

**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. 10-0577.01 Jerry Barry

HOUSE BILL 10-1146

HOUSE SPONSORSHIP

Hullinghorst, Gagliardi, Kefalas, Kerr J., Labuda, Miklosi, Pommer, Primavera

SENATE SPONSORSHIP

Tochtrop, Newell, Steadman, Tapia

House Committees

Health and Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CERTAIN STATE-FUNDED, COMMUNITY-BASED,**
102 **LONG-TERM CARE ASSISTANCE PROVIDED TO RECIPIENTS OF**
103 **CERTAIN PUBLIC BENEFIT PROGRAMS, AND MAKING AN**
104 **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 clarifies the circumstances under which recipients of old age pension, aid to the needy disabled, aid to the blind, or supplemental

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.

security income benefits can receive state-funded adult foster care and home care allowance. The bill extends home care allowances to persons who are receiving old age pension benefits as of June 30, 2010, but eliminates home care allowances for future old age pension beneficiaries who are not eligible for supplemental social security benefits. The bill repeals language that authorizes the department of human services to make medical care payments not covered by medicare or medicaid for persons receiving aid to the needy disabled or aid to the blind.

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

2 **SECTION 1. Repeal.** 26-2-114 (2) (a) (I) and (2) (a) (II) (A),
3 Colorado Revised Statutes, are repealed as follows:

4 **26-2-114. Amount of assistance payments - old age pension.**
5 ~~(2) (a) (I) The state board in the department of human services, with the~~
6 ~~consent of the general assembly and subject to available funds, may~~
7 ~~provide adult foster care for persons eligible to receive old age pension.~~
8 ~~For the purposes of this subparagraph (I), "adult foster care" means the~~
9 ~~care and services defined in section 26-2-122.3.~~

10 ~~(II) (A) The state board in the department of human services, with~~
11 ~~the consent of the general assembly and subject to available funds, may~~
12 ~~provide a home care allowance for persons eligible to receive old age~~
13 ~~pensions. For the purposes of this subparagraph (II), "home care~~
14 ~~allowance" means care and services defined in section 26-2-122.3.~~

15 **SECTION 2.** 26-2-119 (1), (1.5), and (2), Colorado Revised
16 Statutes, are amended to read:

17 **26-2-119. Amount of assistance payments - aid to the needy**
18 **disabled.** (1) The amount of assistance payments ~~which~~ THAT shall be
19 granted to a recipient under the program for aid to the needy disabled
20 shall be on the basis of budgetary need, as determined by the county
21 department with due regard to any income, property, or other resources

1 available to the recipient, within available appropriations, and in
2 accordance with rules and regulations of the state department. ~~which may~~
3 ~~include the use of statistics, averages, tables, standards, and other criteria~~
4 ~~with respect to such determination of budgetary need.~~ The rules and
5 regulations of the state department may require an applicant or recipient
6 who may be eligible for benefits under another federal or state program
7 or who may have a right to receive or recover other income or resources
8 to take reasonable steps to apply for, otherwise pursue, and accept such
9 benefits, income, or resources.

10 (1.5) (a) ~~In addition to the amount of assistance available pursuant~~
11 ~~to subsection (1) of this section, the state board in the state department,~~
12 ~~with the consent of the general assembly and subject to available funds,~~
13 ~~may provide adult foster care for persons eligible to receive aid to the~~
14 ~~needy disabled. For the purposes of this paragraph (a), "adult foster care"~~
15 ~~means the care and services defined in section 26-2-122.3.~~

16 (b) ~~In addition to the amount of assistance available pursuant to~~
17 ~~subsection (1) of this section, the state board in the state department, with~~
18 ~~the consent of the general assembly and subject to available funds, may~~
19 ~~provide a home care allowance for persons eligible to receive aid to the~~
20 ~~needy disabled. For the purposes of this paragraph (b), "home care~~
21 ~~allowance" means care and services defined in section 26-2-122.3.~~

22 (2) ~~In computing budgetary need pursuant to subsection (1) of this~~
23 ~~section, due consideration shall, subject to available appropriations, be~~
24 ~~given to the special needs of the needy disabled recipient. Medical care~~
25 ~~payments in behalf of recipients may be provided under rules and~~
26 ~~regulations of the state department to nursing homes, intermediate care,~~
27 ~~and residential care facilities not covered by Title XIX of the social~~

1 security act or the "~~Colorado Medical Assistance Act~~".

2 **SECTION 3.** 26-2-120 (1), (1.5), and (2), Colorado Revised
3 Statutes, are amended to read:

4 **26-2-120. Amount of assistance payments - aid to the blind.**

5 (1) The amount of assistance payments ~~which~~ THAT shall be granted to
6 a recipient under the program for aid to the blind shall be on the basis of
7 budgetary need, as determined by the county department with due regard
8 to any income, property, or other resources available to the recipient,
9 within available appropriations, and in accordance with rules ~~and~~
10 ~~regulations~~ of the state department. ~~which may include the use of~~
11 ~~statistics, averages, tables, standards, and other criteria with respect to~~
12 ~~such determination of budgetary need.~~ The rules ~~and regulations~~ of the
13 state department may require an applicant or recipient who may be
14 eligible for benefits under another federal or state program or who may
15 have a right to receive or recover other income or resources to take
16 reasonable steps to apply for, otherwise pursue, and accept such benefits,
17 income, or resources.

18 (1.5) (a) ~~In addition to the amount of assistance available pursuant~~
19 ~~to subsection (1) of this section, the state board, with the consent of the~~
20 ~~general assembly and subject to available funds, may provide adult foster~~
21 ~~care for persons eligible to receive aid to the blind. For the purposes of~~
22 ~~this paragraph (a), "adult foster care" means the care and services defined~~
23 ~~in section 26-2-122.3.~~

24 (b) ~~In addition to the amount of assistance available pursuant to~~
25 ~~subsection (1) of this section, the state board, with the consent of the~~
26 ~~general assembly and subject to available funds, may provide a home care~~
27 ~~allowance for persons eligible to receive aid to the blind. For the~~

1 purposes of this paragraph (b), "home care allowance" means care and
2 services defined in section 26-2-122.3.

3 (2) In computing budgetary need pursuant to subsection (1) of this
4 section, due consideration shall, subject to available appropriations, be
5 given to the special needs of the blind recipient. Medical care payments
6 in behalf of recipients may be provided under rules and regulations of the
7 state department to nursing homes, intermediate care, and residential care
8 facilities not covered by Title XIX of the social security act or the
9 "Colorado Medical Assistance Act".

10 **SECTION 4.** 26-2-122.3 (1) (a) (I), (1) (b), and (3), Colorado
11 Revised Statutes, are amended to read:

12 **26-2-122.3. Adult foster care and home care allowance.**

13 (1) (a) (I) In addition to the amount of assistance available pursuant
14 to the provisions of this article, the state board in The state department,
15 with the consent of the general assembly and subject to available funds
16 APPROPRIATIONS, may provide adult foster care for persons eligible to
17 receive old age pension, aid to the needy disabled, or aid to the blind. For
18 purposes of this paragraph (a), "adult foster care" means care and services
19 that, in addition to room and board, may include, but are not limited to,
20 personal services, recreational opportunities, transportation, utilization of
21 volunteer services, and special diets. Such care and services are provided
22 to recipients of federal supplemental security income benefits who are
23 also eligible for the Colorado supplement program for aid to the needy
24 disabled or aid to the blind and who do not require skilled nursing care or
25 intermediate health care and cannot remain in or return to their residences
26 but who need to reside in a supervised nonmedical setting on a
27 twenty-four-hour basis. Those persons with developmental disabilities as

1 defined in section 27-10.5-102, C.R.S., or who are receiving or are
2 eligible to receive services pursuant to any provision of title 27, C.R.S.,
3 do not qualify for adult foster care under this paragraph (a).

4 (b) (I) ~~In addition to the amount of assistance available pursuant~~
5 ~~to paragraph (a) of this subsection (1), the state board in~~ EXCEPT AS
6 PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), the state
7 department, ~~with the consent of the general assembly and~~ subject to
8 available funds APPROPRIATIONS, may provide a home care allowance for
9 persons ~~eligible to receive~~ WHO MEET THE FUNCTIONAL IMPAIRMENT AND
10 FINANCIAL ELIGIBILITY CRITERIA AS ESTABLISHED BY THE STATE
11 DEPARTMENT BY RULE AND ARE RECEIVING old age pension, aid to the
12 needy disabled, ~~or aid to the blind,~~ OR SUPPLEMENTAL SOCIAL SECURITY
13 INCOME BENEFITS.

14 (II) PERSONS ELIGIBLE TO RECEIVE HOME- AND
15 COMMUNITY-BASED SERVICES PURSUANT TO ARTICLE 6 OF TITLE 25.5,
16 C.R.S., SHALL NOT BE ELIGIBLE FOR HOME CARE ALLOWANCE UNDER THIS
17 PARAGRAPH (b).

18 (III) For the purposes of this paragraph (b), "home care
19 allowance" is a program that provides payments, subject to available
20 appropriations, to functionally impaired persons who ~~are, or who would~~
21 ~~be but for their income, eligible to receive old age pension pursuant to~~
22 ~~section 26-2-114, aid to the needy disabled pursuant to section 26-2-119,~~
23 ~~or aid to the blind pursuant to section 26-2-120. To be eligible for a home~~
24 ~~care allowance, a person's monthly gross income shall be less than the~~
25 ~~applicable monthly grant standard for the old age pension, aid to the~~
26 ~~needy disabled, or aid to the blind programs, plus the person's authorized~~
27 ~~monthly home care allowance grant,~~ MEET THE CRITERIA SPECIFIED IN

1 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) as determined in accordance
2 with rules. ~~promulgated pursuant to this paragraph (b).~~ The payments
3 allow recipients who are in need of long-term care to purchase
4 community-based services as defined in ~~section 25.5-6-104(2)(c), C.R.S.~~
5 RULES ADOPTED BY THE STATE DEPARTMENT. These services may
6 include, but need not be limited to, the supervision of self-administered
7 medications, assistance with activities of daily living as defined in section
8 25.5-6-104 (2) (a), C.R.S., and assistance with instrumental activities of
9 daily living as defined in section 25.5-6-104 (2) (g), C.R.S. The rules
10 adopted by the state ~~board~~ DEPARTMENT shall specify, in accordance with
11 the provisions of this section, the services available under the program
12 and shall specify eligibility criteria for the home care allowance program.
13 ~~which shall be in addition to the eligibility criteria for the old age pension,~~
14 ~~aid to the needy disabled, or aid to the blind programs.~~ In addition, the
15 rules shall specifically provide for a determination as to the person's
16 functional impairment and the person's unmet need for paid care and shall
17 address amounts awarded to persons eligible for home care allowance.
18 The state ~~board~~ DEPARTMENT shall specify in the rules the methods for
19 determining the unmet need for paid care and the amount of a home care
20 allowance that may be awarded to eligible persons. Such methods may
21 be based on how often a person experiences unmet need for paid care or
22 any other method that the state board determines is valid in correlating
23 unmet need for paid care with an amount of a home care allowance
24 award. The state ~~board~~ DEPARTMENT shall require that eligibility and
25 unmet need for paid care be determined through the use of a
26 comprehensive and uniform client assessment instrument prescribed by
27 the state department. The state ~~board~~ DEPARTMENT may adjust income

1 eligibility criteria, including any functional impairment standard, or the
2 amounts awarded to eligible persons or may limit or suspend enrollments
3 as necessary to manage the home care allowance program within the
4 funds appropriated by the general assembly. In addition, the state board
5 DEPARTMENT may adjust which services are available under the program;
6 except that the adjustment shall be consistent with the provisions of this
7 subsection (1).

8 (3) ~~The rules of the medical services board pertaining to home~~
9 ~~care allowance and adult foster care shall be in effect until amended,~~
10 ~~modified, or repealed by the state board of human services.~~

11 **SECTION 5.** 26-2-122.3 (5), Colorado Revised Statutes, is
12 amended to read:

13 **26-2-122.3. Adult foster care and home care allowance as**
14 **services under certain public assistance programs - administered by**
15 **department of human services.** (5) The STATE department of health
16 ~~care policy and financing shall continue to contract with the single entry~~
17 ~~point agencies for the financing, assessment, and case management~~
18 functions of the home care allowance and adult foster care programs
19 PURSUANT TO THE TERMS OF THE CONTRACT OR RULE OF THE STATE
20 DEPARTMENT.

21 **SECTION 6.** 26-2-122.3 (1) (b) (I), Colorado Revised Statutes,
22 as amended in House Bill 10-1146, is amended to read:

23 **26-2-122.3. Adult foster care and home care allowance.**
24 (1) (b) (I) Except as provided in subparagraph (II) of this paragraph (b),
25 the state department, subject to available appropriations, may provide
26 home care allowance for persons who meet the functional impairment and
27 financial eligibility criteria as established by the state department by rule

1 and:

2 (A) are WERE receiving old age pension BENEFITS AND HOME
3 CARE ALLOWANCE ON THE DAY PRIOR TO THE EFFECTIVE DATE OF THIS
4 SUB-SUBPARAGRAPH (A) AND REMAIN CONTINUOUSLY ELIGIBLE FOR SUCH
5 BENEFITS; OR

6 (B) ARE RECEIVING aid to the needy disabled, aid to the blind, or
7 supplemental social security income benefits.

8 **SECTION 7. Appropriation - adjustment in 2010 long bill.**

9 (1) In addition to any other appropriation, there is hereby appropriated,
10 from the general fund, to the department of health care policy and
11 financing, for medical services premiums, for the fiscal year beginning
12 July 1, 2010, the sum of one hundred thirty-one thousand sixty dollars
13 (\$131,060), or so much thereof as may be necessary, for the
14 implementation of this act. In addition to said appropriation, the general
15 assembly anticipates that, for the fiscal year beginning July 1, 2010, the
16 department of health care policy and financing will receive the sum of
17 one hundred sixty-five thousand four hundred twenty-one dollars
18 (\$165,421) in federal funds for the implementation of this act. Although
19 the federal funds are not appropriated in this act, they are noted for the
20 purpose of indicating the assumptions used relative to these funds in
21 developing state appropriation amounts.

22 (2) For the implementation of this act, the general fund
23 appropriation to the department of health care policy and financing,
24 medical services premiums, for single entry point contracts for the home
25 care allowance program, for the fiscal year beginning July 1, 2010, shall
26 be decreased by one million nine hundred two dollars (\$1,000,902).

27 (3) In addition to any other appropriation, there is hereby

1 appropriated, to the department of health care policy and financing, for
2 allocation to the department of human services medicaid-funded
3 programs, office of information technology services - medicaid funding,
4 for the Colorado benefits management system, for the fiscal year
5 beginning July 1, 2010, the sum of ninety-two thousand two hundred
6 fifty-two dollars (\$92,252), or so much thereof as may be necessary, for
7 the implementation of this act. Of said sum, ninety-one thousand four
8 hundred thirty-four dollars (\$91,434) shall be from the general fund, four
9 hundred forty-one dollars (\$441) shall be cash funds from the old age
10 pension fund created in article XXIV of the Colorado constitution, and
11 three hundred seventy-seven dollars (\$377) shall be cash funds from the
12 children's basic health plan trust created in section 25.5-8-105 (1),
13 Colorado Revised Statutes. In addition to said appropriation, the general
14 assembly anticipates that, for the fiscal year beginning July 1, 2010, the
15 department of health care policy and financing will receive the sum of
16 ninety-two thousand one hundred thirty-five dollars (\$92,135) in federal
17 funds for the implementation of this act. Although the federal funds are
18 not appropriated in this act, they are noted for the purpose of indicating
19 the assumptions used relative to these funds in developing state
20 appropriation amounts.

21 (4) In addition to any other appropriation, there is hereby
22 appropriated, to the department of human services, for allocation to the
23 office of information technology services, for the Colorado benefits
24 management system, for the fiscal year beginning July 1, 2010, the sum
25 of three hundred twenty-eight thousand seventy-nine dollars (\$328,079),
26 or so much thereof as may be necessary, for the implementation of this
27 act. Of said sum, one hundred twenty thousand eight hundred seventy

1 dollars (\$120,870) shall be from the general fund, twenty-two thousand
2 eight hundred twenty-two dollars (\$22,822) shall be cash funds from the
3 old age pension fund created in article XXIV of the Colorado
4 constitution, and one hundred eighty-four thousand three hundred
5 eighty-seven dollars (\$184,387) shall be from reappropriated funds
6 transferred from the department of health care policy and financing from
7 the appropriation in subsection (3) of this section. In addition to said
8 appropriation, the general assembly anticipates that, for the fiscal year
9 beginning July 1, 2010, the department of human services will receive the
10 sum of one hundred sixty-one thousand nine hundred twenty-one dollars
11 (\$161,921) in federal funds for the implementation of this act. Although
12 the federal funds are not appropriated in this act, they are noted for the
13 purpose of indicating the assumptions used relative to these funds in
14 developing state appropriation amounts.

15 (5) For the implementation of this act, the general fund
16 appropriation to the department of human services, adult assistance
17 programs, for home care allowance, for the fiscal year beginning July 1,
18 2010, shall be decreased by three hundred sixty thousand five hundred
19 forty-five dollars (\$360,545).

20 (6) In addition to any other appropriation, there is hereby
21 appropriated, from the general fund, to the department of human services,
22 adult assistance programs, for single entry point contracts for the home
23 care allowance program, for the fiscal year beginning July 1, 2010, the
24 sum of one million nine hundred two dollars (\$1,000,902).

25 (7) In addition to any other appropriation, there is hereby
26 appropriated, to the Governor-Lieutenant Governor-office of state
27 planning and budgeting, for allocation to the office of information

1 technology, for the Colorado benefits management system, for the fiscal
2 year beginning July 1, 2010, the sum of four hundred ninety thousand
3 dollars (\$490,000), or so much thereof as may be necessary, for the
4 implementation of this act. Said sum shall be from reappropriated funds
5 received from the department of human services out of the appropriation
6 made in subsection (4) of this section.

7 **SECTION 8. Specified effective date.** (1) This section and
8 section 9 of this act shall take effect upon passage.

9 (2) Sections 1 through 4 of this act shall take effect January 1,
10 2011.

11 (3) Sections 5 and 7 of this act shall take effect July 1, 2010.

12 (4) Section 6 of this act shall take effect upon the earlier of:

13 (a) January 1, 2014; or

14 (b) The date upon which the revisor of statutes receives
15 notification from the executive director of the department of health care
16 policy and financing that the federal centers for medicare and medicaid
17 services, having taken into consideration the requirements for
18 maintenance of effort for medicaid eligibility contained in the federal
19 "American Reinvestment and Recovery Act", Pub.L. 111-5, or any
20 amendment thereto, and in the federal "Patient Protection and Affordable
21 Care Act", Pub.L. 111-148, or any amendment thereto, has authorized
22 Colorado to reduce eligibility for its medicaid program consistent with the
23 provisions of this act without federal penalty.

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