

CHAPTER 198

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 16-1277

BY REPRESENTATIVE(S) Lontine and Landgraf, Danielson, Fields, Ginal, Kraft-Tharp, Lee, Melton, Pabon, Ryden, Singer, Young, Hüllinghorst, Mitsch Bush;
also SENATOR(S) Kefalas and Roberts, Aguilar, Crowder, Heath, Johnston, Merrifield, Newell, Steadman, Todd.

AN ACT

CONCERNING THE APPEAL PROCESS FOR MEDICAL ASSISTANCE BENEFITS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 25.5-4-207, **amend** (1) as follows:

25.5-4-207. Appeals - rules. (1) (a) (I) If an application for medical ~~benefits~~ ASSISTANCE is not acted upon by the county department within a reasonable time after filing of the same, or if an application is denied in whole or in part, or if medical ASSISTANCE benefits are suspended, terminated, or modified, the applicant or recipient, as the case may be, may appeal to the state department in the manner and form prescribed by the rules of the state department. EXCEPT AS PERMITTED UNDER FEDERAL LAW, STATE DEPARTMENT RULES MUST PROVIDE FOR AT LEAST A TEN-DAY ADVANCE NOTICE BEFORE THE EFFECTIVE DATE OF ANY SUSPENSION, TERMINATION, OR MODIFICATION OF MEDICAL ASSISTANCE. THE COUNTY OR DESIGNATED SERVICE AGENCY SHALL NOTIFY THE APPLICANT OR RECIPIENT IN WRITING OF THE BASIS FOR THE COUNTY'S DECISION OR ACTION AND SHALL INFORM THE APPLICANT OR RECIPIENT OF THE RIGHT TO A COUNTY OR SERVICE AGENCY CONFERENCE UNDER THE DISPUTE RESOLUTION PROCESS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) AND OF THE RIGHT TO A STATE-LEVEL APPEAL AND THE PROCESS FOR APPEAL.

(II) THE APPLICANT OR RECIPIENT HAS SIXTY DAYS AFTER THE DATE OF THE NOTICE TO FILE AN APPEAL. IF THE RECIPIENT FILES AN APPEAL PRIOR TO THE EFFECTIVE DATE OF THE INTENDED ACTION, EXISTING MEDICAL ASSISTANCE BENEFITS MUST AUTOMATICALLY CONTINUE UNCHANGED UNTIL THE APPEAL PROCESS IS COMPLETED, UNLESS THE RECIPIENT REQUESTS IN WRITING THAT MEDICAL

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

ASSISTANCE BENEFITS NOT CONTINUE DURING THE APPEAL PROCESS; EXCEPT THAT, TO THE EXTENT AUTHORIZED BY FEDERAL LAW, THE STATE DEPARTMENT RULES MAY PERMIT EXISTING MEDICAL ASSISTANCE BENEFITS TO CONTINUE UNTIL THE APPEAL PROCESS IS COMPLETED EVEN IF THE RECIPIENT'S APPEAL IS FILED AFTER THE EFFECTIVE DATE OF THE INTENDED ACTION. THE STATE DEPARTMENT SHALL PROMULGATE RULES CONSISTENT WITH FEDERAL LAW THAT PRESCRIBE THE CIRCUMSTANCES UNDER WHICH THE COUNTY OR DESIGNATED SERVICE AGENCY MAY CONTINUE BENEFITS IF AN APPEAL IS FILED AFTER THE EFFECTIVE DATE OF THE INTENDED ACTION. AT A MINIMUM, THE RULES MUST ALLOW FOR CONTINUING BENEFITS WHEN THE RECIPIENT'S HEALTH OR SAFETY IS IMPACTED, THE RECIPIENT WAS NOT ABLE TO TIMELY RESPOND DUE TO THE RECIPIENT'S DISABILITY OR EMPLOYMENT, THE RECIPIENT'S CAREGIVER WAS UNAVAILABLE DUE TO THE CAREGIVER'S HEALTH OR EMPLOYMENT, OR THE RECIPIENT DID NOT RECEIVE THE COUNTY'S OR DESIGNATED SERVICE AGENCY'S NOTICE PRIOR TO THE EFFECTIVE DATE OF THE INTENDED ACTION.

(III) EITHER PRIOR TO APPEAL OR AS PART OF THE FILING OF AN APPEAL, THE APPLICANT OR RECIPIENT MAY REQUEST THE DISPUTE RESOLUTION PROCESS DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (1) THROUGH THE COUNTY DEPARTMENT OR SERVICE DELIVERY AGENCY.

(b) Every county department or service delivery agency shall adopt procedures for the resolution of disputes arising between the county department or the service delivery agency and any applicant for or recipient of medical assistance. ~~prior to appeal to the state department.~~ Such procedures are referred to in this section as the "dispute resolution process". Two or more counties may jointly establish the dispute resolution process. The dispute resolution process ~~shall~~ MUST be consistent with rules promulgated by the state board pursuant to article 4 of title 24, C.R.S. The dispute resolution process shall include an opportunity for all clients to have a county conference, upon the client's request, and such requirement may be met through a telephonic conference upon the agreement of the client and the county department. The dispute resolution process need not conform to the requirements of section 24-4-105, C.R.S., as long as the rules adopted by the state board include provisions specifically setting forth expeditious time frames, notice, and an opportunity to be heard and to present information. ~~If the dispute is not resolved, the applicant or recipient may appeal to the state department in the manner and form prescribed by the rules of the state department. County notices to applicants or recipients shall inform them of the basis for the county's decision or action and shall inform them of their rights to a county conference under the dispute resolution process and of their rights to state level appeal and the process of making such appeal.~~ If THE DISPUTE IS RESOLVED THROUGH THE COUNTY OR SERVICE DELIVERY AGENCY'S DISPUTE RESOLUTION PROCESS AND THE APPLICANT OR RECIPIENT HAS ALREADY FILED AN APPEAL, THE COUNTY SHALL INFORM THE APPLICANT OR RECIPIENT OF THE PROCESS FOR DISMISSING THE APPEAL.

(c) The state board shall adopt rules setting forth what other issues, if any, may be appealed by an applicant or recipient to the state department. A hearing need not be granted when either state or federal law requires or results in a reduction or deletion of a medical ASSISTANCE benefit unless the applicant or recipient is arguing that his or her case does not fit within the parameters set forth by the change in the law. In notifying the applicant or recipient that an appeal is being denied because

of a change in state or federal law, the state's notice ~~shall~~ MUST inform the applicant or recipient that further appeal should be directed to the appropriate state or federal court.

~~(b)~~ (d) Upon receipt of an appeal, the ~~state department~~ OFFICE OF ADMINISTRATIVE COURTS shall give the appellant at least ten days' notice OF THE HEARING DATE and an opportunity for a fair hearing in accordance with the rules of the state department. ~~Any such~~ THE fair hearing ~~shall~~ MUST comply with section 24-4-105, C.R.S., and the state department's administrative law judge shall preside.

~~(c)~~ (e) The appellant shall have an opportunity to examine all applications and pertinent records concerning ~~said~~ THE appellant that constitute a basis for the denial, suspension, termination, or modification of medical ASSISTANCE benefits. THE PERSON OR PERSONS INVOLVED IN THE DECISION DENYING, SUSPENDING, TERMINATING, OR MODIFYING MEDICAL ASSISTANCE BENEFITS OR, IF THE PERSON OR PERSONS ARE NOT REASONABLY AVAILABLE, A PERSON FAMILIAR WITH THE FACTS UNDERLYING THE BASIS FOR THE DECISION, SHALL BE AVAILABLE FOR CROSS-EXAMINATION IF REQUESTED BY THE APPELLANT.

SECTION 2. Appropriation. (1) For the 2016-17 state fiscal year, \$2,500 is appropriated to the department of health care policy and financing for use by the executive director's office. This appropriation is from the general fund, and is subject to the "(M)" notation as defined in the annual general appropriation act for the same fiscal year. To implement this act, the office may use this appropriation for Medicaid management information system maintenance and projects.

(2) For the 2016-17 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$22,500 in federal funds for Medicaid management information system maintenance and projects. The appropriation in subsection (1) of this section is based on the assumption that the department will receive this amount of federal funds.

SECTION 3. Act subject to petition - effective date. This act takes effect September 1, 2016; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 1, 2016