO A VENDOR OR RETAILER SHALL BE LIABLE AND RESPONSIBLE FOR THE AMOUNT

OF SALES TAX LEVIED ON A SALE MADE TO THE QUALIFIED PURCHASER PURSUANT TO THE PROVISIONS OF THIS ARTICLE IN THE SAME MANNER AS LIABILITY WOULD BE IMPOSED ON A QUALIFIED PURCHASER FOR STATE SALES TAX PURSUANT TO SECTION 39-26-105 (3), C.R.S.

(3) A SALES TAX SHALL NOT BE LEVIED BY A UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER WITHOUT FIRST COMPLYING WITH THIS SECTION AND SECTION 25-42-106.

**25-42-104. Use of revenues derived from sales tax.** THE REVENUES DERIVED BY A UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER FROM THE LEVY AND COLLECTION OF THE SALES TAX AUTHORIZED BY THIS ARTICLE SHALL BE IN ADDITION TO AND SHALL NOT BE USED TO REPLACE ANY STATE FUNDING THAT THE UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER OR ANY OTHER STATE OR LOCAL GOVERNMENT ENTITY WOULD OTHERWISE BE ENTITLED TO RECEIVE FROM THE STATE. THE UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER MAY USE SAID REVENUES FOR ANY PURPOSE PERMITTED BY LAW OR BY THE TERMS OF ITS ORGANIZATIONAL DOCUMENTS.

**25-42-105. Preservation of enterprise status of certain providers and activities.** THE AUTHORITY GRANTED IN THIS ARTICLE SHALL BE SUBJECT TO AFFIRMATIVE ACTION OF THE GOVERNING BODY OF A UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER TO AVAIL ITSELF OF THIS AUTHORITY AND SHALL BE CONTINGENT UPON ELECTORAL APPROVAL AT AN ELECTION HELD PURSUANT TO SECTIONS 25-42-103 (1) (a) AND 25-42-106. THE ENACTMENT OF THIS ARTICLE SHALL NOT AFFECT THE TREATMENT OF ANY EXISTING OR FUTURE ACTIVITY OF A UNIT OF GOVERNMENT HOSPITAL CARE PROVIDER AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

**25-42-106. Call, notice, conduct, and determination of results of tax elections.** AN ELECTION HELD PURSUANT TO THIS ARTICLE MAY BE CONDUCTED UNDER THE PROVISIONS OF EITHER THE "UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S., OR THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10 OF TITLE 31, C.R.S.

**25-42-107. Authority granted supplemental to other authority.** THE AUTHORITY GRANTED BY THIS ARTICLE SHALL BE IN ADDITION AND SUPPLEMENTAL TO, AND NOT IN LIEU OF, THE AUTHORITY GRANTED BY OTHER LAWS.

**SECTION 2.** 25.5-4-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**25.5-4-103. Definitions.** As used in this article and articles 5 and 6 of this title, unless the context otherwise requires:

(25.5) "STATE UNIVERSITY TEACHING HOSPITAL" MEANS A HOSPITAL LICENSED OR CERTIFIED PURSUANT TO SECTION 25-1.5-103 (1) (a), C.R.S.:

(a) THAT PROVIDES SUPERVISED TEACHING EXPERIENCES TO GRADUATE MEDICAL SCHOOL INTERNS AND RESIDENTS ENROLLED IN A STATE INSTITUTION OF HIGHER EDUCATION AS DEFINED IN SECTION 23-18-102 (10), C.R.S.; AND

(b) IN WHICH MORE THAN FIFTY PERCENT OF ITS CREDENTIALLED PHYSICIANS ARE MEMBERS OF THE FACULTY AT A STATE INSTITUTION OF HIGHER EDUCATION AS DEFINED IN SECTION 23-18-102 (10), C.R.S.

**SECTION 3.** Part 4 of article 4 of title 25.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**25.5-4-402.5. Providers - state university teaching hospitals.** SUBJECT TO APPROPRIATIONS BY THE GENERAL ASSEMBLY, THE STATE DEPARTMENT SHALL MAKE PAYMENTS TO STATE UNIVERSITY TEACHING HOSPITALS FOR PROVIDING CARE UNDER THE STATE'S MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE AND ARTICLES 5 AND 6 OF THIS TITLE.

**SECTION 4.** Part V (2), (5), and the affected totals of section 2 of chapter 466, Session Laws of Colorado 2007, as amended by section 1 of House Bill 08-1285 and section 10 of House Bill 08-1375, enacted at the Second Regular Session of the Sixty-sixth General Assembly, are amended to read:

Section 2. **Appropriation.**

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

**PART V  
DEPARTMENT OF HEALTH CARE POLICY AND FINANCING**

**(2) MEDICAL SERVICES PREMIUMS<sup>25, 26, 27, 28, 29</sup>**

Services for 35,790 Supplemental Security Income Adults 65 and Older (SSI 65 +) at an average cost of <del>\$19,930.28</del> \$19,925.97	713,304,662
	713,150,388
Services for 6,098 Supplemental Security Income Adults 60 to 64 Years of Age (SSI 60 - 64) at an average cost of <del>\$16,129.79</del> \$16,126.30	98,359,442
	98,338,169

Services for 14,086 Qualified Medicare Beneficiaries (QMBs) and Special Low-Income Medicare Beneficiaries (SLIMBs) at an average cost of <del>\$1,324.60</del> \$1,324.31		<del>18,658,267</del> 18,654,232
Services for 49,565 Supplemental Security Income Disabled Individuals at an average cost of <del>\$12,844.01</del> \$12,841.23		<del>636,613,188</del> 636,475,501
Services for 43,972 Categorically Eligible Low-income Adults at an average cost of <del>\$4,395.95</del> \$4,395.00		<del>193,298,920</del> 193,257,113
Services for 5,895 Baby Care Program Adults at an average cost of <del>\$9,118.00</del> \$9,116.03		<del>53,750,614</del> 53,738,989

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
Services for 271 Breast and Cervical Cancer Treatment Clients at an Average Cost of \$24,948.51	6,761,046					
Services for 8,567 Expansion Health Care Low-Income Adult Clients at an Average Cost of \$2,152.39	18,439,505					
Services for 198,500 Eligible Children at an average cost of <del>\$1,731.46</del> \$1,731.09	<del>343,695,026</del> 343,620,691					
Services for 16,572 Foster Children at an average cost of <del>\$3,682.40</del> \$3,681.61	<del>61,024,788</del> 61,011,590					

Services for 3,972 Non-Citizens at an average cost of	<del>\$13,695.23</del>	\$13,692.27	<del>54,397,462</del>				
			<u>54,385,696</u>				
		<del>2,198,302,920</del>	<del>693,261,247(M)</del>	327,500,000		75,870,908 <sup>b</sup>	<del>1,101,670,765</del>
		2,197,832,920	693,026,247				1,101,435,765

<sup>b</sup> Of this amount, \$60,765,052 shall from the Health Care Expansion Fund created in Section 24-22-117 (2) (a) (I), C.R.S.; \$13,412,247 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; \$725,764 (T) shall be transferred from the Department of Public Health and Environment pursuant to Section 24-22-117 (2) (d) (II) (C), \$430,000 shall be from the Autism Treatment Fund created in Section 25.5-6-805, C.R.S.; and \$410,975 shall be from the from the Breast and Cervical Cancer Treatment Fund created in Section 25.5-5-308 (8) (a), C.R.S.; and \$126,870 shall be from gifts, grants, and donations.

**(5) OTHER MEDICAL SERVICES**

Services for Old Age Pension State Medical Program clients <sup>35</sup>	13,974,451				13,974,451 <sup>a</sup>	
H.B. 05-1262 Transfer of Tobacco Tax Cash Fund into the Supplemental Old Age Pension State Medical Fund	2,500,500				2,500,500 <sup>b</sup>	
University of Colorado Family Medicine Residency Training Programs	<del>1,903,558</del>		<del>951,779(M)</del>			<del>951,779</del>

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
Enhanced Prenatal Care Training and Technical Assistance	1,868,307	934,153(M)				934,154
Nurse Home Visitor Program	108,999	54,500(M)				54,499
Medicare Modernization Act of 2003 State Contribution Payment	3,010,000				1,505,000(T) <sup>c</sup>	1,505,000
STATE UNIVERSITY TEACHING HOSPITALS, DENVER HEALTH AND HOSPITAL AUTHORITY	79,268,378	79,268,378				
STATE UNIVERSITY TEACHING HOSPITALS, UNIVERSITY OF COLORADO HOSPITAL AUTHORITY	410,000	205,000(M)				205,000
S.B. 97-101 Public School Health Services <sup>36</sup>	95,251	47,626(M)				47,625
	<u>41,808,014</u>	10,480,201			16,007,021 <sup>d</sup>	15,320,792
	<del>142,573,900</del>					

<sup>a</sup> Of this amount, \$9,998,483 shall be from the Old Age Pension Health and Medical Care Fund, pursuant to Section 7 (C) of Article 24 of the State Constitution, and \$3,975,968 shall be from the Supplemental Old Age Pension Health and Medical Care Fund created in Section 25.5-2-101 (3), C.R.S. Of the amount from the Supplemental Old Age Pension Health and Medical Care Fund, \$2,500,500 is a transfer of funds from the Tobacco Tax Cash Fund created in Section 24-22-117 (1) (a), C.R.S., \$750,000 is the statutory required transfer into the fund pursuant to the provisions of Section 39-26-123 (3), C.R.S., and \$725,468 is unexpended fund balance in the Supplemental Old Age Pension Health Medical Care Fund.

<sup>b</sup> This amount shall be from the Tobacco Tax Cash Fund created in Section 24-22-117 (1) (a), C.R.S. This appropriation meets the requirement to appropriate a portion of the revenues collected from the imposition of additional state cigarette and tobacco taxes to the Old Age Pension program for health related purposes pursuant to Section 21 of Article X of the State Constitution.

<sup>c</sup> This amount shall be transferred from the Department of Public Health and Environment.

<sup>d</sup> This amount represents funds certified as representing expenditures incurred by school districts that are eligible for federal financial participation under Medicaid.

**SECTION 5. Appropriation - adjustment in 2008 long bill.** (1) For the implementation of this act, appropriations in the annual general appropriation act to the department of health care policy and financing, for the fiscal year beginning July 1, 2008, shall be adjusted as follows:

(a) The appropriation for medical service premiums is decreased by two million two hundred eighty-five thousand three hundred forty dollars (\$2,285,340). Of said sum, one million one hundred forty-two thousand six hundred seventy dollars (\$1,142,670) shall be from the general fund and one million one hundred forty-two thousand six hundred seventy dollars (\$1,142,670) shall be from federal funds.

(b) The appropriation for other medical services, commission on family medicine residency programs is decreased by two hundred forty-one thousand five hundred six dollars (\$241,506). Of said sum, one hundred twenty thousand seven hundred fifty-three dollars (\$120,753) shall be from the general fund and one hundred twenty thousand seven hundred fifty-three dollars (\$120,753) shall be from federal funds.

(2) 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, other medical services, for the fiscal year beginning July 1, 2008, the sum of nine hundred fourteen thousand five hundred four dollars (\$914,504), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be for state university teaching hospitals, Denver health and hospital authority. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2008, the department of health care policy and financing will receive the sum of nine hundred fourteen thousand five hundred four dollars (\$914,504) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds in developing state appropriation amounts.

(3) 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, other medical services, for the fiscal year beginning July 1, 2008, the sum of three hundred forty-eight thousand nine hundred nineteen dollars (\$348,919), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be for state university teaching hospitals, university of Colorado hospital authority. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2008, the department of health care policy and financing will receive the sum of three hundred forty-eight thousand nine hundred nineteen dollars (\$348,919) in federal funds for the implementation of this act. Although the federal funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds in developing state appropriation amounts.

**SECTION 6. 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 22, 2008