

CHAPTER 92

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 10-1043

BY REPRESENTATIVE(S) Apuan, Gerou, Merrifield, Riesberg, Schafer S., Todd, Tyler, Vigil, Labuda;
also SENATOR(S) Sandoval, Boyd, Hudak, Newell, Tapia, Tochtrop, Williams.

AN ACT

CONCERNING OUTDATED REFERENCES TO THE FEDERAL AID TO FAMILIES WITH DEPENDENT CHILDREN.

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

SECTION 1. 25.5-5-101 (4), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25.5-5-101. Mandatory provisions - eligible groups. (4) (c) SUBJECT TO THE RECEIPT OF ANY NECESSARY FEDERAL APPROVAL AND PURSUANT TO 42 U.S.C. SEC. 1396a (r) (2) AND 42 U.S.C. SEC. 1396u-1 (b) (2) (C), FOR THE GROUPS DESCRIBED IN PARAGRAPHS (a) TO (c) OF SUBSECTION (1) OF THIS SECTION, THE STATE BOARD SHALL DEVELOP AN INCOME- AND RESOURCE-COUNTING METHOD TO REPLACE THE METHOD USED UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM PURSUANT TO RULES THAT WERE IN EFFECT ON JULY 16, 1996. THE INCOME- AND RESOURCE-COUNTING METHOD SHALL BE:

(I) NO MORE RESTRICTIVE THAN THE METHOD USED UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PURSUANT TO THE RULES THAT WERE IN EFFECT ON JULY 16, 1996; AND

(II) NO LESS RESTRICTIVE THAN THE METHOD USED TO DETERMINE ELIGIBILITY FOR OTHER COVERED GROUPS UNDER SUBSECTION (1) OF THIS SECTION AND SECTIONS 25.5-5-201, 25.5-5-204, 25.5-5-204.5, AND 25.5-5-205.

SECTION 2. 25.5-5-201 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

25.5-5-201. Optional provisions - optional groups - repeal. (5) (c) SUBJECT TO THE RECEIPT OF ANY NECESSARY FEDERAL APPROVAL AND PURSUANT TO 42 U.S.C. SEC. 1396a (r) (2) AND 42 U.S.C. SEC. 1396u-1 (b) (2) (C), FOR THE GROUPS DESCRIBED IN PARAGRAPHS (d) AND (e) OF SUBSECTION (1) OF THIS SECTION, THE STATE BOARD SHALL DEVELOP AN INCOME- AND RESOURCE-COUNTING METHOD TO REPLACE THE METHOD USED UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM PURSUANT TO RULES THAT WERE IN EFFECT ON JULY 16, 1996. THE INCOME- AND RESOURCE-COUNTING METHOD SHALL BE:

(I) NO MORE RESTRICTIVE THAN THE METHOD USED UNDER THE AID TO FAMILIES WITH DEPENDENT CHILDREN PURSUANT TO THE RULES THAT WERE IN EFFECT ON JULY 16, 1996; AND

(II) NO LESS RESTRICTIVE THAN THE METHOD USED TO DETERMINE ELIGIBILITY FOR OTHER COVERED GROUPS UNDER SUBSECTION (1) OF THIS SECTION AND SECTIONS 25.5-5-101, 25.5-5-204, 25.5-5-204.5, AND 25.5-5-205.

SECTION 3. 25.5-5-202 (1) (r), Colorado Revised Statutes, is amended to read:

25.5-5-202. Basic services for the categorically needy - optional services - repeal. (1) Subject to the provisions of subsection (2) of this section, the following are services for which federal financial participation is available and which Colorado has selected to provide as optional services under the medical assistance program:

(r) For any pregnant woman who is enrolled OR ELIGIBLE for services pursuant to section 25.5-5-101 (1) (c) OR 25.5-5-205, ~~or who would be eligible for aid to families with dependent children pursuant to rules in effect on July 16, 1996,~~ alcohol and drug and addiction counseling and treatment, including outpatient and residential care but not including room and board while receiving residential care;

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

25.5-5-205. Baby and kid care program - creation - eligibility. (3) (a) On and after April 1, 1990, children under the age of six years and pregnant women shall be eligible for benefits under the baby and kid care program; except that, for the purpose of eligibility under this subsection (3) only:

(I) Such individual's family income shall exceed the eligibility threshold used in determining eligibility for aid to families with dependent children assistance pursuant to rules in effect on July 16, 1996, AND THE METHOD ADOPTED BY THE STATE BOARD PURSUANT TO SECTIONS 25.5-5-101 (4) (c) AND 25.5-5-201 (5) (c), but shall not exceed the equivalent of the percentage level of the federal poverty line that is specified pursuant to paragraph (b) of this subsection (3);

(II) (A) ~~Except as otherwise provided in sub-subparagraph (B) of this subparagraph (H), children under six years of age shall meet the income standard used to determine eligibility for aid to families with dependent children assistance except as provided in this subsection (3).~~

(B) ~~Pregnant women shall meet the income standard used to determine eligibility for aid to families with dependent children assistance, except as provided in this subsection (3).~~ No resource standard shall be applied to pregnant women as a condition of eligibility. Once initial eligibility has been established for a pregnant woman under this subsection (3), she shall be considered to be continuously eligible throughout the pregnancy and for the sixty days following the pregnancy, even if the woman's eligibility would otherwise terminate during such period due to an increase in income. A child born to a woman eligible for assistance pursuant to this subsection (3) shall be eligible for medical assistance until the child attains one year of age so long as the infant remains in the eligible woman's household and the woman would be eligible for assistance if she were pregnant.

(c) (I) On and after July 1, 1991, children born after September 30, 1983, who have attained age six but have not attained age nineteen shall be eligible for benefits under the baby and kid care program; except that, for the purpose of eligibility under this paragraph (c) only, such individual's family income shall exceed the eligibility threshold used in determining eligibility for aid to families with dependent children assistance pursuant to rules in effect on July 16, 1996, AND THE METHOD ADOPTED BY THE STATE BOARD PURSUANT TO SECTIONS 25.5-5-101 (4) (c) AND 25.5-5-201 (5) (c), but shall not exceed the equivalent of the percentage level of the federal poverty line that is specified pursuant to subparagraph (II) of this paragraph (c).

SECTION 5. 25.5-5-301 (4), Colorado Revised Statutes, is amended to read:

25.5-5-301. Clinic services. (4) "Clinic services" also means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that are furnished to a pregnant woman who is enrolled OR ELIGIBLE for services pursuant to section 25.5-5-101 (1) (c) OR 25.5-5-205 ~~or who is eligible for aid to families with dependent children pursuant to rules in effect on July 16, 1996,~~ in a facility which THAT is not a part of a hospital but is organized and operated as a freestanding alcohol or drug treatment program approved and licensed by the division of alcohol and drug abuse of the department of human services pursuant to section 25-1-207 (1) (c), C.R.S.

SECTION 6. 25.5-5-309 (1), Colorado Revised Statutes, is amended to read:

25.5-5-309. Pregnant women - needs assessment - referral to treatment program. (1) The health care practitioner for each pregnant woman who is enrolled OR ELIGIBLE for services pursuant to section 25.5-5-101 (1) (c) OR 25.5-5-205 ~~or who would be eligible for aid to families with dependent children pursuant to rules in effect on July 16, 1996,~~ shall be encouraged to identify as soon as possible after such woman is determined to be pregnant whether such woman is at risk of a poor birth outcome due to substance abuse during the prenatal period and in need of special assistance in order to reduce such risk. If the health care practitioner makes such a determination regarding any pregnant woman, the health care practitioner shall be encouraged to refer such woman to any entity approved and licensed by the department of human services for the performance of a needs assessment. Any pregnant woman who is eligible for services pursuant to section 25.5-5-205 ~~or who would be eligible for aid to families with dependent children pursuant to rules in effect on July 16, 1996,~~ may refer herself for such needs

assessment.

SECTION 7. 26-2-102.5 (1), Colorado Revised Statutes, is amended to read:

26-2-102.5. Foster care - Title IV-E of the social security act. (1) Eligibility of a child for Title IV-E foster care shall be based on the aid to families with dependent children (AFDC) as defined in section 26-2-703 (1), rules in effect on July 16, 1996.

SECTION 8. 26-2-111 (2) (d), Colorado Revised Statutes, is amended to read:

26-2-111. Eligibility for public assistance. (2) Old age pension. (d) (I) ~~No~~ A person who is a member of a household ~~which~~ THAT is receiving public assistance under the ~~aid to families with dependent children program set forth in~~ COLORADO WORKS PROGRAM PURSUANT TO PART 7 OF this article shall NOT be eligible to receive public assistance pursuant to this subsection (2). ~~For the purposes of this paragraph (d), "household" has the same meaning as "assistance unit" as used in 45 CFR 205.40 (a) (1), as amended.~~

~~(II) (A) The provisions of subparagraph (I) of this paragraph (d) notwithstanding, on and after January 1, 1992, a supplemental payment funded by state and county funds shall be paid to households which have received public assistance payments for the month of December 1991, under both the aid to families with dependent children program set forth in this article and the old age pension program set forth in this subsection (2). Such supplemental payment shall be in an amount as will maintain the household's total income at the same level as in December 1991.~~

~~(B) Such supplemental payment shall be paid only if the household remains continuously eligible to receive public assistance under both the aid to families with dependent children program set forth in this article and the old age pension program set forth in this subsection (2).~~

SECTION 9. 26-2-111.1, Colorado Revised Statutes, is amended to read:

26-2-111.1. Eligibility for assistance - immunization of children. As a condition of eligibility for public assistance in the ~~form of a successor program to aid to families with dependent children funded by federal block grant moneys under the federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996", Pub.L. 104-193~~ COLORADO WORKS PROGRAM PURSUANT TO PART 7 OF THIS ARTICLE, a participant shall provide verification or written confirmation by a physician or nurse or pursuant to records in the immunization tracking system as set forth in section 25-4-2403, C.R.S., that each child in the household is being brought up-to-date with immunizations and that, no later than the first scheduled redetermination of eligibility, each child in the household has received any immunization for which the child is eligible according to the age of the child, unless exempted from this condition of eligibility based upon religious or medical reasons pursuant to rules of the state board.

SECTION 10. 26-2-127 (3), Colorado Revised Statutes, is amended to read:

26-2-127. Appeals. (3) The state department, the department of health care

policy and financing, and the office of administrative courts in the department of personnel shall work together to streamline the process for the appeal of disputes that are not resolved at the county level and shall consider proposed legislative changes or federal waivers for the ~~successor program to aid to families with dependent children~~ COLORADO WORKS PROGRAM PURSUANT TO PART 7 OF THIS ARTICLE in order to address changes in the appeals process to avoid or mitigate expenses to counties of maintaining benefits during the pendency of state-level appeals.

SECTION 11. 26-2-129 (3), Colorado Revised Statutes, is amended to read:

26-2-129. Funeral - burial - cremation expenses - death reimbursement - definitions. (3) Subject to available appropriations, a death reimbursement covering reasonable funeral expenses or reasonable cremation or burial expenses or any combination thereof shall be paid by the county department for a decedent if the estate of the deceased is insufficient to pay such reasonable expenses and if the persons legally responsible for the support of the deceased are unable to pay such reasonable expenses. The county department shall be reimbursed eighty percent of the amount of the death reimbursement paid for recipients of aid to the needy disabled and ~~aid to families with dependent children~~ ASSISTANCE UNDER THE COLORADO WORKS PROGRAM PURSUANT TO PART 7 OF THIS ARTICLE and shall be reimbursed one hundred percent of the amount of the death reimbursement for recipients of old age pensions. If the state department determines that the level of appropriation is insufficient to meet the demand for death reimbursements, the state department shall reduce the amount of the death reimbursement level to meet the amount appropriated by the general assembly for death reimbursements. In the event that such a reduction is made, the county department shall have no additional responsibility beyond the reimbursement level as defined in the state department's rules.

SECTION 12. Repeal. 26-2-703 (1) and (13), Colorado Revised Statutes, are repealed as follows:

26-2-703. Definitions. As used in this part 7, unless the context otherwise requires:

(1) "~~Aid to families with dependent children" or "AFDC" means the state program of aid to families with dependent children approved under part A of Title IV of the social security act, as the program and the part were in effect on July 16, 1996.~~

(13) "~~JOBS" means the job opportunity and basic skills program approved under part A of Title IV of the social security act, as the program and the part were in effect on July 16, 1996.~~

SECTION 13. 26-2-709 (2) (a), Colorado Revised Statutes, is amended to read:

26-2-709. Benefits - cash assistance - programs - rules. (2) Other assistance. (a) Subject to available appropriations, a county department may provide assistance, including but not limited to cash assistance, in addition to the basic cash assistance grant described in subsection (1) of this section that ~~was provided to~~

~~recipients of AFDC or JOBS~~ or is authorized pursuant to the provisions of the federal law or this section. Such other assistance shall be intended to promote sustainable employment for the participants in the county.

SECTION 14. 26-13-102.5 (2), Colorado Revised Statutes, is amended to read:

26-13-102.5. Definitions. As used in this article, unless the context otherwise requires:

(2) (a) "IV-D case" or "IV-D support order" means a case or a support order with respect to a child in which support enforcement services are provided, in accordance with Title IV-D of the federal "Social Security Act", as amended, and pursuant to this article, by the delegate child support enforcement unit to a custodian of a child who is OR WAS a recipient:

(I) Of aid to families with dependent children, ~~or AS THAT PROGRAM WAS IN EFFECT AS OF JULY 16, 1996;~~

(II) UNDER THE COLORADO WORKS PROGRAM PURSUANT TO PART 7 OF ARTICLE 2 OF THIS TITLE;

(III) ~~Is a recipient~~ Of medical assistance only under articles 4, 5, and 6 of title 25.5, C.R.S.; ~~or~~

(IV) ~~Is a recipient~~ Of Title IV-E foster care; OR

(V) OF FOSTER CARE SERVICES UNDER ARTICLE 5 OF THIS TITLE.

(b) The terms "IV-D CASE" OR "IV-D SUPPORT ORDER" also include any case or order in which the custodian of a child applies to the delegate child support enforcement unit for support enforcement services and pays a fee for such services under section 26-13-106 (2).

SECTION 15. 26-13.5-107 (2), Colorado Revised Statutes, is amended to read:

26-13.5-107. Orders - duration - effect of court determinations. (2) Any order of financial responsibility, any order of default, and any temporary order of financial responsibility shall continue notwithstanding the fact that the child is no longer receiving benefits ~~for aid to families with dependent children~~ UNDER THE PROGRAMS LISTED IN SECTION 26-13-102.5 (2) (a), unless the child is emancipated or is otherwise no longer entitled to support. Any order of financial responsibility, any order of default, and any temporary order of financial responsibility shall continue until modified by administrative order or court order or by emancipation of the child. In the event that the order of financial responsibility, order of default, or temporary order of financial responsibility is entered in a case at a time when there is a court action on the same case, the court may credit a portion of a monthly amount paid under the administrative process order towards future payments due in the court case only if the order in the court case is established at a lower amount than the administrative process order and only to the extent of the difference between the amount of the court order and the amount of the administrative process order.

SECTION 16. 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: April 15, 2010