

CHAPTER 187

HEALTH CARE POLICY AND FINANCING

SENATE BILL 11-210

BY SENATOR(S) Hodge, Steadman, Lambert;
also REPRESENTATIVE(S) Ferrandino, Becker, Gerou.

AN ACT

CONCERNING THE ELIMINATION OF THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, AND, IN CONNECTION THEREWITH, PROVIDING FOR THE TRANSFER OF THE FUND BALANCE OF THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE FUND TO THE GENERAL FUND, AUTHORIZING THE USE OF MONEYS IN THE TOBACCO TAX CASH FUND TO PROVIDE SERVICES UNDER MEDICAID FOR THE MEDICAL CARE OF OLD AGE PENSIONERS, AND MAKING AN APPROPRIATION.

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

SECTION 1. 25.5-2-101 (3), Colorado Revised Statutes, is amended to read:

25.5-2-101. Old age pension health and medical care fund - cash system of accounting - legislative declaration - rules - repeal. (3) (a) (I) There is hereby established in the state department a supplemental health and medical care program to provide health and medical care to persons who qualify to receive old age pensions and who are not patients in an institution for tuberculosis or mental diseases. The state board shall promulgate rules for administration of the supplemental health and medical care program, which shall be based upon and shall provide the same types of services that are provided pursuant to the rules for administration of the health and medical care program described in subsection (2) of this section. When the costs of providing health and medical care in a particular fiscal year to such old age pension recipients exceed the amount available in that fiscal year from the old age pension health and medical care fund created in subsection (2) of this section, the medical care for such recipients shall be provided by the supplemental health and medical care program. The costs of the supplemental health and medical care program shall be paid out of the supplemental old age pension health and medical care fund, which is hereby created in the state treasury. The supplemental old age pension health and medical care fund, referred to as the "supplemental fund", shall consist of state sales and use tax revenues

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

allocated to the supplemental fund pursuant to the provisions of section 39-26-123 (3), C.R.S., and any moneys appropriated to the supplemental fund by the general assembly. The general assembly may make annual appropriations or supplemental appropriations to the supplemental fund if it determines that the moneys in the old age pension health and medical care fund created in subsection (2) of this section will be insufficient to meet the health and medical needs of old age pension recipients for a particular fiscal year. Moneys in the supplemental fund shall be subject to annual appropriation by the general assembly. At the end of any fiscal year, any unexpended and unencumbered moneys remaining in the supplemental fund shall remain therein and shall not be credited or transferred to the general fund or any other fund. The supplemental health and medical care program and the supplemental fund shall be effective in fiscal year 2002-03.

(II) THIS PARAGRAPH (a) IS REPEALED, EFFECTIVE JULY 15, 2012.

(b)(I) Notwithstanding the provisions of paragraph (a) of this subsection (3), for fiscal year 2008-09, up to three million dollars from the supplemental old age pension health and medical care fund may be used to offset general fund costs of persons sixty-five years of age or older who are served through the state medicaid program.

(II) Notwithstanding the provisions of paragraph (a) of this subsection (3), for fiscal year 2009-10, the supplemental old age pension health and medical care fund may be used to offset general fund costs of persons sixty-five years of age or older who are served through the state medicaid program.

(III) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, for fiscal year 2010-11, up to four million eight hundred fifty thousand dollars from the supplemental old age pension health and medical care fund may be used to offset general fund costs for persons sixty-five years of age or older who are served through the state medicaid program.

(IV) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, for fiscal year 2011-12, up to three million dollars from the supplemental old age pension health and medical care fund may be used to offset general fund costs for persons sixty-five years of age or older who are served through the state medicaid program.

(IV.5) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (3), ALL UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE FUND ON JUNE 30, 2012, SHALL BE TRANSFERRED TO THE GENERAL FUND, AND THE SUPPLEMENTAL OLD AGE PENSION HEALTH AND MEDICAL CARE FUND IS ABOLISHED ON JULY 1, 2012.

(V) This paragraph (b) is repealed, effective ~~July 1~~ JULY 15, 2012.

SECTION 2. 25.5-2-101 (1) and (4), Colorado Revised Statutes, are amended to read:

25.5-2-101. Old age pension health and medical care fund - cash system of accounting - legislative declaration - rules - repeal. (1) ~~The general assembly~~

hereby finds that when the old age pension program was established in 1936, it served both the middle-income and indigent elderly population and that there were no federal programs available to assist the elderly impoverished population. The general assembly finds that the population currently served by the old age pension is the indigent elderly population only and that there are significant federal assistance programs for the elderly in this country that did not exist when the old age pension program was created. Moreover, the general assembly finds that the health and medical care fund created in the state constitution now serves only those old age pension recipients who do not qualify for social security benefits and therefore are not medicaid-eligible. The general assembly also finds that the constitutional limitation on costs that may be annually incurred by the old age pension health and medical care program no longer reflect the actual cost of serving this growing population. The general assembly also notes that the state on several occasions has had to limit the types of medical services available in order to meet this constitutional limit. The general assembly, therefore, finds that there is a need to supplement the funds available for health and medical care for this group of old age pension recipients. The general assembly finds that while the state constitution limits the costs of the original health and medical care program to ten million dollars annually, it does not preclude the general assembly from creating a supplemental health program. The general assembly also finds that section 2 of article XXIV of the state constitution directs that sales and use taxes be used to fund programs and services for older citizens and establishes a constitutional priority to fund such services and thus, it is fitting that a small portion of the sales and use tax revenue be allocated to fund a separate supplemental health and medical care program to serve the needs of the old age pension recipients who qualify for the health and medical care program.

(4) The state department shall utilize the cash system of accounting, as enunciated by the governmental accounting standards board, regardless of the source of revenues involved, for all activities of the state department relating to the financial administration of any nonadministrative expenditure for the health and medical care programs described in ~~subsections~~ SUBSECTION (2) ~~and (3)~~ of this section.

SECTION 3. The introductory portion to 39-26-123 (3) (a) and 39-26-123 (3) (a) (II) (E) and (3) (a) (IV) (B), Colorado Revised Statutes, are amended to read:

39-26-123. Receipts - disposition - transfers of general fund surplus - sales tax holding fund - creation - definitions. (3) (a) For any state fiscal year commencing on or after July 1, 2006, eighty-five percent of all net revenue collected under the provisions of this article shall be credited to the old age pension fund created in section 1 of article XXIV of the state constitution. The remaining fifteen percent shall be allocated ~~among~~ BETWEEN the general fund AND the older Coloradans cash fund created in section 26-11-205.5 (5), C.R.S., ~~and the supplemental old age pension health and medical care fund created in section 25.5-2-101 (3), C.R.S.;~~ and credited to the funds by the state treasurer as follows:

(II) (E) For any state fiscal year commencing on or after July 1, ~~2009~~ 2012, fifteen percent of all net revenue, less ~~ten~~ EIGHT million ~~eight hundred fifty thousand~~ dollars, to the general fund.

~~(IV) (B) For any state fiscal year commencing on or after July 1, 2009, two million eight hundred fifty thousand dollars to the supplemental old age pension health and medical care fund.~~

SECTION 4. The introductory portion to 24-22-117 (1) (c) and 24-22-117 (1) (c) (II), Colorado Revised Statutes, are amended to read:

24-22-117. Tobacco tax cash fund - accounts - creation - legislative declaration - repeal. (1) (c) For each fiscal year from the 2004-05 fiscal year through the 2007-08 fiscal year and for the 2012-13 fiscal year and each fiscal year thereafter, the general assembly shall annually appropriate three percent of the moneys estimated to be deposited in that fiscal year into the cash fund, plus three percent of the interest and income earned on the deposit and investment of moneys in the cash fund, and, for the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years, the general assembly shall annually appropriate three percent of the moneys estimated to be deposited in that fiscal year into the cash fund, for health-related purposes to provide revenue for the state's general fund and THE old age pension fund PROGRAM and for municipal and county governments to compensate proportionately for tax revenue reductions attributable to lower cigarette and tobacco sales resulting from the implementation of the tax imposed pursuant to section 21 of article X of the state constitution, as follows:

(II) Fifty percent of the moneys specified in this paragraph (c) ~~to the supplemental old age pension health and medical care fund~~ to provide HEALTH-RELATED services under the supplemental health and medical care program, ~~section 25.5-2-101 (3), C.R.S. "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5, C.R.S., for persons who qualify to receive old age pensions; and~~

SECTION 5. 24-1-119.5 (4.5), Colorado Revised Statutes, is amended to read:

24-1-119.5. Department of health care policy and financing - creation - repeal. (4.5) The powers, duties, and functions relating to the old age pension health and medical care program, ~~and the supplemental old age pension health and medical care program,~~ as specified in section 25.5-2-101, C.R.S., are transferred by a **type 2** transfer to the department of health care policy and financing.

SECTION 6. 25.5-1-105 (6), Colorado Revised Statutes, is amended to read:

25.5-1-105. Transfer of functions. (6) On and after July 1, 2003, the powers, duties, and functions relating to the old age pension health and medical care program, ~~and the supplemental old age pension health and medical care program,~~ as specified in section 25.5-2-101, are transferred by a **type 2** transfer to the department of health care policy and financing.

SECTION 7. 25.5-1-201 (1) (f), Colorado Revised Statutes, is amended to read:

25.5-1-201. Programs to be administered by the department of health care policy and financing. (1) Programs to be administered and functions to be performed by the department of health care policy and financing shall be as follows:

(f) The old age pension health and medical care program, ~~and the supplemental~~

~~old age pension health and medical care program~~, as specified in section 25.5-2-101.

SECTION 8. 25.5-1-303 (1)(e) and (6), Colorado Revised Statutes, are amended to read:

25.5-1-303. Powers and duties of the board - scope of authority - rules.

(1) The board shall have the authority set forth in subsection (3) of this section over the following programs administered by the state department:

(e) The old age pension health and medical care program, ~~and the supplemental old age pension health and medical care program~~, as specified in section 25.5-2-101.

(6) All rules and orders of the department of human services in connection with the old age pension health and medical care program ~~and the supplemental old age pension health and medical care program~~ shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

SECTION 9. 26-1-111 (2) (a), Colorado Revised Statutes, is amended to read:

26-1-111. Activities of the state department under the supervision of the executive director - cash fund - report - rules - statewide adoption resource registry - repeal. (2) The state department, under the supervision of the executive director, shall:

(a) Administer or supervise all forms of public assistance and welfare, including but not limited to assistance payments, food stamps, and social services under programs for old age pensions except for the old age pension health and medical care program, ~~and the supplemental old age pension health and medical care program~~, and shall also administer and supervise the Colorado works program, aid to the blind, aid to the needy disabled, food stamps supplementation to households not receiving public assistance found eligible for food stamps under rules adopted by the state board, and such other public assistance and welfare activities as may be vested in the state department pursuant to law;

SECTION 10. 26-2-103 (7) and (11) (b), Colorado Revised Statutes, are amended to read:

26-2-103. Definitions. As used in this article and article 1 of this title, unless the context otherwise requires:

(7) "Public assistance" means assistance payments, food stamps, and social services provided to or on behalf of eligible recipients through programs administered or supervised by the state department, either in cooperation with the federal government or independently without federal aid, pursuant to the provisions of this article. Public assistance includes programs for old age pensions except for the old age pension health and medical care program, ~~and the supplemental old age pension health and medical care program~~, and also includes the Colorado works program, aid to the needy disabled, aid to the blind, child welfare services, food stamps supplementation to households not receiving public assistance found eligible for food stamps under rules adopted by the state board, expenses of treatment to prevent blindness or restore eyesight as defined in section 26-2-121, and funeral and

burial expenses as defined in section 26-2-129.

(11) (b) "Social services" does not include medicaid services unless those services are delegated to the state department. "Social services" does not include medical services covered by the old age pension health and medical care program, ~~the supplemental old age pension health and medical care program~~, the children's basic health plan, or the Colorado indigent care program.

SECTION 11. Appropriation - adjustments in 2011 long bill. 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, 2011, shall be adjusted as follows:

(1) The general fund appropriation for medical service premiums is decreased by two million two hundred thirty thousand five hundred dollars (\$2,230,500).

(2) The cash fund appropriation for medical service premiums is increased by two million two hundred thirty thousand five hundred dollars (\$2,230,500). Said sum shall be from the tobacco tax cash fund created in section 24-22-117 (1) (a), Colorado Revised Statutes. 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.

(3) The cash fund appropriation for other medical services for the transfer of tobacco tax cash fund into the supplemental old age pension state medical fund is decreased by two million two hundred thirty thousand five hundred dollars (\$2,230,500).

SECTION 12. Effective date. (1) This section and sections 1, 4, 11, and 13 of this act take effect July 1, 2011.

(2) Section 3 of this act takes effect July 1, 2012.

(3) Section 2 and sections 5 through 10 of this act take effect July 15, 2012.

SECTION 13. 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 19, 2011