

COLORADO INDIGENT CARE PROGRAM

FISCAL YEAR 2009

MANUAL

SECTION V:

CICP ENABLING LEGISLATION

EFFECTIVE: JULY 1, 2008

TITLE 25.5
HEALTH CARE POLICY AND FINANCING

INDIGENT CARE

ARTICLE 3

Indigent Care

PART 1

25.5-3-101. Short title. This part 1 shall be known and may be cited as the "Colorado Indigent Care Program".

25.5-3-102. Legislative declaration.

- (1) The general assembly hereby determines, finds, and declares that:
 - (a) The state has insufficient resources to pay for all medical services for persons who are indigent and must therefore allocate available resources in a manner that will provide treatment of those conditions constituting the most serious threats to the health of such medically indigent persons, as well as increase access to primary medical care to prevent deterioration of the health conditions among medically indigent people; and
 - (b) Such allocation of resources will require the prioritization of medical services by providers and the coordination of administration and delivery of medical services.
- (2) The general assembly further determines, finds, and declares that the eligibility of medically indigent persons to receive medical services rendered under the conditions specified in subsection (1) of this section exists only to the extent of available appropriations, as well as to the extent of the individual provider facility's physical, staff, and financial capabilities. The general assembly also recognizes that the program for the medically indigent is a partial solution to the health care needs of Colorado's medically indigent citizens. Therefore, medically indigent persons accepting medical services from such program shall be subject to the limitations and requirements imposed in this part 1.

25.5-3-103. Definitions. As used in this part 1, unless the context otherwise requires:

- (1) "Emergency care" means treatment for conditions of an acute, severe nature which are life, limb, or disability threats requiring immediate attention, where any delay in treatment would, in the judgment of the responsible physician, threaten life or loss of function of a patient or viable fetus.
- (2) "Executive director" means the executive director of the state department.
- (3) "General provider" means any general hospital, birth center, or community health clinic licensed or certified by the department of public health and environment pursuant to section

25-1.5-103 (1) (a) (I) or (1) (a) (II), C.R.S., any health maintenance organization issued a certificate of authority pursuant to section 10-16-402, C.R.S., and the health sciences center when acting pursuant to section 25.5-3-108 (5) (a) (I) or (5) (a) (II) (A). For the purposes of the program, "general provider" includes associated physicians.

- (4) "Health sciences center" means the schools of medicine, dentistry, nursing, and pharmacy established by the regents of the university of Colorado under section 5 of article VIII of the Colorado constitution.
- (5) "Program" means the program for the medically indigent established by section 25.5-3-104.
- (6) "University hospital" means the university hospital operated pursuant to article 21 of title 23, C.R.S.

25.5-3-104. Program for the medically indigent established - eligibility - rules.

- (1) A program for the medically indigent is hereby established, to commence July 1, 1983, which shall be administered by the state department, to provide payment to providers for the provision of medical services to eligible persons who are medically indigent. The state board may promulgate rules as are necessary for the implementation of this part 1 in accordance with article 4 of title 24, C.R.S.
- (2) A client's eligibility to receive discounted services under the program for the medically indigent shall be determined by rule of the state board based on a specified percentage of the federal poverty level, adjusted for family size, which percentage shall not be less than two hundred fifty percent.

25.5-3-105. Eligibility of legal immigrants for services. A legal immigrant who is a resident of the state of Colorado shall be eligible to receive services under this part 1 so long as he or she meets the eligibility requirements. As used in this section, "legal immigrant" has the same meaning as described in section 25.5-4-103 (10). As a condition of eligibility for services under this part 1, a legal immigrant shall agree to refrain from executing an affidavit of support for the purpose of sponsoring an alien on or after July 1, 1997, under rules promulgated by the immigration and naturalization service, or any successor agency, during the pendency of such legal immigrant's receipt of services under this part 1. Nothing in this section shall be construed to affect a legal immigrant's eligibility for services under this part 1 based upon such legal immigrant's responsibilities under an affidavit of support entered into before July 1, 1997.

25.5-3-106. No public funds for abortion - exception - repeal.

- (1) It is the purpose of this section to implement the provisions of amendment 3 to article V of the Colorado constitution, adopted by the registered electors of the state of Colorado at the general election November 6, 1984, which prohibits the use of public funds by the state of Colorado or its agencies or political subdivisions to pay or otherwise reimburse, directly or indirectly, any person, agency, or facility for any induced abortion.

- (2) If every reasonable effort has been made to preserve the lives of a pregnant woman and her unborn child, then public funds may be used pursuant to this section to pay or reimburse for necessary medical services, not otherwise provided for by law.
- (3)
- (a) Except as provided in paragraph (b) of this subsection (3), any necessary medical services performed pursuant to this section shall be performed only in a licensed health care facility by a provider who is a licensed physician.
- (b) However, such services may be performed in other than a licensed health care facility if, in the medical judgment of the attending physician, the life of the pregnant woman or her unborn child is substantially threatened and a transfer to a licensed health care facility would further endanger the life of the pregnant woman or her unborn child. Such medical services may be performed in other than a licensed health care facility if the medical services are necessitated by a life-endangering circumstance described in subparagraph (II) of paragraph (b) of subsection (6) of this section and if there is no licensed health care facility within a thirty-mile radius of the place where such medical services are performed.
- (4)
- (a) Any physician who renders necessary medical services pursuant to subsection (2) of this section shall report the following information to the state department:
- (I) The age of the pregnant woman and the gestational age of the unborn child at the time the necessary medical services were performed;
- (II) The necessary medical services which were performed;
- (III) The medical condition which necessitated the performance of necessary medical services;
- (IV) The date such necessary medical services were performed and the name of the facility in which such services were performed.
- (b) The information required to be reported pursuant to paragraph (a) of this subsection (4) shall be compiled by the state department and such compilation shall be an ongoing public record; except that the privacy of the pregnant woman and the attending physician shall be preserved.
- (5) For purposes of this section, pregnancy is a medically diagnosable condition.
- (6) For the purposes of this section:
- (a) (I) "Death" means:
- (A) The irreversible cessation of circulatory and respiratory functions; or
- (B) The irreversible cessation of all functions of the entire brain, including the brain stem.
- (II) A determination of death under this section shall be in accordance with accepted medical standards.

(b) "Life-endangering circumstance" means:

- (I) The presence of a medical condition, other than a psychiatric condition, as determined by the attending physician, which represents a serious and substantial threat to the life of the pregnant woman if the pregnancy continues to term;
- (II) The presence of a lethal medical condition in the unborn child, as determined by the attending physician and one other physician, which would result in the impending death of the unborn child during the term of pregnancy or at birth; or
- (III) The presence of a psychiatric condition which represents a serious and substantial threat to the life of the pregnant woman if the pregnancy continues to term. In such case, unless the pregnant woman has been receiving prolonged psychiatric care, the attending licensed physician shall obtain consultation from a licensed physician specializing in psychiatry confirming the presence of such a psychiatric condition. The attending physician shall report the findings of such consultation to the state department.

(c) "Necessary medical services" means any medical procedures deemed necessary to prevent the death of a pregnant woman or her unborn child due to life-endangering circumstances.

- (7) If any provision of this section or application thereof is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application and, to this end, provisions of this section are declared severable.
- (8) Use of the term "unborn child" in this section is solely for the purposes of facilitating the implementation of section 50 of article V of the state constitution and its use shall not affect any other law or statute nor shall it create any presumptions relating to the legal status of an unborn child or create or affect any distinction between the legal status of an unborn child and the legal status of a fetus.
- (9) This section shall be repealed if section 50 of article V of the Colorado constitution is repealed.

25.5-3-107. Report concerning the program. The executive director shall prepare an annual report concerning the status of the medically indigent program to be submitted to the health and human services committees of the senate and the house of representatives, or any successor committees, no later than February 1 of each year. The report shall be prepared following consultation with providers in the program, state department personnel, and other agencies, organizations, or individuals as the executive director deems appropriate in order to obtain comprehensive and objective information about the program.

25.5-3-108. Responsibility of the department of health care policy and financing - provider reimbursement.

- (1) The state department shall be responsible for:
 - (a) Execution of such contracts with providers for partial reimbursement of costs for medical services rendered to the medically indigent as the state department shall determine are necessary for the program;
 - (b) Promulgation of such reasonable rules as are necessary for the program;
 - (c) Submission of the report required in section 25.5-3-107; and
 - (d) Application for federal financial participation under the program.
- (2) The contracts required by paragraph (a) of subsection (1) of this section shall be negotiated between the state department and the various general providers, as defined in section 25.5-3-103 (3), and shall include contracts with providers to provide tertiary or specialized services. The state department may award such contracts upon a determination that it would not be cost effective nor result in adequate quality of care for such services to be developed by the contract providers, or upon a determination that the contract providers are unable or unwilling to provide such services.
- (3) The state department shall establish procedures requiring the provider to provide for proof of indigency to be submitted by the person seeking assistance, but the provider shall be responsible for the determination of eligibility.
- (4) The state department shall establish procedures so that the providers of medical services rendered to the medically indigent cover geographic regions of the state.
- (5) (a) The responsibilities of providers who provide medical care through the program for the medically indigent are as follows:
 - (I) Denver health and hospitals, including associated physicians, shall, up to its physical, staff, and financial capabilities as provided for under this program, be the primary providers of medical services to the medically indigent for the city and county of Denver.
 - (II) (A) University hospital and the physicians and other faculty members of the health sciences center shall, up to their physical, staff, and financial capabilities as provided for under this program, be the primary provider of medical services to the medically indigent for the Denver primary metropolitan statistical area.
 - (B) University hospital and the physicians and other faculty members of the health sciences center shall be the primary provider of such complex care as is not available or is not contracted for in the remaining areas of the state up to their physical, staff, and financial capabilities as provided for under this program.
- (b) Any two or more providers awarded contracts may, with the approval of the state department, redistribute their respective populations and associated funds.
- (c) Every provider who provides medical care through the program for the medically indigent shall comply with all procedures established by the state department.

- (6) The state department shall establish procedures that allocate funds to providers based on the anticipated utilization of services.
- (7) A provider receiving reimbursement pursuant to this section shall transfer a medically indigent patient to another provider only with the prior agreement of the provider.
- (8) (a) Every provider receiving reimbursement pursuant to this section shall prioritize for each fiscal year the medical services which it will be able to render, within the limits of the funds which will be made available by the state department.
(b) Such medical services shall be prioritized in the following order:
 - (I) Emergency care for the full year;
 - (II) Any additional medical care for those conditions the state department determines to be the most serious threat to the health of medically indigent persons;
 - (III) Any other additional medical care.
- (9) A provider receiving reimbursement pursuant to this section shall not be liable in civil damages for refusing to admit for treatment or for refusing to treat any medically indigent person for a condition which the state department or the provider has determined to be outside of the scope of the program.
- (10) (a) A medically indigent person who wishes to be determined eligible for assistance under this part 1 shall comply with the eligibility requirements set by the state department.
(b) A medically indigent person requesting assistance under this part 1 specifically authorizes the state department or provider to:
 - (I) Use any information required by the eligibility requirements set by the state department for the purpose of verifying eligibility; and
 - (II) Obtain records pertaining to eligibility from a financial institution, as defined in section 15-15-201 (4), C.R.S., or from any insurance company.
(c) A medically indigent person requesting assistance under this part 1 shall be provided language clearly explaining the provisions of this subsection (10).
- (11) With the approval of the state department, any provider awarded a contract may enter into subcontracts or other agreements for services related to the program.
- (12) Providers awarded contracts shall not be paid from funds made available for this program up to the extent, if any, of their annual financial obligation under the Hill-Burton act.
- (13) When adopting or modifying procedures under this part 1, the state department shall notify each provider, who is contracted to provide medical care through the program for the medically indigent, at least thirty days prior to implementation of a new procedure. The state department shall hold a meeting for all providers at least thirty days prior to the implementation of a new procedure.
- (14) The state department shall require any hospital provider who may receive payment under the program to annually submit data relating to the hospital's number of medicaid-eligible in-patient days and the hospital's total in-patient days in a form specified by the state department. The hospital provider shall verify the data to the state department through the program audit procedures required by the state department. The state department shall

include this information by hospital in the department's annual budget request to the joint budget committee of the general assembly and in the report required by section 25.5-3-107.

- (15) To qualify for the program's payment formula disproportionate share hospital factor, as described in rule by the state board consistent with the provisions of this part 1, a hospital provider's percent of medicaid-eligible in-patient days relative to total in-patient days shall be equal to or exceed one standard deviation above the mean.
- (16) After receiving approval by the state department, a community health clinic may utilize moneys received pursuant to this article, and any gifts, grants, and donations, for the development and implementation of demonstration projects that may include but need not be limited to coordination of care and disease management.

25.5-3-109. Appropriations. The general assembly shall make annual appropriations to the state department to accomplish the purposes of this part 1.

25.5-3-110. Effect of part 1. This part 1 shall not affect the department of human services' responsibilities for the provision of mental health care in accordance with part 2 of article 1 of title 27, C.R.S., and this part 1 shall not affect any provisions of article 22 of title 23, C.R.S., or any other provisions of law relating to the university of Colorado psychiatric hospital.

25.5-3-111. Penalties. Any person who represents that any medical service is reimbursable or subject to payment under this part 1 when he or she knows that it is not and any person who represents that he or she is eligible for assistance under this part 1 when he or she knows that he or she is not commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

25.5-3-112. Health care services fund - creation - state plan amendment.

- (1) (a) There is hereby created in the state treasury the Colorado health care services fund, referred to in this section as the "fund". The fund shall consist of moneys credited thereto pursuant to this section.
 - (b) In fiscal year 2005-06, the general assembly shall appropriate fourteen million nine hundred sixty-two thousand four hundred eight dollars from the general fund to the fund. In fiscal year 2007-08 and each of the two fiscal years thereafter, fifteen million dollars of the moneys in the general fund exempt account created in section 24-77-103.6 (2), C.R.S., shall be appropriated by the general assembly to the fund.
 - (c) All moneys appropriated to the fund shall be used as provided in this section and shall not be deposited in or transferred to the general fund of this state or to any other fund. Notwithstanding any provision of section 24-36-114, C.R.S., to the contrary, all interest derived from the deposit and investment of moneys in the fund shall be credited to the fund.

- (2) In fiscal year 2006-07, and each of the three fiscal years thereafter, notwithstanding the requirements of section 25.5-3-108 (8) (b), the moneys deposited into the fund shall be appropriated as follows:
- (a) Of the moneys appropriated pursuant to this subsection (2), eighteen percent of the moneys annually appropriated shall be to Denver health and hospitals as the community health clinic provider for the city and county of Denver.
 - (b) (I) For fiscal year 2006-07, eighty-two percent of the moneys remaining after the appropriation pursuant to paragraph (a) of this subsection (2) shall be appropriated to community health clinics to provide primary care services pursuant to this article.
 - (II) For fiscal year 2006-07, eighteen percent of the moneys remaining after the appropriation pursuant to paragraph (a) of this subsection (2) shall be appropriated to primary care clinics operated by a licensed or certified health care facility to provide primary care services pursuant to this article.
 - (III) For fiscal year 2007-08 and each of the two fiscal years thereafter, the allocation of the moneys remaining after the appropriation pursuant to paragraph (a) of this subsection (2) shall be determined based on prior utilization as specified in rule by the state board.
- (3) (a) The state department shall submit a state plan amendment for federal financial participation for moneys appropriated to primary care clinics operated by a licensed or certified health care facility. Upon approval of the state plan amendment, the state department is authorized to receive and expend all available federal moneys without a corresponding reduction in cash funds exempt spending authority from the fund.
- (b) To the extent possible under federal law, the state department shall pursue available federal financial participation for moneys appropriated to community health clinics.