

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 10-0389.01 Jane Ritter

HOUSE BILL 10-1103

HOUSE SPONSORSHIP

Todd,

SENATE SPONSORSHIP

Steadman,

House Committees

Health and Human Services
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE RELIEF FUND FOR CHILDREN**
102 **WITH A CATASTROPHIC MEDICAL CONDITION, 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>.)

Interim Committee on the Developmental Disability Waiting List. The bill creates the relief fund for children with a catastrophic medical condition (fund) and the commission for the relief fund for children with a catastrophic medical condition (commission).

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.

HOUSE
Amended 2nd Reading
April 23, 2010

The bill defines a catastrophic medical condition as an illness, a condition, or chronic care needs where the medical expenses are not covered by any other state or federal program or any insurance contract and exceed 10% of the first \$100,000 of annual income of a family plus 15% of the excess income over \$100,000.

The bill outlines basic eligibility for receiving financial assistance from the fund and lists medical and related expenses toward which the financial assistance may be applied. State agencies are authorized to seek public and private moneys for deposit into the fund.

Membership for the commission is described, as well as the powers and duties of the commission. The commission is authorized to negotiate or settle a claim that the fund maintains for reimbursement against a family who has received assistance for the medical and related expenses of a child with a catastrophic medical condition and has recovered damages in a legal action for the child's medical and related expenses.

For the purposes of providing the moneys necessary to establish the fund and meet the purposes of the bill, health coverage carriers shall charge a one-dollar annual surcharge on the premium for each covered resident, which shall then be transmitted to the state treasurer for deposit into the fund.

Finally, the bill requires the commission to submit an annual report to the health and human services committees of the house of representatives and the senate on the activities of the commission and fund.

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

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

5 **25.5-1-126. Relief fund for children with a catastrophic**
6 **medical condition - creation - eligibility - expenses covered -**
7 **commission created - funding - reporting.** (1) AS USED IN THIS
8 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 (a) "CATASTROPHIC MEDICAL CONDITION" MEANS AN ILLNESS, A
10 CONDITION, OR CHRONIC CARE NEEDS IN WHICH THE MEDICAL EXPENSES
11 ARE NOT COVERED BY ANY OTHER STATE OR FEDERAL PROGRAM OR ANY

1 INSURANCE CONTRACT AND THE MEDICAL EXPENSES EXCEED TEN PERCENT
2 OF A FAMILY'S GROSS ANNUAL INCOME FOR FAMILIES EARNING LESS THAN
3 ONE HUNDRED THOUSAND DOLLARS OR FIFTEEN PERCENT OF A FAMILY'S
4 GROSS ANNUAL INCOME FOR FAMILIES EARNING MORE THAN ONE HUNDRED
5 THOUSAND DOLLARS.

6 (b) "CHILD" MEANS A PERSON TWENTY-ONE YEARS OF AGE OR
7 YOUNGER WHO HAS A CATASTROPHIC MEDICAL CONDITION.

8 (c) "CHILD'S FAMILY" MEANS A CHILD AND THE CHILD'S PARENT OR
9 LEGAL GUARDIAN WHO IS LEGALLY RESPONSIBLE FOR THE CHILD'S
10 MEDICAL EXPENSES.

11 (d) "COMMISSION" MEANS THE COMMISSION FOR THE RELIEF FUND
12 FOR CHILDREN WITH A CATASTROPHIC MEDICAL CONDITION CREATED IN
13 SUBSECTION (4) OF THIS SECTION.

14 (e) "FUND" MEANS THE RELIEF FUND FOR CHILDREN WITH A
15 CATASTROPHIC MEDICAL CONDITION CREATED IN SUBSECTION (2) OF THIS
16 SECTION.

17 (f) "INCOME" MEANS ALL INCOME, FROM WHATEVER SOURCE
18 DERIVED, ACTUALLY RECEIVED BY A CHILD'S FAMILY.

19 (g) "RESIDENT" MEANS A PERSON LEGALLY DOMICILED WITHIN THE
20 STATE FOR A PERIOD OF ONE YEAR IMMEDIATELY PRECEDING THE DATE OF
21 APPLICATION TO THE FUND. MERE SEASONAL OR TEMPORARY RESIDENCE
22 WITHIN THE STATE, OF WHATEVER DURATION, DOES NOT CONSTITUTE
23 DOMICILE. THE BURDEN OF ESTABLISHING LEGAL DOMICILE WITHIN THE
24 STATE IS UPON THE PARENT OR LEGAL GUARDIAN OF THE CHILD.

25 (2) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE
26 RELIEF FUND FOR CHILDREN WITH A CATASTROPHIC MEDICAL CONDITION.
27 THE FUND SHALL CONSIST OF ANY GIFTS, GRANTS, AND DONATIONS

1 RECEIVED, ANY APPROPRIATION BY THE GENERAL ASSEMBLY, AND THE
2 MONEYS COLLECTED PURSUANT TO SUBSECTION (5) OF THIS SECTION. ANY
3 STATE AGENCY OR DEPARTMENT IS AUTHORIZED TO SEEK AND ACCEPT
4 GIFTS, GRANTS, OR DONATIONS FROM PUBLIC OR PRIVATE SOURCES FOR
5 THE PURPOSES OF THIS SECTION; EXCEPT THAT A GIFT, GRANT, OR
6 DONATION SHALL NOT BE ACCEPTED IF IT IS SUBJECT TO CONDITIONS THAT
7 ARE INCONSISTENT WITH THIS SECTION OR ANY OTHER LAW OF THE STATE.
8 ALL PRIVATE AND PUBLIC MONEYS RECEIVED THROUGH GIFTS, GRANTS, OR
9 DONATIONS OR APPROPRIATED BY THE GENERAL ASSEMBLY SHALL BE
10 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
11 TO THE FUND. ALL MONEYS COLLECTED PURSUANT TO THIS SECTION
12 SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT
13 THE SAME TO THE FUND. THE MONEYS IN THE FUND SHALL BE SUBJECT TO
14 ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT AND
15 INDIRECT COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS
16 SECTION.

17 (b) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE
18 OF THIS SECTION MAY BE INVESTED BY THE STATE TREASURER AS
19 PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE
20 INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED
21 TO THE FUND.

22 (c) ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING
23 IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND
24 AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR
25 ANOTHER FUND; EXCEPT THAT MONEYS FROM THE FUND MAY BE
26 TRANSFERRED TO THE GENERAL FUND TO OFFSET ANY EMPLOYEE-RELATED
27 IMPACT TO THE GENERAL FUND THAT IS A RESULT OF THE

1 IMPLEMENTATION OF THIS SECTION.

2 (d) THE COMMISSION MAY EXPEND UP TO FOUR PERCENT OF THE
3 MONEYS ANNUALLY APPROPRIATED FROM THE FUND TO OFFSET THE COSTS
4 INCURRED IN IMPLEMENTING THIS SECTION.

5 (3) (a) A CHILD WITH A CATASTROPHIC MEDICAL CONDITION WHO
6 IS A RESIDENT SHALL BE ELIGIBLE TO APPLY, THROUGH HIS OR HER PARENT
7 OR LEGAL GUARDIAN, TO THE FUND.

8 (b) WHENEVER A CHILD WITH A CATASTROPHIC MEDICAL
9 CONDITION IS ELIGIBLE FOR THE PROGRAM, THE CHILD, THROUGH HIS OR
10 HER PARENT OR LEGAL GUARDIAN, MAY RECEIVE FINANCIAL ASSISTANCE
11 FROM MONEYS IN THE FUND, SUBJECT TO POLICIES AND PROCEDURES
12 ESTABLISHED BY THE COMMISSION IN SUBSECTION (4) OF THIS SECTION
13 AND THE AVAILABILITY OF MONEYS IN THE FUND.

14 (c) THE FINANCIAL ASSISTANCE SHALL INCLUDE, BUT IS NOT
15 LIMITED TO, PAYMENTS OR REIMBURSEMENTS FOR THE COSTS OF MEDICAL
16 TREATMENT, HOSPITAL CARE, PRESCRIPTION DRUGS, NURSING CARE,
17 RESPITE CARE BUT NOT INCLUDING EMERGENCY RESPITE CARE, PHYSICIAN
18 SERVICES, RESPITE AND MEDICALLY NECESSARY SUPPLIES, FORMULA AND
19 DIAPERS, DURABLE MEDICAL EQUIPMENT, HOME MODIFICATIONS AND
20 ADAPTATIONS TO TRANSPORTATION RELATED TO THE CATASTROPHIC
21 MEDICAL CONDITION, AND OTHER IDENTIFIABLE FINANCIAL NEEDS
22 RELATED TO THE HEALTH AND WELLNESS OF A CHILD WITH A
23 CATASTROPHIC MEDICAL CONDITION.

24 (4) (a) THERE IS HEREBY CREATED IN THE STATE DEPARTMENT THE
25 COMMISSION FOR THE RELIEF FUND FOR CHILDREN WITH A CATASTROPHIC
26 MEDICAL CONDITION. THE COMMISSION SHALL CONSIST OF THE
27 FOLLOWING ELEVEN MEMBERS:

1 (I) THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT, OR HIS
2 OR HER DESIGNEE;

3 (II) THE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND
4 ENVIRONMENT, OR HIS OR HER DESIGNEE;

5 (III) THE COMMISSIONER OF INSURANCE, OR HIS OR HER DESIGNEE;

6 (IV) THE FOLLOWING EIGHT MEMBERS APPOINTED BY THE
7 GOVERNOR ON OR BEFORE SEPTEMBER 1, 2010:

8 (A) TWO HEALTH CARE PROVIDERS WHO SPECIALIZE IN CARE FOR
9 CHILDREN;

10 (B) TWO PERSONS WHO ARE MEMBERS OF ADVOCACY GROUPS FOR
11 PERSONS WITH CATASTROPHIC MEDICAL CONDITIONS; [REDACTED]

12 (C) TWO CAREGIVERS OF CHILDREN WHO HAVE A CATASTROPHIC
13 MEDICAL CONDITION.

14 (D) A REPRESENTATIVE FROM THE INSURANCE INDUSTRY; AND

15 (E) A REPRESENTATIVE FROM THE BUSINESS COMMUNITY.

16 (b) MEMBERS OF THE COMMISSION SHALL SERVE FOR THREE-YEAR
17 TERMS; EXCEPT THAT, OF THE MEMBERS FIRST APPOINTED BY THE
18 GOVERNOR, ONE-THIRD SHALL BE APPOINTED FOR ONE-YEAR TERMS;
19 ONE-THIRD SHALL BE APPOINTED FOR TWO-YEAR TERMS; AND ONE-THIRD
20 SHALL BE APPOINTED FOR THREE-YEAR TERMS. THE GOVERNOR SHALL
21 DESIGNATE THE LENGTH OF TERMS FOR EACH OF THE MEMBERS FIRST
22 APPOINTED IN ACCORDANCE WITH THIS SUBSECTION (4). VACANCIES
23 SHALL BE FILLED BY APPOINTMENT FOR THE REMAINDER OF THE
24 UNEXPIRED TERM.

25 (c) THE COMMISSION SHALL HOLD ITS FIRST MEETING NO LATER
26 THAN OCTOBER 1, 2010, AT WHICH MEETING THE MEMBERS SHALL ELECT
27 A CHAIR AND CO-CHAIR. WHENEVER POSSIBLE, RURAL PARTICIPATION

1 SHALL BE ENCOURAGED THROUGH THE USE OF ELECTRONIC MEDIA FOR
2 MEETINGS.

3 (d) MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT
4 COMPENSATION.

5 (e) THE COMMISSION SHALL HAVE THE FOLLOWING POWERS AND
6 DUTIES:

7 (I) TO ESTABLISH A PROGRAM TO ADMINISTER THE FUND AND
8 AUTHORIZE THE PAYMENT OR MEDICAL REIMBURSEMENT OF THE MEDICAL
9 AND RELATED EXPENSES OF CHILDREN WHO QUALIFY TO RECEIVE MONEYS
10 FROM THE FUND;

11 (II) TO ESTABLISH PROCEDURES FOR APPLYING TO THE FUND,
12 DETERMINING ELIGIBILITY FOR THE PAYMENT OR REIMBURSEMENT OF
13 MEDICAL AND RELATED EXPENSES FOR CHILDREN, AND PROCESSING CLAIM
14 DISPUTES;

15 (III) TO SCREEN EACH APPLICANT FOR OTHER SOURCES OF
16 COVERAGE AND FOR POTENTIAL ELIGIBILITY FOR GOVERNMENT PROGRAMS
17 AND TO DOCUMENT THE RESULTS OF THE SCREENING. IF THE COMMISSION
18 DETERMINES THAT AN APPLICANT IS POTENTIALLY ELIGIBLE FOR MEDICAID
19 OR ANOTHER GOVERNMENT PROGRAM, THE COMMISSION SHALL ASSIST THE
20 APPLICANT IN APPLYING FOR BENEFITS UNDER SUCH PROGRAM.

21 (IV) TO ESTABLISH PROCEDURES FOR REIMBURSEMENT OF THE
22 FUND WHERE A CHILD'S FAMILY, AFTER RECEIVING ASSISTANCE FROM THE
23 FUND, RECOVERS THE COSTS FOR THE ELIGIBLE CHILD'S MEDICAL AND
24 RELATED EXPENSES FOR A CATASTROPHIC MEDICAL CONDITION PURSUANT
25 TO A SETTLEMENT OR JUDGMENT IN A LEGAL ACTION. THE COMMISSION IS
26 AUTHORIZED TO NEGOTIATE OR SETTLE A CLAIM THAT THE FUND
27 MAINTAINS FOR REIMBURSEMENT AGAINST A CHILD'S FAMILY WHO HAS

1 RECEIVED ASSISTANCE FOR THE MEDICAL AND RELATED EXPENSES OF A
2 CHILD AND HAS RECOVERED DAMAGES IN A LEGAL ACTION FOR THE
3 CHILD'S MEDICAL AND RELATED EXPENSES. ANY MONEYS RECOVERED
4 PURSUANT TO THIS SUBPARAGRAPH (IV) SHALL BE DEPOSITED IN THE
5 FUND.

6 (V) TO ESTABLISH THE AMOUNT OF REIMBURSEMENT FOR THE
7 MEDICAL AND RELATED EXPENSES OF EACH CHILD WITH A CATASTROPHIC
8 MEDICAL CONDITION USING A SLIDING-FEE SCALE BASED ON THE CHILD'S
9 FAMILY'S ABILITY TO PAY FOR MEDICAL AND RELATED EXPENSES, TAKING
10 INTO ACCOUNT THE SIZE, INCOME AND ASSETS, AND MEDICAL AND
11 RELATED EXPENSES OF THE CHILD'S FAMILY;

12 (VI) TO ADJUST THE FINANCIAL ELIGIBILITY CRITERIA BASED ON
13 THE MONEYS AVAILABLE IN THE FUND;

14 (VII) TO IDENTIFY OTHER SOURCES OF INCOME TO CONTRIBUTE TO
15 THE FUND THROUGH GIFTS, GRANTS, AND DONATIONS;

16 (VIII) TO DISSEMINATE INFORMATION ON THE FUND TO THE
17 PUBLIC;

18 (IX) TO MAINTAIN CONFIDENTIAL RECORDS ON EACH CHILD WHO
19 APPLIES FOR ASSISTANCE FROM THE FUND; AND

20 (X) TO PREPARE AND SUBMIT A REPORT TO THE GENERAL
21 ASSEMBLY PURSUANT TO SUBSECTION (6) OF THIS SECTION.

22 (5) FOR THE PURPOSES OF PROVIDING THE MONEYS NECESSARY TO
23 ESTABLISH THE FUND AND MEET THE PURPOSES OF THIS SECTION,
24 CARRIERS, AS DEFINED IN SECTIONS 10-16-102 (8) AND 24-50-603 (2),
25 C.R.S., SHALL CHARGE AN ASSESSMENT OF ONE DOLLAR ON HEALTH AND
26 DENTAL POLICIES FOR EACH COVERED LIFE IN THE STATE, EXCEPT FOR
27 COVERAGE THROUGH THE CHILDREN'S BASIC HEALTH PLAN. THE CARRIERS

1 SHALL TRANSMIT THE MONEYS COLLECTED TO THE STATE TREASURER,
2 WHO SHALL DEPOSIT THE MONEYS IN THE FUND.

3 (6) ON OR BEFORE JANUARY 1, 2012, AND EACH JANUARY 1
4 THEREAFTER, THE COMMISSION SHALL PREPARE AND SUBMIT A REPORT TO
5 THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE HOUSE OF
6 REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES,
7 SUMMARIZING THE ACTIVITIES OF THE COMMISSION AND THE FUND,
8 INCLUDING BUT NOT LIMITED TO THE NUMBER OF FAMILIES SERVED, THE
9 AMOUNT OF MONEY DISTRIBUTED FROM THE FUND, AND THE AMOUNT OF
10 MONEY IN THE FUND AT THE TIME OF THE REPORT.

11 **SECTION 2.** 10-16-110, Colorado Revised Statutes, is amended
12 BY THE ADDITION OF A NEW SUBSECTION to read:

13 **10-16-110. Fees paid by health coverage entities.** (1.5) EACH
14 CARRIER, SUBJECT TO THE PROVISIONS OF PART 1, 3, OR 4 OF THIS ARTICLE,
15 SHALL CHARGE AN ASSESSMENT OF ONE DOLLAR ON HEALTH AND DENTAL
16 POLICIES FOR EACH COVERED LIFE IN THE STATE, EXCEPT FOR COVERAGE
17 THROUGH THE CHILDREN'S BASIC HEALTH PLAN. THE CARRIERS SHALL
18 TRANSMIT THE MONEYS COLLECTED TO THE STATE TREASURER WHO SHALL
19 DEPOSIT THE MONEYS IN THE RELIEF FUND FOR CHILDREN WITH A
20 CATASTROPHIC MEDICAL CONDITION CREATED IN SECTION 25-1-126 (2),
21 C.R.S.

22 **SECTION 3. Appropriation.** (1) For the implementation of this
23 act, appropriations made in the annual general appropriation act for the
24 fiscal year beginning July 1, 2010, to the department of health care policy
25 and financing shall be adjusted as follows:

26 (a) The cash fund appropriation to the executive director's division
27 for general administration is increased by seventy-eight thousand nine

1 hundred sixty-four dollars (\$78,964) and 1.5 FTE. Said sum shall be
2 from the relief fund for children with a catastrophic medical condition
3 created in section 25.5-1-126 (2) (a), Colorado Revised Statutes.

4 (b) The cash appropriation to the other medical services for
5 financial assistance for families is increased by two million seven
6 hundred sixty-one thousand seven hundred fifty-three dollars
7 (\$2,761,753). Said sum shall be from the relief fund for children with a
8 catastrophic medical condition created in section 25.5-1-126 (2) (a),
9 Colorado Revised Statutes.

10 **SECTION 4. Act subject to petition - effective date -**
11 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day
12 following the expiration of the ninety-day period after final adjournment
13 of the general assembly (August 11, 2010, if adjournment sine die is on
14 May 12, 2010); except that, if a referendum petition is filed pursuant to
15 section 1 (3) of article V of the state constitution against this act or an
16 item, section, or part of this act within such period, then the act, item,
17 section, or part shall not take effect unless approved by the people at the
18 general election to be held in November 2010 and shall take effect on the
19 date of the official declaration of the vote thereon by the governor.

20 (2) The provisions of this act shall apply to insurance policies in
21 place on or after January 1, 2011.