

CHAPTER 432

HEALTH CARE POLICY AND FINANCING

SENATE BILL 21-025

BY SENATOR(S) Pettersen and Coram, Bridges, Buckner, Danielson, Donovan, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Kolker, Lee, Moreno, Rodriguez, Story, Winter, Zenzinger;
also REPRESENTATIVE(S) Tipper and Will, Amabile, Bernett, Bird, Boesenecker, Cutter, Esgar, Froelich, Gonzales-Gutierrez, Gray, Hooton, Jackson, Jodeh, Kipp, McCluskie, Michaelson Jenet, Mullica, Sirota, Titone, Valdez A., Valdez D., Young.

AN ACT

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

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

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

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

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

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

(d) The public health and economic crisis created by the COVID-19 pandemic has shone a bright light on the need for increased access to family planning services. Recent federal administrative rules have limited individual's access to public family

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

planning clinics. Additionally, job losses due to the pandemic are threatening access to reproductive health care for millions of Americans.

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

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

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

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

(2) Therefore, the general assembly finds and declares that expanding coverage through the medicaid program to provide family planning services for women with low and moderate incomes who do not otherwise qualify for medicaid coverage will reduce unintended pregnancies and help all Colorado families thrive.

SECTION 2. In Colorado Revised Statutes, **add** 25.5-5-329 as follows:

25.5-5-329. Family planning services - federal authorization - rules - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

(b) "FAMILY-PLANNING-RELATED SERVICES" MEANS SERVICES PROVIDED IN A

FAMILY PLANNING SETTING AS PART OF OR AS A FOLLOW-UP TO A FAMILY PLANNING VISIT, INCLUDING:

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

(II) CERVICAL CANCER SCREENING AND PREVENTION;

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

(IV) ANY OTHER MEDICAL DIAGNOSIS, TREATMENT, OR PREVENTIVE SERVICE THAT IS ROUTINELY PROVIDED PURSUANT TO A FAMILY PLANNING VISIT.

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

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

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

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

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

(V) BASIC FERTILITY SERVICES.

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

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

(b) THE STATE PLAN AMENDMENT MUST:

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

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

(3) UPON APPROVAL OF THE STATE PLAN AMENDMENT, THE STATE DEPARTMENT SHALL:

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

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

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

SECTION 3. Appropriation. (1) For the 2021-22 state fiscal year, \$272,956 is appropriated to the department of health care policy and financing for use by the executive director's office. This appropriation consists of \$253,117 from the general fund and \$19,839 from local funds. To implement this act, the office may use this appropriation as follows:

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

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

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

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

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

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

(2) For the 2021-22 state fiscal year, the general assembly anticipates that the department of health care policy and financing will receive \$1,648,336 in federal

funds to implement this act. The appropriation in subsection (1) of this section is based on the assumption that the department will receive this amount of federal funds to be used as follows:

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

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

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

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

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

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

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; 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 such period, 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: July 6, 2021