

CHAPTER 218

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 10-1384

BY REPRESENTATIVE(S) Lambert, Ferrandino, Pommer, Balmer, Labuda, Looper, Murray, Swalm, Merrifield;
also SENATOR(S) White, Keller, Tapia.

AN ACT

CONCERNING THE ALIGNMENT OF ELIGIBILITY FOR THE OLD AGE PENSION PROGRAM WITH ELIGIBILITY FOR OTHER PUBLIC BENEFIT PROGRAMS, AND, IN CONNECTION THEREWITH, ALIGNING THE WAITING PERIOD FOR THE OLD AGE PENSION WITH THE WAITING PERIOD FOR OTHER PUBLIC BENEFIT PROGRAMS, ENFORCING FINANCIAL RESPONSIBILITY REQUIREMENTS FOR RELATIVE SPONSORS OF NONCITIZENS, AND MAKING AN APPROPRIATION.

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

SECTION 1. 26-2-111 (2) (a) and (2) (c), Colorado Revised Statutes, are amended to read:

26-2-111. Eligibility for public assistance. (2) Old age pension. (a) Except as provided in ~~paragraph~~ PARAGRAPHS (c) AND (d) of this subsection (2), public assistance in the form of the old age pension shall be granted to any person who meets the requirements of subsection (1) of this section and any one of the following requirements:

(I) The person IS A UNITED STATES CITIZEN OR A QUALIFIED ALIEN, has attained the age of sixty years or more, and meets the resource eligibility requirements of the federal supplemental security income program; or

(II) Repealed.

(III) The person is an inmate of an institution, not penal in character, maintained by the state or by a municipality therein or county thereof, and the person has attained the age of sixty years or more. The period of confinement as a patient in such institution shall be considered as residence in the state of Colorado.

(c) (I) ~~No~~ EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF

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

THIS PARAGRAPH (c), A QUALIFIED alien ~~who has resided in the United States for less than three years~~ shall NOT be granted ~~public assistance~~ THE OLD AGE PENSION under the provisions of this subsection (2) unless it is shown that:

(A) The person, other than a relative, who sponsored the alien's entry into the United States and who satisfied sponsorship financial requirements at the time of initial sponsorship now has insufficient income, property, or other resources to meet the needs of the alien as determined pursuant to rules and regulations of the state department; AND

(B) THE QUALIFIED ALIEN MEETS THE REQUIREMENTS SPECIFIED IN SECTION 26-2-111.8 (2) (a) RELATING TO ENTRY INTO THE UNITED STATES PRIOR TO AUGUST 22, 1996, OR THE REQUIREMENTS SPECIFIED IN SECTION 26-2-111.8 (2) (b) REGARDING THE FIVE-YEAR BAR ON RECEIPT OF BENEFITS.

(II) THE REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) DO NOT APPLY TO A QUALIFIED ALIEN WHO MEETS THE ELIGIBILITY CRITERIA FOR THE OLD AGE PENSION IN PARAGRAPH (a) OF THIS SUBSECTION (2) IF IT IS DETERMINED PURSUANT TO RULES OF THE STATE DEPARTMENT THAT:

(A) THE QUALIFIED ALIEN HAS BEEN ABANDONED BY OR IS A VICTIM OF MISTREATMENT BY HIS OR HER SPONSOR OR IS AN ABUSED SPOUSE AND WOULD INCUR A SIGNIFICANT FINANCIAL HARDSHIP; OR

(B) THE QUALIFIED ALIEN WHO DOES NOT HAVE A SPONSOR WOULD HAVE INSUFFICIENT INCOME TO SUPPORT HIMSELF OR HERSELF OR WOULD OTHERWISE INCUR A SIGNIFICANT FINANCIAL HARDSHIP.

(III) THE REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) DO NOT APPLY TO A QUALIFIED ALIEN WHO MEETS THE ELIGIBILITY CRITERIA FOR THE OLD AGE PENSION IN PARAGRAPH (a) OF THIS SUBSECTION (2) AND WHO IS ALSO ELIGIBLE FOR FEDERAL FINANCIAL BENEFITS PURSUANT TO TITLE XVI OF THE FEDERAL "SOCIAL SECURITY ACT".

SECTION 2. 26-2-111.8 (1), (2), (3), (4), and (5), Colorado Revised Statutes, are amended to read:

26-2-111.8. Eligibility of noncitizens for public assistance. (1)(a) The general assembly hereby finds and declares that passage of the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, requires the states to make certain decisions concerning ~~legal immigrants~~ QUALIFIED ALIENS and their eligibility for certain types of public assistance.

(b) The goal of this section is to recognize that foreign-born legal residents of the state of Colorado contribute to our society by working in our communities, supporting local businesses, and paying taxes and should receive certain types of public assistance for certain types of situations. Moreover, the state goal is to provide the types of assistance that will enhance the state's ability to receive federal financial participation, thereby reducing the ultimate burden on the state and local government for emergency health and welfare needs.

(c) This section is also intended to encourage and support efforts to help foreign-born legal residents of the state of Colorado to become citizens of the United States.

(2) (a) **Entry requirements.** A qualified alien who entered the United States before August 22, 1996, AND WHO MEETS THE ELIGIBILITY CRITERIA SPECIFIED FOR A PARTICULAR PUBLIC ASSISTANCE PROGRAM shall be eligible to receive ~~benefits~~ PUBLIC ASSISTANCE under ~~a state program funded by temporary assistance for needy families block grant funds under part A of Title IV of the federal "Social Security Act"~~ THE FOLLOWING PROGRAMS AS DESCRIBED IN THIS ARTICLE:

(I) THE COLORADO WORKS PROGRAM;

(II) THE OLD AGE PENSION;

(III) AID TO THE NEEDY DISABLED; OR

(IV) AID TO THE BLIND.

(b) **Five-year bar on receipt of benefits.** A qualified alien who entered the United States on or after August 22, 1996, shall be barred from receiving the benefits described in paragraph (a) of this subsection (2) for a period of five years after the date of entry into the United States, unless he or she meets the exceptions set forth in the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Public Law 104-193, as amended.

(c) **Deeming of sponsor income and resources.** After five years, ~~such~~ A qualified alien DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (2) shall be eligible for benefits under this article, but shall have sponsor income AND RESOURCES deemed to the individual or family under rules established by the state ~~board~~ DEPARTMENT pursuant to ~~section 26-2-137~~ SECTION 26-2-137 (2).

(3) ~~A legal immigrant may receive benefits under the old age pension, the aid to the needy disabled, and the aid to the blind programs if such legal immigrant meets the eligibility criteria, including the sponsor responsibility policies, in section 26-2-137 (2) of such programs, other than citizen status.~~

(4) A ~~legal immigrant~~ QUALIFIED ALIEN may receive benefits under section 26-2-122.3 pursuant to rules promulgated by the ~~medical services board~~ STATE DEPARTMENT.

(5) As a condition of eligibility for public assistance under this article, a ~~legal immigrant~~ QUALIFIED ALIEN shall agree to refrain from executing an affidavit of support for the purpose of sponsoring an alien on or after July 1, 1997, under rules promulgated by the immigration and naturalization service OR ITS SUCCESSOR AGENCY during the pendency of ~~such legal immigrant's~~ THE QUALIFIED ALIEN'S receipt of public assistance. Nothing in this subsection (5) shall be construed to affect a ~~legal immigrant's~~ QUALIFIED ALIEN'S eligibility for public assistance under this article based upon ~~such legal immigrant's~~ THE QUALIFIED ALIEN'S responsibilities under an affidavit of support entered into before July 1, 1997.

SECTION 3. 26-2-111 (2) (b), Colorado Revised Statutes, is amended to read:

26-2-111. Eligibility for public assistance. (2) Old age pension. (b) ~~No person~~ AN APPLICANT OR RECIPIENT OF THE OLD AGE PENSION WHO IS OTHERWISE qualified shall NOT be denied the old age pension by reason of the fact that relatives may be financially able to contribute to his OR HER support and maintenance; ~~but~~ EXCEPT THAT income and ~~property~~ RESOURCES of the spouse of an applicant or recipient of the old age pension OR OF A SPONSOR OF AN APPLICANT OR RECIPIENT OF THE OLD AGE PENSION WHO IS A QUALIFIED ALIEN shall be considered in determining eligibility pursuant to rules ~~and regulations~~ of the state department. ~~which rules and regulations shall be based upon and relate to the need of the applicant or recipient.~~

SECTION 4. 26-2-111 (2) (c), Colorado Revised Statutes, as amended by section 1 of House Bill 10-1384, is amended to read:

26-2-111. Eligibility for public assistance. (2) Old age pension. (c)(I) Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (c), a qualified alien shall not be granted the old age pension under the provisions of this subsection (2) unless it is shown that:

(A) ~~The person, other than a relative, who sponsored the alien's entry into the United States and who satisfied sponsorship financial requirements at the time of initial sponsorship now has insufficient income, property, or other resources to meet the needs of the alien as determined pursuant to rules and regulations of the state department; and~~

(B) The qualified alien meets the requirements specified in section 26-2-111.8 (2) (a) relating to entry into the United States prior to August 22, 1996, or the requirements specified in section 26-2-111.8 (2) (b) regarding the five-year bar on receipt of benefits; AND

(C) THE QUALIFIED ALIEN MEETS THE REQUIREMENTS SPECIFIED IN SECTION 26-2-111.8 (2) (c) REGARDING THE DEEMING OF SPONSOR INCOME AND RESOURCES.

(II) The requirements in subparagraph (I) of this paragraph (c) do not apply to a qualified alien who meets the eligibility criteria for the old age pension in paragraph (a) of this subsection (2) if it is determined pursuant to rules of the state department that:

(A) The qualified alien has been abandoned by or is a victim of mistreatment by his or her sponsor or is an abused spouse and would incur a significant financial hardship; or

(B) The qualified alien who does not have a sponsor would have insufficient income to support himself or herself or would otherwise incur a significant financial hardship; OR

(C) THE PERSON WHO SPONSORED THE QUALIFIED ALIEN'S ENTRY INTO THE UNITED STATES AND WHO SATISFIED SPONSORSHIP FINANCIAL REQUIREMENTS AT THE TIME OF INITIAL SPONSORSHIP NOW HAS INSUFFICIENT INCOME AND RESOURCES

TO MEET THE NEEDS OF THE QUALIFIED ALIEN.

(III) The requirements in subparagraph (I) of this paragraph (c) do not apply to a qualified alien who meets the eligibility criteria for the old age pension in paragraph (a) of this subsection (2) and who is also eligible for federal financial benefits pursuant to Title XVI of the federal "Social Security Act".

SECTION 5. 26-2-111.8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-2-111.8. Eligibility of noncitizens for public assistance. (3.5) FOR BENEFITS PROVIDED ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3.5), THE STATE DEPARTMENT MAY PURSUE REPAYMENT FROM THE QUALIFIED ALIEN'S SPONSOR FOR OLD AGE PENSION BENEFITS PROVIDED TO THE QUALIFIED ALIEN DURING THE TIME THAT THE SPONSORSHIP AFFIDAVIT OF SUPPORT IS IN EFFECT AS DETERMINED BY UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, OR ITS SUCCESSOR AGENCY.

SECTION 6. Appropriation - adjustment in 2010 long bill. (1) In addition to any other appropriation, there is hereby appropriated, to the department of health care policy and financing, for allocation to the 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, 2009, the sum of eight thousand six hundred sixty dollars (\$8,660), or so much thereof as may be necessary, for the implementation of this act. Of said sum, eight thousand five hundred eighty-four dollars (\$8,584) shall be from the general fund, forty-one dollars (\$41) shall be cash funds from the old age pension fund created in article XXIV of the Colorado Constitution, and thirty-five dollars (\$35) shall be cash funds from the children's basic health plan trust created in section 25.5-8-105 (1), Colorado Revised Statutes. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2009, the department of health care policy and financing will receive the sum of eight thousand six hundred forty-nine dollars (\$8,649) 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.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of human services, for allocation to the office of information technology services, for the Colorado benefits management system, for the fiscal year beginning July 1, 2009, the sum of thirty thousand seven hundred ninety-nine dollars (\$30,799), or so much thereof as may be necessary, for the implementation of this act. Of said sum, eleven thousand three hundred forty-seven dollars (\$11,347) shall be from the general fund, two thousand one hundred forty-three dollars (\$2,143) shall be cash funds from the old age pension fund created in article XXIV of the Colorado Constitution, and seventeen thousand three hundred nine dollars (\$17,309) shall be from reappropriated funds transferred from the department of health care policy and financing. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2009, the department of human services will receive the sum of fifteen thousand two hundred one dollars (\$15,201) 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, to the department of health care policy and financing, for allocation to the 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, 2010, the sum of eight thousand six hundred fifteen dollars (\$8,615), or so much thereof as may be necessary, for the implementation of this act. Of said sum, eight thousand five hundred thirty-nine dollars (\$8,539) shall be from the general fund, forty-one dollars (\$41) shall be cash funds from the old age pension fund created in article XXIV of the Colorado Constitution, and thirty-five dollars (\$35) shall be cash funds from the children's basic health plan trust created in section 25.5-8-105 (1), Colorado Revised Statutes. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2010, the department of health care policy and financing will receive the sum of eight thousand six hundred five dollars (\$8,605) 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.

(4) In addition to any other appropriation, there is hereby appropriated, to the department of human services, for allocation to the office of information technology services, for the Colorado benefits management system, for the fiscal year beginning July 1, 2010, the sum of thirty thousand six hundred forty dollars (\$30,640), or so much thereof as may be necessary, for the implementation of this act. Of said sum, eleven thousand two hundred eighty-eight dollars (\$11,288) shall be from the general fund, two thousand one hundred thirty-two dollars (\$2,132) shall be cash funds from the old age pension fund created in article XXIV of the Colorado Constitution, and seventeen thousand two hundred twenty dollars (\$17,220) shall be from reappropriated funds transferred from the department of health care policy and financing. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2010, the department of human services will receive the sum of fifteen thousand one hundred twenty-one dollars (\$15,121) 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.

(5) In addition to any other appropriation, there is hereby appropriated, to the Governor-Lieutenant Governor-office of state planning and budgeting, for allocation to the office of information technology, for the Colorado benefits management system, for the fiscal year beginning July 1, 2010, the sum of forty-five thousand seven hundred sixty-one dollars (\$45,761), or so much thereof as may be necessary, for the implementation of this act. Said sum shall be from reappropriated funds received from the department of human services out of the appropriation made in subsection (4) of this section.

(6) For the implementation of this act, the cash funds appropriation to the department of human services, adult assistance programs, for the old age pension program cash assistance programs, for the fiscal year beginning July 1, 2010, shall be decreased by thirteen million four hundred thirty-nine thousand nine hundred

eighty-seven dollars (\$13,439,987).

SECTION 7. Specified effective date. (1) This section and sections 6 and 8 of this act shall take effect upon passage.

(2) Sections 1 and 2 of this act shall take effect July 1, 2010.

(3) Sections 3 through 5 of this act shall take effect upon the earlier of:

(a) January 1, 2014; or

(b) The date upon which the revisor of statutes receives notification from the executive director of the department of health care policy and financing that the federal centers for medicare and medicaid services, having taken into consideration the requirements for maintenance of effort for medicaid eligibility contained in the federal "American Reinvestment and Recovery Act", Pub.L. 111-5, or any amendment thereto, and in the federal "Patient Protection and Affordable Care Act", Pub.L. 111-148, or any amendment thereto, has authorized Colorado to reduce eligibility for its medicaid program consistent with the provisions of this act without federal penalty.

SECTION 8. 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 6, 2010