

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0577.01 Jerry Barry

HOUSE BILL 10-1146

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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.**

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 security income benefits can receive state-funded adult foster care and home care allowance. The bill extends home care allowances to persons

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.

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3 Colorado Revised Statutes, are repealed as follows: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
22 available to the recipient, within available appropriations, and in

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

9 (1.5) (a) ~~In addition to the amount of assistance available pursuant~~
10 ~~to subsection (1) of this section, the state board in the state department,~~
11 ~~with the consent of the general assembly and subject to available funds,~~
12 ~~may provide adult foster care for persons eligible to receive aid to the~~
13 ~~needy disabled. For the purposes of this paragraph (a), "adult foster care"~~
14 ~~means the care and services defined in section 26-2-122.3.~~

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

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

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

3 **26-2-120. Amount of assistance payments - aid to the blind.**

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

17 (1.5) ~~(a) In addition to the amount of assistance available pursuant~~
18 ~~to subsection (1) of this section, the state board, with the consent of the~~
19 ~~general assembly and subject to available funds, may provide adult foster~~
20 ~~care for persons eligible to receive aid to the blind. For the purposes of~~
21 ~~this paragraph (a), "adult foster care" means the care and services defined~~
22 ~~in section 26-2-122.3.~~

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

1 ~~services defined in section 26-2-122.3.~~

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

9 **SECTION 4.** 26-2-122.3 (1) (a) (I), (1) (b), (3), and (5), Colorado
10 Revised Statutes, are amended to read:

11 **26-2-122.3. Adult foster care and home care allowance as**
12 **services under certain public assistance programs - administered by**
13 **department of human services.** (1) (a) (I) ~~In addition to the amount of~~
14 ~~assistance available pursuant to the provisions of this article, the state~~
15 ~~board in The state department, with the consent of the general assembly~~
16 ~~and subject to available funds~~ APPROPRIATIONS, may provide adult foster
17 care for persons eligible to receive old age pension, aid to the needy
18 disabled, or aid to the blind. For purposes of this paragraph (a), "adult
19 foster care" means care and services that, in addition to room and board,
20 may include, but are not limited to, personal services, recreational
21 opportunities, transportation, utilization of volunteer services, and special
22 diets. Such care and services are provided to recipients of federal
23 supplemental security income benefits who are also eligible for the
24 Colorado supplement program for aid to the needy disabled or aid to the
25 blind and who do not require skilled nursing care or intermediate health
26 care and cannot remain in or return to their residences but who need to
27 reside in a supervised nonmedical setting on a twenty-four-hour basis.

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

5 (b) (I) ~~In addition to the amount of assistance available pursuant~~
6 ~~to paragraph (a) of this subsection (1), the state board in~~ EXCEPT AS
7 PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), the state
8 department, ~~with the consent of the general assembly and~~ subject to
9 available funds APPROPRIATIONS, may provide a home care allowance for
10 persons ~~eligible to receive~~ WHO:

11 (A) MEET THE FUNCTIONAL IMPAIRMENT AND FINANCIAL
12 ELIGIBILITY CRITERIA AS ESTABLISHED BY THE STATE DEPARTMENT BY
13 RULE; AND

14 (B) WERE RECEIVING old age pension BENEFITS ON JUNE 30, 2010,
15 AND REMAIN CONTINUOUSLY ELIGIBLE FOR SUCH BENEFITS OR ARE
16 RECEIVING aid to the needy disabled, ~~or~~ aid to the blind, OR
17 SUPPLEMENTAL SECURITY INCOME BENEFITS.

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

22 (III) For the purposes of this paragraph (b), "home care
23 allowance" is a program that provides payments, subject to available
24 appropriations, to functionally impaired persons who are, ~~or who would~~
25 ~~be but for their income, eligible to receive old age pension pursuant to~~
26 ~~section 26-2-114, aid to the needy disabled pursuant to section 26-2-119,~~
27 ~~or aid to the blind pursuant to section 26-2-120. To be eligible for a home~~

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

1 award. The state ~~board~~ DEPARTMENT shall require that eligibility and
2 unmet need for paid care be determined through the use of a
3 comprehensive and uniform client assessment instrument prescribed by
4 the state department. The state ~~board~~ DEPARTMENT may adjust income
5 eligibility criteria, including any functional impairment standard, or the
6 amounts awarded to eligible persons or may limit or suspend enrollments
7 as necessary to manage the home care allowance program within the
8 funds appropriated by the general assembly. In addition, the state ~~board~~
9 DEPARTMENT may adjust which services are available under the program;
10 except that the adjustment shall be consistent with the provisions of this
11 subsection (1).

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

15 (5) The STATE department of ~~health care policy and financing~~
16 shall ~~continue to~~ contract with the single entry point agencies for ~~the~~
17 ~~financing, assessment, and case management~~ functions of the home care
18 allowance and adult foster care programs PURSUANT TO THE TERMS OF
19 THE CONTRACT OR RULE OF THE STATE DEPARTMENT.

20 **SECTION 5. Specified effective date.** This act shall take effect
21 July 1, 2010.

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