

CHAPTER 69

HEALTH AND ENVIRONMENT

SENATE BILL 23-189

BY SENATOR(S) Moreno and Cutter, Gonzales, Jaquez Lewis, Marchman, Winter F., Buckner, Coleman, Danielson, Fields, Ginal, Hinrichsen, Mullica, Sullivan, Fenberg;
 also REPRESENTATIVE(S) Michaelson Jenet and Garcia, Epps, Froelich, McCormick, Titone, Amabile, Bacon, Bird, Boesenecker, Brown, Daugherty, deGruy Kennedy, Dickson, Duran, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, McLachlan, Ortiz, Parenti, Ricks, Sharbini, Sirota, Snyder, Story, Velasco, Vigil, Willford, Woodrow, Young, McCluskie.

AN ACT

CONCERNING INCREASING ACCESS TO REPRODUCTIVE HEALTH-CARE SERVICES, 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, 10-16-102, **amend** (38.5) as follows:

10-16-102. Definitions. As used in this article 16, unless the context otherwise requires:

(38.5) "~~HIV infection~~ prevention drug" means preexposure prophylaxis, post-exposure prophylaxis, or other drugs approved by the FDA for the prevention of HIV infection.

SECTION 2. In Colorado Revised Statutes, 10-16-104, **amend** (18)(a)(I) introductory portion, (18)(b) introductory portion, (18)(b)(X), (18)(c) introductory portion, and (18)(e)(I); and **add** (18)(b.3), (18)(c)(III.6), (18)(f), and (26) as follows:

10-16-104. Mandatory coverage provisions - definitions - rules. (18) **Preventive health-care services.** (a) (I) The following policies and contracts that are issued or renewed in this state must provide coverage for the total cost of the preventive health-care services specified in subsections (18)(b), **(18)(b.3)**, and (18)(b.7) of this section:

(b) The coverage required by this subsection (18) must include ~~preventive~~

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.

~~health-care services for the following~~ COVERAGE FOR THE FOLLOWING PREVENTIVE HEALTH-CARE SERVICES, in accordance with the A or B recommendations of the task force, ~~for the particular preventive health-care service~~ RECOMMENDATIONS ESTABLISHED BY THE ACIP, OR PREVENTIVE CARE AND SCREENING AS PROVIDED FOR IN THE COMPREHENSIVE GUIDELINES, AS APPLICABLE:

(X) (A) Any other preventive services included in the A or B recommendation of the task force or required by federal law; ANY OTHER RECOMMENDATIONS ESTABLISHED BY THE ACIP; ANY OTHER PREVENTIVE CARE AND SCREENING, AS PROVIDED FOR IN THE COMPREHENSIVE GUIDELINES.

(B) This ~~subparagraph~~ (X) SUBSECTION (18)(b)(X) does not apply to grandfathered health benefit plans.

(b.3) FOR HEALTH BENEFIT PLANS ISSUED OR RENEWED ON OR AFTER JANUARY 1, 2025, IF COUNSELING, PREVENTION, AND SCREENING FOR A SEXUALLY TRANSMITTED INFECTION, AS REQUIRED IN SUBSECTION (18)(b)(XI) OF THIS SECTION, ARE COVERED SERVICES, THE HEALTH BENEFIT PLAN MUST PROVIDE THE COVERAGE WITHOUT COST SHARING, REGARDLESS OF THE COVERED PERSON'S GENDER, AND THE COVERAGE MUST INCLUDE, CONSISTENT WITH TASK FORCE REQUIREMENTS, COVERAGE FOR HIV PREVENTION DRUGS AND SERVICES NECESSARY FOR INITIATION AND CONTINUED USE OF HIV PREVENTION DRUGS, INCLUDING OFFICE VISITS, TESTING, VACCINATIONS, AND MONITORING SERVICES.

(c) ~~For purposes of~~ AS USED IN this subsection (18):

(III.6) "COMPREHENSIVE GUIDELINES" MEANS THE FOLLOWING COMPREHENSIVE GUIDELINES SUPPORTED BY THE HEALTH RESOURCES AND SERVICES ADMINISTRATION IN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES:

(A) PREVENTIVE CARE AND SCREENING FOR WOMEN; AND

(B) EVIDENCE-INFORMED PREVENTIVE CARE AND SCREENING FOR INFANTS, CHILDREN, AND ADOLESCENTS.

(e) (I) A carrier shall reimburse a pharmacist employed by an in-network pharmacy for prescribing and dispensing HIV ~~infection~~ prevention drugs to a covered person. A carrier shall provide a pharmacist who prescribes and dispenses HIV ~~infection~~ prevention drugs to a covered person pursuant to section 12-280-125.7 an adequate consultative fee, or, if medical billing is not available, an enhanced dispensing fee, that is equivalent or that is provided to a physician or advanced practice registered nurse.

(f) THE COMMISSIONER MAY PROMULGATE RULES AS NECESSARY TO IMPLEMENT THIS SUBSECTION (18).

(26) **Abortion care - rules - definition.** (a) EXCEPT AS PROVIDED IN SUBSECTIONS (26)(d) AND (26)(g) OF THIS SECTION AND SUBJECT TO THE PROVISIONS OF SUBSECTIONS (26)(e) AND (26)(f) OF THIS SECTION, ALL INDIVIDUAL AND GROUP HEALTH BENEFIT PLANS ISSUED OR RENEWED IN THIS STATE SHALL PROVIDE COVERAGE FOR THE TOTAL COST OF ABORTION CARE.

(b) THE COVERAGE REQUIRED PURSUANT TO THIS SUBSECTION (26) IS NOT SUBJECT TO POLICY DEDUCTIBLES, COPAYMENTS, OR COINSURANCE; EXCEPT THAT COPAYMENTS MAY APPLY AS REQUIRED BY A GRANDFATHERED HEALTH BENEFIT PLAN.

(c) THE COMMISSIONER SHALL ADOPT RULES CONSISTENT WITH AND AS ARE NECESSARY TO IMPLEMENT THIS SUBSECTION (26).

(d) AN EMPLOYER IS NOT OBLIGATED TO PROVIDE THE COVERAGE REQUIRED BY THIS SUBSECTION (26) IF:

(I) PROVIDING THE COVERAGE CONFLICTS WITH THE EMPLOYER'S SINCERELY HELD RELIGIOUS BELIEFS; OR

(II) THE EMPLOYER IS A PUBLIC ENTITY PROHIBITED BY SECTION 50 OF ARTICLE V OF THE STATE CONSTITUTION FROM USING PUBLIC FUNDS TO PAY FOR INDUCED ABORTIONS.

(e) THIS SUBSECTION (26) APPLIES TO, AND THE DIVISION SHALL IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (26) FOR, LARGE EMPLOYER HEALTH BENEFIT PLANS ISSUED OR RENEWED IN THIS STATE ON OR AFTER JANUARY 1, 2025; EXCEPT THAT COPAYMENTS MAY APPLY AS REQUIRED BY A GRANDFATHERED LARGE EMPLOYER HEALTH BENEFIT PLAN.

(f) WITH RESPECT TO INDIVIDUAL AND SMALL GROUP HEALTH BENEFIT PLANS:

(I) THE DIVISION SHALL SUBMIT TO THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES:

(A) THE DIVISION'S DETERMINATION AS TO WHETHER THE BENEFIT SPECIFIED IN THIS SUBSECTION (26) IS IN ADDITION TO ESSENTIAL HEALTH BENEFITS AND WOULD BE SUBJECT TO DEFRAYAL BY THE STATE PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B); AND

(B) A REQUEST THAT THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES CONFIRM THE DIVISION'S DETERMINATION WITHIN SIXTY DAYS AFTER RECEIPT OF THE DIVISION'S REQUEST FOR CONFIRMATION OF THE DETERMINATION.

(II) THIS SUBSECTION (26) APPLIES TO, AND THE DIVISION SHALL IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (26) FOR, INDIVIDUAL AND SMALL GROUP HEALTH BENEFIT PLANS ISSUED OR RENEWED IN THIS STATE UPON THE EARLIER OF:

(A) TWELVE MONTHS AFTER THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES CONFIRMS THAT THE COVERAGE SPECIFIED IN THIS SUBSECTION (26) DOES NOT CONSTITUTE AN ADDITIONAL BENEFIT THAT REQUIRES DEFRAYAL BY THE STATE PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B);

(B) TWELVE MONTHS AFTER THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES OTHERWISE INFORMS THE DIVISION THAT THE COVERAGE IN THIS SUBSECTION (26) DOES NOT REQUIRE STATE DEFRAYAL PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B); OR

(C) THE PASSAGE OF MORE THAN THREE HUNDRED SIXTY-FIVE DAYS SINCE THE DIVISION SUBMITTED ITS DETERMINATION AND REQUEST FOR CONFIRMATION PURSUANT TO SUBSECTION (26)(f)(I) OF THIS SECTION, AND THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES HAS FAILED TO RESPOND TO THE REQUEST WITHIN THAT PERIOD, IN WHICH CASE THE DIVISION SHALL CONSIDER THE FEDERAL DEPARTMENT'S UNREASONABLE DELAY A PRECLUSION FROM REQUIRING DEFRAID BY THE STATE.

(g) THE PROVISIONS OF THIS SUBSECTION (26) DO NOT APPLY TO A HIGH DEDUCTIBLE HEALTH BENEFIT PLAN PURSUANT TO 26 U.S.C. SEC. 223, AS AMENDED, ISSUED OR RENEWED IN THIS STATE UNTIL AN ELIGIBLE INSURED'S DEDUCTIBLE HAS BEEN MET, UNLESS ALLOWED PURSUANT TO FEDERAL LAW.

(h) AS USED IN THIS SUBSECTION (26), "ABORTION CARE" HAS THE SAME MEANING AS "ABORTION", AS DEFINED IN SECTION 25-6-402 (1).

SECTION 3. In Colorado Revised Statutes, **amend** 10-16-152 as follows:

10-16-152. HIV prevention and treatment medication - limitations on carriers - step therapy - prior authorization - study - repeal. (1) A carrier shall not require a covered person to undergo step therapy or to receive prior authorization before a pharmacist may, pursuant to section 12-280-125.7, prescribe ~~and~~ or dispense an HIV ~~infection~~ prevention drug.

(2) BEFORE JULY 1, 2027, A CARRIER SHALL NOT REQUIRE A COVERED PERSON TO UNDERGO STEP THERAPY OR TO RECEIVE PRIOR AUTHORIZATION BEFORE A PROVIDER MAY, ACTING WITHIN THE PROVIDER'S SCOPE OF PRACTICE, PRESCRIBE OR DISPENSE ANY DRUG APPROVED BY THE FDA AND USED FOR THE TREATMENT OR PREVENTION OF HIV THAT IS INCLUDED ON THE CARRIER'S PRESCRIPTION DRUG FORMULARY AS OF MARCH 1, 2023.

(3)(a) THE DIVISION SHALL CONTRACT WITH ONE OR MORE ENTITIES TO CONDUCT A STUDY THAT INCLUDES QUALITATIVE PATIENT AND PROVIDER EXPERIENCE INFORMATION AND AN ACTUARIAL REVIEW TO CONSIDER THE PREDICTED COST AND HEALTH IMPACTS OF REMOVING THE REQUIREMENT FOR A COVERED PERSON TO UNDERGO STEP THERAPY OR TO RECEIVE PRIOR AUTHORIZATION BEFORE A PROVIDER MAY, ACTING WITHIN THE PROVIDER'S SCOPE OF PRACTICE, PRESCRIBE OR DISPENSE A DRUG FOR THE TREATMENT OF HIV. IN CONDUCTING THE STUDY, THE ENTITY CONTRACTED TO PERFORM THE STUDY MUST CONSULT WITH COMMUNITY ORGANIZATIONS LED BY PEOPLE LIVING WITH HIV. THE DIVISION SHALL PROVIDE THE COMPLETED STUDY TO THE GENERAL ASSEMBLY NO LATER THAN OCTOBER 1, 2026.

(b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 4. In Colorado Revised Statutes, **add** 10-16-158 and 10-16-159 as follows:

10-16-158. Treatment of sexually transmitted infection - cost sharing - rules - definition. (1) FOR HEALTH BENEFIT PLANS ISSUED OR RENEWED ON OR AFTER JANUARY 1, 2025, IF THE TREATMENT OF A SEXUALLY TRANSMITTED INFECTION, AS

DEFINED IN SECTION 25-4-402 (10), IS A COVERED SERVICE, THE HEALTH BENEFIT PLAN MUST PROVIDE THE COVERAGE WITHOUT DEDUCTIBLES, COPAYMENTS, COINSURANCE, ANNUAL OR LIFETIME MAXIMUM BENEFIT LIMITS, OR OTHER COST SHARING FOR OR LIMITS ON THE COVERAGE FOR THE TREATMENT OF A SEXUALLY TRANSMITTED INFECTION.

(2) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A HIGH DEDUCTIBLE HEALTH BENEFIT PLAN PURSUANT TO 26 U.S.C. SEC. 223, AS AMENDED, ISSUED OR RENEWED IN THIS STATE UNTIL AN ELIGIBLE INSURED'S DEDUCTIBLE HAS BEEN MET, UNLESS ALLOWED PURSUANT TO FEDERAL LAW.

(3) THE COMMISSIONER MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

(4) AS USED IN THIS SECTION, "TREATMENT" MEANS MEDICALLY NECESSARY CARE FOR THE MANAGEMENT OF THE EXISTING SEXUALLY TRANSMITTED INFECTION.

10-16-159. Coverage for sterilization services - cost sharing. (1) FOR HEALTH BENEFIT PLANS ISSUED OR RENEWED ON OR AFTER JANUARY 1, 2025, IF STERILIZATION SERVICES ARE A COVERED SERVICE, THE HEALTH BENEFIT PLAN MUST PROVIDE THE COVERAGE REGARDLESS OF THE COVERED PERSON'S SEX OR GENDER AND WITHOUT DEDUCTIBLES, COPAYMENTS, COINSURANCE, ANNUAL OR LIFETIME MAXIMUM BENEFIT LIMITS, OR OTHER COST SHARING FOR OR LIMITS ON THE COVERAGE FOR STERILIZATION SERVICES.

(2) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO A HIGH DEDUCTIBLE HEALTH BENEFIT PLAN PURSUANT TO 26 U.S.C. SEC. 223, AS AMENDED, ISSUED OR RENEWED IN THIS STATE UNTIL AN ELIGIBLE INSURED'S DEDUCTIBLE HAS BEEN MET, UNLESS ALLOWED PURSUANT TO FEDERAL LAW.

SECTION 5. In Colorado Revised Statutes, 12-280-125.7, **amend** (1) introductory portion, (1)(c), (2), (3) introductory portion, (5)(a), and (5)(b) as follows:

12-280-125.7. Pharmacists' authority to prescribe and dispense HIV prevention drugs - definitions - rules. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(c) "HIV ~~infection~~ prevention drug" means preexposure prophylaxis, post-exposure prophylaxis, or other drugs approved by the FDA for the prevention of HIV infection.

(2) A pharmacist may prescribe and dispense HIV ~~infection~~ prevention drugs in accordance with a standing order pursuant to section 25-1-130 or a statewide drug therapy protocol developed pursuant to subsection (5) of this section.

(3) Before prescribing or dispensing HIV ~~infection~~ prevention drugs to a patient, a pharmacist must:

(5) (a) On or before six months after July 13, 2020, the state board of pharmacy, the Colorado medical board, and the state board of nursing shall, in collaboration with the department of public health and environment, and as described in section

12-280-601 (1)(b), develop statewide drug therapy protocols for pharmacists to prescribe and dispense HIV ~~infection~~ prevention drugs.

(b) If the state board of pharmacy, the Colorado medical board, and the state board of nursing are not able to agree in the time period required by subsection (5)(a) of this section to statewide drug therapy protocols for pharmacists to prescribe and dispense HIV ~~infection~~ prevention drugs, the state board of pharmacy shall collaborate with the department of public health and environment to develop and implement statewide drug therapy protocols by January 1, 2021.

SECTION 6. In Colorado Revised Statutes, **amend** 13-22-105 as follows:

13-22-105. Minors - consent - contraception. ~~Birth control~~ WITH THE MINOR'S CONSENT, A HEALTH-CARE PROVIDER LICENSED, CERTIFIED, OR REGISTERED PURSUANT TO TITLE 12 WHO IS ACTING WITHIN THE HEALTH-CARE PROVIDER'S SCOPE OF PRACTICE MAY FURNISH CONTRACEPTIVE procedures, supplies, ~~and~~ OR information ~~may be furnished by physicians licensed under article 240 of title 12 to any A minor who is pregnant, or a parent, or married, or who has the consent of the minor's parent or legal guardian, or who has been referred for such services by another physician, a member of the clergy, a family planning clinic, a school or institution of higher education, or any agency or instrumentality of this state or any subdivision thereof, or who requests and is in need of birth control procedures, supplies, or information~~ WITHOUT NOTIFICATION TO OR THE CONSENT OF THE MINOR'S PARENT OR PARENTS, LEGAL GUARDIAN, OR ANY OTHER PERSON HAVING CUSTODY OF OR DECISION-MAKING RESPONSIBILITY FOR THE MINOR.

SECTION 7. In Colorado Revised Statutes, 25.5-2-103, **amend** (2), (6), and (7)(c); **repeal** (1)(a); and **add** (1)(g) and (5.5) as follows:

25.5-2-103. Reproductive health-care program - report - rules - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) ~~"Contraceptive methods and counseling services" means:~~

~~(f) Any FDA-approved contraceptive drug, device, or product;~~

~~(ff) Services related to the administration and monitoring of FDA-approved contraceptive drugs, devices, and products, including management of side effects;~~

~~(fff) Counseling services for continued adherence to a prescribed regimen;~~

~~(fv) Device insertion and removal; and~~

~~(v) Any other contraceptive methods and counseling services identified by the health resources and services administration in the United States department of health and human services or the Women's Preventive Services Guidelines as of December 17, 2019.~~

(g) "REPRODUCTIVE HEALTH-CARE SERVICES" MEANS FAMILY PLANNING SERVICES, AS DEFINED IN SECTION 25.5-4-412 (2)(b), AND FAMILY-PLANNING-RELATED SERVICES, AS DEFINED IN SECTION 25.5-4-412 (2)(a).

(2) On and after July 1, 2022, the state department shall administer a reproductive health-care program, referred to in this section as the "program", that provides ~~contraceptive methods and counseling~~ REPRODUCTIVE HEALTH-CARE services to participants.

(5.5) TO THE EXTENT PRACTICABLE, THE STATE DEPARTMENT SHALL ENSURE THAT ELIGIBLE INDIVIDUALS SEEKING TO PARTICIPATE IN THE PROGRAM ARE ABLE TO APPLY FOR AND ENROLL IN THE PROGRAM THROUGH THEIR LOCAL COUNTY OFFICE, A STATE MEDICAL ASSISTANCE PROGRAM SITE, AN ONLINE APPLICATION, OR ANY OTHER MECHANISM THAT IS AVAILABLE TO APPLICANTS FOR THE STATE MEDICAL ASSISTANCE PROGRAM.

(6) The state department shall provide ~~contraceptive methods and counseling~~ REPRODUCTIVE HEALTH-CARE services to participants without imposing any cost-sharing requirements.

(7) Beginning in state fiscal year 2023-24, the state department shall analyze and report the cost-effectiveness of the program to the public through the annual hearing, pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2. At a minimum, the report must include:

(c) The cost of providing ~~contraceptive methods and counseling~~ REPRODUCTIVE HEALTH-CARE services to participants;

SECTION 8. In Colorado Revised Statutes, 25.5-1-201, **amend** (1) introductory portion and (1)(f.5) as follows:

25.5-1-201. Programs to be administered by the department of health care policy and financing. (1) The ~~department of health care policy and financing~~ STATE DEPARTMENT shall administer the following programs and perform the following functions:

(f.5) The reproductive health-care program that provides ~~contraceptive methods and counseling~~ REPRODUCTIVE HEALTH-CARE services, as specified in section 25.5-2-103;

SECTION 9. In Colorado Revised Statutes, **add** 25.5-5-514 as follows:

25.5-5-514. Prescription drugs used for treatment or prevention of HIV - prohibition on utilization management - definition. (1) AS USED IN THIS SECTION, "HIV" MEANS HUMAN IMMUNODEFICIENCY VIRUS.

(2) (a) BEFORE JULY 1, 2027, THE STATE DEPARTMENT SHALL NOT RESTRICT BY PRIOR AUTHORIZATION OR STEP THERAPY REQUIREMENTS ANY PRESCRIPTION DRUG APPROVED BY THE FEDERAL FOOD AND DRUG ADMINISTRATION THAT IS USED FOR THE TREATMENT OR PREVENTION OF HIV IF A PRESCRIBING PRACTITIONER LICENSED PURSUANT TO TITLE 12 HAS DETERMINED THE PRESCRIPTION DRUG TO BE MEDICALLY NECESSARY FOR THE TREATMENT OR PREVENTION OF HIV FOR A RECIPIENT. PRESCRIPTION DRUGS USED FOR THE TREATMENT OR PREVENTION OF HIV INCLUDE PROTEASE INHIBITORS, NON-NUCLEOSIDE REVERSE TRANSCRIPTASE INHIBITORS,

NUCLEOSIDE REVERSE TRANSCRIPTASE INHIBITORS, ANTIVIRALS, INTEGRASE INHIBITORS, LONG ACTING MEDICATIONS, AND FUSION INHIBITORS.

(b) NOTHING IN THIS SUBSECTION (2) PREVENTS THE STATE DEPARTMENT FROM PERFORMING DRUG UTILIZATION REVIEW THAT MAY BE NECESSARY FOR PATIENT SAFETY OR FOR ENSURING THE PRESCRIBED USE IS FOR A MEDICALLY ACCEPTED INDICATION, AS REQUIRED BY SECTION 1927 OF THE "SOCIAL SECURITY ACT OF 1935".

SECTION 10. In Colorado Revised Statutes, 25-6-101, **amend** (1) as follows:

25-6-101. Legislative declaration. (1) ~~Continuing population growth either causes or aggravates many social, economic, and environmental problems, both in this state and in the nation~~ EVERY INDIVIDUAL HAS A FUNDAMENTAL RIGHT TO MAKE DECISIONS ABOUT THE INDIVIDUAL'S REPRODUCTIVE HEALTH CARE INCLUDING THE FUNDAMENTAL RIGHT TO USE OR REFUSE CONTRACEPTION.

SECTION 11. In Colorado Revised Statutes, **add** 25-6-104 as follows:

25-6-104. Department of public health and environment - family planning access collaborative - legislative declaration - recommendations - funding.

(1)(a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT, ACCORDING TO A 2019 REPORT BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, REFERRED TO IN THIS SECTION AS THE "DEPARTMENT", IN 2019, THERE WERE NINETY-THREE THOUSAND THREE HUNDRED COLORADANS WITHOUT ACCESS TO FAMILY PLANNING SERVICES, INCLUDING FIFTY-EIGHT THOUSAND COLORADANS WHO WERE UNINSURED AND THIRTY-FIVE THOUSAND THREE HUNDRED WHO WERE INSURED, BUT NOT USING THEIR FAMILY PLANNING COVERAGE PRIMARILY DUE TO FEAR OF BREACHES IN CONFIDENTIALITY.

(b) THE GENERAL ASSEMBLY FURTHER FINDS THAT THERE HAVE SINCE BEEN IMPORTANT EXPANSIONS IN ACCESS INCLUDING A STATE PLAN AMENDMENT TO EXPAND INCOME ELIGIBILITY FOR SERVICES, THE CREATION OF COVERAGE PROGRAMS FOR UNDOCUMENTED INDIVIDUALS, EXPANSIONS OF COMMERCIAL AND MEDICAID INSURANCE COVERAGE, AND INCREASED FAMILY PLANNING FUNDING. HOWEVER, PERSISTENT GAPS IN ACCESS REMAIN.

(2) THE DEPARTMENT SHALL CONVENE A FAMILY PLANNING ACCESS COLLABORATIVE TO COORDINATE WITH THE DEPARTMENT TO ADVISE THE DEPARTMENT IN IDENTIFYING ACCESS GAPS THAT CONTRIBUTE TO APPROXIMATELY NINETY-THREE THOUSAND COLORADANS LACKING FAMILY PLANNING ACCESS INCLUDING, BUT NOT LIMITED TO:

- (a) PRIVACY AND CONFIDENTIALITY CONCERNS;
- (b) GAPS IN EXISTING FAMILY PLANNING PROGRAMS;
- (c) GEOGRAPHIC BARRIERS AND RURAL ACCESS;
- (d) ABILITY OF ADOLESCENTS TO ACCESS CARE AND SERVICES;

(e) FUNDING FOR SERVICES;

(f) IDENTIFICATION OF LEGISLATIVE, REGULATORY, AND FUNDING STRATEGIES TO CLOSE ACCESS GAPS IDENTIFIED BY THE COLLABORATIVE.

(3) THE DEPARTMENT SHALL INVITE REPRESENTATIVES WITH RELEVANT EXPERTISE IN THE PROVISION OF, FUNDING OF, AND ADVOCACY FOR FAMILY PLANNING SERVICES TO PARTICIPATE IN THE COLLABORATIVE.

(4) THE DEPARTMENT SHALL CONVENE THE FAMILY PLANNING ACCESS COLLABORATIVE ON OR BEFORE SEPTEMBER 1, 2023.

(5) ON OR BEFORE DECEMBER 15, 2023, THE COLLABORATIVE SHALL PUBLISH RECOMMENDATIONS INFORMED BY THE GAPS IDENTIFIED IN SUBSECTION (2) OF THIS SECTION.

(6) FOR THE 2023-24 STATE FISCAL YEAR, THE GENERAL ASSEMBLY SHALL APPROPRIATE TWO HUNDRED THOUSAND DOLLARS FROM THE GENERAL FUND TO THE DEPARTMENT FOR THE PURPOSES OF THIS SECTION.

(7) THE DEPARTMENT MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION.

(8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2024.

SECTION 12. In Colorado Revised Statutes, 10-16-124.5, **amend** (2)(a) introductory portion; and **add** (2)(c) and (2)(c.5) as follows:

10-16-124.5. Prior authorization form - drug benefits - rules of commissioner - definitions - repeal. (2) (a) Except as provided in ~~paragraph (b) of this subsection~~ ~~(2)~~ SUBSECTION (2)(b) OR (2)(c) OF THIS SECTION, a prior authorization request is deemed granted if a carrier or pharmacy benefit management firm fails to:

(c) FOR NONURGENT PRIOR AUTHORIZATION REQUESTS RELATED TO A COVERED PERSON'S HIV PRESCRIPTION DRUG COVERAGE, THE PRIOR AUTHORIZATION REQUEST IS DEEMED GRANTED IF A CARRIER OR PHARMACY BENEFIT MANAGEMENT FIRM FAILS TO:

(I) UTILIZE THE PRIOR AUTHORIZATION PROCESS DEVELOPED PURSUANT TO SUBSECTION (3) OF THIS SECTION;

(II) FOR PRIOR AUTHORIZATION REQUESTS SUBMITTED ELECTRONICALLY:

(A) NOTIFY THE PRESCRIBING PROVIDER WITHIN ONE BUSINESS DAY AFTER RECEIPT OF THE REQUEST THAT THE REQUEST IS APPROVED, DENIED, OR INCOMPLETE, AND IF INCOMPLETE, INDICATE THE SPECIFIC ADDITIONAL INFORMATION, CONSISTENT WITH CRITERIA POSTED PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION, THAT IS REQUIRED TO PROCESS THE REQUEST; OR

(B) NOTIFY THE PRESCRIBING PROVIDER WITHIN ONE BUSINESS DAY AFTER RECEIVING THE ADDITIONAL INFORMATION REQUIRED BY THE CARRIER OR

PHARMACY BENEFIT MANAGEMENT FIRM PURSUANT TO SUBSECTION (2)(a)(II)(A) OF THIS SECTION, THAT THE REQUEST IS APPROVED OR DENIED; AND

(III) FOR NONURGENT AND URGENT PRIOR AUTHORIZATION REQUESTS SUBMITTED ORALLY, BY FACSIMILE, OR BY ELECTRONIC MAIL, NOTIFY THE PRESCRIBING PROVIDER WITHIN ONE DAY AFTER RECEIPT OF THE REQUEST THAT THE REQUEST IS APPROVED OR DENIED.

(c.5) THIS SUBSECTION (2)(c.5) AND SUBSECTION (2)(c) OF THIS SECTION ARE REPEALED, EFFECTIVE JULY 1, 2027.

SECTION 13. Appropriation. (1) For the 2023-24 state fiscal year, \$200,000 is appropriated to the department of public health and environment for use by the prevention services division. This appropriation is from the general fund. To implement this act, the division may use this appropriation for the family planning access collaborative related to women's health.

(2) For the 2023-24 state fiscal year, \$67,627 is appropriated to the department of regulatory agencies. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S. To implement this act, the division may use this appropriation as follows:

(a) \$37,109 for use by the division of insurance for personal services, which amount is based on an assumption that the division will require an additional 0.5 FTE;

(b) \$7,345 for use by the division of insurance for operating expenses; and

(c) \$23,263 for the purchase of legal services.

(3) For the 2023-24 state fiscal year, \$23,263 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (2)(c) of this section and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

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, or safety.

Approved: April 14, 2023