

**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

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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.**

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3 Colorado Revised Statutes, are repealed as follows: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), and (3), Colorado
10 Revised Statutes, are amended to read:

11 **26-2-122.3. Adult foster care and home care allowance.**

12 (1) (a) (I) ~~In addition to the amount of assistance available pursuant~~
13 ~~to the provisions of this article, the state board in The state department,~~
14 ~~with the consent of the general assembly and subject to available funds~~
15 APPROPRIATIONS, may provide adult foster care for persons eligible to
16 receive old age pension, aid to the needy disabled, or aid to the blind. For
17 purposes of this paragraph (a), "adult foster care" means care and services
18 that, in addition to room and board, may include, but are not limited to,
19 personal services, recreational opportunities, transportation, utilization of
20 volunteer services, and special diets. Such care and services are provided
21 to recipients of federal supplemental security income benefits who are
22 also eligible for the Colorado supplement program for aid to the needy
23 disabled or aid to the blind and who do not require skilled nursing care or
24 intermediate health care and cannot remain in or return to their residences
25 but who need to reside in a supervised nonmedical setting on a
26 twenty-four-hour basis. Those persons with developmental disabilities as
27 defined in section 27-10.5-102, C.R.S., or who are receiving or are

1 eligible to receive services pursuant to any provision of title 27, C.R.S.,
2 do not qualify for adult foster care under this paragraph (a).

3 (b) (I) ~~In addition to the amount of assistance available pursuant~~
4 ~~to paragraph (a) of this subsection (1), the state board in~~ EXCEPT AS
5 PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), the state
6 department, ~~with the consent of the general assembly and~~ subject to
7 available funds APPROPRIATIONS, may provide a home care allowance for
8 persons ~~eligible to receive~~ WHO MEET THE FUNCTIONAL IMPAIRMENT AND
9 FINANCIAL ELIGIBILITY CRITERIA AS ESTABLISHED BY THE STATE
10 DEPARTMENT BY RULE AND:

11 (A) WERE RECEIVING old age pension BENEFITS AND HOME CARE
12 ALLOWANCE ON THE DAY PRIOR TO THE EFFECTIVE DATE OF HOUSE BILL
13 10-1146, AND REMAIN CONTINUOUSLY ELIGIBLE FOR SUCH BENEFITS; OR

14 (B) ARE RECEIVING aid to the needy disabled, ~~or~~ aid to the blind,
15 OR SUPPLEMENTAL SECURITY INCOME BENEFITS.

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

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

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

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

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

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

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

23 **SECTION 6. Specified effective date.** (1) This section and
24 section 7 of this act shall take effect upon passage.

25 (2) Section 5 of this act shall take effect July 1, 2010.

26 (3) Sections 1 through 4 of this act shall take effect October 1,
27 2010, or upon the expiration of the provisions of the federal "American

1 Reinvestment and Recovery Act of 2009", Pub.L. 111-5, or any
2 amendment thereto, or other federal law that restricts reimbursement of
3 an enhanced federal medicaid assistance percentage to a state that reduces
4 eligibility for its medicaid program, whichever is later, and upon the staff
5 director of the joint budget committee filing a written notice with the
6 revisor of statutes that the requirement set forth in this subsection (3) has
7 been met.

8 **SECTION 7. 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.