Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

PREAMENDED

This Unofficial Version Includes Committee Amendments Not Yet Adopted on Second Reading

LLS NO. 10-0615.01 Debbie Haskins **SENATE BILL 10-160**

SENATE SPONSORSHIP

Lundberg, Brophy, Harvey, Schultheis

HOUSE SPONSORSHIP

(None),

Senate Committees
Health and Human Services
Appropriations

House Committees

A BILL FOR AN ACT

101 CONCERNING THE DEVELOPMENT OF AN ALTERNATIVE MEDICAL
102 ASSISTANCE PROGRAM FOR THE ELDERLY, AND MAKING AN
103 APPROPRIATION THEREFOR.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

The bill creates a voluntary alternative medical assistance program (program) for the medicaid-eligible elderly. An eligible participant agrees to receive an amount equal to 70% of the medical assistance benefits that he or she would have received if the participant were

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

enrolled in the state's traditional medicaid program in exchange for 2 features currently not allowed under the traditional medicaid program:

- The participant can choose any provider in the state; and
- The state waives the right to pursue all estate recovery methods from the participant's family after the participant dies.

The participant's physician assesses the level of care the participant needs. The department of health care policy and financing (department) then determines the expected costs to provide that level of care if the participant were enrolled in and were receiving services under the traditional medicaid program and allocates 70% of that amount annually to reimburse providers for the participant's care. The department issues a debit card to the participant that would be funded monthly with one-twelfth of the annual amount so allocated to the participant, which the participant uses to pay for medical services while enrolled in the alternative program. The eligible participant purchases long-term care services, assisted living services, home- and community-based services, home health services, prescribed drugs, or any health or dental care service at rates set by the provider and the participant agrees to provide all additional resources needed for his or her care beyond the 70% medicaid benefit amount provided through the program. The participant is responsible for researching and selecting the services.

Each year, the department conducts a redetermination of the participant's eligibility for services and the participant's physician reassesses the level of care that the participant needs.

The department is required to seek a federal waiver for the program.

---

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

2 **SECTION 1.** Article 6 of title 25.5, Colorado Revised Statutes,
3 is amended BY THE ADDITION OF A NEW PART to read:

4 PART 15

5 ALTERNATIVE MEDICAL ASSISTANCE PROGRAM

6 FOR THE ELDERLY

7 **25.5-6-1501. Definitions.** AS USED IN THIS PART 15, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (1) "ALTERNATIVE PROGRAM" MEANS THE ALTERNATIVE MEDICAL
10 ASSISTANCE PROGRAM FOR THE ELDERLY CREATED IN THIS PART 15.

1 (2) "PARTICIPANT" MEANS A PERSON WHO:
2 (a) IS ELIGIBLE FOR THE MEDICAL ASSISTANCE PROGRAM
3 ESTABLISHED IN THIS ARTICLE AND ARTICLES 4 AND 5 OF THIS TITLE;
4 (b) IS FIFTY-FIVE YEARS OF AGE OR OLDER; AND
5 (c) APPLIES TO PARTICIPATE IN AND ENROLLS IN THE ALTERNATIVE
6 PROGRAM.
7 (3) "SERVICE" MEANS A MANDATED SERVICE SPECIFIED IN SECTION
8 25.5-5-102, AN OPTIONAL SERVICE SPECIFIED IN SECTION 25.5-5-202, A
9 LONG-TERM CARE SERVICE SPECIFIED IN THIS ARTICLE, AN ASSISTED LIVING
10 SERVICE SPECIFIED IN THIS ARTICLE, A HOME- AND COMMUNITY-BASED
11 SERVICE SPECIFIED IN THIS ARTICLE, OR ANY OTHER MEDICAL OR DENTAL
12 CARE SERVICE. "SERVICE" ALSO INCLUDES HOME HEALTH SERVICES, AS
13 DEFINED IN SECTION 25.5-4-103 (7), AND PRESCRIBED DRUGS.
14 (4) "TRADITIONAL MEDICAID PROGRAM" MEANS THE STATE'S
15 MEDICAL ASSISTANCE PROGRAM ESTABLISHED IN THIS ARTICLE AND
16 ARTICLES 4 AND 5 OF THIS TITLE.
17 **25.5-6-1502. Alternative medical assistance program - federal**
18 **authorization - ___ benefits - rules.** (1) SUBJECT TO OBTAINING A
19 FEDERAL WAIVER , THE STATE DEPARTMENT SHALL DEVELOP AND
20 IMPLEMENT AN ALTERNATIVE MEDICAL ASSISTANCE PROGRAM FOR THE
21 ELDERLY.
22 (2) A PARTICIPANT IN THE ALTERNATIVE PROGRAM SHALL:
23 (a) VOLUNTARILY APPLY TO PARTICIPATE IN THE ALTERNATIVE
24 PROGRAM, ELECT TO ENROLL IN THE ALTERNATIVE PROGRAM IN LIEU OF
25 ENROLLING IN THE TRADITIONAL MEDICAID PROGRAM, AND MAY ELECT TO
26 WITHDRAW FROM THE ALTERNATIVE PROGRAM AFTER GIVING THIRTY
27 DAYS WRITTEN NOTICE TO THE STATE DEPARTMENT;

1 (b) AGREE TO ACCEPT A TOTAL ANNUAL BENEFIT THAT IS LIMITED
2 TO SEVENTY PERCENT OF THE AMOUNT OF THE ANNUAL MEDICAID
3 BENEFITS THE PARTICIPANT COULD RECEIVE UNDER THE TRADITIONAL
4 MEDICAID PROGRAM AND AGREE TO PROVIDE ALL ADDITIONAL RESOURCES
5 NEEDED FOR HIS OR HER CARE BEYOND THE MEDICAID BENEFITS PROVIDED
6 THROUGH THE ALTERNATIVE PROGRAM, IN EXCHANGE FOR FLEXIBILITY IN
7 CHOOSING MEDICAL CARE PROVIDERS ___ ___ ___ SO LONG AS THE
8 PARTICIPANT WAS ELIGIBLE FOR THE FULL PERIOD THAT BENEFITS WERE
9 PAID; AND
10 (c) USE THE MONEYS PROVIDED PURSUANT TO PARAGRAPH (b) OF
11 THIS SUBSECTION (2) TO PURCHASE SERVICES FROM A PERSON OR
12 PROVIDER IN THE STATE, REGARDLESS OF WHETHER THE PROVIDER IS AN
13 APPROVED PROVIDER UNDER THE TRADITIONAL MEDICAID PROGRAM. THE
14 PARTICIPANT SHALL BEAR THE RESPONSIBILITY FOR RESEARCHING AND
15 SELECTING THOSE SERVICES. THE PARTICIPANT'S PHYSICIAN SHALL
16 ANNUALLY DETERMINE THE LEVEL OF CARE THE PARTICIPANT NEEDS.
17 (3) THE STATE DEPARTMENT SHALL:
18 (a) DETERMINE THE EXPECTED COSTS TO PROVIDE THE LEVEL OF
19 CARE THE PHYSICIAN DETERMINES THE PARTICIPANT WOULD NEED IF THE
20 PARTICIPANT WERE ENROLLED IN AND WERE RECEIVING SERVICES UNDER
21 THE TRADITIONAL MEDICAID PROGRAM;
22 (b) ALLOCATE TO THE PARTICIPANT AN AMOUNT EQUAL TO
23 SEVENTY PERCENT OF THE COSTS OF PROVIDING THE MEDICAL ASSISTANCE
24 BENEFITS THAT THE PARTICIPANT WOULD HAVE RECEIVED IF HE OR SHE
25 HAD BEEN ENROLLED IN THE TRADITIONAL MEDICAID PROGRAM AND ISSUE
26 A DEBIT CARD TO THE PARTICIPANT, FUNDED MONTHLY WITH
27 ONE-TWELFTH OF THE ANNUAL AMOUNT SO ALLOCATED FOR THE

1 PARTICIPANT, WHICH THE PARTICIPANT SHALL USE TO PAY FOR SERVICES
2 WHILE ENROLLED IN THE ALTERNATIVE PROGRAM.
3
4 (4) THE STATE DEPARTMENT SHALL ANNUALLY REDETERMINE THE
5 PARTICIPANT'S ELIGIBILITY FOR SERVICES AND CONSIDER THE ANNUAL
6 DETERMINATION BY THE PARTICIPANT'S PHYSICIAN OF THE LEVEL OF CARE
7 THAT THE PARTICIPANT NEEDS. IF THE PARTICIPANT'S HEALTH CONDITION
8 SUBSTANTIALLY CHANGES, THE STATE DEPARTMENT MAY CONDUCT THE
9 REDETERMINATION PRIOR TO THE REGULARLY SCHEDULED
10 REDETERMINATION. THE STATE DEPARTMENT SHALL ONLY PROVIDE CASE
11 MANAGEMENT SERVICES FOR DETERMINATIONS AND REDETERMINATIONS
12 OF ELIGIBILITY AND FOR ASSESSMENT AND REASSESSMENT OF THE LEVEL
13 OF CARE THAT A PARTICIPANT NEEDS.
14 (5) ANY PROVIDER IN THE STATE MAY PROVIDE A PARTICULAR
15 SERVICE TO AN ELIGIBLE PARTICIPANT AT A RATE TO BE DETERMINED BY
16 THE PROVIDER.
17 (6) THE STATE DEPARTMENT IS AUTHORIZED TO APPLY TO THE
18 APPLICABLE FEDERAL AGENCY FOR AUTHORIZATION TO OPERATE THE
19 ALTERNATIVE PROGRAM AS DESCRIBED IN THIS SECTION. UPON THE STATE
20 DEPARTMENT'S RECEIPT OF THE NECESSARY FEDERAL AUTHORIZATION,
21 THE STATE BOARD SHALL ADOPT AND REVISE RULES NECESSARY FOR THE
22 IMPLEMENTATION OF THE ALTERNATIVE PROGRAM.
23 **25.5-6-1503. Conditional repeal of part - repeal.** (1) THIS PART
24 15 IS REPEALED, EFFECTIVE JULY 1, 2014, IF:
25 (a) THE FEDERAL GOVERNMENT DENIES THE STATE DEPARTMENT'S
26 REQUEST FOR AUTHORIZATION TO IMPLEMENT THE ALTERNATIVE
27 PROGRAM; AND

1 (b) THE EXECUTIVE DIRECTOR FILES WRITTEN NOTICE WITH THE
2 REVISOR OF STATUTES STATING THAT THE FEDERAL GOVERNMENT DENIED
3 THE STATE'S REQUEST FOR A WAIVER.
4 (2) (a) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2014, IF THE
5 FEDERAL GOVERNMENT APPROVES THE STATE DEPARTMENT'S REQUEST
6 FOR AUTHORIZATION TO IMPLEMENT THE ALTERNATIVE PROGRAM.
7 (b) THE EXECUTIVE DIRECTOR SHALL FILE WRITTEN NOTICE WITH
8 THE REVISOR OF STATUTES STATING THAT THE FEDERAL GOVERNMENT
9 APPROVED THE STATE'S REQUEST FOR A WAIVER PRIOR TO JULY 1, 2014, IF
10 APPROVAL IS GRANTED.
11 **SECTION 2.** 25.5-4-301 (1) (a) (I), Colorado Revised Statutes,
12 is amended to read:
13 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
14 **adjustments - liens - review or audit procedures - repeal.**
15 (1) (a) (I) Except as provided in ~~section 25.5-4-302~~ SECTIONS 25.5-4-302
16 AND 25.5-6-1502 and subparagraph (III) of this paragraph (a), ~~no~~ A
17 recipient or estate of the recipient shall NOT be liable for the cost or the
18 cost remaining after payment by medicaid, medicare, or a private insurer
19 of medical benefits authorized by Title XIX of the social security act, by
20 this title, or by rules promulgated by the state board, which benefits are
21 rendered to the recipient by a provider of medical services authorized to
22 render such service in the state of Colorado, except those contributions
23 required pursuant to section 25.5-4-209 (1). However, a recipient may
24 enter into a documented agreement with a provider under which the
25 recipient agrees to pay for items or services that are nonreimbursable
26 under the medical assistance program. Under these circumstances, a
27 recipient is liable for the cost of such services and items.

1 **SECTION 3. Appropriation.** In addition to any other
2 appropriation, there is hereby appropriated, to the department of health
3 care policy and financing, for allocation to the executive director's office,
4 for general professional services and special projects, for the fiscal year
5 beginning July 1, 2010, the sum of thirty-one thousand six hundred
6 ninety-two dollars ($31,692), or so much thereof as may be necessary, for
7 the implementation of this act. Of said sum, fifteen thousand eight
8 hundred forty-six dollars ($15,846) shall be from the general fund and
9 fifteen thousand eight hundred forty-six dollars ($15,846) shall be from
10 federal funds.
11 **SECTION 4. Act subject to petition - effective date.** This act
12 shall take effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part shall not take effect
18 unless approved by the people at the general election to be held in
19 November 2010 and shall take effect on the date of the official
20 declaration of the vote thereon by the governor.