

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-1041.01 Brita Darling x2241

HOUSE BILL 14-1357

HOUSE SPONSORSHIP

Young,

SENATE SPONSORSHIP

Aguilar,

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING IN-HOME SUPPORT SERVICES PROVIDED IN THE MEDICAID
102 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://www.leg.state.co.us/billsummaries>.)

The bill makes changes to the in-home support services delivery model for home- and community-based services. The changes include:

- ! Expanding in-home support services to include persons enrolled in the spinal cord injury waiver pilot program;
- ! Clarifying that in-home support services may be provided

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.

- in the home or in the community;
- ! Clarifying that the person receiving services, or his or her authorized representative, may schedule, manage, supervise and direct the work of the attendant providing services;
- ! Requiring the state board of medical services rules for in-home support services to include rules relating to nurse oversight that permit the person receiving services, or his or her representative, in conjunction with the in-home support services agency to determine the amount of nurser oversight;
- ! Permitting family members to be reimbursed for in-home support services provided to eligible persons and requiring the medical services board to promulgate rules, as necessary, regarding reimbursement for services; and
- ! Amending statutory provisions for the elderly, blind, and disabled waiver to reflect current law permitting persons enrolled in the waiver to receive in-home support services.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 25.5-6-1201
3 as follows:

4 **25.5-6-1201. Legislative declaration.** (1) The general assembly
5 finds that there may be a more effective way to deliver home- and
6 community-based services to the elderly, blind, and disabled; ~~and~~ to
7 disabled children; AND TO PERSONS WITH SPINAL CORD INJURIES, that
8 allows for more self-direction in their care and a cost savings to the state.
9 The general assembly also finds that every person that is currently
10 receiving home- and community-based services does not need the same
11 level of supervision and care from a licensed health care professional in
12 order to meet his or her care needs and remain living in the community.
13 The general assembly, therefore, declares that it is beneficial to the
14 elderly, blind, and disabled clients of home- and community-based
15 services, ~~and~~ to clients of the disabled children care program, AND TO
16 CLIENTS ENROLLED IN THE SPINAL CORD INJURY WAIVER PILOT PROGRAM,

1 for the state department to develop a service that would allow these
2 people to receive in-home support.

3 (2) THE GENERAL ASSEMBLY FURTHER FINDS THAT ALLOWING
4 CLIENTS MORE SELF-DIRECTION IN THEIR CARE IS A MORE EFFECTIVE WAY
5 TO DELIVER HOME- AND COMMUNITY-BASED SERVICES TO CLIENTS WITH
6 MAJOR MENTAL ILLNESSES AND BRAIN INJURIES, AS WELL AS TO CLIENTS
7 RECEIVING HOME- AND COMMUNITY-BASED SUPPORTIVE LIVING SERVICES
8 AND CHILDREN'S EXTENSIVE SUPPORT SERVICES. THEREFORE, THE
9 GENERAL ASSEMBLY DECLARES THAT IT IS APPROPRIATE FOR THE STATE
10 DEPARTMENT TO DEVELOP A PLAN FOR EXPANDING THE AVAILABILITY OF
11 IN-HOME SUPPORT SERVICES TO INCLUDE THESE CLIENTS.

12 **SECTION 2.** In Colorado Revised Statutes, 25.5-6-1202, **amend**
13 (1), (3) (a), and (6) as follows:

14 **25.5-6-1202. Definitions.** As used in this part 12, unless the
15 context otherwise requires:

16 (1) "Attendant" means a person who is directly employed by an
17 in-home support service agency to provide or a family member,
18 INCLUDING A SPOUSE, providing in-home support services to eligible
19 persons.

20 (3) "Eligible person" means any person who:

21 (a) Is ~~eligible for~~ ENROLLED IN home- and community-based
22 services ~~under~~ PURSUANT TO part 3 of this article, IS ENROLLED IN THE
23 SPINAL CORD INJURY WAIVER PILOT PROGRAM PURSUANT TO PART 13 OF
24 THIS ARTICLE, or is ~~eligible for~~ ENROLLED IN the disabled children care
25 program ~~under~~ PURSUANT TO section 25.5-6-901;

26 (6) "In-home support services" means services that are provided
27 IN THE HOME AND IN THE COMMUNITY by an attendant ~~and include~~ UNDER

1 THE DIRECTION OF THE ELIGIBLE PERSON OR THE ELIGIBLE PERSON'S
2 AUTHORIZED REPRESENTATIVE INCLUDING health maintenance activities
3 AND support for activities of daily living or instrumental activities of daily
4 living, AND personal care services as defined in section ~~25.5-6-303 (18)~~;
5 and homemaker services as defined in section ~~25.5-6-303 (11)~~ RULES
6 PROMULGATED BY THE MEDICAL SERVICES BOARD PURSUANT TO SECTION
7 24-4-103, C.R.S.

8 **SECTION 3.** In Colorado Revised Statutes, 25.5-6-1203, **amend**
9 (2), (4) (a), and (6); and **add** (1.5) as follows:

10 **25.5-6-1203. In-home support services - eligibility - licensure**
11 **exclusion - in-home support service agency responsibilities - rules.**

12 (1.5) THE STATE DEPARTMENT SHALL DEVELOP A PLAN TO EXPAND THE
13 PROVISION OF IN-HOME SUPPORT SERVICES TO INCLUDE CLIENTS ELIGIBLE
14 FOR HOME- AND COMMUNITY-BASED SERVICES PURSUANT TO PARTS 6 AND
15 7 OF THIS ARTICLE AND HOME- AND COMMUNITY-BASED ADULT
16 SUPPORTIVE LIVING SERVICES AND CHILDREN'S EXTENSIVE SUPPORT
17 SERVICES PURSUANT TO PART 4 OF THIS ARTICLE. ON OR BEFORE MARCH
18 1, 2015, THE STATE DEPARTMENT SHALL REPORT TO THE PUBLIC HEALTH
19 AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES
20 AND TO THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE,
21 OR ANY SUCCESSOR COMMITTEES, CONCERNING THE STATE DEPARTMENT'S
22 PLAN FOR PROVIDING IN-HOME SUPPORT SERVICES TO THESE CLIENTS,
23 INCLUDING THE TIMELINE FOR IMPLEMENTATION OF THE SERVICE.

24 (2) An eligible person receiving in-home support services or the
25 eligible person's authorized representative or parent or guardian shall be
26 allowed to:

27 (a) Choose the eligible person's in-home support service agency

1 or the eligible person's attendant; AND

2 (b) DIRECT THE ELIGIBLE PERSON'S CARE, INCLUDING DIRECTLY
3 SCHEDULING, MANAGING, AND SUPERVISING THE ATTENDANT, AND TO
4 DETERMINE THE LEVEL OF SUPPORT TO BE PROVIDED BY THE IN-HOME
5 SUPPORT SERVICE AGENCY.

6 (4) (a) In-home support service agencies providing in-home
7 support services shall provide twenty-four-hour back-up services to their
8 clients. In-home support service agencies shall either contract with or
9 have on staff a state licensed health care professional, as defined by the
10 state board by rule, acting within the scope of the person's profession. The
11 state board shall promulgate rules setting forth the training requirements
12 for attendants providing in-home support services and the oversight and
13 monitoring responsibilities of the state licensed health care professional
14 that is either contracting with or is on staff with the in-home support
15 service agency. THE STATE BOARD RULES MUST ALLOW THE ELIGIBLE
16 PERSON OR THE ELIGIBLE PERSON'S AUTHORIZED REPRESENTATIVE, PARENT
17 OF A MINOR, OR GUARDIAN TO DETERMINE, IN CONJUNCTION WITH THE
18 IN-HOME SUPPORT SERVICES AGENCY, THE AMOUNT OF NURSE OVERSIGHT
19 NEEDED, IF ANY, IN CONNECTION WITH THE ELIGIBLE PERSON'S IN-HOME
20 SUPPORT SERVICES.

21 (6) Section 25.5-6-310 does not apply to ~~any parent~~ A FAMILY
22 MEMBER OF AN ELIGIBLE PERSON who provides in-home support services
23 to ~~an eligible disabled child~~ THE ELIGIBLE PERSON pursuant to this part 12.
24 THE STATE BOARD SHALL PROMULGATE RULES, AS NECESSARY, TO
25 ESTABLISH LIMITS ON REIMBURSEMENT TO FAMILY MEMBERS.

26 **SECTION 4.** In Colorado Revised Statutes, 25.5-6-307, **amend**
27 (1) introductory portion; and **add** (1) (k) as follows:

1 **25.5-6-307. Services for the elderly, blind, and disabled.**

2 (1) Subject to the provisions of this part 3, home- and community-based
3 services for the elderly, blind, and disabled ~~shall~~ include only the
4 following services:

5 (k) IN-HOME SUPPORT SERVICES PROVIDED PURSUANT TO PART 12
6 OF THIS ARTICLE.

7 **SECTION 5. Act subject to petition - effective date.** This act
8 takes effect November 1, 2014; except that, if a referendum petition is
9 filed pursuant to section 1 (3) of article V of the state constitution against
10 this act or an item, section, or part of this act within the ninety-day period
11 after final adjournment of the general assembly, then the act, item,
12 section, or part will not take effect unless approved by the people at the
13 general election to be held in November 2014 and, in such case, will take
14 effect on the date of the official declaration of the vote thereon by the
15 governor.