

CHAPTER 254

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 14-1357

BY REPRESENTATIVE(S) Young, Fields, Ginal, Hullinghorst, May, Pettersen, Primavera, Rosenthal, Ryden, Schafer, Tyler;
also SENATOR(S) Aguilar, Crowder, Heath, Johnston, Jones, Kefalas, Kerr, Newell, Schwartz, Steadman, Tochtrop, Todd,
Ulibarri, Zenzinger, Carroll.

AN ACT

CONCERNING IN-HOME SUPPORT SERVICES PROVIDED IN THE MEDICAID PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

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

SECTION 1. In Colorado Revised Statutes, **amend** 25.5-6-1201 as follows:

25.5-6-1201. Legislative declaration. (1) The general assembly finds that there may be a more effective way to deliver home- and community-based services to the elderly, blind, and disabled; ~~and to disabled children;~~ AND TO PERSONS WITH SPINAL CORD INJURIES, that allows for more self-direction in their care and a cost savings to the state. The general assembly also finds that every person that is currently receiving home- and community-based services does not need the same level of supervision and care from a licensed health care professional in order to meet his or her care needs and remain living in the community. The general assembly, therefore, declares that it is beneficial to the elderly, blind, and disabled clients of home- and community-based services, ~~and to clients of the disabled children care program,~~ AND TO CLIENTS ENROLLED IN THE SPINAL CORD INJURY WAIVER PILOT PROGRAM, for the state department to develop a service that would allow these people to receive in-home support.

(2) THE GENERAL ASSEMBLY FURTHER FINDS THAT ALLOWING CLIENTS MORE SELF-DIRECTION IN THEIR CARE IS A MORE EFFECTIVE WAY TO DELIVER HOME- AND COMMUNITY-BASED SERVICES TO CLIENTS WITH MAJOR MENTAL ILLNESSES AND BRAIN INJURIES, AS WELL AS TO CLIENTS RECEIVING HOME- AND COMMUNITY-BASED SUPPORTIVE LIVING SERVICES AND CHILDREN'S EXTENSIVE SUPPORT SERVICES. THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT IT IS APPROPRIATE FOR THE STATE DEPARTMENT TO DEVELOP A PLAN FOR EXPANDING THE AVAILABILITY 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.

IN-HOME SUPPORT SERVICES TO INCLUDE THESE CLIENTS.

SECTION 2. In Colorado Revised Statutes, 25.5-6-1202, **amend** (1), (3) (a), and (6) as follows:

25.5-6-1202. Definitions. As used in this part 12, unless the context otherwise requires:

(1) "Attendant" means a person who is directly employed by an in-home support service agency to provide or a family member, INCLUDING A SPOUSE, providing in-home support services to eligible persons.

(3) "Eligible person" means any person who:

(a) Is ~~eligible for~~ ENROLLED IN home- and community-based services ~~under~~ PURSUANT TO ~~part 3~~ of this article, IS ENROLLED IN THE SPINAL CORD INJURY WAIVER PILOT PROGRAM PURSUANT TO PART 13 OF THIS ARTICLE, or is ~~eligible for~~ ENROLLED IN the disabled children care program ~~under~~ PURSUANT TO section 25.5-6-901;

(6) "In-home support services" means services that are provided IN THE HOME AND IN THE COMMUNITY by an attendant ~~and include~~ UNDER THE DIRECTION OF THE ELIGIBLE PERSON OR THE ELIGIBLE PERSON'S AUTHORIZED REPRESENTATIVE INCLUDING health maintenance activities AND support for activities of daily living or instrumental activities of daily living, AND personal care services ~~as defined in section 25.5-6-303 (18);~~ and homemaker services as defined in ~~section 25.5-6-303 (11)~~ RULES PROMULGATED BY THE MEDICAL SERVICES BOARD PURSUANT TO SECTION 24-4-103, C.R.S.

SECTION 3. In Colorado Revised Statutes, 25.5-6-1203, **amend** (2), (4) (a), and (6); and **add** (1.5) as follows:

25.5-6-1203. In-home support services - eligibility - licensure exclusion - in-home support service agency responsibilities - rules. (1.5) THE STATE DEPARTMENT SHALL DEVELOP A PLAN TO EXPAND THE PROVISION OF IN-HOME SUPPORT SERVICES TO INCLUDE CLIENTS ELIGIBLE FOR HOME- AND COMMUNITY-BASED SERVICES PURSUANT TO PARTS 6 AND 7 OF THIS ARTICLE AND HOME- AND COMMUNITY-BASED ADULT SUPPORTIVE LIVING SERVICES AND CHILDREN'S EXTENSIVE SUPPORT SERVICES PURSUANT TO PART 4 OF THIS ARTICLE. ON OR BEFORE MARCH 1, 2015, THE STATE DEPARTMENT SHALL REPORT TO THE PUBLIC HEALTH AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, CONCERNING THE STATE DEPARTMENT'S PLAN FOR PROVIDING IN-HOME SUPPORT SERVICES TO THESE CLIENTS, INCLUDING THE TIMELINE FOR IMPLEMENTATION OF THE SERVICE.

(2) An eligible person receiving in-home support services or the eligible person's authorized representative or parent or guardian shall be allowed to:

(a) Choose the eligible person's in-home support service agency or the eligible person's attendant; AND

(b) DIRECT THE ELIGIBLE PERSON'S CARE, INCLUDING DIRECTLY SCHEDULING, MANAGING, AND SUPERVISING THE ATTENDANT, AND TO DETERMINE THE LEVEL OF IN-HOME SUPPORT SERVICES AGENCY SUPPORT.

(4)(a) In-home support service agencies providing in-home support services shall provide twenty-four-hour back-up services to their clients. In-home support service agencies shall either contract with or have on staff a state licensed health care professional, as defined by the state board by rule, acting within the scope of the person's profession. The state board shall promulgate rules setting forth the training requirements for attendants providing in-home support services and the oversight and monitoring responsibilities of the state licensed health care professional that is either contracting with or is on staff with the in-home support service agency. THE STATE BOARD RULES MUST ALLOW THE ELIGIBLE PERSON OR THE ELIGIBLE PERSON'S AUTHORIZED REPRESENTATIVE, PARENT OF A MINOR, OR GUARDIAN TO DETERMINE, IN CONJUNCTION WITH THE IN-HOME SUPPORT SERVICES AGENCY, THE AMOUNT OF OVERSIGHT NEEDED IN CONNECTION WITH THE ELIGIBLE PERSON'S IN-HOME SUPPORT SERVICES.

(6) Section 25.5-6-310 does not apply to ~~any parent~~ A FAMILY MEMBER OF AN ELIGIBLE PERSON who provides in-home support services to ~~an eligible disabled child~~ THE ELIGIBLE PERSON pursuant to this part 12. THE STATE BOARD SHALL PROMULGATE RULES, AS NECESSARY, TO ESTABLISH LIMITS ON REIMBURSEMENT TO FAMILY MEMBERS.

SECTION 4. In Colorado Revised Statutes, 25.5-6-307, **amend** (1) introductory portion; and **add** (1) (k) as follows:

25.5-6-307. Services for the elderly, blind, and disabled. (1) Subject to the provisions of this part 3, home- and community-based services for the elderly, blind, and disabled ~~shall~~ include only the following services:

(k) IN-HOME SUPPORT SERVICES PROVIDED PURSUANT TO PART 12 OF THIS ARTICLE.

SECTION 5. Appropriation - adjustments to 2014 long bill. (1) For the implementation of this act, the general fund appropriation made in the annual general appropriation act to the controlled maintenance trust fund created in section 24-75-302.5 (2) (a), Colorado Revised Statutes, for the fiscal year beginning July 1, 2014, is decreased by \$145,983.

(2) In addition to any other appropriation, there is hereby appropriated, to the department of health care policy and financing, for the fiscal year beginning July 1, 2014, the sum of \$297,986, or so much thereof as may be necessary, for allocation to medical services premiums for the provision of in-home support services related to the implementation of this act. Of said sum, \$145,983 is from the general fund, and \$152,002 is from federal funds.

SECTION 6. Act subject to petition - effective date. This act takes effect March 1, 2015; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly,

then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on March 1, 2015, or the date of the official declaration of the vote thereon by the governor, whichever is later.

Approved: May 22, 2014