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An Act

SENATE BILL 14-067

BY SENATOR(S) Aguilar, Guzman, Heath, Johnston, Jones, Kefalas, Newell, Nicholson, Schwartz, Steadman, Tochtrop, Todd, Ulibarri, Carroll;
also REPRESENTATIVE(S) Singer, Buckner, Court, Fields, Fischer, Ginal, Hullinghorst, Labuda, McLachlan, Pettersen, Rosenthal, Salazar, Schafer, Tyler, Young, Ferrandino.

CONCERNING ALIGNING CERTAIN STATE MEDICAL ASSISTANCE PROGRAMS'
ELIGIBILITY LAWS WITH THE FEDERAL "PATIENT PROTECTION AND
AFFORDABLE CARE ACT".

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

SECTION 1. In Colorado Revised Statutes, 25.5-4-103, **amend** (2); **repeal** (1); and **add** (13.5) as follows:

25.5-4-103. Definitions. As used in this article and articles 5 and 6 of this title, unless the context otherwise requires:

(1) ~~"1931 medicaid recipient" means any person who is eligible for medicaid as provided in section 25.5-5-101 (1) (a), 25.5-5-201 (1) (a), or 25.5-5-201 (1) (h) and refers to section 1931 of Title XIX of the federal "Social Security Act", 42 U.S.C. sec. 1396u-1.~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) "Applicant" means ~~any person who has applied for benefits~~ AN INDIVIDUAL WHO IS SEEKING AN ELIGIBILITY DETERMINATION FOR HIMSELF OR HERSELF under this article and articles 5 and 6 of this title THROUGH AN APPLICATION SUBMISSION OR A TRANSFER FROM ANOTHER AGENCY OR INSURANCE AFFORDABILITY PROGRAM.

(13.5) "MODIFIED ADJUSTED GROSS INCOME" OR "MAGI" MEANS AN AMOUNT OF INCOME, AS DETERMINED PURSUANT TO SECTION 1902 (e) (14) OF THE FEDERAL "SOCIAL SECURITY ACT", THAT IS USED TO ESTABLISH ELIGIBILITY FOR MEDICAL ASSISTANCE.

SECTION 2. In Colorado Revised Statutes, 25.5-4-205, **amend** (1) (a), (3) (b) (I) (A), (3) (b) (I) (B), (3) (b) (I.5), and (3) (d) (II) as follows:

25.5-4-205. Application - verification of eligibility - demonstration project - rules. (1) (a) Determination of eligibility for medical benefits shall be made by the county department in which the applicant resides, except as otherwise specified in this section. Local social security offices also determine eligibility for medicaid benefits at the same time they determine eligibility for supplemental security income. The state department may accept medical assistance applications and determine medical assistance eligibility and may designate the private service contractor that administers the children's basic health plan, Denver health and hospitals, a hospital that is designated as a regional pediatric trauma center, as defined in section 25-3.5-703 (4) (f), C.R.S., and other medical assistance sites determined necessary by the state department to accept medical assistance applications, to determine medical assistance eligibility, and to determine presumptive eligibility. When the state department determines that it is necessary to designate an additional medical assistance site, the state department shall notify the county in which the medical assistance site is located that an additional medical assistance site has been designated. Any person who is determined to be eligible pursuant to the requirements of this article and articles 5 and 6 of this title shall be eligible for benefits until such person is determined to be ineligible. Upon determination that any person is ineligible for medical benefits, the county department, the state department, or other entity designated by the state department shall notify the applicant in writing of its decision and the reason therefor. WHEN AN APPLICANT IS FOUND INELIGIBLE FOR MEDICAL ASSISTANCE ELIGIBILITY PROGRAMS, THE APPLICANT'S APPLICATION DATA AND VERIFICATIONS SHALL BE AUTOMATICALLY SHARED WITH THE STATE

INSURANCE MARKETPLACE THROUGH A SYSTEM INTERFACE. Separate determination of eligibility and formal application for benefits under this article and articles 5 and 6 of this title for persons eligible as provided in sections 25.5-5-101 and 25.5-5-201 shall be made in accordance with the rules of the state department.

(3) (b) (I) The state department shall promulgate rules that:

(A) To the extent authorized under federal law, require an applicant to state only the applicant's income and require the state department to verify the applicant's income through ~~the most recently available records of the division of unemployment insurance in the department of labor and employment or through the income, eligibility, and verification system~~ FEDERALLY APPROVED ELECTRONIC DATA SOURCES; except that, IF ELECTRONIC DATA IS NOT AVAILABLE, OR THE INFORMATION OBTAINED FROM AN ELECTRONIC DATA SOURCE IS NOT REASONABLY COMPATIBLE WITH INFORMATION PROVIDED BY OR ON BEHALF OF AN APPLICANT, the rules shall also ~~allow an applicant to provide income information more recent than the records of the division of unemployment insurance or the income, eligibility, and verification system~~ REQUIRE AN INDIVIDUAL TO PROVIDE DOCUMENTATION IN ORDER TO VERIFY THE APPLICANT'S INCOME; and

(B) Require the state department at least annually to verify a recipient's income eligibility at reenrollment through ~~the records of the division of unemployment insurance in the department of labor and employment or through the income, eligibility, and verification system~~ FEDERALLY APPROVED ELECTRONIC DATA SOURCES and, if the recipient meets all eligibility requirements, permit the recipient to remain enrolled in the program. ~~The rules shall also allow a recipient to supply income information more recent than the information supplied by the records of the division of unemployment insurance or the income, eligibility, and verification system~~ THE RULES SHALL ONLY REQUIRE AN INDIVIDUAL TO PROVIDE DOCUMENTATION VERIFYING INCOME IF ELECTRONIC DATA IS NOT AVAILABLE, OR THE INFORMATION OBTAINED FROM ELECTRONIC DATA SOURCES IS NOT REASONABLY COMPATIBLE WITH INFORMATION PROVIDED BY OR ON BEHALF OF AN APPLICANT.

(I.5) (A) If the state department determines that a recipient was not eligible for medical benefits solely based upon the recipient's income after

the recipient had been determined to be eligible based upon ~~the records of the division of unemployment insurance or the income, eligibility, and verification system~~ ELECTRONIC DATA OBTAINED THROUGH A FEDERALLY APPROVED ELECTRONIC DATA SOURCE, the state department shall not pursue recovery from a county department for the cost of medical services provided to the recipient, and the county department is not responsible for any federal error rate sanctions resulting from such determination.

(B) Notwithstanding any other provision in this paragraph (b), for applications that contain self-employment income, the state department shall not implement this paragraph (b) until it can verify self-employment income through ~~the income, eligibility, and verification system or other verification~~ FEDERALLY APPROVED ELECTRONIC DATA SOURCES as authorized by rules of the state department and federal law.

(d) (II) The state department shall also adopt rules that allow for assistance to be provided ~~on an emergency basis~~ until the applicant is able to obtain or qualify for a driver's license or identification card; however, a county department or an entity designated by the state department pursuant to subsection (1) of this section is not required to ~~recover emergency assistance~~ PURSUE RECOVERY OF ASSISTANCE from an applicant who fails, upon recertification, to meet the photographic identification requirement.

SECTION 3. In Colorado Revised Statutes, 25.5-5-101, **amend** (1) (b), (1) (c), (1) (d), (1) (e), (1) (m), and (4); and **repeal** (1) (a) as follows:

25.5-5-101. Mandatory provisions - eligible groups. (1) In order to participate in the medicaid program, the federal government requires the state to provide medical assistance to certain eligible groups. Pursuant to federal law and except as provided in subsection (2) of this section, any person who is eligible for medical assistance under the mandated groups specified in this section shall receive both the mandatory services that are specified in sections 25.5-5-102 and 25.5-5-103 and the optional services that are specified in sections 25.5-5-202 and 25.5-5-203. Subject to the availability of federal financial participation, the following are the individuals or groups that are mandated under federal law to receive benefits under this article and articles 4 and 6 of this title:

(a) ~~Individuals who meet the eligibility criteria for the aid to families with dependent children program pursuant to rules that were in~~

~~effect on July 16, 1996;~~

(b) ~~Families~~ PARENTS AND CARETAKER RELATIVES LIVING WITH A DEPENDENT CHILD who meet the eligibility criteria for the aid to families with dependent children program established in rules that were in effect on July 16, 1996, and PURSUANT TO SECTION 1902 (a) (10) (A) OF THE FEDERAL "SOCIAL SECURITY ACT", INCLUDING THOSE who subsequently would have become ineligible under such eligibility criteria because of increased earnings or increased hours of employment whose eligibility is specified for a period of time by the federal government;

(c) ~~Qualified pregnant women, and children under the age of seven, who meet the income requirements of the state's aid to families with dependent children program pursuant to rules that were in effect on July 16, 1996~~ PREGNANT WOMEN WHOSE FAMILY INCOME DOES NOT EXCEED ONE HUNDRED THIRTY-THREE PERCENT OF THE FEDERAL POVERTY LINE, ADJUSTED FOR FAMILY SIZE, WHO MEET THE REQUIREMENTS PURSUANT TO SECTION 1902 (a) (10) (A) OF THE FEDERAL "SOCIAL SECURITY ACT". ONCE INITIAL ELIGIBILITY HAS BEEN ESTABLISHED, THE PREGNANT WOMAN IS CONTINUOUSLY ELIGIBLE THROUGHOUT THE PREGNANCY AND FOR THE SIXTY DAYS FOLLOWING THE PREGNANCY, EVEN IF THE WOMAN'S ELIGIBILITY WOULD OTHERWISE TERMINATE DURING SUCH PERIOD DUE TO AN INCREASE IN INCOME.

(d) A newborn child born of a woman who is categorically needy. Such child is deemed medicaid-eligible on the date of birth and remains eligible for one year. ~~so long as the woman remains categorically needy and the child is a member of her household.~~

(e) Children for whom adoption assistance or foster care maintenance payments are made under Title IV-E of the FEDERAL "Social Security Act", as amended, INCLUDING FOSTER CARE CHILDREN, PURSUANT TO SECTION 1902 (a) (10) (A) (i) (IX) OF THE FEDERAL "SOCIAL SECURITY ACT", WHO ARE UNDER TWENTY-SIX YEARS OF AGE, WHO WERE IN FOSTER CARE UNDER THE RESPONSIBILITY OF THE STATE OR A TRIBE, AND WHO WERE ENROLLED IN MEDICAID UNDER THE STATE MEDICAID PLAN WHEN THEY TURNED EIGHTEEN YEARS OF AGE;

(m) ~~Low-income pregnant women, and Children through~~ UNDER the age of six, ~~whose income is at or below a certain percentage of the federal~~

~~poverty line as determined by the federal government~~ NINETEEN WHO MEET THE ELIGIBILITY CRITERIA PURSUANT TO SECTION 1902 (a) (10) (A) OF THE FEDERAL "SOCIAL SECURITY ACT".

(4) ~~(a)~~ An asset test shall not be applied as a condition of eligibility for individuals or families described in paragraphs ~~(a)~~, (b), and (c), (d), AND (e) of subsection (1) of this section.

~~(b) Repealed.~~

~~(c) Subject to the receipt of any necessary federal approval and pursuant to 42 U.S.C. sec. 1396a (r) (2) and 42 U.S.C. sec. 1396u-1 (b) (2) (C), for the groups described in paragraphs (a) to (c) of subsection (1) of this section, the state board shall develop an income- and resource-counting method to replace the method used under the aid to families with dependent children program pursuant to rules that were in effect on July 16, 1996. The income- and resource-counting method shall be:~~

~~(i) No more restrictive than the method used under the aid to families with dependent children program pursuant to the rules that were in effect on July 16, 1996; and~~

~~(ii) No less restrictive than the method used to determine eligibility for other covered groups under subsection (1) of this section and sections 25.5-5-201, 25.5-5-204, 25.5-5-204.5, and 25.5-5-205.~~

SECTION 4. In Colorado Revised Statutes, 25.5-5-103, **repeal** (1) (a) as follows:

25.5-5-103. Mandated programs with special state provisions.

(1) This section specifies programs developed by Colorado to meet federal mandates. These programs include but are not limited to:

~~(a) The program known as the baby and kid care program which provides medical assistance for pregnant women and children, as specified in section 25.5-5-205;~~

SECTION 5. In Colorado Revised Statutes, 25.5-5-201, **amend** (5); **repeal** (1) (d), (1) (e), and (1) (n); and **add** (1) (m.5) as follows:

25.5-5-201. Optional provisions - optional groups - repeal.

(1) The federal government allows the state to select optional groups to receive medical assistance. Pursuant to federal law, any person who is eligible for medical assistance under the optional groups specified in this section shall receive both the mandatory services specified in sections 25.5-5-102 and 25.5-5-103 and the optional services specified in sections 25.5-5-202 and 25.5-5-203. Subject to the availability of federal financial aid funds, the following are the individuals or groups that Colorado has selected as optional groups to receive medical assistance pursuant to this article and articles 4 and 6 of this title:

~~(d) Individuals who would be eligible for aid to families with dependent children if child care were paid from earnings;~~

~~(e) Individuals under the age of twenty-one who would be eligible for aid to families with dependent children but do not qualify as dependent children;~~

(m.5) PREGNANT WOMEN, WHOSE FAMILY INCOME DOES NOT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE FEDERAL POVERTY LINE, ADJUSTED FOR FAMILY SIZE;

~~(n) Individuals under the age of twenty-one years eligible for medical assistance pursuant to paragraph (l) of this subsection (1) or section 25.5-5-101 (1)(e) immediately prior to attaining the age of eighteen years or otherwise becoming emancipated;~~

(5) (a) An asset test shall not be applied as a condition of eligibility for individuals or families described in paragraphs (a), (h), and ~~(m)~~ (m.5) of subsection (1) of this section.

~~(b) Repealed.~~

~~(c) Subject to the receipt of any necessary federal approval and pursuant to 42 U.S.C. sec. 1396a (r) (2) and 42 U.S.C. sec. 1396u-1 (b) (2) (C), for the groups described in paragraphs (d) and (e) of subsection (1) of this section, the state board shall develop an income- and resource-counting method to replace the method used under the aid to families with dependent children program pursuant to rules that were in effect on July 16, 1996. The income- and resource-counting method shall be:~~

~~(I) No more restrictive than the method used under the aid to families with dependent children program pursuant to the rules that were in effect on July 16, 1996; and~~

~~(II) No less restrictive than the method used to determine eligibility for other covered groups under subsection (1) of this section and sections 25.5-5-101, 25.5-5-204, 25.5-5-204.5, and 25.5-5-205.~~

SECTION 6. In Colorado Revised Statutes, 25.5-5-202, **amend** (1) (r) as follows:

25.5-5-202. Basic services for the categorically needy - optional services - repeal. (1) Subject to the provisions of subsection (2) of this section, the following are services for which federal financial participation is available and which Colorado has selected to provide as optional services under the medical assistance program:

(r) For any pregnant woman who is enrolled or eligible for services pursuant to section 25.5-5-101 (1) (c), ~~or 25.5-5-205~~; alcohol and drug and addiction counseling and treatment, including outpatient and residential care but not including room and board while receiving residential care;

SECTION 7. In Colorado Revised Statutes, **repeal** 25.5-5-205.

SECTION 8. In Colorado Revised Statutes, 25.5-8-109, **amend** (4) (a) and (4.5) (a); and **repeal** (4) (b) as follows:

25.5-8-109. Eligibility - children - pregnant women. (4) A child whose family income does not exceed the applicable level specified in section 25.5-8-103 (4) (a) shall be presumptively eligible for the plan. Children who are determined to be eligible for the plan shall remain eligible for twelve months subsequent to the last day of the month in which they were enrolled; except that a child shall no longer be eligible for the plan and shall be disenrolled from the plan if the department becomes aware of or is notified that any of the following has occurred:

(a) The child has moved out of the state; OR

~~(b) The child has been enrolled in the medicaid program; except that, in disenrolling a child pursuant to this paragraph (b), the department~~

~~shall ensure that the child is continuously covered under this section until the coverage is attained under the medicaid program and that there is no gap in coverage; or~~

(4.5) (a) (I) To the extent authorized by federal law, the department shall require an applicant to state only the applicant's family income and shall notify the applicant that the applicant's family income will be verified by ~~the department through the most recently available records of the division of unemployment insurance in the department of labor and employment or through the income, eligibility, and verification system~~ FEDERALLY APPROVED ELECTRONIC DATA SOURCES. The department shall allow an applicant to provide income information more recent than the records of ~~the division of unemployment insurance or the income, eligibility, and verification system~~ FEDERALLY APPROVED ELECTRONIC DATA SOURCES.

(II) The department shall annually verify the recipient's income eligibility at reenrollment through ~~the records of the division of unemployment insurance in the department of labor and employment or through the income, eligibility, and verification system~~ FEDERALLY APPROVED ELECTRONIC DATA SOURCES. If a recipient meets all eligibility requirements, a recipient remains enrolled in the plan. The department shall also allow a recipient to provide income information more recent than the records of ~~the division of unemployment insurance or the income, eligibility, and verification system~~ FEDERALLY APPROVED ELECTRONIC DATA SOURCES.

(III) If the state department determines that a recipient was not eligible for medical benefits solely based upon the recipient's income after the recipient had been determined to be eligible based upon ~~the records of the division of unemployment insurance or the income, eligibility, and verification system~~ INFORMATION VERIFIED THROUGH FEDERALLY APPROVED ELECTRONIC DATA SOURCES, the state department shall not pursue recovery from a county department for the cost of medical services provided to the recipient, and the county department is not responsible for any federal error rate sanctions resulting from such determination.

(IV) Notwithstanding any other provision in this paragraph (a), for applications that contain self-employment income, the state department shall not implement this paragraph (a) until it can verify self-employment

income through ~~the income, eligibility, and verification system or other verification~~ FEDERALLY APPROVED ELECTRONIC DATA SOURCES as authorized by rules of the state department and federal law.

(V) THE COUNTY DEPARTMENT, STATE DEPARTMENT, OR OTHER ENTITY DESIGNATED BY THE STATE DEPARTMENT TO MAKE THE ELIGIBILITY DETERMINATION SHALL AUTOMATICALLY TRANSFER TO THE STATE INSURANCE MARKETPLACE THROUGH A SYSTEM INTERFACE THE APPLICATION DATA AND VERIFICATIONS OF A CHILD OR PREGNANT WOMAN WHO IS DETERMINED INELIGIBLE FOR MEDICAL ASSISTANCE BENEFITS PURSUANT TO THIS SECTION.

SECTION 9. In Colorado Revised Statutes, 13-3-113, **amend** (5) (b) (V) (C) as follows:

13-3-113. "Family-friendly Courts Act". (5) Grant applications - duties of judicial districts. (b) The state court administrator, in determining which judicial districts may receive grant moneys pursuant to this section, shall consider the extent that a judicial district is responsible for:

(V) Soliciting information from community-based organizations, faith communities, governmental entities, schools, community mental health centers, local nonprofit or not-for-profit agencies, local law enforcement agencies, businesses, and other community service providers about the following services and resources for the purpose of providing such information to patrons of the family-friendly court services:

(C) Information related to health insurance and health care coverage, including but not limited to the children's basic health plan and dental health plan, established pursuant to article 8 of title 25.5, C.R.S., and ~~the baby and kid care program, established~~ CHILDREN ELIGIBLE FOR THE MEDICAL ASSISTANCE PROGRAM pursuant to ~~section 25.5-5-205~~ ARTICLE 5 OF TITLE 25.5, C.R.S.;

SECTION 10. In Colorado Revised Statutes, 24-22-117, **amend** (2) (a) (II) (I) as follows:

24-22-117. Tobacco tax cash fund - accounts - creation - legislative declaration. (2) There are hereby created in the state treasury

the following funds:

(a) (II) Except as provided in subparagraph (III) of this paragraph (a), for fiscal year 2005-06 and each fiscal year thereafter, moneys in the health care expansion fund shall be annually appropriated by the general assembly to the department of health care policy and financing for the following purposes:

(I) To provide funding for extending medicaid eligibility for persons who are in the foster care system immediately prior to emancipation, as set forth in section ~~25.5-5-201(1)(n)~~ 25.5-5-101 (1) (e), C.R.S.

SECTION 11. In Colorado Revised Statutes, **amend** 25.5-4-208 as follows:

25.5-4-208. County duties - transitional medicaid. County departments shall assist families in completing the reporting requirements for transitional medicaid. This shall include informing ~~1931 medicaid recipients, as defined in section 25.5-4-103(1)~~, FAMILIES of the transitional medicaid eligibility requirements and the required reporting calendar.

SECTION 12. In Colorado Revised Statutes, 25.5-5-301, **amend** (4) as follows:

25.5-5-301. Clinic services. (4) "Clinic services" also means preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services that are furnished to a pregnant woman who is enrolled or eligible for services pursuant to section 25.5-5-101 (1) (c) or ~~25.5-5-205~~ 25.5-5-201 (1) (m.5) in a facility that is not a part of a hospital but is organized and operated as a freestanding alcohol or drug treatment program approved and licensed by the unit in the department of human services that administers behavioral health programs and services, including those related to mental health and substance abuse, pursuant to section 27-80-108 (1) (c), C.R.S.

SECTION 13. In Colorado Revised Statutes, 25.5-5-309, **amend** (1) as follows:

25.5-5-309. Pregnant women - needs assessment - referral to

treatment program. (1) The health care practitioner for each pregnant woman who is enrolled or eligible for services pursuant to section 25.5-5-101 (1) (c) or ~~25.5-5-205~~ 25.5-5-201 (1) (m.5) shall be encouraged to identify as soon as possible after such woman is determined to be pregnant whether such woman is at risk of a poor birth outcome due to substance abuse during the prenatal period and in need of special assistance in order to reduce such risk. If the health care practitioner makes such a determination regarding any pregnant woman, the health care practitioner shall be encouraged to refer such woman to any entity approved and licensed by the department of human services for the performance of a needs assessment. Any pregnant woman who is eligible for services pursuant to section ~~25.5-5-205~~ 25.5-5-201 (1) (m.5) may refer herself for such needs assessment.

SECTION 14. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Morgan Carroll
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO