

CHAPTER 405

HEALTH CARE POLICY AND FINANCING

SENATE BILL 08-161

BY SENATOR(S) Boyd, Spence, Groff, Gibbs, Isgar, Schwartz, Shaffer, Tochtrop, Tupa, Veiga, and Windels;
also REPRESENTATIVE(S) Merrifield, Fischer, Hodge, Kefalas, Levy, McGihon, Middleton, Stafford, and Todd.

AN ACT**CONCERNING ELIGIBILITY FOR PUBLIC MEDICAL BENEFITS, AND MAKING AN APPROPRIATION THEREFOR.**

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

SECTION 1. 25.5-4-205 (3) and (5) (b), Colorado Revised Statutes, are amended to read:

25.5-4-205. Application - verification of eligibility - demonstration project - rules - repeal. (3) (a) The state department shall promulgate rules to simplify the processing of applications in order that medical benefits are furnished to recipients as soon as possible, including rules that:

(I) Provide for initial processing of applications and determination of eligibility for medical assistance only at locations other than the county departments, at locations used for processing applications for the Colorado works program, or at the location used by the private service contractor that administers the children's basic health plan for determining eligibility of children for ~~such~~ THE plan; AND

(II) ~~Said rules~~ May make provision for the payment of medical benefits for a period not to exceed three months prior to the date of application in cases where the applicant did not make application prior to his or her need for said medical benefits.

(b) (I) THE STATE DEPARTMENT SHALL PROMULGATE RULES THAT:

(A) TO THE EXTENT AUTHORIZED UNDER FEDERAL LAW, PROVIDE THAT AN APPLICANT SHALL ONLY BE REQUIRED TO STATE THE APPLICANT'S INCOME AND THAT THE APPLICANT'S INCOME SHALL BE VERIFIED BY THE STATE DEPARTMENT THROUGH THE MOST RECENTLY AVAILABLE RECORDS OF THE DIVISION OF EMPLOYMENT 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.

TRAINING IN THE DEPARTMENT OF LABOR AND EMPLOYMENT OR THROUGH THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM; EXCEPT THAT THE RULES SHALL ALSO PROVIDE THAT AN APPLICANT MAY PROVIDE INCOME INFORMATION MORE RECENT THAN THE RECORDS OF THE DIVISION OF EMPLOYMENT AND TRAINING OR THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM; AND

(B) PROVIDE FOR ADMINISTRATIVE VERIFICATION AT REENROLLMENT SO THAT THE STATE DEPARTMENT SHALL AT LEAST ANNUALLY VERIFY A RECIPIENT'S INCOME ELIGIBILITY THROUGH THE RECORDS OF THE DIVISION OF EMPLOYMENT AND TRAINING IN THE DEPARTMENT OF LABOR AND EMPLOYMENT OR THROUGH THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM AND THAT, IF THE RECIPIENT MEETS ALL ELIGIBILITY REQUIREMENTS, THE RECIPIENT SHALL REMAIN ENROLLED IN THE PROGRAM. THE RULES SHALL ALSO PROVIDE THAT A RECIPIENT MAY SUPPLY INCOME INFORMATION MORE RECENT THAN THE INFORMATION SUPPLIED BY THE RECORDS OF THE DIVISION OF EMPLOYMENT AND TRAINING OR THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM.

(C) IF IT IS DETERMINED THAT A RECIPIENT WAS NOT ELIGIBLE FOR MEDICAL BENEFITS SOLELY BASED UPON THE RECIPIENT'S INCOME AFTER THE RECIPIENT HAD BEEN DETERMINED TO BE ELIGIBLE BASED UPON THE RECORDS OF THE DIVISION OF EMPLOYMENT AND TRAINING OR THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM, THE STATE DEPARTMENT SHALL NOT PURSUE RECOVERY FROM A COUNTY DEPARTMENT FOR THE COST OF MEDICAL SERVICES PROVIDED TO THE RECIPIENT, AND THE COUNTY DEPARTMENT SHALL NOT BE RESPONSIBLE FOR ANY FEDERAL ERROR RATE SANCTIONS RESULTING FROM SUCH DETERMINATION.

(D) NOTWITHSTANDING ANY OTHER PROVISION IN THIS PARAGRAPH (b), FOR APPLICATIONS THAT CONTAIN SELF-EMPLOYMENT INCOME, THE STATE DEPARTMENT SHALL NOT IMPLEMENT THIS PARAGRAPH (b) UNTIL IT CAN VERIFY SELF-EMPLOYMENT INCOME THROUGH THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM OR OTHER VERIFICATION AS AUTHORIZED BY RULES OF THE STATE DEPARTMENT AND FEDERAL LAW.

(II) (A) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL ONLY TAKE EFFECT IF BY JUNE 15, 2008, THE STATE DEPARTMENT RECEIVES AN AMOUNT THROUGH GIFTS, GRANTS, AND DONATIONS THAT IS EQUAL TO OR GREATER THAN THE FINAL FISCAL ESTIMATE FOR SENATE BILL 08-161, AS ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SIXTH GENERAL ASSEMBLY, TO COVER THE ESTIMATED COSTS OF IMPLEMENTING SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) AND SECTION 25.5-8-109 (4.5) (a). ANY GIFTS, GRANTS, OR DONATIONS RECEIVED BY THE STATE DEPARTMENT PURSUANT TO THIS SUB-SUBPARAGRAPH (A) SHALL BE DEPOSITED INTO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING CASH FUND CREATED PURSUANT TO SECTION 25.5-1-109.

(B) ON OR BEFORE JUNE 30, 2008, THE EXECUTIVE DIRECTOR SHALL FILE A WRITTEN NOTICE WITH THE REVISOR OF STATUTES INDICATING THAT THE ESTIMATED AMOUNT OF MONEYS WAS RECEIVED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II). IF THE NOTICE IS NOT RECEIVED BY THE REVISOR OF STATUTES BY JUNE 30, 2008, THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2009. IF THE NOTICE IS RECEIVED BY THE REVISOR OF STATUTES BY JUNE 30, 2008, THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2009.

(c) Adequate safeguards shall be established by the state department to ensure that only eligible persons receive benefits under this article and articles 5 and 6 of this title.

(d) (I) In addition, an applicant who is eighteen years of age or older shall be required to supply a form of personal photographic identification either by providing a valid Colorado driver's license or a valid identification card issued by the department of revenue pursuant to section 42-2-302, C.R.S. The state department may adopt rules that exempt applicants from the requirement of supplying a form of personal photographic identification if ~~such~~ THE requirement causes an unreasonable hardship or if ~~such~~ THE requirement is in conflict with federal law.

(II) The state department shall also adopt rules that allow for assistance to be provided on an emergency basis until the applicant is able to obtain or qualify for a driver's license or identification card; however, a county department or an entity designated by the state department pursuant to subsection (1) of this section is not required to recover emergency assistance from an applicant who fails, upon recertification, to meet the photographic identification requirement.

(5) (b) ~~This subsection (5) is repealed, effective July 1, 2008.~~

SECTION 2. 25.5-8-109, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25.5-8-109. Eligibility - children - pregnant women - repeal. (4.5) (a) (I) TO THE EXTENT AUTHORIZED BY FEDERAL LAW, THE DEPARTMENT SHALL ONLY REQUIRE AN APPLICANT TO STATE THE APPLICANT'S FAMILY INCOME AND THAT THE APPLICANT'S FAMILY INCOME SHALL BE VERIFIED BY THE DEPARTMENT THROUGH THE MOST RECENTLY AVAILABLE RECORDS OF THE DIVISION OF EMPLOYMENT AND TRAINING IN THE DEPARTMENT OF LABOR AND EMPLOYMENT OR THROUGH THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM. THE DEPARTMENT SHALL ALLOW AN APPLICANT TO PROVIDE INCOME INFORMATION MORE RECENT THAN THE RECORDS OF THE DIVISION OF EMPLOYMENT AND TRAINING OR THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM.

(II) THE DEPARTMENT SHALL PROVIDE FOR ADMINISTRATIVE VERIFICATION AT REENROLLMENT SO THAT THE DEPARTMENT SHALL ANNUALLY VERIFY THE RECIPIENT'S INCOME ELIGIBILITY THROUGH THE RECORDS OF THE DIVISION OF EMPLOYMENT AND TRAINING IN THE DEPARTMENT OF LABOR AND EMPLOYMENT OR THROUGH THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM. IF A RECIPIENT MEETS ALL ELIGIBILITY REQUIREMENTS, A RECIPIENT SHALL REMAIN ENROLLED IN THE PLAN. THE DEPARTMENT SHALL ALSO PROVIDE THAT A RECIPIENT MAY PROVIDE INCOME INFORMATION MORE RECENT THAN THE RECORDS OF THE DIVISION OF EMPLOYMENT AND TRAINING OR THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM.

(III) IF IT IS DETERMINED THAT A RECIPIENT WAS NOT ELIGIBLE FOR MEDICAL BENEFITS SOLELY BASED UPON THE RECIPIENT'S INCOME AFTER THE RECIPIENT HAD BEEN DETERMINED TO BE ELIGIBLE BASED UPON THE RECORDS OF THE DIVISION OF EMPLOYMENT AND TRAINING OR THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM, THE STATE DEPARTMENT SHALL NOT PURSUE RECOVERY FROM A COUNTY

DEPARTMENT FOR THE COST OF MEDICAL SERVICES PROVIDED TO THE RECIPIENT, AND THE COUNTY DEPARTMENT SHALL NOT BE RESPONSIBLE FOR ANY FEDERAL ERROR RATE SANCTIONS RESULTING FROM SUCH DETERMINATION.

(IV) NOTWITHSTANDING ANY OTHER PROVISION IN THIS PARAGRAPH (a), FOR APPLICATIONS THAT CONTAIN SELF-EMPLOYMENT INCOME, THE STATE DEPARTMENT SHALL NOT IMPLEMENT THIS PARAGRAPH (a) UNTIL IT CAN VERIFY SELF-EMPLOYMENT INCOME THROUGH THE INCOME, ELIGIBILITY, AND VERIFICATION SYSTEM OR OTHER VERIFICATION AS AUTHORIZED BY RULES OF THE STATE DEPARTMENT AND FEDERAL LAW.

(b)(I) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (4.5) SHALL ONLY TAKE EFFECT IF BY JUNE 15, 2008, THE DEPARTMENT RECEIVES AN AMOUNT THROUGH GIFTS, GRANTS, AND DONATIONS THAT IS EQUAL TO OR GREATER THAN THE FINAL FISCAL ESTIMATE FOR SENATE BILL 08-161, AS ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-SIXTH GENERAL ASSEMBLY, TO COVER THE ESTIMATED COSTS OF IMPLEMENTING PARAGRAPH (a) OF THIS SUBSECTION (4.5) AND SECTION 25.5-4-205 (3) (b) (I). ANY GIFTS, GRANTS, OR DONATIONS RECEIVED BY THE DEPARTMENT PURSUANT TO THIS SUBPARAGRAPH (I) SHALL BE DEPOSITED INTO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING CASH FUND CREATED PURSUANT TO SECTION 25.5-1-109.

(II) ON OR BEFORE JUNE 30, 2008, THE EXECUTIVE DIRECTOR SHALL FILE A WRITTEN NOTICE WITH THE REVISOR OF STATUTES INDICATING THAT THE ESTIMATED AMOUNT OF MONEYS WAS RECEIVED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b). IF THE NOTICE IS NOT RECEIVED BY THE REVISOR OF STATUTES BY JUNE 30, 2008, THIS SUBSECTION (4.5) IS REPEALED, EFFECTIVE JULY 1, 2009. IF THE NOTICE IS RECEIVED BY THE REVISOR OF STATUTES BY JUNE 30, 2008, THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2009.

SECTION 3. 25.5-1-202 (3) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

25.5-1-202. Advisory committee on covering all children in Colorado - reports - definitions - repeal. (3) (b) In connection with its duties as described in paragraph (a) of this subsection (3), the committee shall:

(IV.5) INVESTIGATE THE FEASIBILITY OF COMBINING MEDICAID AND THE CHILDREN'S BASIC HEALTH PLAN;

SECTION 4. Appropriation - legislative intent. (1) In addition to any other appropriation, there is hereby appropriated, to the department of health care policy and financing, executive director's office, general administration, for operating expenses, for the fiscal year beginning July 1, 2008, the sum of ten thousand five hundred forty-one dollars (\$10,541) cash funds, or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from the department of health care policy and financing cash fund created pursuant to section 25.5-1-109, Colorado Revised Statutes. In addition to said appropriation, the general assembly anticipates that the department of health care policy and financing will receive ten thousand five hundred forty-one dollars (\$10,541) federal funds in the fiscal year beginning July 1, 2008, 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.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of health care policy and financing, department of human services Medicaid-funded programs, office of information technology services - Medicaid funding, for the Colorado benefits management system, for the fiscal year beginning July 1, 2008, the sum of two thousand nine hundred thirty-three dollars (\$2,933) cash funds, or so much thereof as may be necessary, for the implementation of this act. Of said sum, two thousand five hundred ninety-nine dollars (\$2,599) shall be from the department of health care policy and financing cash fund created pursuant to section 25.5-1-109, Colorado Revised Statutes, and three hundred thirty-four dollars (\$334) shall be cash funds from the children's basic health trust fund created in section 25.5-8-105 (1), Colorado Revised Statutes. In addition to said appropriations, the general assembly anticipates that the department of health care policy and financing will receive two thousand six hundred twenty-one dollars (\$2,621) federal funds in the fiscal year beginning July 1, 2008, 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, to the department of human services, for the Colorado benefits management system, for the fiscal year beginning July 1, 2008, the sum of nine thousand three hundred forty-five dollars (\$9,345). Of said sum, two thousand five hundred eleven dollars (\$2,511) shall be from the department of health care policy and financing cash fund created pursuant to section 25.5-1-109, Colorado Revised Statutes, one thousand two hundred eighty dollars (\$1,280) cash funds shall be from the old age pension fund created in section 1 of article XXIV of the Colorado constitution, and five thousand five hundred fifty-four (\$5,554) shall be reappropriated funds transferred from the department of health care policy and financing. In addition to said appropriations, the general assembly anticipates that the department of human services will receive six thousand six hundred fifty-five dollars (\$6,655) federal funds in the fiscal year beginning July 1, 2008, 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.

(4) It is the intent of the general assembly that the appropriation in this section shall only be effective upon receipt of the notice required in sections 25.5-4-205 (3) (b) and 25.5-8-109 (4.5), Colorado Revised Statutes.

SECTION 5. Effective date. This act shall take effect upon passage; except that section 4 of this act shall only take effect upon receipt of the notice required in sections 25.5-4-205 (3) (b) and 25.5-8-109 (4.5), Colorado Revised Statutes.

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: June 3, 2008