

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

REVISED

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

LLS NO. 10-0575.01 Jerry Barry

HOUSE BILL 10-1043

HOUSE SPONSORSHIP

Apuan,

SENATE SPONSORSHIP

Sandoval,

House Committees

Health and Human Services

Senate Committees

Health and Human Services

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101 **CONCERNING OUTDATED REFERENCES TO THE FEDERAL AID TO**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.

SENATE
Am ended 2nd Reading
March 23, 2010

HOUSE
3rd Reading Unam ended
February 12, 2010

HOUSE
Am ended 2nd Reading
February 10, 2010

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

3 **SECTION 1.** 25.5-5-101 (4), Colorado Revised Statutes, is
4 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

5 **25.5-5-101. Mandatory provisions - eligible groups.**

6 (4) (c) SUBJECT TO THE RECEIPT OF ANY NECESSARY FEDERAL APPROVAL
7 AND PURSUANT TO 42 U.S.C. SEC. 1396a (r) (2) AND 42 U.S.C. SEC.
8 1396u-1 (b) (2) (C), FOR THE GROUPS DESCRIBED IN PARAGRAPHS (a) TO
9 (c) OF SUBSECTION (1) OF THIS SECTION, THE STATE BOARD SHALL
10 DEVELOP AN INCOME- AND RESOURCE-COUNTING METHOD TO REPLACE
11 THE METHOD USED UNDER THE AID TO FAMILIES WITH DEPENDENT
12 CHILDREN PROGRAM PURSUANT TO RULES THAT WERE IN EFFECT ON JULY
13 16, 1996. THE INCOME- AND RESOURCE-COUNTING METHOD SHALL BE:

14 (I) NO MORE RESTRICTIVE THAN THE METHOD USED UNDER THE
15 AID TO FAMILIES WITH DEPENDENT CHILDREN PURSUANT TO THE RULES
16 THAT WERE IN EFFECT ON JULY 16, 1996; AND

17 (II) NO LESS RESTRICTIVE THAN THE METHOD USED TO DETERMINE
18 ELIGIBILITY FOR OTHER COVERED GROUPS UNDER SUBSECTION (1) OF THIS
19 SECTION AND SECTIONS 25.5-5-201, 25.5-5-204, 25.5-5-204.5, AND

1 25.5-5-205.

2 **SECTION 2.** 25.5-5-201 (5), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **25.5-5-201. Optional provisions - optional groups - repeal.**

5 (5) (c) SUBJECT TO THE RECEIPT OF ANY NECESSARY FEDERAL APPROVAL
6 AND PURSUANT TO 42 U.S.C. SEC. 1396a (r) (2) AND 42 U.S.C. SEC.
7 1396u-1 (b) (2) (C), FOR THE GROUPS DESCRIBED IN PARAGRAPHS (d) AND
8 (e) OF SUBSECTION (1) OF THIS SECTION, THE STATE BOARD SHALL
9 DEVELOP AN INCOME- AND RESOURCE-COUNTING METHOD TO REPLACE
10 THE METHOD USED UNDER THE AID TO FAMILIES WITH DEPENDENT
11 CHILDREN PROGRAM PURSUANT TO RULES THAT WERE IN EFFECT ON JULY
12 16, 1996. THE INCOME- AND RESOURCE-COUNTING METHOD SHALL BE:

13 (I) NO MORE RESTRICTIVE THAN THE METHOD USED UNDER THE
14 AID TO FAMILIES WITH DEPENDENT CHILDREN PURSUANT TO THE RULES
15 THAT WERE IN EFFECT ON JULY 16, 1996; AND

16 (II) NO LESS RESTRICTIVE THAN THE METHOD USED TO DETERMINE
17 ELIGIBILITY FOR OTHER COVERED GROUPS UNDER SUBSECTION (1) OF THIS
18 SECTION AND SECTIONS 25.5-5-101, 25.5-5-204, 25.5-5-204.5, AND
19 25.5-5-205.

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

22 **25.5-5-202. Basic services for the categorically needy - optional**
23 **services - repeal.** (1) Subject to the provisions of subsection (2) of this
24 section, the following are services for which federal financial
25 participation is available and which Colorado has selected to provide as
26 optional services under the medical assistance program:

27 (r) For any pregnant woman who is enrolled OR ELIGIBLE for

1 services pursuant to section 25.5-5-101 (1) (c) OR 25.5-5-205, ~~or who~~
2 ~~would be eligible for aid to families with dependent children pursuant to~~
3 ~~rules in effect on July 16, 1996,~~ alcohol and drug and addiction
4 counseling and treatment, including outpatient and residential care but not
5 including room and board while receiving residential care;

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

8 **25.5-5-205. Baby and kid care program - creation - eligibility.**

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

13 (I) Such individual's family income shall exceed the eligibility
14 threshold used in determining eligibility for aid to families with
15 dependent children assistance pursuant to rules in effect on July 16, 1996,
16 AND THE METHOD ADOPTED BY THE STATE BOARD PURSUANT TO SECTIONS
17 25.5-5-101 (4) (c) AND 25.5-5-201 (5) (c), but shall not exceed the
18 equivalent of the percentage level of the federal poverty line that is
19 specified pursuant to paragraph (b) of this subsection (3);

20 (II) (A) ~~Except as otherwise provided in sub-subparagraph (B) of~~
21 ~~this subparagraph (H), children under six years of age shall meet the~~
22 ~~income standard used to determine eligibility for aid to families with~~
23 ~~dependent children assistance except as provided in this subsection (3).~~

24 (B) ~~Pregnant women shall meet the income standard used to~~
25 ~~determine eligibility for aid to families with dependent children~~
26 ~~assistance, except as provided in this subsection (3). No resource~~
27 ~~standard shall be applied to pregnant women as a condition of eligibility.~~

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

10 (c) (I) On and after July 1, 1991, children born after September
11 30, 1983, who have attained age six but have not attained age nineteen
12 shall be eligible for benefits under the baby and kid care program; except
13 that, for the purpose of eligibility under this paragraph (c) only, such
14 individual's family income shall exceed the eligibility threshold used in
15 determining eligibility for aid to families with dependent children
16 assistance pursuant to rules in effect on July 16, 1996, AND THE METHOD
17 ADOPTED BY THE STATE BOARD PURSUANT TO SECTIONS 25.5-5-101 (4) (c)
18 AND 25.5-5-201 (5) (c), but shall not exceed the equivalent of the
19 percentage level of the federal poverty line that is specified pursuant to
20 subparagraph (II) of this paragraph (c).

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

23 **25.5-5-301. Clinic services.** (4) "Clinic services" also means
24 preventive, diagnostic, therapeutic, rehabilitative, or palliative items or
25 services that are furnished to a pregnant woman who is enrolled OR
26 ELIGIBLE for services pursuant to section 25.5-5-101 (1) (c) OR 25.5-5-205
27 or who is eligible for aid to families with dependent children pursuant to

1 ~~rules in effect on July 16, 1996, in a facility which~~ THAT is not a part of
2 a hospital but is organized and operated as a freestanding alcohol or drug
3 treatment program approved and licensed by the division of alcohol and
4 drug abuse of the department of human services pursuant to section
5 25-1-207 (1) (c), C.R.S.

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

8 **25.5-5-309. Pregnant women - needs assessment - referral to**
9 **treatment program.** (1) The health care practitioner for each pregnant
10 woman who is enrolled OR ELIGIBLE for services pursuant to section
11 25.5-5-101 (1) (c) OR 25.5-5-205 ~~or who would be eligible for aid to~~
12 ~~families with dependent children pursuant to rules in effect on July 16,~~
13 ~~1996,~~ shall be encouraged to identify as soon as possible after such
14 woman is determined to be pregnant whether such woman is at risk of a
15 poor birth outcome due to substance abuse during the prenatal period and
16 in need of special assistance in order to reduce such risk. If the health
17 care practitioner makes such a determination regarding any pregnant
18 woman, the health care practitioner shall be encouraged to refer such
19 woman to any entity approved and licensed by the department of human
20 services for the performance of a needs assessment. Any pregnant
21 woman who is eligible for services pursuant to section 25.5-5-205 ~~or who~~
22 ~~would be eligible for aid to families with dependent children pursuant to~~
23 ~~rules in effect on July 16, 1996,~~ may refer herself for such needs
24 assessment.

25 **SECTION 7.** 26-2-102.5 (1), Colorado Revised Statutes, is
26 amended to read:

27 **26-2-102.5. Foster care - Title IV-E of the social security act.**

1 (1) Eligibility of a child for Title IV-E foster care shall be based on the
2 aid to families with dependent children (AFDC) as defined in section
3 26-2-703 (1), rules in effect on July 16, 1996.

4 **SECTION 8.** 26-2-111 (2) (d), Colorado Revised Statutes, is
5 amended to read:

6 **26-2-111. Eligibility for public assistance. (2) Old age**
7 **pension.** (d) (I) ~~No~~ A person who is a member of a household which
8 THAT is receiving public assistance under the ~~aid to families with~~
9 ~~dependent children program set forth in~~ COLORADO WORKS PROGRAM
10 PURSUANT TO PART 7 OF this article shall NOT be eligible to receive public
11 assistance pursuant to this subsection (2). ~~For the purposes of this~~
12 ~~paragraph (d), "household" has the same meaning as "assistance unit" as~~
13 ~~used in 45 CFR 205.40 (a) (1), as amended.~~

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

22 (B) ~~Such supplemental payment shall be paid only if the~~
23 ~~household remains continuously eligible to receive public assistance~~
24 ~~under both the aid to families with dependent children program set forth~~
25 ~~in this article and the old age pension program set forth in this subsection~~
26 ~~(2).~~

27 **SECTION 9.** 26-2-111.1, Colorado Revised Statutes, is amended

1 to read:

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

17 **SECTION 10.** 26-2-127 (3), Colorado Revised Statutes, is
18 amended to read:

19 **26-2-127. Appeals.** (3) The state department, the department of
20 health care policy and financing, and the office of administrative courts
21 in the department of personnel shall work together to streamline the
22 process for the appeal of disputes that are not resolved at the county level
23 and shall consider proposed legislative changes or federal waivers for the
24 ~~successor program to aid to families with dependent children~~ COLORADO
25 WORKS PROGRAM PURSUANT TO PART 7 OF THIS ARTICLE in order to
26 address changes in the appeals process to avoid or mitigate expenses to
27 counties of maintaining benefits during the pendency of state-level

1 appeals.

2 **SECTION 11.** 26-2-129 (3), Colorado Revised Statutes, is
3 amended to read:

4 **26-2-129. Funeral - burial - cremation expenses - death**
5 **reimbursement - definitions.** (3) Subject to available appropriations,
6 a death reimbursement covering reasonable funeral expenses or
7 reasonable cremation or burial expenses or any combination thereof shall
8 be paid by the county department for a decedent if the estate of the
9 deceased is insufficient to pay such reasonable expenses and if the
10 persons legally responsible for the support of the deceased are unable to
11 pay such reasonable expenses. The county department shall be
12 reimbursed eighty percent of the amount of the death reimbursement paid
13 for recipients of aid to the needy disabled and ~~aid to families with~~
14 ~~dependent children~~ ASSISTANCE UNDER THE COLORADO WORKS PROGRAM
15 PURSUANT TO PART 7 OF THIS ARTICLE and shall be reimbursed one
16 hundred percent of the amount of the death reimbursement for recipients
17 of old age pensions. If the state department determines that the level of
18 appropriation is insufficient to meet the demand for death
19 reimbursements, the state department shall reduce the amount of the death
20 reimbursement level to meet the amount appropriated by the general
21 assembly for death reimbursements. In the event that such a reduction is
22 made, the county department shall have no additional responsibility
23 beyond the reimbursement level as defined in the state department's rules.

24 **SECTION 12.** 26-2-703 (1) and (13), Colorado Revised Statutes,
25 are amended to read:

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

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

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

8 **SECTION 13.** 26-2-709 (2) (a), Colorado Revised Statutes, is
9 amended to read:

10 **26-2-709. Benefits - cash assistance - programs - rules.**

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

18 **SECTION 14.** 26-13-102.5 (2), Colorado Revised Statutes, is
19 amended to read:

20 **26-13-102.5. Definitions.** As used in this article, unless the
21 context otherwise requires:

22 (2) (a) "IV-D case" or "IV-D support order" means a case or a
23 support order with respect to a child in which support enforcement
24 services are provided, in accordance with Title IV-D of the federal
25 "Social Security Act", as amended, and pursuant to this article, by the
26 delegate child support enforcement unit to a custodian of a child who is
27 OR WAS a recipient:

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

3 (II) UNDER THE COLORADO WORKS PROGRAM PURSUANT TO PART
4 7 OF ARTICLE 2 OF THIS TITLE;

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

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

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

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

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

15 **26-13.5-107. Orders - duration - effect of court**
16 **determinations.** (2) Any order of financial responsibility, any order of
17 default, and any temporary order of financial responsibility shall continue
18 notwithstanding the fact that the child is no longer receiving benefits ~~for~~
19 ~~aid to families with dependent children~~ UNDER THE PROGRAMS LISTED IN
20 SECTION 26-13-102.5 (2) (a), unless the child is emancipated or is
21 otherwise no longer entitled to support. Any order of financial
22 responsibility, any order of default, and any temporary order of financial
23 responsibility shall continue until modified by administrative order or
24 court order or by emancipation of the child. In the event that the order of
25 financial responsibility, order of default, or temporary order of financial
26 responsibility is entered in a case at a time when there is a court action on
27 the same case, the court may credit a portion of a monthly amount paid

1 under the administrative process order towards future payments due in the
2 court case only if the order in the court case is established at a lower
3 amount than the administrative process order and only to the extent of the
4 difference between the amount of the court order and the amount of the
5 administrative process order.

6 **SECTION 16. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.