

CHAPTER 366

HEALTH CARE POLICY AND FINANCING

SENATE BILL 10-002

BY SENATOR(S) Steadman and Keller, Boyd, Foster, Hodge, Mitchell, Newell, Romer, Tochtrop, Williams;
also REPRESENTATIVE(S) Looper and Primavera, Acree, Todd, Apuan, Fischer, Pace, Priola.

AN ACT

CONCERNING THE DENIAL OF BENEFITS BY HEALTH COVERAGE PLANS, AND, IN CONNECTION THEREWITH, INCREASING RECOVERIES TO THE MEDICAID PROGRAM, PROVIDING ADDITIONAL ASSISTANCE TO FAMILIES ELIGIBLE FOR CERTAIN BENEFITS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) There is a long waiting list for home- and community-based services for children;

(b) Many families receiving services under the home- and community-based services for children waivers have third-party insurance coverage, but some families have difficulty:

(I) Navigating through the waiver application process;

(II) Understanding the scope and role of any private insurance coverage they may have; and

(III) Filing an appeal when a third-party insurance carrier denies a claim for benefits;

(c) More successful appeals of denials of claims would result in increased reimbursements to the medicaid program and the state; and

(d) The increased reimbursements and recovered moneys from third-party

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

insurance carriers should be used to reduce the waiting list for home- and community-based services for children.

SECTION 2. Part 1 of article 1 of title 25.5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25.5-1-127. Third-party benefit denials information. THE STATE DEPARTMENT SHALL PROVIDE INFORMATION TO RECIPIENTS OF BENEFITS UNDER THIS TITLE CONCERNING THEIR RIGHT TO APPEAL A DENIAL OF BENEFITS BY A THIRD PARTY AND SHALL POST INFORMATION ON THE STATE DEPARTMENT'S WEB SITE CONCERNING RECIPIENTS' ABILITIES TO APPEAL A THIRD PARTY'S DENIAL OF BENEFITS, INCLUDING BUT NOT LIMITED TO PROVIDING A LINK TO INFORMATION ON THE INSURANCE COMMISSIONER'S WEB SITE REGARDING SUCH APPEALS.

SECTION 3. 25.5-4-205 (4), Colorado Revised Statutes, is amended to read:

25.5-4-205. Application - verification of eligibility - demonstration project - rules - repeal. (4) (a) By signing an application for medical assistance, a person assigns to the state department, by operation of law, all rights the applicant may have to medical support or payments for medical expenses from any other person on ~~his~~ THE APPLICANT'S own behalf or on behalf of any other member of ~~his~~ THE APPLICANT'S family for whom application is made. For purposes of this subsection (4), an assignment takes effect upon the determination that the applicant is eligible for medical assistance and up to three months prior to the date of application if the applicant meets the requirements of subsection (3) of this section and shall remain in effect so long as an individual is eligible for and receives medical assistance benefits. The application shall contain a statement explaining this assignment.

(b) AN APPLICANT FOR MEDICAL BENEFITS UPON INITIAL APPLICATION AND EACH REDETERMINATION SHALL DISCLOSE ANY THIRD PARTY WHO MAY BE RESPONSIBLE FOR THE PAYMENT OF MEDICAL EXPENSES ON BEHALF OF THE APPLICANT OR ANY OTHER MEMBER OF THE APPLICANT'S FAMILY FOR WHOM APPLICATION IS MADE. AS PART OF ITS MEDICAID ELIGIBILITY MODERNIZATION, THE STATE DEPARTMENT SHALL REQUIRE THE COUNTY DEPARTMENT OR OTHER ENTITY DESIGNATED TO ACCEPT APPLICATIONS FOR MEDICAL BENEFITS TO ENTER THE THIRD-PARTY INFORMATION INTO THE AUTOMATED SYSTEM DEVELOPED PURSUANT TO SECTION 25.5-4-204.

SECTION 4. 25.5-4-209 (3) (a), Colorado Revised Statutes, is amended, and the said 25.5-4-209 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

25.5-4-209. Payments by third parties - copayments by recipients - review - appeal - repeal. (3) (a) The rights assigned by a recipient of medical assistance to the state department pursuant to section 25.5-4-205 (4) shall include the right to appeal an adverse coverage decision by a third party for which the medical assistance program may be responsible for payment, including but not limited to the internal and external reviews provided for in sections 10-16-113 and 10-16-113.5, C.R.S., and a third party's reasonable appeal procedure under state and federal law. The state department or the independent contractor retained pursuant to paragraph (b) of this subsection (3) shall review and, if necessary, MAY appeal AT ANY LEVEL an adverse coverage decision, except an adverse coverage decision relating to

medicare, Title XVIII of the federal "Social Security Act", as amended.

(e) (I) AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (e) AND PRIOR TO THE STATE DEPARTMENT ENTERING INTO A NEW AGREEMENT OR RENEWING AN AGREEMENT PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3), THE STATE DEPARTMENT SHALL EXAMINE THE FEASIBILITY OF REQUIRING THE INDEPENDENT CONTRACTOR TO DEVELOP AN ADDITIONAL PROCESS TO IDENTIFY REASONS FOR DENIALS FOR WHICH AN APPEAL SHOULD BE CONSIDERED AND TO PRIORITIZE APPEALS OF DENIALS BASED UPON THE REASONS FOR THE DENIAL TO INCREASE AND SPEED RECOVERIES FROM THIRD PARTIES. IF THE STATE DEPARTMENT DETERMINES THAT IT IS IN THE STATE'S BEST INTEREST, THE STATE DEPARTMENT IS AUTHORIZED TO ADD THIS PROCESS TO THE REQUIREMENTS FOR AN AGREEMENT PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3). IF THE STATE DEPARTMENT ADDS THIS PROCESS, THE LIMIT ON COMPENSATION PAID TO THE CONTRACTING AGENT PURSUANT TO SECTION 25.5-4-301 (3) (b) (I) FOR AGREEMENTS INCLUDING THIS PROCESS SHALL BE INCREASED TO TWENTY-FIVE PERCENT.

(II) (A) IN 2013, THE STATE DEPARTMENT SHALL INCLUDE IN ITS ANNUAL REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, A REPORT ON THE EFFECTIVENESS OF THE ADDITIONAL PROCESS DEVELOPED PURSUANT TO THIS PARAGRAPH (e).

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2013.

(III) (A) THE STATE TREASURER SHALL TRANSFER FROM THE GENERAL FUND TO THE CHILDREN'S WAITING LIST REDUCTION FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SUBPARAGRAPH (III) AS THE "FUND", AN AMOUNT EQUAL TO THE MONEYS RECOVERED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (e). THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE STATE DEPARTMENT OR THE DEPARTMENT OF HUMAN SERVICES TO REDUCE THE NUMBER OF CHILDREN ON WAITING LISTS FOR SERVICES UNDER ARTICLE 6 OF THIS TITLE.

(B) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSES STATED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III) MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(IV) THIS PARAGRAPH (e) IS REPEALED, EFFECTIVE JULY 1, 2013.

SECTION 5. 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 7, 2010