

CHAPTER 314

HEALTH CARE POLICY AND FINANCING

SENATE BILL 14-180

BY SENATOR(S) Kefalas, Aguilar, Crowder, Guzman, Heath, Kerr, Newell, Nicholson, Schwartz, Tochtrop, Todd, Zenzinger, Carroll;
 also REPRESENTATIVE(S) Swalm, Fischer, Ginal, Labuda, Lebsock, May, Mitsch Bush, Rosenthal, Salazar, Schafer, Singer, Tyler, Young.

AN ACT

CONCERNING THE COLORADO DENTAL HEALTH CARE PROGRAM FOR LOW-INCOME SENIORS, AND, IN CONNECTION THEREWITH, REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT, AND MAKING AND REDUCING APPROPRIATIONS.

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

SECTION 1. In Colorado Revised Statutes, **add** part 4 to article 3 of title 25.5 as follows:

**PART 4
 COLORADO DENTAL HEALTH CARE PROGRAM
 FOR LOW-INCOME SENIORS**

25.5-3-401. Short title. THIS PART 4 IS KNOWN AS AND MAY BE CITED AS THE "COLORADO DENTAL HEALTH CARE PROGRAM FOR LOW-INCOME SENIORS".

25.5-3-402. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE PURPOSE OF THIS PART 4 IS TO PROMOTE THE HEALTH AND WELFARE OF COLORADO LOW-INCOME SENIORS BY PROVIDING ACCESS TO PATIENT-CENTERED DENTAL CARE AND SERVICES TO INDIVIDUALS SIXTY YEARS OF AGE OR OLDER WHOSE INCOME AND RESOURCES ARE INSUFFICIENT TO MEET THE COSTS OF SUCH CARE AND THEREBY SUPPORT INDIVIDUALS AND FAMILIES TO LIVE INDEPENDENTLY WITH A GOOD QUALITY OF LIFE;

(b) BY RELOCATING AND REORGANIZING THE "COLORADO DENTAL CARE ACT 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.

1977", WHICH PROVIDED DENTAL SERVICES TO CERTAIN ELIGIBLE SENIORS, THE STATE DEPARTMENT CAN ALIGN THOSE DENTAL HEALTH CARE SERVICES WITH ADULT DENTAL BENEFITS PROVIDED THROUGH OTHER DENTAL HEALTH CARE PROGRAMS FOR SENIORS AND THEREBY TARGET THE RESOURCES EFFECTIVELY TO LOW-INCOME SENIORS WHO MAY NOT QUALIFY FOR THOSE PROGRAMS;

(c) THE STATE DEPARTMENT SHALL IMPLEMENT THIS PART 4 THROUGH COLLABORATION AMONG VARIOUS EXECUTIVE DEPARTMENTS, AGENCIES, AND POLITICAL SUBDIVISIONS OF THE STATE; PRIVATE INDIVIDUALS; AND ORGANIZATIONS, INCLUDING BUT NOT LIMITED TO:

- (I) THE LOCAL AREA AGENCIES ON AGING;
- (II) COMMUNITY HEALTH CENTERS;
- (III) SAFETY-NET CLINICS;
- (IV) PRIVATE PRACTICE DENTAL PROVIDERS; AND
- (V) FOUNDATIONS; AND

(d) THE STATE DEPARTMENT SHALL IMPLEMENT THIS PART 4 AS A GRANT PROGRAM THROUGHOUT ALL GEOGRAPHIC REGIONS OF THE STATE USING BEST PRACTICES AND EXPERIENCE FROM OTHER GRANT PROGRAMS OPERATED BY THE STATE DEPARTMENT TO PROVIDE MAXIMUM FLEXIBILITY TO SAFETY-NET AND PRIVATE-PRACTICE DENTAL PROVIDERS IN ORDER TO PROMOTE THE HEALTH AND WELFARE OF LOW-INCOME SENIORS.

25.5-3-403. Definitions. AS USED IN THIS PART 4, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADVISORY COMMITTEE" MEANS THE SENIOR DENTAL ADVISORY COMMITTEE CREATED IN SECTION 25.5-3-406.

(2) "COVERED DENTAL CARE SERVICES" ARE TO BE DEFINED BY RULES OF THE MEDICAL SERVICES BOARD PURSUANT TO SECTION 25.5-3-404 AND INCLUDE BUT ARE NOT LIMITED TO DIAGNOSTIC, PREVENTATIVE, AND RESTORATIVE CARE.

(3) "DENTAL HEALTH CARE SERVICES GRANT" MEANS A GRANT AWARDED TO A QUALIFIED GRANTEE PURSUANT TO SECTION 25.5-3-404.

(4) "ELIGIBLE SENIOR" MEANS AN ADULT WHO IS SIXTY YEARS OF AGE OR OLDER AND WHO IS ECONOMICALLY DISADVANTAGED AS SPECIFIED BY RULE OF THE MEDICAL SERVICES BOARD.

(5) "PROGRAM" MEANS THE COLORADO DENTAL HEALTH CARE PROGRAM FOR LOW-INCOME SENIORS CREATED PURSUANT TO SECTION 25.5-3-404.

(6) "QUALIFIED GRANTEE" MEANS AN ENTITY THAT CAN DEMONSTRATE THAT IT CAN PROVIDE OR ARRANGE FOR THE PROVISION OF COMPREHENSIVE DENTAL AND ORAL CARE SERVICES AND MAY INCLUDE BUT IS NOT LIMITED TO:

- (a) AN AREA AGENCY ON AGING, AS DEFINED IN SECTION 26-11-203, C.R.S.;
- (b) A COMMUNITY-BASED ORGANIZATION OR FOUNDATION;
- (c) A FEDERALLY QUALIFIED HEALTH CENTER, SAFETY-NET CLINIC, OR HEALTH DISTRICT;
- (d) A LOCAL PUBLIC HEALTH AGENCY; OR
- (e) A PRIVATE DENTAL PRACTICE.

(7) "QUALIFIED PROVIDER" MEANS ANY PERSON WHO IS LICENSED TO PRACTICE DENTISTRY IN COLORADO OR WHO EMPLOYS A DENTIST LICENSED IN COLORADO AND WHO IS WILLING TO ACCEPT REIMBURSEMENT FOR COVERED DENTAL SERVICES PURSUANT TO THIS PROGRAM.

25.5-3-404. Colorado dental health care program for low-income seniors - rules. (1) (a) THERE IS CREATED IN THE STATE DEPARTMENT THE COLORADO DENTAL HEALTH CARE PROGRAM FOR LOW-INCOME SENIORS TO PROVIDE COVERED DENTAL CARE SERVICES FOR ELIGIBLE SENIORS WHO ARE NOT ELIGIBLE FOR DENTAL SERVICES UNDER MEDICAID, THE OLD AGE PENSION HEALTH AND MEDICAL CARE PROGRAM, OR PRIVATE INSURANCE.

(b) TO ENSURE THE CONTINUITY OF DENTAL HEALTH CARE TO LOW-INCOME SENIORS, THE STATE DEPARTMENT AND THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL ENSURE THAT ANY INDIVIDUAL WHO MEETS, ON JUNE 30, 2014, THE ELIGIBILITY REQUIREMENTS FOR DENTAL SERVICES UNDER THE "COLORADO DENTAL CARE ACT OF 1977", ARTICLE 21 OF TITLE 25, C.R.S., PRIOR TO ITS REPEAL, REMAINS ELIGIBLE FOR DENTAL SERVICES AFTER JUNE 30, 2014, THROUGH THE "COLORADO DENTAL CARE ACT OF 1977", MEDICAID, THE OLD AGE PENSION HEALTH AND MEDICAL CARE FUND, OR THE PROGRAM.

(2) THE STATE DEPARTMENT SHALL:

(a) IN CONSULTATION WITH THE ADVISORY COMMITTEE, DEVELOP A GRANT APPLICATION UNDER THE PROGRAM CONSISTENT WITH RULES OF THE MEDICAL SERVICES BOARD;

(b) ACCEPT APPLICATIONS FOR DENTAL HEALTH CARE SERVICES GRANTS FROM ANY QUALIFIED GRANTEE;

(c) ON AND AFTER JULY 1, 2015, AWARD DENTAL HEALTH CARE SERVICES GRANTS TO QUALIFIED GRANTEES TO PROVIDE COVERED DENTAL CARE SERVICES TO ELIGIBLE SENIORS;

(d) PAY DENTAL HEALTH CARE SERVICES GRANTS WITHIN THIRTY DAYS AFTER APPROVAL BY THE STATE DEPARTMENT;

(e) ENSURE THAT ALL ELIGIBLE SENIORS HAVE ACCESS TO SERVICES THROUGH THE PROGRAM; AND

(f) CONSIDER GEOGRAPHIC DISTRIBUTION OF FUNDS AMONG URBAN AND RURAL AREAS IN THE STATE WHEN MAKING FUNDING DECISIONS.

(3) (a) QUALIFIED GRANTEEES SHALL:

(I) SUBMIT AN APPLICATION FOR A DENTAL HEALTH CARE SERVICES GRANT TO THE STATE DEPARTMENT ON THE FORM DEVELOPED BY THE STATE DEPARTMENT;

(II) PROVIDE OUTREACH TO TARGETED ELIGIBLE SENIORS AND DENTAL CARE PROVIDERS;

(III) IDENTIFY ELIGIBLE SENIORS AND QUALIFIED PROVIDERS;

(IV) DEMONSTRATE COLLABORATION WITH COMMUNITY ORGANIZATIONS;

(V) ENSURE THAT ELIGIBLE SENIORS RECEIVE COVERED DENTAL CARE SERVICES EFFICIENTLY WITHOUT DUPLICATION OF SERVICES;

(VI) MAINTAIN RECORDS OF ELIGIBLE SENIORS SERVED, DENTAL CARE SERVICES PROVIDED, AND MONEYS SPENT FOR A MINIMUM OF SIX YEARS; AND

(VII) DISTRIBUTE GRANT FUNDS TO QUALIFIED PROVIDERS IN THEIR SERVICE AREA OR DIRECTLY PROVIDE COVERED DENTAL CARE SERVICES TO ELIGIBLE SENIORS IN THEIR SERVICE AREA.

(b) A QUALIFIED GRANTEE MAY EXPEND NO MORE THAN SEVEN PERCENT OF THE AMOUNT OF ITS GRANT FOR ADMINISTRATIVE PURPOSES.

(c) A QUALIFIED GRANTEE MAY ALSO BE A QUALIFIED PROVIDER IF THE PERSON MEETS THE QUALIFICATIONS OF A QUALIFIED PROVIDER.

(4) FOLLOWING RECOMMENDATIONS OF THE STATE DEPARTMENT AND THE ADVISORY COMMITTEE, THE MEDICAL SERVICES BOARD SHALL ADOPT RULES PURSUANT TO SECTION 24-4-103, C.R.S., GOVERNING THE PROGRAM, INCLUDING BUT NOT LIMITED TO:

(a) A DEFINITION OF "ECONOMICALLY DISADVANTAGED" FOR PURPOSES OF ELIGIBILITY;

(b) A DESCRIPTION OF DENTAL SERVICES THAT MAY BE PROVIDED TO ELIGIBLE SENIORS UNDER THE PROGRAM; EXCEPT THAT SUCH SERVICES MUST INCLUDE BUT NOT BE LIMITED TO ORAL EXAMINATION, DIAGNOSIS, TREATMENT PLANNING, EMERGENCY TREATMENT, PROPHYLAXIS, X RAYS, PARTIAL AND FULL DENTURES, REPLACEMENT OR REPAIR OF PERMANENT TEETH, REMOVAL OF PERMANENT TEETH, FILLINGS, PERIODONTAL TREATMENT, AND SOFT TISSUE TREATMENT;

(c) WHETHER TO REQUIRE ELIGIBLE SENIORS TO MAKE A CO-PAYMENT AND, IF SO, THE CIRCUMSTANCES AND AMOUNT OF THE CO-PAYMENT;

(d) A DISTRIBUTION FORMULA FOR THE AVAILABILITY OF MONEYS TO EACH AREA OF THE STATE; AND

(e) PROCEDURES, CRITERIA, AND STANDARDS FOR AWARDING DENTAL HEALTH CARE SERVICES GRANTS.

25.5-3-405. Program reporting. (1) ON OR BEFORE SEPTEMBER 1, 2015, AND EACH SEPTEMBER 1 THEREAFTER, EACH QUALIFIED GRANTEE RECEIVING A DENTAL HEALTH CARE SERVICES GRANT SHALL REPORT TO THE STATE DEPARTMENT CONCERNING THE NUMBER OF ELIGIBLE SENIORS SERVED, THE TYPES OF DENTAL AND ORAL HEALTH SERVICES PROVIDED, AND ANY OTHER INFORMATION DEEMED RELEVANT BY THE STATE DEPARTMENT.

(2) ON OR BEFORE NOVEMBER 1, 2016, AND EACH NOVEMBER 1 THEREAFTER, THE STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY AND TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE AND THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, ON THE OPERATION AND EFFECTIVENESS OF THE PROGRAM, INCLUDING AN ITEMIZATION OF THE DEPARTMENT'S ADMINISTRATIVE EXPENDITURES IN IMPLEMENTING AND ADMINISTERING THE PROGRAM AND ANY RECOMMENDATIONS FOR LEGISLATIVE CHANGES TO THE PROGRAM.

25.5-3-406. Senior dental advisory committee - creation - duties - repeal. (1) (a) THERE IS CREATED IN THE STATE DEPARTMENT A SENIOR DENTAL ADVISORY COMMITTEE COMPRISED OF ELEVEN MEMBERS APPOINTED BY THE EXECUTIVE DIRECTOR AS FOLLOWS:

(I) A MEMBER REPRESENTING THE STATE DEPARTMENT;

(II) A DENTIST IN PRIVATE PRACTICE PROVIDING DENTAL CARE TO THE SENIOR POPULATION WHO REPRESENTS A STATEWIDE ORGANIZATION OF DENTISTS;

(III) A DENTAL HYGIENIST PROVIDING DENTAL CARE TO SENIORS;

(IV) A REPRESENTATIVE OF EITHER AN AGENCY THAT COORDINATES SERVICES FOR LOW-INCOME SENIORS OR THE OFFICE IN THE DEPARTMENT OF HUMAN SERVICES RESPONSIBLE FOR OVERSEEING SERVICES TO THE ELDERLY;

(V) A REPRESENTATIVE OF AN ORGANIZATION OF COLORADO COMMUNITY HEALTH CENTERS, AS DEFINED IN THE FEDERAL "PUBLIC HEALTH SERVICE ACT", 42 U.S.C. SEC. 254b;

(VI) A REPRESENTATIVE OF AN ORGANIZATION OF SAFETY-NET HEALTH PROVIDERS THAT ARE NOT COMMUNITY HEALTH CENTERS;

(VII) A REPRESENTATIVE OF THE UNIVERSITY OF COLORADO SCHOOL OF DENTAL MEDICINE;

(VIII) TWO CONSUMER ADVOCATES;

(IX) A SENIOR WHO IS ELIGIBLE FOR SERVICES UNDER THE PROGRAM; AND

(X) A REPRESENTATIVE OF A FOUNDATION WITH EXPERIENCE IN MAKING DENTAL

CARE GRANTS.

(b) MEMBERS OF THE COMMITTEE SHALL SERVE THREE-YEAR TERMS. OF THE MEMBERS INITIALLY APPOINTED TO THE ADVISORY COMMITTEE, THE EXECUTIVE DIRECTOR SHALL APPOINT SIX FOR TWO-YEAR TERMS AND FIVE FOR THREE-YEAR TERMS. IN THE EVENT OF A VACANCY ON THE ADVISORY COMMITTEE, THE EXECUTIVE DIRECTOR SHALL APPOINT A SUCCESSOR TO FILL THE UNEXPIRED PORTION OF THE TERM OF SUCH MEMBER.

(c) (I) THE EXECUTIVE DIRECTOR SHALL DESIGNATE A MEMBER TO SERVE AS THE CHAIR OF THE ADVISORY COMMITTEE. THE ADVISORY COMMITTEE SHALL MEET AS NECESSARY AT THE CALL OF THE CHAIR.

(II) MEMBERS OF THE ADVISORY COMMITTEE SERVE WITHOUT COMPENSATION OR REIMBURSEMENT OF EXPENSES.

(III) PURSUANT TO SECTION 24-18-108.5, C.R.S., A MEMBER OF THE ADVISORY COMMITTEE SHALL NOT PERFORM AN OFFICIAL ACT THAT MAY HAVE A DIRECT ECONOMIC BENEFIT ON A BUSINESS OR OTHER UNDERTAKING IN WHICH THE MEMBER HAS A DIRECT OR SUBSTANTIAL FINANCIAL INTEREST.

(d) (I) FOR THE INITIAL APPOINTMENTS, THE EXECUTIVE DIRECTOR SHALL CONSIDER APPOINTING MEMBERS WHO SERVED ON THE DENTAL ADVISORY COMMITTEE ESTABLISHED PURSUANT TO SECTION 25-21-107.5, C.R.S., PRIOR TO ITS REPEAL.

(II) THIS PARAGRAPH (d) IS REPEALED, EFFECTIVE JULY 1, 2016.

(e) THE STATE DEPARTMENT SHALL PROVIDE STAFF ASSISTANCE TO THE ADVISORY COMMITTEE.

(2) THE ADVISORY COMMITTEE SHALL:

(a) ADVISE THE STATE DEPARTMENT ON THE OPERATION OF THE PROGRAM;

(b) MAKE RECOMMENDATIONS TO THE MEDICAL SERVICES BOARD REGARDING RULES TO BE PROMULGATED PURSUANT TO SECTION 25.5-3-304, INCLUDING BUT NOT LIMITED TO:

(I) DEFINING COVERED DENTAL CARE SERVICES;

(II) WHETHER TO REQUIRE ELIGIBLE SENIORS TO MAKE A CO-PAYMENT AND, IF SO, THE CIRCUMSTANCES AND AMOUNT OF THE CO-PAYMENT;

(III) THE DISTRIBUTION FORMULA FOR THE AVAILABILITY OF FUNDS TO EACH AREA OF THE STATE;

(IV) DENTAL HEALTH CARE SERVICES GRANT PROCEDURES, CRITERIA, AND STANDARDS, INCLUDING PREFERENCE FOR QUALIFIED GRANTEEES WHO DEMONSTRATE COLLABORATION WITH COMMUNITY ORGANIZATIONS SUCH AS A LOCAL AREA AGENCY ON AGING; AND

(V) A MAXIMUM AMOUNT PER PROCEDURE THAT CAN BE SPENT BY QUALIFIED GRANTEEES AND QUALIFIED PROVIDERS THAT SHALL NOT BE LESS THAN THE REIMBURSEMENT SCHEDULE ADOPTED BY THE STATE BOARD OF HEALTH PURSUANT TO SECTION 25-21-105, C.R.S., PRIOR TO ITS REPEAL.

(3) (a) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.

(b) PRIOR TO SAID REPEAL, THE ADVISORY COMMITTEE MUST BE REVIEWED AS PROVIDED FOR IN SECTION 2-3-1203, C.R.S.

SECTION 2. In Colorado Revised Statutes, 25-21-103, **amend** (3) (b) (II); and **add** (3) (c) as follows:

25-21-103. Definitions. As used in this article, unless the context otherwise requires:

(3) "Eligible senior" means an adult who:

(b) (II) Is eligible for medical assistance pursuant to section 25.5-5-101 (1) (I), C.R.S., but is not eligible for long-term care services pursuant to article 6 of title 25.5, C.R.S.; AND

(c) ON AND AFTER JULY 1, 2014, NOTWITHSTANDING ANY RULE ON ELIGIBILITY PROMULGATED BY THE STATE BOARD OF HEALTH AS OF THE EFFECTIVE DATE OF THIS PARAGRAPH (c), IS NOT ELIGIBLE FOR DENTAL SERVICES UNDER MEDICAID OR THE OLD AGE PENSION HEALTH AND MEDICAL PROGRAM.

SECTION 3. In Colorado Revised Statutes, 25-21-104, **add** (4) as follows:

25-21-104. Dental assistance program for seniors. (4) (a) FOR SERVICES TO BE PERFORMED AFTER JUNE 30, 2014, THE QUALIFIED GRANTEE SHALL ENCOURAGE THE ELIGIBLE SENIOR TO APPLY FOR DENTAL AND ORAL HEALTH COVERAGE THROUGH THE MEDICAID OR THE OLD AGE PENSION HEALTH AND MEDICAL CARE FUND.

(b) IF AN ELIGIBLE SENIOR DOES NOT QUALIFY FOR DENTAL AND ORAL HEALTH COVERAGE THROUGH THESE PROGRAMS, THE QUALIFIED GRANTEE MAY CONTINUE TO PROVIDE SERVICES UNDER THIS ARTICLE; EXCEPT THAT, AFTER JUNE 30, 2015, SERVICES MAY BE PROVIDED ONLY TO THE EXTENT THAT THE SERVICES WERE PART OF A TREATMENT PLAN ESTABLISHED PRIOR TO JUNE 30, 2015.

SECTION 4. In Colorado Revised Statutes, **add** 25-21-109 as follows:

25-21-109. Repeal of article. THIS ARTICLE IS REPEALED, EFFECTIVE JANUARY 1, 2016.

SECTION 5. In Colorado Revised Statutes, 2-3-1203, **add** (3) (kk.5) as follows:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(kk.5) SEPTEMBER 1, 2024:

(I) THE SENIOR DENTAL ADVISORY COMMITTEE CREATED IN SECTION 25.5-3-406, C.R.S.

SECTION 6. Appropriation - adjustments to 2014 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of public health and environment, from the general fund, for the fiscal year beginning July 1, 2014, for the senior dental program, is decreased by \$55,000.

(2) In addition to any other appropriation, for the fiscal year beginning July 1, 2014, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of health care policy and financing, for the fiscal year beginning July 1, 2014, the sum of \$55,000 and 0.8 FTE, or so much thereof as may be necessary, for allocation to the executive director's office for personal services and operating expenses related to the implementation of this act.

SECTION 7. Accountability. Two years after this act becomes law and in accordance with section 2-2-1201, Colorado Revised Statutes, the legislative service agencies of the Colorado General Assembly shall conduct a post-enactment review of the implementation of this act utilizing the information contained in the legislative declaration set forth in section 26-11-208 (2), Colorado Revised Statutes, enacted in section 1 of this act.

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 31, 2014