

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0575.01 Jerry Barry

HOUSE BILL 10-1043

HOUSE SPONSORSHIP

Apuan,

SENATE SPONSORSHIP

(None),

House Committees

Health and Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING OUTDATED REFERENCES TO THE FEDERAL AID TO
102 FAMILIES WITH DEPENDENT CHILDREN.

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.>)

Prior to the federal welfare reform act "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" (PRWORA), a family or child who was receiving welfare through aid to families with dependent children (AFDC) was automatically eligible for medicaid. Under PRWORA, that eligibility link was ended, and eligibility became

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.

based on a person's income and resources, independent of whether the person was participating in temporary aid to families with needy children, referred to in Colorado as Colorado works. In 1996, PRWORA required states to set the eligibility for medicaid using the same eligibility criteria that they were using for AFDC as of July 16, 1996. The bill authorizes the medical services board to adopt rules for medicaid eligibility for families and children using the same pre-welfare reform eligibility criteria or to make adjustments in the income and resource standards as allowed under current federal law.

The bill eliminates references to the former federal AFDC program.

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

2 **SECTION 1.** 25.5-5-101 (1) (a), (1) (b), and (1) (c), Colorado
3 Revised Statutes, are amended to read:

4 **25.5-5-101. Mandatory provisions - eligible groups.** (1) In
5 order to participate in the medicaid program, the federal government
6 requires the state to provide medical assistance to certain eligible groups.
7 Pursuant to federal law and except as provided in subsection (2) of this
8 section, any person who is eligible for medical assistance under the
9 mandated groups specified in this section shall receive both the
10 mandatory services that are specified in sections 25.5-5-102 and
11 25.5-5-103 and the optional services that are specified in sections
12 25.5-5-202 and 25.5-5-203. Subject to the availability of federal financial
13 participation, the following are the individuals or groups that are
14 mandated under federal law to receive benefits under this article and
15 articles 4 and 6 of this title:

16 (a) Individuals WITH DEPENDENT CHILDREN who meet the
17 eligibility criteria ~~for the aid to families with dependent children program~~
18 ~~pursuant to rules that were in effect on July 16, 1996~~ ESTABLISHED BY
19 RULES OF THE STATE BOARD, WHICH RULES SHALL COMPLY WITH THE

1 PROVISIONS OF 42 U.S.C. SEC. 1396u-1 (a) OR 42 U.S.C. SEC. 1396u-1 (b)
2 (2);

3 (b) Families who meet the eligibility criteria ~~for the aid to families~~
4 ~~with dependent children program established in rules that were in effect~~
5 ~~on July 16, 1996~~ ESTABLISHED BY RULE OF THE STATE BOARD, WHICH
6 RULES SHALL COMPLY WITH THE PROVISIONS OF 42 U.S.C. SEC. 1396u-1
7 (a) OR 42 U.S.C. SEC. 1396u-1 (b) (2), and who subsequently would have
8 become ineligible under such eligibility criteria because of increased
9 earnings or increased hours of employment whose eligibility is specified
10 for a period of time by the federal government;

11 (c) Qualified pregnant women, and children under the age of
12 seven, who meet the income requirements ~~of the state's aid to families~~
13 ~~with dependent children program pursuant to rules that were in effect on~~
14 ~~July 16, 1996~~ ESTABLISHED BY RULES OF THE STATE BOARD, WHICH RULES
15 SHALL COMPLY WITH THE PROVISIONS OF 42 U.S.C. SEC. 1396u-1 (a) OR
16 42 U.S.C. SEC. 1396u-1 (b) (2);

17 **SECTION 2.** The introductory portion to 25.5-5-201 (1) and
18 25.5-5-201 (1) (d) and (1) (e), Colorado Revised Statutes, are amended
19 to read:

20 **25.5-5-201. Optional provisions - optional groups - repeal.**
21 (1) The federal government allows the state to select optional groups to
22 receive medical assistance. Pursuant to federal law, any person who is
23 eligible for medical assistance under the optional groups specified in this
24 section shall receive both the mandatory services specified in sections
25 25.5-5-102 and 25.5-5-103 and the optional services specified in sections
26 25.5-5-202 and 25.5-5-203. Subject to the availability of federal financial
27 aid ~~funds~~ MONEYS, the following are the individuals or groups that

1 Colorado has selected as optional groups to receive medical assistance
2 pursuant to this article and articles 4 and 6 of this title:

3 (d) Individuals WITH DEPENDENT CHILDREN who would be eligible
4 ~~for aid to families with dependent children~~ UNDER RULES ESTABLISHED BY
5 THE STATE BOARD, WHICH RULES SHALL COMPLY WITH THE PROVISIONS OF
6 42 U.S.C. SEC. 1396u-1 (a) OR 42 U.S.C. SEC. 1396u-1 (b) (2), if child
7 care were paid from earnings;

8 (e) Individuals under the age of twenty-one who would be eligible
9 ~~for aid to families with dependent children~~ UNDER RULES ESTABLISHED BY
10 THE STATE BOARD, WHICH RULES SHALL COMPLY WITH THE PROVISIONS OF
11 42 U.S.C. SEC. 1396u-1 (a) OR 42 U.S.C. SEC. 1396u-1 (b) (2), but do not
12 qualify as dependent children;

13 **SECTION 3.** 25.5-5-202 (1) (r), Colorado Revised Statutes, is
14 amended to read:

15 **25.5-5-202. Basic services for the categorically needy - optional**
16 **services - repeal.** (1) Subject to the provisions of subsection (2) of this
17 section, the following are services for which federal financial
18 participation is available and which Colorado has selected to provide as
19 optional services under the medical assistance program:

20 (r) For any pregnant woman who is enrolled for services pursuant
21 to section 25.5-5-205, or who would be eligible ~~for aid to families with~~
22 ~~dependent children pursuant to rules in effect on July 16, 1996~~ UNDER
23 RULES ESTABLISHED BY THE STATE BOARD, WHICH RULES SHALL COMPLY
24 WITH THE PROVISIONS OF 42 U.S.C. SEC. 1396u-1 (a) OR 42 U.S.C. SEC.
25 1396u-1 (b) (2), alcohol and drug and addiction counseling and treatment,
26 including outpatient and residential care but not including room and board
27 while receiving residential care;

1 **SECTION 4.** 25.5-5-205 (3) (a) and (3) (c) (I), Colorado Revised
2 Statutes, are amended to read:

3 **25.5-5-205. Baby and kid care program - creation - eligibility.**

4 (3) (a) On and after April 1, 1990, children under the age of six years and
5 pregnant women shall be eligible for benefits under the baby and kid care
6 program; except that, for the purpose of eligibility under this subsection
7 (3) only:

8 (I) Such individual's family income shall exceed the eligibility
9 threshold used in determining eligibility ~~for aid to families with~~
10 ~~dependent children assistance pursuant to rules in effect on July 16, 1996~~
11 UNDER RULES ESTABLISHED BY THE STATE BOARD, WHICH RULES SHALL
12 COMPLY WITH THE PROVISIONS OF 42 U.S.C. SEC. 1396u-1 (a) OR 42
13 U.S.C. SEC. 1396u-1 (b) (2), but shall not exceed the equivalent of the
14 percentage level of the federal poverty line that is specified pursuant to
15 paragraph (b) of this subsection (3);

16 (II) (A) Except as otherwise provided in sub-subparagraph (B) of
17 this subparagraph (II), children under six years of age shall meet the
18 income standard used to determine eligibility ~~for aid to families with~~
19 ~~dependent children assistance~~ UNDER RULES ESTABLISHED BY THE STATE
20 BOARD, WHICH RULES SHALL COMPLY WITH THE PROVISIONS OF 42 U.S.C.
21 SEC. 1396u-1 (a) OR 42 U.S.C. SEC. 1396u-1 (b) (2), except as provided in
22 this subsection (3).

23 (B) Pregnant women shall meet the income standard used to
24 determine eligibility ~~for aid to families with dependent children assistance~~
25 UNDER RULES ESTABLISHED BY THE STATE BOARD, WHICH RULES SHALL
26 COMPLY WITH THE PROVISIONS OF 42 U.S.C. SEC. 1396u-1 (a) OR 42
27 U.S.C. SEC. 1396u-1 (b) (2), except as provided in this subsection (3). No

1 resource standard shall be applied to pregnant women as a condition of
2 eligibility. Once initial eligibility has been established for a pregnant
3 woman under this subsection (3), she shall be considered to be
4 continuously eligible throughout the pregnancy and for the sixty days
5 following the pregnancy, even if the woman's eligibility would otherwise
6 terminate during such period due to an increase in income. A child born
7 to a woman eligible for assistance pursuant to this subsection (3) shall be
8 eligible for medical assistance until the child attains one year of age so
9 long as the infant remains in the eligible woman's household and the
10 woman would be eligible for assistance if she were pregnant.

11 (c) (I) On and after July 1, 1991, children born after September
12 30, 1983, who have attained age six but have not attained age nineteen
13 shall be eligible for benefits under the baby and kid care program; except
14 that, for the purpose of eligibility under this paragraph (c) only, such
15 individual's family income shall exceed the eligibility threshold used in
16 determining eligibility ~~for aid to families with dependent children~~
17 ~~assistance pursuant to rules in effect on July 16, 1996~~ UNDER RULES
18 ESTABLISHED BY THE STATE BOARD, WHICH RULES SHALL COMPLY WITH
19 THE PROVISIONS OF 42 U.S.C. SEC. 1396u-1 (a) OR 42 U.S.C. SEC. 1396u-1
20 (b) (2), but shall not exceed the equivalent of the percentage level of the
21 federal poverty line that is specified pursuant to subparagraph (II) of this
22 paragraph (c).

23 **SECTION 5.** 25.5-5-301 (4), Colorado Revised Statutes, is
24 amended to read:

25 **25.5-5-301. Clinic services.** (4) "Clinic services" also means
26 preventive, diagnostic, therapeutic, rehabilitative, or palliative items or
27 services that are furnished to a pregnant woman who is enrolled for

1 services pursuant to section 25.5-5-205 or who is eligible ~~for aid to~~
2 ~~families with dependent children pursuant to rules in effect on July 16,~~
3 ~~1996~~ UNDER RULES ESTABLISHED BY THE STATE BOARD, WHICH RULES
4 SHALL COMPLY WITH THE PROVISIONS OF 42 U.S.C. SEC. 1396u-1 (a) OR
5 42 U.S.C. SEC. 1396u-1 (b) (2), in a facility ~~which~~ THAT is not a part of a
6 hospital but is organized and operated as a freestanding alcohol or drug
7 treatment program approved and licensed by the division of alcohol and
8 drug abuse of the department of human services pursuant to section
9 25-1-207 (1) (c), C.R.S.

10 **SECTION 6.** 25.5-5-309 (1), Colorado Revised Statutes, is
11 amended to read:

12 **25.5-5-309. Pregnant women - needs assessment - referral to**
13 **treatment program.** (1) The health care practitioner for each pregnant
14 woman who is enrolled for services pursuant to section 25.5-5-205 or
15 who would be eligible ~~for aid to families with dependent children~~
16 ~~pursuant to rules in effect on July 16, 1996~~ UNDER RULES ESTABLISHED BY
17 THE STATE BOARD, WHICH RULES SHALL COMPLY WITH THE PROVISIONS OF
18 42 U.S.C. SEC. 1396u-1 (a) OR 42 U.S.C. SEC. 1396u-1 (b) (2), shall be
19 encouraged to identify as soon as possible after such woman is
20 determined to be pregnant whether such woman is at risk of a poor birth
21 outcome due to substance abuse during the prenatal period and in need of
22 special assistance in order to reduce such risk. If the health care
23 practitioner makes such a determination regarding any pregnant woman,
24 the health care practitioner shall be encouraged to refer such woman to
25 any entity approved and licensed by the department of human services for
26 the performance of a needs assessment. Any pregnant woman who is
27 eligible for services pursuant to section 25.5-5-205 or who would be

1 eligible for aid to families with dependent children pursuant to rules in
2 effect on July 16, 1996 UNDER RULES ESTABLISHED BY THE STATE BOARD,
3 WHICH RULES SHALL COMPLY WITH THE PROVISIONS OF 42 U.S.C. SEC.
4 1396u-1 (a) OR 42 U.S.C. SEC. 1396u-1 (b) (2), may refer herself for such
5 needs assessment.

6 **SECTION 7.** 26-2-111 (2) (d), Colorado Revised Statutes, is
7 amended to read:

8 **26-2-111. Eligibility for public assistance.** (2) **Old age**
9 **pension.** (d) (I) ~~No~~ A person who is a member of a household which
10 THAT is receiving public assistance under the aid to families with
11 dependent children program set forth in COLORADO WORKS PROGRAM
12 PURSUANT TO PART 7 OF this article shall NOT be eligible to receive public
13 assistance pursuant to this subsection (2). ~~For the purposes of this~~
14 ~~paragraph (d), "household" has the same meaning as "assistance unit" as~~
15 ~~used in 45 CFR 205.40 (a) (1), as amended.~~

16 (II) (A) ~~The provisions of subparagraph (I) of this paragraph (d)~~
17 ~~notwithstanding, on and after January 1, 1992, a supplemental payment~~
18 ~~funded by state and county funds shall be paid to households which have~~
19 ~~received public assistance payments for the month of December 1991,~~
20 ~~under both the aid to families with dependent children program set forth~~
21 ~~in this article and the old age pension program set forth in this subsection~~
22 ~~(2). Such supplemental payment shall be in an amount as will maintain~~
23 ~~the household's total income at the same level as in December 1991.~~

24 (B) ~~Such supplemental payment shall be paid only if the~~
25 ~~household remains continuously eligible to receive public assistance~~
26 ~~under both the aid to families with dependent children program set forth~~
27 ~~in this article and the old age pension program set forth in this subsection~~

1 (2):

2 **SECTION 8.** 26-2-111.1, Colorado Revised Statutes, is amended
3 to read:

4 **26-2-111.1. Eligibility for assistance - immunization of**
5 **children.** As a condition of eligibility for public assistance in the form
6 of a ~~successor program to aid to families with dependent children funded~~
7 ~~by federal block grant moneys under the federal "Personal Responsibility~~
8 ~~and Work Opportunity Reconciliation Act of 1996", Pub.L. 104-193~~
9 COLORADO WORKS PROGRAM PURSUANT TO PART 7 OF THIS ARTICLE, a
10 participant shall provide verification or written confirmation by a
11 physician or nurse or pursuant to records in the immunization tracking
12 system as set forth in section 25-4-2403, C.R.S., that each child in the
13 household is being brought up-to-date with immunizations and that, no
14 later than the first scheduled redetermination of eligibility, each child in
15 the household has received any immunization for which the child is
16 eligible according to the age of the child, unless exempted from this
17 condition of eligibility based upon religious or medical reasons pursuant
18 to rules of the state board.

19 **SECTION 9.** 26-2-127 (3), Colorado Revised Statutes, is
20 amended to read:

21 **26-2-127. Appeals.** (3) The state department, the department of
22 health care policy and financing, and the office of administrative courts
23 in the department of personnel shall work together to streamline the
24 process for the appeal of disputes that are not resolved at the county level
25 and shall consider proposed legislative changes or federal waivers for the
26 ~~successor program to aid to families with dependent children~~ COLORADO
27 WORKS PROGRAM PURSUANT TO PART 7 OF THIS ARTICLE in order to

1 address changes in the appeals process to avoid or mitigate expenses to
2 counties of maintaining benefits during the pendency of state-level
3 appeals.

4 **SECTION 10.** 26-2-129 (3), Colorado Revised Statutes, is
5 amended to read:

6 **26-2-129. Funeral - burial - cremation expenses - death**
7 **reimbursement - definitions.** (3) Subject to available appropriations,
8 a death reimbursement covering reasonable funeral expenses or
9 reasonable cremation or burial expenses or any combination thereof shall
10 be paid by the county department for a decedent if the estate of the
11 deceased is insufficient to pay such reasonable expenses and if the
12 persons legally responsible for the support of the deceased are unable to
13 pay such reasonable expenses. The county department shall be
14 reimbursed eighty percent of the amount of the death reimbursement paid
15 for recipients of aid to the needy disabled and ~~aid to families with~~
16 ~~dependent children~~ ASSISTANCE UNDER THE COLORADO WORKS PROGRAM
17 PURSUANT TO PART 7 OF THIS ARTICLE and shall be reimbursed one
18 hundred percent of the amount of the death reimbursement for recipients
19 of old age pensions. If the state department determines that the level of
20 appropriation is insufficient to meet the demand for death
21 reimbursements, the state department shall reduce the amount of the death
22 reimbursement level to meet the amount appropriated by the general
23 assembly for death reimbursements. In the event that such a reduction is
24 made, the county department shall have no additional responsibility
25 beyond the reimbursement level as defined in the state department's rules.

26 **SECTION 11.** 26-2-703 (1) and (13), Colorado Revised Statutes,
27 are amended to read:

1 **26-2-703. Definitions.** As used in this part 7, unless the context
2 otherwise requires:

3 (1) ~~"Aid to families with dependent children" or "AFDC" means~~
4 ~~the state program of aid to families with dependent children approved~~
5 ~~under part A of Title IV of the social security act, as the program and the~~
6 ~~part were in effect on July 16, 1996.~~

7 (13) ~~"JOBS" means the job opportunity and basic skills program~~
8 ~~approved under part A of Title IV of the social security act, as the~~
9 ~~program and the part were in effect on July 16, 1996.~~

10 **SECTION 12.** 26-2-709 (2) (a), Colorado Revised Statutes, is
11 amended to read:

12 **26-2-709. Benefits - cash assistance - programs - rules.**

13 (2) **Other assistance.** (a) Subject to available appropriations, a county
14 department may provide assistance, including but not limited to cash
15 assistance, in addition to the basic cash assistance grant described in
16 subsection (1) of this section that ~~was provided to recipients of AFDC or~~
17 ~~JOBS~~ or is authorized pursuant to the provisions of the federal law or this
18 section. Such other assistance shall be intended to promote sustainable
19 employment for the participants in the county.

20 **SECTION 13.** 26-13-102.5 (2), Colorado Revised Statutes, is
21 amended to read:

22 **26-13-102.5. Definitions.** As used in this article, unless the
23 context otherwise requires:

24 (2) (a) "IV-D case" or "IV-D support order" means a case or a
25 support order with respect to a child in which support enforcement
26 services are provided, in accordance with Title IV-D of the federal
27 "Social Security Act", as amended, and pursuant to this article, by the

1 delegate child support enforcement unit to a custodian of a child who is
2 OR WAS a recipient:

3 (I) Of aid to families with dependent children, ~~or~~ AS THAT
4 PROGRAM WAS IN EFFECT AS OF JULY 16, 1996;

5 (II) UNDER THE COLORADO WORKS PROGRAM PURSUANT TO PART
6 7 OF ARTICLE 2 OF THIS TITLE;

7 (III) ~~Is a recipient~~ Of medical assistance only under articles 4, 5,
8 and 6 of title 25.5, C.R.S.; ~~or~~

9 (IV) ~~Is a recipient~~ Of Title IV-E foster care; OR

10 (V) OF FOSTER CARE SERVICES UNDER ARTICLE 5 OF THIS TITLE.

11 (b) The terms "IV-D CASE" OR "IV-D SUPPORT ORDER" also
12 include any case or order in which the custodian of a child applies to the
13 delegate child support enforcement unit for support enforcement services
14 and pays a fee for such services under section 26-13-106 (2).

15 **SECTION 14.** 26-13.5-107 (2), Colorado Revised Statutes, is
16 amended to read:

17 **26-13.5-107. Orders - duration - effect of court**
18 **determinations.** (2) Any order of financial responsibility, any order of
19 default, and any temporary order of financial responsibility shall continue
20 notwithstanding the fact that the child is no longer receiving benefits ~~for~~
21 ~~aid to families with dependent children~~ UNDER THE PROGRAMS LISTED IN
22 SECTION 26-13-102.5 (2) (a), unless the child is emancipated or is
23 otherwise no longer entitled to support. Any order of financial
24 responsibility, any order of default, and any temporary order of financial
25 responsibility shall continue until modified by administrative order or
26 court order or by emancipation of the child. In the event that the order of
27 financial responsibility, order of default, or temporary order of financial

1 responsibility is entered in a case at a time when there is a court action on
2 the same case, the court may credit a portion of a monthly amount paid
3 under the administrative process order towards future payments due in the
4 court case only if the order in the court case is established at a lower
5 amount than the administrative process order and only to the extent of the
6 difference between the amount of the court order and the amount of the
7 administrative process order.

8 **SECTION 15. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.