

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

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

LLS NO. 21-0760.01 Shelby Ross x4510

SENATE BILL 21-025

SENATE SPONSORSHIP

Pettersen and Coram, Bridges, Buckner, Danielson, Donovan, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Rodriguez, Story, Winter, Zenzinger

HOUSE SPONSORSHIP

Tipper and Will,

Senate Committees

Health & Human Services
Appropriations

House Committees

Public & Behavioral Health & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING FAMILY PLANNING SERVICES FOR INDIVIDUALS WHOSE**
102 **INCOME DOES NOT EXCEED THE STATE'S CURRENT EFFECTIVE**
103 **INCOME LEVEL FOR PREGNANT WOMEN UNDER THE CHILDREN'S**
104 **BASIC HEALTH PLAN, AND, IN CONNECTION THEREWITH, MAKING**
105 **AN APPROPRIATION.**

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 requires the department of health care policy and financing to seek federal authorization through an amendment to the state

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
2nd Reading Unamended
June 2, 2021

SENATE
3rd Reading Unamended
May 12, 2021

SENATE
Amended 2nd Reading
May 11, 2021

medical assistance plan to provide family planning services to individuals who are not pregnant and whose income does not exceed 250% of the federal poverty level.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Our communities fare better when all Coloradans can plan
5 their pregnancies. Unintended pregnancies are associated with an
6 increased risk of adverse pregnancy outcomes such as preterm birth,
7 which is the leading cause of infant mortality, and delivery of
8 low-birth-weight infants, which is linked to several negative short- and
9 long-term health outcomes.

10 (b) Due to the systemic barriers they face, families who
11 experience unintended pregnancies often have poorer health outcomes for
12 themselves and their children, struggle to and often do not complete
13 school, have difficulty advancing in their careers, and use more public
14 assistance;

15 (c) Access to family planning services reduces the chance of
16 unintended pregnancy, reducing the risk factors associated with poor
17 health and social outcomes;

18 (d) The public health and economic crisis created by the
19 COVID-19 pandemic has shone a bright light on the need for increased
20 access to family planning services. Recent federal administrative rules
21 have limited individual's access to public family planning clinics.
22 Additionally, job losses due to the pandemic are threatening access to
23 reproductive health care for millions of Americans.

24 (e) Women, particularly women of color for whom pregnancy and

1 childbirth can be most dangerous, increasingly want to delay having
2 children. The "Early Impacts of the COVID-19 Pandemic: 2020
3 Guttmacher Survey of Reproductive Health Experiences" found that
4 overall, thirty-four percent of women reported wanting to delay
5 pregnancy or have fewer children because of the pandemic. The same
6 survey shows that roughly twenty-seven percent of women are worried
7 about being able to afford contraceptives, and Hispanic women, Black
8 women, queer women, and women living in poverty are more likely to
9 worry about access to contraceptives than their white peers.

10 (f) The Colorado department of public health and environment
11 reported that in 2019, roughly fifty-eight thousand women in Colorado
12 were without insurance coverage for family planning services and more
13 than twenty-one thousand of those women had low incomes that fell
14 between the medicaid income eligibility level and two hundred fifty
15 percent of the federal poverty level;

16 (g) According to a national survey conducted by the Kaiser Family
17 Foundation and the Georgetown University Center for Children and
18 Families, as of January 2019, twenty-eight states, not including Colorado,
19 have received federal authorization to offer family planning services to
20 people who are not otherwise eligible for medicaid; and

21 (h) The federal centers for medicare and medicaid services have
22 encouraged states to pursue federal authorization for family planning
23 services by covering ninety percent of the costs, a higher federal share
24 than it provides for other medicaid services.

25 (2) Therefore, the general assembly finds and declares that
26 expanding coverage through the medicaid program to provide family
27 planning services for women with low and moderate incomes who do not

1 otherwise qualify for medicaid coverage will reduce unintended
2 pregnancies and help all Colorado families thrive.

3 **SECTION 2.** In Colorado Revised Statutes, **add** 25.5-5-327 as
4 follows:

5 **25.5-5-327. Family planning services - federal authorization**
6 **-rules - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
7 OTHERWISE REQUIRES:

8 (a) "ELIGIBLE INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS NOT
9 PREGNANT AND WHOSE INCOME DOES NOT EXCEED THE STATE'S CURRENT
10 EFFECTIVE INCOME LEVEL FOR PREGNANT WOMEN UNDER THE CHILDREN'S
11 BASIC HEALTH PLAN ESTABLISHED PURSUANT TO ARTICLE 8 OF TITLE 25.5,
12 AND WHOSE INCOME IS ADJUSTED FOR FAMILY SIZE BASED ON THE
13 METHODOLOGY ALLOWED UNDER FEDERAL LAW TO COUNT THE APPLICANT
14 AS A HOUSEHOLD OF TWO IN ADDITION TO ANY OTHER HOUSEHOLD
15 MEMBERS, AND WHO MEETS OTHER REQUIREMENTS UNDER FEDERAL LAW.

16 (b) "FAMILY-PLANNING-RELATED SERVICES" MEANS SERVICES
17 PROVIDED IN A FAMILY PLANNING SETTING AS PART OF OR AS A FOLLOW-UP
18 TO A FAMILY PLANNING VISIT, INCLUDING:

19 (I) MEDICALLY NECESSARY EVALUATIONS OR PREVENTIVE
20 SERVICES, SUCH AS TOBACCO UTILIZATION SCREENING, COUNSELING,
21 TESTING, AND CESSATION SERVICES;

22 (II) CERVICAL CANCER SCREENING AND PREVENTION;

23 (III) DIAGNOSIS OR TREATMENT OF A SEXUALLY TRANSMITTED
24 INFECTION OR SEXUALLY TRANSMITTED DISEASE AND MEDICATION AND
25 SUPPLIES TO PREVENT A SEXUALLY TRANSMITTED INFECTION OR SEXUALLY
26 TRANSMITTED DISEASE; AND

27 (IV) ANY OTHER MEDICAL DIAGNOSIS, TREATMENT, OR

1 PREVENTIVE SERVICE THAT IS ROUTINELY PROVIDED PURSUANT TO A
2 FAMILY PLANNING VISIT.

3 (c) "FAMILY PLANNING SERVICES" MEANS ALL SERVICES COVERED
4 BY THE FEDERAL TITLE X FAMILY PLANNING PROGRAM, REGARDLESS OF
5 AN INDIVIDUAL'S AGE, SEX, OR GENDER IDENTITY, OR THE AGE, SEX, OR
6 GENDER IDENTITY OF THE INDIVIDUAL'S PARTNER, INCLUDING BUT NOT
7 LIMITED TO:

8 (I) ALL CONTRACEPTION, AS DEFINED IN SECTION 2-4-401 (1.5);

9 (II) HEALTH-CARE AND COUNSELING SERVICES FOCUSED ON
10 PREVENTING, DELAYING, OR PLANNING FOR A PREGNANCY;

11 (III) FOLLOW-UP VISITS TO EVALUATE OR MANAGE PROBLEMS
12 ASSOCIATED WITH CONTRACEPTIVE METHODS;

13 (IV) STERILIZATION SERVICES, REGARDLESS OF AN INDIVIDUAL'S
14 SEX; AND

15 (V) BASIC FERTILITY SERVICES.

16 (d) "PRESUMPTIVE ELIGIBILITY" HAS THE SAME MEANING AS
17 DEFINED IN SECTION 25.5-5-204 (1).

18 (2) (a) NO LATER THAN JANUARY 31, 2022, THE STATE
19 DEPARTMENT SHALL SEEK FEDERAL AUTHORIZATION THROUGH AN
20 AMENDMENT TO THE STATE MEDICAL ASSISTANCE PLAN TO PROVIDE
21 FAMILY PLANNING SERVICES TO ELIGIBLE INDIVIDUALS.

22 (b) THE STATE PLAN AMENDMENT MUST:

23 (I) NOT IMPOSE AGE, SEX, OR GENDER IDENTITY LIMITATIONS ON
24 ELIGIBLE INDIVIDUALS; AND

25 (II) INCLUDE A PROCESS BY WHICH AN ELIGIBLE INDIVIDUAL MAY
26 BE PRESUMPTIVELY ELIGIBLE TO RECEIVE FAMILY PLANNING SERVICES.

27 (3) UPON APPROVAL OF THE STATE PLAN AMENDMENT, THE STATE

1 DEPARTMENT SHALL:

2 (a) UNLESS REQUESTED OTHERWISE BY THE ELIGIBLE INDIVIDUAL,
3 ENSURE THAT AN ELIGIBLE INDIVIDUAL RECEIVES ___ A ONE-YEAR SUPPLY
4 OF SELF-ADMINISTERED HORMONAL CONTRACEPTIVES AT ONE TIME AS
5 PERMITTED BY THE ELIGIBLE INDIVIDUAL'S PRESCRIPTION; AND

6 (b) COLLABORATE WITH THE STATE INSURANCE MARKETPLACE,
7 HEALTH CARE CONSUMER ADVOCATES, AND OTHER INTERESTED
8 STAKEHOLDERS TO EDUCATE ELIGIBLE INDIVIDUALS ABOUT ALL
9 AVAILABLE HEALTH CARE COVERAGE OPTIONS AND ENCOURAGE ELIGIBLE
10 INDIVIDUALS TO ENROLL IN FULL HEALTH INSURANCE COVERAGE THROUGH
11 AVAILABLE SOURCES, INCLUDING THE MEDICAL ASSISTANCE PROGRAM,
12 CHILDREN'S BASIC HEALTH PLAN, A PUBLIC BENEFIT CORPORATION, OR THE
13 STATE INSURANCE MARKETPLACE.

14 (4) THE STATE DEPARTMENT SHALL PROMULGATE ANY RULES
15 NECESSARY TO IMPLEMENT THIS SECTION, INCLUDING RULES
16 ESTABLISHING THE SPECIFIC FAMILY-PLANNING-RELATED SERVICES AND
17 FAMILY PLANNING SERVICES IDENTIFIED IN SUBSECTIONS (1)(b) AND (1)(c)
18 OF THIS SECTION. PRIOR TO PROMULGATING THE RULES, THE STATE
19 DEPARTMENT SHALL ENGAGE IN A STAKEHOLDER PROCESS THAT ATTEMPTS
20 TO INCLUDE INDIVIDUALS WHO HAVE RECEIVED FAMILY PLANNING
21 SERVICES THROUGH THE STATE'S MEDICAL ASSISTANCE PROGRAM OR THE
22 CHILDREN'S BASIC HEALTH PLAN, REPRESENTATIVES OF CONSUMER
23 ADVOCACY ORGANIZATIONS, AND FAMILY PLANNING PROVIDERS. THE
24 STAKEHOLDERS MUST BE DIVERSE WITH REGARD TO RACE, ETHNICITY,
25 IMMIGRATION STATUS, AGE, ABILITY, SEXUAL ORIENTATION, GENDER
26 IDENTITY, OR GEOGRAPHIC REGION OF THE STATE.

27 **SECTION 3. Appropriation. (1) For the 2021-22 state fiscal**

1 year, \$272,956 is appropriated to the department of health care policy and
2 financing for use by the executive director's office. This appropriation
3 consists of \$253,117 from the general fund and \$19,839 from local funds.

4 To implement this act, the office may use this appropriation as follows:

5 (a) \$59,384 from the general fund for personal services, which
6 amount is based on an assumption that the office will require an
7 additional 1.8 FTE;

8 (b) \$4,450 from the general fund for operating expenses;

9 (c) \$102,963 from the general fund for Medicaid management
10 information system maintenance and projects;

11 (d) \$56,562 from the general fund, which is subject to the "(M)"
12 notation as defined in the annual general appropriation act for the same
13 fiscal year, for Colorado benefits management systems, operating and
14 contract expenses;

15 (e) \$29,758 from the general fund, which is subject to the "(M)"
16 notation as defined in the annual general appropriation act for the same
17 fiscal year, for county administration; and

18 (f) \$19,839 from local funds for county administration.

19 (2) For the 2021-22 state fiscal year, the general assembly
20 anticipates that the department of health care policy and financing will
21 receive \$1,648,336 in federal funds to implement this act. The
22 appropriation in subsection (1) of this section is based on the assumption
23 that the department will receive this amount of federal funds to be used
24 as follows:

25 (a) \$59,384, which amount is subject to the "(I)" notation as
26 defined in the annual general appropriation act for the same fiscal year,
27 for use by the executive director's office for personal services;

1 (b) \$4,450, which amount is subject to the "(I)" notation as
2 defined in the annual general appropriation act for the same fiscal year,
3 for use by the executive director's office for operating expenses;

4 (c) \$926,660, which amount is subject to the "(I)" notation as
5 defined in the annual general appropriation act for the same fiscal year,
6 for Medicaid management information systems maintenance and projects;

7 (d) \$509,052 for Colorado benefits management systems,
8 operating and contract expenses; and

9 (e) \$148,790 for county administration.

10 (3) For the 2021-22 state fiscal year, \$565,614 is appropriated to
11 the office of the governor for use by the office of information technology.
12 This appropriation is from reappropriated funds received from the
13 department of health care policy and financing under subsections (1)(d)
14 and (2)(d) of this section. To implement this act, the office may use this
15 appropriation to provide information technology services for the
16 department of health care policy and financing.

17 **SECTION 4. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly; except
20 that, if a referendum petition is filed pursuant to section 1 (3) of article V
21 of the state constitution against this act or an item, section, or part of this
22 act within such period, then the act, item, section, or part will not take
23 effect unless approved by the people at the general election to be held in
24 November 2022 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.