

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 18-0965.01 Brita Darling x2241

HOUSE BILL 18-1288

HOUSE SPONSORSHIP

Young,

SENATE SPONSORSHIP

(None),

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE IMPLEMENTATION OF CONFLICT-FREE CASE**
102 **MANAGEMENT FOR INDIVIDUALS RECEIVING HOME- AND**
103 **COMMUNITY-BASED SERVICES UNDER THE MEDICAL ASSISTANCE**
104 **PROGRAM.**

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://leg.colorado.gov>.)

The bill implements conflict-free case management for individuals enrolled in home- and community-based services under Colorado's medicaid program. The definition of conflict-free case management is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
Amended 2nd Reading
April 16, 2018

included in the bill and reflects the policy that case management services are provided to an individual who is enrolled in home- and community-based services by an agency that is not also providing the same individual services and supports.

The bill defines and authorizes case management agencies that will provide case management services and contains provisions for the department of health care policy and financing's oversight of case management agencies. The medical services board shall promulgate rules upon the enactment of the bill for the certification and decertification of case management agencies, as well as rules that ensure that an individual enrolled in home- and community-based services has access to case management services and that there is a process for a person to select the case management agency of his or her choice.

The bill contains time frames for the implementation of conflict-free case management in Colorado, and includes a date by which all persons receiving home- and community-based services will be served through a system of conflict-free case management.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-6-104, **amend**
3 (2) introductory portion, (2)(b), (2)(f), (2)(k), (3)(b) introductory portion,
4 and (3)(b)(VII); **repeal** (3)(b)(VIII); and **add** (2)(a.5) and (2)(d.5) as
5 follows:

6 **25.5-6-104. Long-term care placements - comprehensive and**
7 **uniform client assessment instrument - report - legislative declaration**
8 **- definitions - repeal.** (2) As used in this section and in sections
9 25.5-6-105 to ~~25.5-6-107~~ 25.5-6-107.6, unless the context otherwise
10 requires:

11 (a.5) "CASE MANAGEMENT AGENCY" MEANS A PUBLIC OR PRIVATE
12 NOT-FOR-PROFIT OR FOR-PROFIT AGENCY THAT MEETS ALL APPLICABLE
13 STATE AND FEDERAL REQUIREMENTS AND IS CERTIFIED BY THE STATE
14 DEPARTMENT TO PROVIDE CASE MANAGEMENT SERVICES PURSUANT TO
15 SECTION 25.5-6-107.3. THE CASE MANAGEMENT AGENCY SHALL PROVIDE
16 CASE MANAGEMENT SERVICES PURSUANT TO A CONTRACT WITH THE STATE

1 DEPARTMENT.

2 (b) "Case management services" means the assessment of a
3 long-term care client's needs, the development and implementation of a
4 care plan for such client, the coordination and monitoring of long-term
5 care service delivery, ~~the direct delivery of services as provided by this~~
6 ~~article or by rules adopted by the state board pursuant to this article,~~ the
7 evaluation of service effectiveness, and the reassessment of such client's
8 needs, all of which shall be performed by a ~~single entry point~~ CASE
9 MANAGEMENT AGENCY as defined in ~~paragraph (k) of this subsection~~
10 (2)(a.5) OF THIS SECTION.

11 (d.5) "CONFLICT-FREE CASE MANAGEMENT" MEANS CASE
12 MANAGEMENT SERVICES PROVIDED TO AN INDIVIDUAL ENROLLED IN A
13 HOME- AND COMMUNITY-BASED SERVICES WAIVER THAT IS NOT THE SAME
14 AGENCY THAT PROVIDES SERVICES AND SUPPORTS TO THAT PERSON.
15 SERVICE AGENCIES AND CASE MANAGEMENT AGENCIES ARE RESPONSIBLE
16 FOR ENSURING THAT PERSONS EMPLOYED BY THE AGENCY MEET THE
17 REQUIREMENTS OF THIS ARTICLE 6.

18 (f) "Information and referral" means the provision of specific,
19 accurate, and timely public information about services available to aging
20 and disabled ~~adults~~ INDIVIDUALS in need of long-term care and referral to
21 alternative agencies, programs, and services based on client inquiries.

22 (k) "Single entry point" means the availability of a single access
23 or entry point within a local area where a current or potential long-term
24 care client can obtain long-term care information, screening, ~~assessment~~
25 ~~of need~~ DETERMINATION OF ELIGIBILITY, and referral to appropriate
26 long-term care program and case management services.

27 (3) (b) Participation in the process ~~shall be~~ IS mandatory for

1 clients of publicly funded long-term care programs, including, but not
2 limited to, the following:

3 (VII) Home health services for long-term care clients. ~~and~~

4 (VIII) ~~Home- and community-based services for persons living~~
5 ~~with acquired immune deficiency syndrome (AIDS).~~

6 **SECTION 2.** In Colorado Revised Statutes, 25.5-6-106, **amend**
7 (1), (2)(a), and (2)(c)(VIII); and **repeal** (2)(b)(III), (2)(c)(III), and
8 (2)(c)(IV) as follows:

9 **25.5-6-106. Single entry point system - authorization - phases**
10 **for implementation - services provided.** (1) **Authorization.** The state
11 board is hereby authorized to adopt rules providing for the establishment
12 of a single entry point system that consists of single entry point agencies
13 throughout the state for the purpose of enabling ~~persons eighteen years of~~
14 ~~age or older~~ INDIVIDUALS in need of long-term care to access appropriate
15 long-term care services.

16 (2) **Single entry point agencies - service programs - functions.**

17 (a) A single entry point agency must be an agency in a local community
18 through which any ~~person eighteen years of age or older~~ INDIVIDUAL who
19 is in need of long-term care can ~~access-needed~~ RECEIVE INFORMATION
20 ABOUT AN ELIGIBILITY DETERMINATION FOR long-term care services. A
21 single entry point agency may be a private, nonprofit organization; a
22 county agency, including a county department of human or social
23 services; a county nursing service; an area agency on aging; or a
24 multicounty agency. ~~Persons in need of specialized assistance such as~~
25 ~~services for persons with intellectual and developmental disabilities or~~
26 ~~behavioral or mental health disorders may be referred by a single entry~~
27 ~~point agency to programs under the department of human services.~~

1 (b) The agency may serve private paying clients on a
2 fee-for-service basis and shall serve clients of publicly funded long-term
3 care programs, including, but not limited to, the following:

4 (III) ~~Home- and community-based services for persons living with~~
5 ~~acquired immune deficiency syndrome;~~

6 (c) The major functions of a single entry point shall include, but
7 need not be limited to, the following:

8 (III) ~~Assessing clients' needs in accordance with section~~
9 ~~25.5-6-104;~~

10 (IV) ~~Developing plans of care for clients;~~

11 (VIII) Delivering case management services ~~as an administrative~~
12 ~~function~~ AS PROVIDED IN A CONTRACT WITH THE STATE DEPARTMENT;

13 **SECTION 3.** In Colorado Revised Statutes, 25.5-6-107, **amend**
14 (1) introductory portion and (1)(a) as follows:

15 **25.5-6-107. Financing of single entry point system.** (1) The
16 single entry point system shall be financed with the following ~~moneys~~
17 MONEY:

18 (a) Federal financial participation ~~moneys~~ MONEY available ~~for~~
19 ~~case management~~ for home- and community-based services pursuant to
20 this ~~article, and~~ ARTICLE 25.5 for administration of medical assistance
21 programs, pursuant to Title XIX of the federal "Social Security Act", as
22 amended;

23 **SECTION 4.** In Colorado Revised Statutes, **add** 25.5-6-107.3 as
24 follows:

25 **25.5-6-107.3. Case management agencies - certification -**
26 **purchase of services and supports - rules.** (1) TO BE CERTIFIED AS A
27 CASE MANAGEMENT AGENCY, A PUBLIC OR PRIVATE FOR-PROFIT OR

1 NOT-FOR-PROFIT AGENCY MUST APPLY TO THE STATE DEPARTMENT IN THE
2 FORM AND MANNER SPECIFIED BY THE EXECUTIVE DIRECTOR. THE STATE
3 BOARD SHALL PROMULGATE RULES FOR CERTIFICATION AND
4 DECERTIFICATION OF CASE MANAGEMENT AGENCIES.

5 (2) ONCE CERTIFIED PURSUANT TO THIS SECTION, SUBJECT TO
6 AVAILABLE APPROPRIATIONS, A CASE MANAGEMENT AGENCY SHALL
7 PROVIDE CASE MANAGEMENT SERVICES.

8 (3) THE EXECUTIVE DIRECTOR OR HIS OR HER DESIGNEE SHALL
9 REVIEW EACH CASE MANAGEMENT AGENCY TO ENSURE THAT THE AGENCY
10 COMPLIES WITH THE REQUIREMENTS AND STANDARDS SET FORTH IN THIS
11 ARTICLE 6 AND THE RULES PROMULGATED PURSUANT TO THIS ARTICLE 6.

12 (4) THE STATE BOARD SHALL PROMULGATE RULES TO ENSURE
13 THAT:

14 (a) EACH ENROLLED INDIVIDUAL HAS ACCESS TO CASE
15 MANAGEMENT SERVICES;

16 (b) AN INDIVIDUAL IS NOT REQUIRED TO HAVE MULTIPLE CASE
17 MANAGERS; AND

18 (c) THERE IS AN ESTABLISHED PROCESS FOR THE INDIVIDUAL TO
19 SELECT THE CASE MANAGEMENT AGENCY OF HIS OR HER CHOICE.

20 **SECTION 5.** In Colorado Revised Statutes, **add** 25.5-6-107.6 as
21 follows:

22 **25.5-6-107.6. Conflict-free case management - implementation**
23 **- legislative declaration - rules - definition.** (1) THE GENERAL
24 ASSEMBLY ACKNOWLEDGES THE RIGHTS OF INDIVIDUALS TO MAKE
25 CHOICES REGARDING THEIR CASE MANAGEMENT AGENCY AND SERVICE
26 AGENCY. THEREFORE, THE GENERAL ASSEMBLY BELIEVES THERE EXISTS
27 THE NEED TO ENSURE CONFLICT-FREE CASE MANAGEMENT SERVICES FOR

1 INDIVIDUALS IN NEED OF LONG-TERM CARE.

2 (2) A CONFLICT-FREE CASE MANAGEMENT SYSTEM SHALL BE
3 IMPLEMENTED IN COLORADO AS FOLLOWS:

4 (a) NO LATER THAN JUNE 30, 2020, A SINGLE ENTRY POINT AGENCY
5 SHALL COMPLETE ANY NECESSARY CHANGES TO ITS BUSINESS OPERATION
6 THAT ARE REQUIRED IN ORDER TO BECOME COMPLIANT WITH
7 CONFLICT-FREE CASE MANAGEMENT;

8 (b) NO LATER THAN JUNE 30, 2021, AT LEAST TWENTY-FIVE
9 PERCENT OF INDIVIDUALS RECEIVING HOME- AND COMMUNITY-BASED
10 SERVICES MUST BE SERVED THROUGH A SYSTEM OF CONFLICT-FREE CASE
11 MANAGEMENT; AND

12 (c) NO LATER THAN JUNE 30, 2022, ALL INDIVIDUALS RECEIVING
13 HOME- AND COMMUNITY-BASED SERVICES MUST BE SERVED THROUGH A
14 SYSTEM OF CONFLICT-FREE CASE MANAGEMENT.

15 (3) (a) AS USED IN THIS SUBSECTION (3), UNLESS THE CONTEXT
16 OTHERWISE REQUIRES, "RURAL SINGLE ENTRY POINT" MEANS A SINGLE
17 ENTRY POINT COMPRISED PRIMARILY OF COUNTIES DESIGNATED BY THE
18 STATE OFFICE OF RURAL HEALTH AS A RURAL OR FRONTIER COUNTY.

19 (b) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK A FEDERAL
20 EXCEPTION FROM CONFLICT-FREE CASE MANAGEMENT REQUIREMENTS FOR
21 GEOGRAPHIC AREAS WITHIN THE STATE WHERE THE ONLY WILLING AND
22 QUALIFIED ENTITY TO PROVIDE CASE MANAGEMENT SERVICES IS ALSO THE
23 ONLY WILLING AND QUALIFIED ENTITY TO PROVIDE HOME- AND
24 COMMUNITY-BASED SERVICES IN THAT GEOGRAPHIC AREA.

25 (c) A RURAL SINGLE ENTRY POINT MUST INITIALLY NOTIFY THE
26 STATE DEPARTMENT IN WRITING, NO LATER THAN JULY 1, 2018, TO
27 REQUEST THAT THE STATE DEPARTMENT SEEK A FEDERAL EXCEPTION FOR

1 ITS DESIGNATED SERVICE AREA. UPON RECEIPT OF THE NOTICE, THE STATE
2 DEPARTMENT SHALL EVALUATE CASE MANAGEMENT AND SERVICE
3 PROVIDER CAPACITY, AND, IF THE STATE DEPARTMENT DETERMINES THAT
4 IT IS SUPPORTED, THE STATE DEPARTMENT SHALL SEEK A FEDERAL
5 EXCEPTION FOR ITS DESIGNATED SERVICE AREA WITHIN A REASONABLE
6 PERIOD OF TIME.

7 (d) UPON NOTIFICATION OF FEDERAL APPROVAL OR DENIAL OF A
8 FEDERAL EXCEPTION FROM CONFLICT-FREE CASE MANAGEMENT
9 REQUIREMENTS, THE RURAL SINGLE ENTRY POINT SHALL SUBMIT A
10 BUSINESS CONTINUITY PLAN AND COMMENCE ANY NECESSARY CHANGES
11 TO ITS BUSINESS OPERATION.

12 (e) THE STATE BOARD SHALL PROMULGATE RULES FOR THE
13 PROVISION OF SERVICES AND SUPPORTS, INCLUDING SERVICES AND
14 SUPPORTS COORDINATION, WHEN THERE ARE MULTIPLE AGENCIES
15 OPERATING IN A SPECIFIED GEOGRAPHIC AREA.

16 (f) IF THE STATE DEPARTMENT HAS NOT RECEIVED NOTIFICATION
17 BY JULY 1, 2019, REGARDING APPROVAL OR DENIAL FOR A FEDERAL
18 EXCEPTION FROM CONFLICT-FREE CASE MANAGEMENT REQUIREMENTS,
19 THE STATE BOARD SHALL PROMULGATE RULES FOR THE PROVISION OF
20 SERVICES AND SUPPORTS, INCLUDING SERVICES AND SUPPORTS
21 COORDINATION, FOR DESIGNATED SERVICE AREAS WHERE A FEDERAL
22 EXCEPTION FROM CONFLICT-FREE CASE MANAGEMENT IS PENDING.

23 (g) IN ORDER TO ENSURE STABILITY, CLIENT CHOICE, AND ACCESS
24 TO SERVICES IN RURAL COMMUNITIES, THE STATE BOARD SHALL
25 PROMULGATE RULES, AS PERMITTED UNDER FEDERAL LAW, THAT ALLOW
26 A QUALIFIED ENTITY TO PROVIDE BOTH CASE MANAGEMENT SERVICES AND
27 HOME- AND COMMUNITY-BASED SERVICES TO THE SAME INDIVIDUAL IF

1 THERE IS INSUFFICIENT CHOICE OR CAPACITY AMONG EXISTING SERVICE
2 AGENCIES OR CASE MANAGEMENT AGENCIES SERVING A DESIGNATED
3 SERVICE AREA OF A RURAL SINGLE ENTRY POINT.

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