

RECOMMENDATIONS FOR 2002

HEALTH CARE TASK FORCE

**Report to the
Colorado General Assembly**

**Research Publication No. 497
December 2001**

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December 2001

To Members of the Sixty-third General Assembly:

Submitted herewith is the final report of the Health Care Task Force. This committee was created pursuant to Section 26-15-107, Colorado Revised Statutes. The purpose of the committee is to study a variety of health care issues over five years.

At its meeting on November 15, 2001, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2002 session was approved.

Respectfully submitted,

/s/ Senator Stan Matsunaka
Chairman
Legislative Council

TABLE OF CONTENTS

	PAGE
LETTER OF TRANSMITTAL	iii
TABLE OF CONTENTS	v
RECOMMENDED BILLS AND FISCAL NOTES	vii
MEMBERS OF THE COMMITTEE	ix
EXECUTIVE SUMMARY	xi
Committee Charge	xi
Committee Activities	xi
Committee Recommendations	xii
STATUTORY AUTHORITY AND RESPONSIBILITIES	1
COMMITTEE ACTIVITIES	3
Background	3
Long-Term Care for the Elderly	3
Rising Health Insurance Premiums	4
SUMMARY OF RECOMMENDATIONS	5
Bill A — Efficient Delivery of Quality Care to Seniors	5
Bill B — Elimination of Barriers to Quality Care	5
Bill C — Creation of a Nurse Licensure Compact	5
Bill D — Case-Mix Reimbursement Methodology for the Reimbursement of Services Under the "Colorado Medical Assistance Act"	6
Bill E — Expansion of the Program of All-Inclusive Care for the Elderly	6
Bill F — Creation of In-Home Support Services	6
Bill G — Creation of a Consumer-Directed Care Pilot Program for the Elderly	7
Resolution A — Importance of Long-Term Care Insurance, and, in Connection Therewith, Encouraging Citizens to Purchase Private Long-Term Care Insurance Policies	7
RESOURCE MATERIALS	9
Meeting Summaries	9
Memoranda and Reports	10

RECOMMENDED BILLS AND FISCAL NOTES

	PAGE
Bill A — Concerning Delivery of Quality Care to Seniors	11
— Fiscal Note A	13
Bill B — Concerning Elimination of Barriers to Quality Care	17
— Fiscal Note B	23
Bill C — Concerning Creation of a Nursing Licensure Compact	27
— Fiscal Note C	37
Bill D — Concerning Case-Mix Reimbursement Methodology for the Reimbursement of Services Under the "Colorado Medical Assistance Act"	43
— Fiscal Note D	47
Bill E — Concerning Expansion of the Program of All-Inclusive Care for the Elderly	51
— Fiscal Note E	57
Bill F — Concerning Creation of In-Home Support Services	61
— Fiscal Note F	65
Bill G — Concerning Creation of a Consumer-Directed Care Pilot Program for the Elderly	69
— Fiscal Note G	73
Resolution A — Concerning the Importance of Long-Term Care Insurance, and in Connection Therewith, Encouraging Citizens to Purchase Private Long-Term Care Insurance	77

HEALTH CARE TASK FORCE

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Representative John Witwer

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EXECUTIVE SUMMARY

Committee Charge

Pursuant to Section 26-15-107, C.R.S., the Colorado Health Care Task Force must study 15 specific health-related issues. House Bill 01-1080 require two of these issues to be addressed during the 2001 interim. Specifically, it required the Task Force to study and make recommendations regarding 1) the implementation of recommendations made by the Footnote 50a Task Force¹; and 2) innovative options for housing, home- and community-based services, and assisted living services for the elderly.

Committee Activities

The Health Care Task Force dedicated most of its meeting time to studying the issue of long-term care for the elderly. It also briefly examined issues related to rising health insurance premiums. The Task Force focused on long-term care because of requirements contained in House Bill 01-1080 (noted above).

Study requirements of House Bill 01-1080. The Footnote 50a Task Force made short- and long-term recommendations to address inadequate reimbursements to long-term care providers. They included raising the overall reimbursement to providers, implementing a long-term care services capitation pilot, creating a consumer voucher program, and adopting a case-mix reimbursement. The Task Force found providers were given an overall increase of six percent in the FY 01-02 budget, but similar increases in FY 02-03 and FY 03-04 are necessary to raise reimbursements to adequate levels. According to testimony most of the long-term recommendations require further study by the Footnote 50a Task Force before they are implemented.

The Health Care Task Force heard considerable testimony regarding options for housing, home- and community-based services, and assisted living services for the elderly. Testimony indicated Colorado is a leader in home- and community-based services, but there are additional long-term care policies the state may consider. For example, Arkansas has implemented

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1. Footnote 50a of the 2000 budget bill requested the Department of Health Care Policy and Financing to "work with long-term care clients and providers, including home- and community-based services, home health and nursing facilities, to examine any issues of rate disparity and rate shortfalls within the long-term care continuum of care, to evaluate areas of greatest need affecting client services, and ways to control utilization and costs of these services and overall growth in the long-term care system."

vouchers to promote more consumer-directed long-term care, Nebraska has initiated a program to convert nursing homes to assisted living centers, and Massachusetts has established incentives to help providers retain long-term care paraprofessionals. Colorado's attempts to promote alternatives to nursing home care include PACE (Program of All-Inclusive Care for the Elderly) and the Fast Track Project. The PACE program uses a managed care approach to provide community-based long-term care for the frail elderly, and the Fast Track Project works to refer patients to alternative care whenever appropriate upon hospital discharge. Both programs are currently implemented on a limited basis in the Denver metro area.

Rising health insurance premiums. The Health Care Task Force briefly studied the rising cost of health insurance premiums after receiving notice of dramatic price increases for state employees in 2002. Testimony indicated the overall cost of state employee premiums will rise by 25 to 40 percent next year. State employees residing in Pueblo, however, will experience even greater price increases largely due to demographic characteristics. The Task Force found that these increases reflect those experienced by private sector and local government employees. According to presenters, factors contributing to rising premium costs include rising prescription drug utilization and costs; previous underpricing of health plans; cost-shifting due to inadequate provider reimbursements by public programs; increased consumer demand for services; and mandated benefits.

Committee Recommendations

As a result of committee discussion and deliberation, the committee recommends seven bills and one resolution for consideration in the 2002 legislative session.

Bill A — Efficient Delivery of Quality Care to Seniors. The bill gives practical nurses greater authority to delegate tasks to other practical nurses. The bill also directs the Commission on Higher Education to develop new admission policies for state-supported nursing programs.

Bill B — Elimination of Barriers to Quality Care. The bill requires the Department of Public Health and Environment to establish and enforce standards that have a demonstrated, continuing, and positive impact on health facility patients. The bill also places new demands on the department to make investigation information promptly available to the public.

Bill C — Creation of a Nurse Licensure Compact. The bill directs the Governor to enter into a multi-state nurse licensure compact to allow nurses from other states to practice in Colorado without seeking an additional license. Nurses are required to comply with the state laws where they are practicing and are subject to that state's jurisdiction.

Bill D — Case-Mix Reimbursement Methodology for the Reimbursement of Services Under the "Colorado Medical Assistance Act." The bill authorizes the Department

of Health Care Policy and Financing to implement a two-year pilot project to evaluate a case-mix system for reimbursing home health agencies.

Bill E — Expansion of the Program of All-Inclusive Care for the Elderly. The bill allows the Department of Health Care Policy and Financing to implement six new sites for the Program of All-Inclusive Care for the Elderly (PACE).

Bill F — Creation of In-Home Support Services. The bill requires the Department of Health Care Policy and Financing to offer in-home support services as an option for persons who receive home- and community-based services.

Bill G — Creation of a Consumer-Directed Care Pilot Program for the Elderly. The bill establishes a consumer-directed care pilot program for the elderly in the Department of Health Care Policy and Financing.

Resolution A — Importance of Long-Term Care Insurance, and, in Connection Therewith, Encouraging Citizens to Purchase Private Long-Term Care Insurance Policies. The resolution encourages all Coloradans to purchase long-term care insurance, and the private sector is encouraged to increase the number of available options for long-term care.

STATUTORY AUTHORITY AND RESPONSIBILITIES

Pursuant to Section 26-15-107, C.R.S., the Colorado Health Care Task Force must consider, but is not limited to, the following issues over five years:

- emerging trends in Colorado health care and their impact on consumers, including but not limited to:
 - relationships among health care providers, patients, and payors,
 - restrictions in health care options available to consumers and professional liability issues arising from these restrictions,
 - medical and patient record confidentiality,
 - health care work force requirements, and
 - home care in the continuum of care;
- the effect of recent shifts in the way health care is delivered and paid for;
- the ability of consumers to obtain and keep adequate, affordable health insurance coverage, including coverage for catastrophic illnesses;
- the effect of managed care on the ability of consumers to obtain timely access to quality care;
- the operation of the Medically Indigent Program;
- future trends for health care coverage rates for employees and employers;
- the role of public health programs and services;
- the social and financial costs and benefits of mandated health care coverage;
- the costs and benefits of providing preventive care and early treatment for people with chronic illnesses who may eventually need long-term care;
- innovative options for housing, home- and community-based services, and assisted living services for older people who can no longer live independently in their communities and possible funding options for these levels of care; and
- implementation of both short- and long-range recommendations on rate disparity and shortfalls within long-term care made by the task force created pursuant to footnote 50a of the 2000 budget bill.

COMMITTEE ACTIVITIES

During the 2001 interim, the Health Care Task Force received testimony regarding long-term care for the elderly and rising health insurance premiums. The Task Force adopted seven bills and one resolution to address efficient delivery of quality long-term-care for senior citizens.

Background

The Task Force was enacted through the passage of House Bill 99-1019 and has conducted meetings during each of the three interims since the 1999 session. The 1999 and 2000 interim meetings were largely focused on issues of the uninsured but also included examinations of rising prescription drug costs, Medicaid waivers, and indigent care for the mentally ill. Three subcommittees were appointed by the Task Force in 1999 to study additional topics such as trends in Colorado health care, consumers' ability to obtain adequate health insurance, and mandated benefits. One bill regarding childhood immunizations was introduced by the Task Force during the 2000 session, but it was vetoed by the Governor. Three bills were introduced by the Task Force in the 2001 regular session regarding medical savings accounts, prescription drug savings accounts, and a tax credit for prescription drug costs. Each of these bills was postponed indefinitely.

Long-Term Care for the Elderly

Scope of the issue. Colorado's aging population has lead to a significant increase in the demand for long-term care². Nursing home utilization has remained steady, but high demand for other long-term care services has lead to waiting lists and higher occupancy rates for alternative care. Such alternative services include independent living centers, retirement communities, and assisted living centers. Although Colorado offers a tax incentive to purchase long-term care insurance, it is currently an underutilized coverage option. Many residents rely instead on Medicaid for their long-term care. Largely as a result, the program is the primary payer for long-term care services in the state, covering 57 percent of Colorado's total long-term care costs. In the interest of cost savings and meeting consumer demand, the state has promoted alternatives to expensive nursing home care (averaging \$138 per day in the Denver area). In particular, the state has become a national leader in providing home- and community based services to its Medicaid enrollees.

2. Over the last decade, the state's 75 and older population increased by 41 percent. The average increase for this age group nationwide was 26 percent.

Recommendation. The committee recommended a number of bills to help improve the quality and reduce the cost of long-term care. Recommendations included proposals to give practical nurses greater authority; expedite investigations against health care facilities; allow facilities to hire nurses who are licensed by another state; study case-mix reimbursement systems; expand the Program of All-Inclusive Care for the Elderly (PACE); create an in-home support services option for the Home- and Community-Based Services program; and the creation of a consumer-directed care pilot program. In addition, the Task Force recommended a resolution encouraging Coloradans to purchase long-term care insurance.

Rising Health Insurance Premiums

Scope of the issue. Health insurance premiums are rising dramatically in Colorado and throughout the country. State employees' premiums will increase by 25 to 40 percent next year alone. Largely due to demographic characteristics, those state employees who reside in Pueblo will experience increases of 42 to 75 percent. Such increases reflect those experienced by private sector and local government employees in Colorado and throughout the country. A number of factors contribute to rising costs. Increasing prescription drug utilization and costs is often cited as the most significant cost contributor. Other factors include: underpricing of health plans in recent years; cost shifting due to inadequate provider reimbursements by public programs; increased consumer demand for services; advanced medical technology; and mandated benefits. The Health Care Task Force declined to recommend legislation regarding rising health insurance premiums because the issue was addressed through legislation introduced during the second special session.

SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Concerning Efficient Delivery of Quality Care to Seniors

The bill declares that in order to meet the increased demand for quality care among seniors, government-sponsored programs must focus their resources with greater efficiency and effectiveness. In order to accomplish these goals, practical nurses are allowed to delegate practical nursing tasks. Currently just *registered* nurses are authorized to delegate these tasks. In addition, the Commission on Higher Education is directed to develop new admission policies for state-supported nursing programs. These policies will incorporate in the tuition schedule a supplemental tuition for students who would not otherwise be admitted to a nursing program due to the limitation placed on admittances.

Bill B — Concerning Elimination of Barriers to Quality Care

The bill requires the Department of Public Health and Environment to establish and enforce standards that protect the public health and have a demonstrated, continuing, and positive impact on health facility patients. Investigation summaries and other information regarding complaints and occurrences within health care facilities must be released to the public by the department. When complaints are received, the department is required to begin an investigation of the facility within 10 days, unless it finds an investigation is not necessary. No new state mandate or increases in services by a health care provider may be required unless additional moneys are provided by the state to fund such mandates or services.

Bill C — Concerning Creation of a Nurse Licensure Compact

The bill directs the Governor to enter into a multi-state nurse licensure compact to allow nurses from other states to practice in Colorado without seeking an additional license. The compact developed by the National Council of State Boards of Nursing will be approved and ratified. The compact includes the following provisions. Nurses are required to comply with the state laws where they are practicing and are subject to that state's jurisdiction. States taking part in the contract must participate in the creation of a coordinated database to include information on all nurse participants. Such information includes licensure information, disciplinary history, any adverse actions, and any current investigative information.

Bill D — Concerning Case-Mix Reimbursement Methodology for the Reimbursement of Service Under the "Colorado Medical Assistance Act"

The bill authorizes the Department of Health Care Policy and Financing to implement a two-year pilot project to evaluate a case-mix system for reimbursing home health agencies. Such a system will be instituted if the department and the Joint Budget Committee determine it will not increase state expenditures for home health care. The department is also authorized to conduct a study of a case-mix reimbursement system for alternative care facilities and for homemaker and personal care services provided by home- and community-based service providers. The study cannot be conducted, however, if the department does not receive at least 50 percent of the cost of conducting the study through grants or donations. If the study is conducted and finds a case-mix reimbursement system can be developed, the department must implement a two-year pilot project to evaluate the system.

Bill E — Concerning Expansion of the Program of All-Inclusive Care for the Elderly

The bill allows for the expansion of the Program of All-Inclusive Care for the Elderly (PACE). The Department of Health Care Policy and Financing is required to perform a feasibility study to identify viable communities that may support a PACE program site. Based upon this study, the department must make an effort to implement six new PACE sites within specific deadlines. The department must coordinate with single entry point agencies to develop and implement a plan to promote PACE to all eligible long-term care clients. Program sites developed after January 1, 2003, will be reimbursed 95 percent of the per member per month cost of nursing home care in their respective counties. After three years, the department must annually renegotiate a monthly capitated rate for contracted services based on Medicaid fee-for-service costs of a similar population.

Bill F — Concerning Creation of In-Home Support Services

The bill requires the Department of Health Care Policy and Financing to offer in-home support services as an option for persons who receive home- and community-based services. Input regarding the design and implementation of these services must be sought by the department from consumers and providers of home- and community-based services and from residents of independent living centers. The bill specifies that certain professional licensing requirements do not apply to persons who are directly employed by an in-home support service agency. In addition, agencies cannot discontinue a client within the services program until the client or the agency has secured other care for the client. The department must promulgate rules for the certification of in-home support service agencies, and report to the JBC, the House HEWI Committee, and the Senate HECF Committee regarding the implementation of the support services.

Bill G — Concerning Creation of a Consumer-Directed Care Pilot Program for the Elderly

The bill establishes a consumer-directed care pilot program for the elderly in the Department of Health Care Policy and Financing. Elderly consumers of home- and community-based services must be included in the department's design and implementation of the program. Up to 150 people may participate in the program. Eligible participants may spend up to \$37,000 annually for reimbursement of qualified services. The department must conduct an independent evaluation at the end of the second year of the pilot program and present it to the JBC, the House HEWI Committee and the Senate HECF Committee.

Resolution A — Concerning the Importance of Long-Term Care Insurance, and, in Connection Therewith, Encouraging Citizens to Purchase Private Long-Term Care Insurance Policies

The resolution encourages all Coloradans to examine the costs of long-term care and the benefits of private long-term care insurance. Individuals are encouraged to purchase long-term care insurance, and the private sector is encouraged to increase the number of available options for long-term care.

RESOURCE MATERIALS

The resource materials listed below were provided to the committee or developed by Legislative Council staff during the course of the meetings. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303) 866-2055. For a limited time, the meeting summaries and materials developed by Legislative Council Staff are available on our web site at:

www.state.co.us/gov_dir/leg_dir/lcsstaff/2001/01interim.

Meeting Summaries	Topics Discussed
July 18, 2001	Housing and Health Care Options for the Elderly Footnote 50a Task Force Home- and Community-Based Services Home Care and Nursing Home Care Housing Needs Among the Elderly Aging and Adult Services
August 6, 2001	Division of Insurance Senior Counseling Program Tax Laws to Assist the Elderly Demographic Trends Among Seniors Other States' Approaches to Aging in Place Nurse Licensure Requirements Program of All-Inclusive Care for the Elderly
September 5, 2001	Footnote 50a Task Force Update Innovative Approaches to Long-Term Care Olmstead Decision Long-Term Care Insurance Market-Based Ideas to Help Seniors Age in Place Seniors' Long-Term Care and Housing Needs Regulation of Home Health Agencies
September 19, 2001	Reasons for Rising Health Insurance Premiums Business Community's and Local Governments' Experience with Rising Premiums Oversight and Regulation of Health Insurers Direct Contract Plans for Self-Insured Employers
October 18, 2001	Consideration of draft legislation

Memoranda and Reports

ACF Access: Findings From a Survey of Colorado Alternative Care Facility Providers and Single Entry Point Coordinators, McManis Consulting, March 2001.

Assisted Living in the United States, American Association of Retired Persons Research Center.

Benefits Bulletin for 2002, Colorado Department of Personnel/General Support Services, September 2001.

Colorado Medicaid, Footnote 50a Report, Colorado Department of Health Care Policy and Financing, November 1, 2000.

Employer Health Benefits 2001, Summary of Findings, The Kaiser Family Foundation, 2001.

Family Caregiving: The Backbone of Our Long-Term Care System, National Conference of State Legislatures.

Four Year State Plan on Aging, Governor Bill Owens, August 1999.

Housing Options for Older Adults, National Issues and Specific Denver Metropolitan Area Issues, ElderCARE Network LLC, August 22, 2000.

Long-Term Care Insurance, National Conference of State Legislatures Health Policy Tracking Service, July 3, 2001.

Personal Care Services: A Comparison of Four States, National Academy for State Health Policy, March 2001.

Status of Older Adults Living in the Denver Region, Denver Regional Council of Governments, August 1999.

Two Alternative Models for Long-Term Care, CSG-West Committee on Aging, December 2000.

Second Regular Session
Sixty-third General Assembly
STATE OF COLORADO

DRAFT

LLS NO. 02-0203.01 Michele Hanigsberg

SENATE BILL

SENATE SPONSORSHIP

Hernandez

HOUSE SPONSORSHIP

Stafford, Mace, and Romanoff

Senate Committees

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF IN-HOME SUPPORT SERVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Health Care Task Force. Requires the department of health care policy and financing ("department") to offer in-home support services ("services") as an option for eligible persons who receive home- and community-based services. Specifies that the program will provide in-home support services to eligible persons who are willing to participate. Requires the department to seek any federal authorization that may be necessary to implement this option. Requires the department to seek input from consumers of home- and community-based services

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

and independent living center and home- and community-based service providers regarding the design and implementation of the services. Specifies the requirements for a person to qualify and remain eligible for services. Specifies that single entry point agencies are responsible for determining a person's eligibility for services.

Specifies that certain professional licensing requirements do not apply to a person who is directly employed by an in-home support service agency ("agency") to provide in-home support services and who is acting within the scope and course of such employment. Specifies the restrictions that apply to this professional licensure exclusion and the circumstances under which the exclusion does not apply.

Requires agencies participating in the program to provide 24-hour back-up services to their clients. Specifies that an agency cannot discontinue a client under this program until either the client or the agency has secured other care for the client. Requires the department to promulgate rules that establish guidance on how an agency can discontinue a client under the program.

Requires the department to promulgate rules for the certification of in-home support service agencies and the standards of care for the provision of services. Requires the department to develop the accountability requirements necessary to safeguard the use of public dollars and to promote effective and efficient service delivery and to set a separate rate structure for in-home support services.

Repeals the requirement that home- and community-based services shall only be offered to a person whose cost of services necessary to prevent nursing facility placement would not exceed the average cost of nursing facility care. Requires the home- and community-based services for the elderly, blind, and disabled to meet aggregate federal waiver budget neutrality requirements.

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

2 **SECTION 1.** Article 4 of title 26, Colorado Revised Statutes, is amended

3 BY THE ADDITION OF A NEW PART to read:

4 PART 13

5 IN-HOME SUPPORT SERVICES FOR THE

6 ELDERLY, BLIND, AND DISABLED

7 **26-4-1301. Legislative declaration.** THE GENERAL ASSEMBLY
8 FINDS THAT THERE MAY BE A MORE EFFECTIVE WAY TO DELIVER HOME-
9 AND COMMUNITY-BASED SERVICES TO THE ELDERLY, BLIND, AND DISABLED
10 THAT ALLOWS FOR MORE SELF DIRECTION IN THEIR CARE AND A COST
11 SAVINGS TO THE STATE. THE GENERAL ASSEMBLY ALSO FINDS THAT EVERY

1 PERSON THAT IS CURRENTLY RECEIVING HOME- AND COMMUNITY-BASED
2 SERVICES DOES NOT NEED THE SAME LEVEL OF SUPERVISION AND CARE
3 FROM A LICENSED HEALTH CARE PROFESSIONAL IN ORDER TO MEET HIS OR
4 HER CARE NEEDS AND REMAIN LIVING IN THE COMMUNITY. THE GENERAL
5 ASSEMBLY, THEREFORE, DECLARES THAT IT IS BENEFICIAL TO THE ELDERLY,
6 BLIND, AND DISABLED CLIENTS OF HOME- AND COMMUNITY-BASED
7 SERVICES FOR THE STATE DEPARTMENT TO DEVELOP A SERVICE THAT
8 WOULD ALLOW THESE PEOPLE TO RECEIVE IN-HOME SUPPORT.

9 **26-4-1302. Definitions.** AS USED IN THIS PART 13, UNLESS THE
10 CONTEXT OTHERWISE REQUIRES:

11 (1) "ATTENDANT" MEANS A PERSON WHO IS DIRECTLY EMPLOYED
12 BY AN IN-HOME SUPPORT SERVICE AGENCY TO PROVIDE IN-HOME SUPPORT
13 SERVICES TO ELIGIBLE PERSONS.

14 (2) "AUTHORIZED REPRESENTATIVE" MEANS AN INDIVIDUAL
15 DESIGNATED BY THE ELIGIBLE PERSON RECEIVING SERVICES, OR BY THE
16 GUARDIAN OF THE ELIGIBLE PERSON RECEIVING SERVICES, IF APPROPRIATE,
17 TO ASSIST THE ELIGIBLE PERSON RECEIVING SERVICES IN ACQUIRING AND
18 UTILIZING SERVICES UNDER THIS PART 13. THE EXTENT OF THE
19 AUTHORIZED REPRESENTATIVE'S INVOLVEMENT SHALL BE DETERMINED
20 UPON DESIGNATION.

21 (3) "ELIGIBLE PERSON" MEANS ANY PERSON WHO:

22 (a) IS ELIGIBLE FOR HOME- AND COMMUNITY-BASED SERVICES
23 UNDER SUBPART 1 OF PART 6 OF ARTICLE 4 OF THIS TITLE;

24 (b) IS WILLING TO PARTICIPATE;

25 (c) OBTAINS A STATEMENT FROM HIS OR HER PRIMARY CARE
26 PHYSICIAN INDICATING THAT THE PERSON HAS SOUND JUDGMENT OR HAS
27 AN AUTHORIZED REPRESENTATIVE; AND

1 (d) MEETS ANY OTHER QUALIFICATIONS ESTABLISHED BY THE STATE
2 DEPARTMENT BY RULE.

3 (4) "HEALTH MAINTENANCE ACTIVITIES" MEANS HEALTH-RELATED
4 TASKS AS DEFINED IN RULE BY THE STATE DEPARTMENT AND INCLUDE, BUT
5 ARE NOT LIMITED TO, CATHETER IRRIGATION, ADMINISTRATION OF
6 MEDICATION, ENEMAS, AND SUPPOSITORIES, AND WOUND CARE.

7 (5) "IN-HOME SUPPORT SERVICE AGENCY" MEANS AN AGENCY THAT
8 IS CERTIFIED BY THE STATE DEPARTMENT AND PROVIDES INDEPENDENT
9 LIVING CORE SERVICES AS DEFINED IN SECTION 26-8.1-102 (3) AND
10 IN-HOME SUPPORT SERVICES.

11 (6) "IN-HOME SUPPORT SERVICES" MEANS SERVICES THAT ARE
12 PROVIDED BY AN ATTENDANT AND INCLUDE HEALTH MAINTENANCE
13 ACTIVITIES, SUPPORT FOR ACTIVITIES OF DAILY LIVING OR INSTRUMENTAL
14 ACTIVITIES OF DAILY LIVING, PERSONAL CARE SERVICES AS DEFINED IN
15 SECTION 26-4-603 (17), AND HOMEMAKER SERVICES AS DEFINED IN
16 SECTION 26-4-603 (11).

17 **26-4-1303. In-home support services - eligibility - licensure**
18 **exclusion - in-home support service agency responsibilities.** (1) THE
19 STATE DEPARTMENT SHALL OFFER IN-HOME SUPPORT SERVICES AS AN
20 OPTION FOR ELIGIBLE PERSONS WHO RECEIVE HOME- AND
21 COMMUNITY-BASED SERVICES. IN-HOME SUPPORT SERVICES SHALL BE
22 PROVIDED TO ELIGIBLE PERSONS. THE STATE DEPARTMENT SHALL SEEK
23 ANY FEDERAL AUTHORIZATION THAT MAY BE NECESSARY TO IMPLEMENT
24 THIS PART 13. THE STATE DEPARTMENT SHALL DESIGN AND IMPLEMENT
25 IN-HOME SUPPORT SERVICES WITH INPUT FROM CONSUMERS OF HOME- AND
26 COMMUNITY-BASED SERVICES AND INDEPENDENT LIVING CENTER AND
27 HOME- AND COMMUNITY-BASED SERVICE PROVIDERS.

1 (2) AN ELIGIBLE PERSON RECEIVING IN-HOME SUPPORT SERVICES
2 SHALL BE ALLOWED TO CHOOSE THE PERSON'S SERVICE PROVIDERS.

3 (3) SECTIONS 12-38-103 (8), 12-38-103 (11), 12-38-123 (1) (a),
4 12-38.1-102 (5), AND 12-38.1-117 (1) (b), C.R.S., SHALL NOT APPLY TO A
5 PERSON WHO IS DIRECTLY EMPLOYED BY AN IN-HOME SUPPORT SERVICE
6 AGENCY TO PROVIDE IN-HOME SUPPORT SERVICES AND WHO IS ACTING
7 WITHIN THE SCOPE AND COURSE OF SUCH EMPLOYMENT. HOWEVER, SUCH
8 PERSON MAY NOT REPRESENT HIMSELF OR HERSELF TO THE PUBLIC AS A
9 LICENSED NURSE, A CERTIFIED NURSE AIDE, A LICENSED PRACTICAL OR
10 PROFESSIONAL NURSE, A REGISTERED NURSE, OR A REGISTERED
11 PROFESSIONAL NURSE. THIS EXCLUSION SHALL NOT APPLY TO ANY PERSON
12 WHO HAS HAD HIS OR HER LICENSE AS A NURSE OR CERTIFICATION AS A
13 NURSE AIDE SUSPENDED OR REVOKED OR HIS OR HER APPLICATION FOR
14 SUCH LICENSE OR CERTIFICATION DENIED.

15 (4) (a) IN-HOME SUPPORT SERVICE AGENCIES PROVIDING IN-HOME
16 SUPPORT SERVICES SHALL PROVIDE TWENTY-FOUR-HOUR BACK-UP
17 SERVICES TO THEIR CLIENTS. IN-HOME SUPPORT SERVICE AGENCIES SHALL
18 EITHER CONTRACT WITH OR HAVE ON STAFF A STATE LICENSED HEALTH
19 CARE PROFESSIONAL ACTING WITHIN THE SCOPE OF THE PERSON'S
20 PROFESSION. THE STATE DEPARTMENT SHALL PROMULGATE RULES
21 SETTING FORTH THE TRAINING REQUIREMENTS FOR ATTENDANTS
22 PROVIDING IN-HOME SUPPORT SERVICES AND THE OVERSIGHT AND
23 MONITORING RESPONSIBILITIES OF THE STATE LICENSED HEALTH CARE
24 PROFESSIONAL THAT IS EITHER CONTRACTING WITH OR IS ON STAFF WITH
25 THE IN-HOME SUPPORT SERVICE AGENCY.

26 (b) AN IN-HOME SUPPORT SERVICE AGENCY SHALL NOT
27 DISCONTINUE A CLIENT UNDER THIS PART 13 UNTIL EITHER THE CLIENT OR

1 THE IN-HOME SUPPORT SERVICE AGENCY HAS SECURED OTHER CARE FOR
2 THE CLIENT. THE STATE DEPARTMENT SHALL PROMULGATE RULES THAT
3 ESTABLISH HOW AN IN-HOME SUPPORT SERVICE AGENCY CAN DISCONTINUE
4 A CLIENT UNDER THIS PART 13.

5 (5) THE SINGLE ENTRY POINT AGENCIES ESTABLISHED IN SECTION
6 26-4-522 SHALL BE RESPONSIBLE FOR DETERMINING A PERSON'S
7 ELIGIBILITY FOR IN-HOME SUPPORT SERVICES. THE STATE DEPARTMENT
8 SHALL PROMULGATE RULES SPECIFYING THE SINGLE ENTRY POINT
9 AGENCIES' RESPONSIBILITIES UNDER THIS PART 13. AT A MINIMUM, THESE
10 RULES SHALL REQUIRE THAT CASE MANAGERS DISCUSS THE OPTION AND
11 POTENTIAL BENEFITS OF IN-HOME SUPPORT SERVICES WITH ALL ELIGIBLE
12 LONG-TERM CARE CLIENTS.

13 **26-4-1304. Provision of services - duties of state department**
14 **- gifts - grants.** (1) THE PROVISION OF THE IN-HOME SUPPORT SERVICES
15 SET FORTH IN THIS PART 13 SHALL BE SUBJECT TO THE AVAILABILITY OF
16 FEDERAL MATCHING MEDICAID FUNDS, PURSUANT TO TITLE XIX OF THE
17 FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, FOR PAYMENT OF THE
18 COSTS FOR ADMINISTRATION AND THE COSTS FOR THE PROVISION OF SUCH
19 SERVICES.

20 (2) THE STATE DEPARTMENT SHALL SEEK AND UTILIZE ANY
21 AVAILABLE FEDERAL, STATE, OR PRIVATE FUNDS THAT ARE AVAILABLE FOR
22 CARRYING OUT THE PURPOSES OF THIS PART 13, INCLUDING BUT NOT
23 LIMITED TO MEDICAID FUNDS, PURSUANT TO TITLE XIX OF THE FEDERAL
24 "SOCIAL SECURITY ACT", AS AMENDED.

25 (3) THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT IS
26 AUTHORIZED TO ACCEPT AND EXPEND ON BEHALF OF THE STATE ANY
27 GRANTS OR GIFTS FROM ANY PUBLIC OR PRIVATE SOURCE FOR THE

1 PURPOSE OF IMPLEMENTING THIS PART 13.

2 **26-4-1305. Accountability - rate structure - rules.** (1)(a) THE
3 STATE DEPARTMENT SHALL DEVELOP THE ACCOUNTABILITY REQUIREMENTS
4 NECESSARY TO SAFEGUARD THE USE OF PUBLIC DOLLARS AND TO PROMOTE
5 EFFECTIVE AND EFFICIENT SERVICE DELIVERY UNDER THIS PART 13.

6 (b) THE STATE DEPARTMENT, BY RULE, SHALL SET A SEPARATE RATE
7 STRUCTURE FOR IN-HOME SUPPORT SERVICES PROVIDED UNDER THIS PART
8 13.

9 (c) THE STATE DEPARTMENT SHALL ADOPT RULES AS NECESSARY
10 FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE IN-HOME
11 SUPPORT SERVICES AUTHORIZED BY THIS PART 13. AT A MINIMUM, THE
12 RULES SHALL INCLUDE CERTIFICATION OF IN-HOME SUPPORT SERVICE
13 AGENCIES AND STANDARDS OF CARE FOR THE PROVISION OF SERVICES
14 UNDER THIS PART 13.

15 **26-4-1306. Report.** ON OR BEFORE JANUARY 1, 2008, THE STATE
16 DEPARTMENT SHALL PROVIDE A REPORT TO THE JOINT BUDGET COMMITTEE
17 OF THE GENERAL ASSEMBLY, THE HEALTH, ENVIRONMENT, WELFARE, AND
18 INSTITUTIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE
19 HEALTH, ENVIRONMENT, CHILDREN AND FAMILIES COMMITTEE OF THE
20 SENATE ON THE IMPLEMENTATION OF IN-HOME SUPPORT SERVICES. AT A
21 MINIMUM THE REPORT SHALL INCLUDE THE COST EFFECTIVENESS OF
22 PROVIDING IN-HOME SUPPORT SERVICES TO THE ELDERLY, BLIND, AND
23 DISABLED AND THE NUMBER OF PERSONS RECEIVING THE SERVICE.

24 **SECTION 2. Repeal.** 26-4-606 (1) (d), Colorado Revised Statutes, is
25 repealed as follows:

26 **26-4-606. Eligible groups.** (1) Home- and community-based services
27 under this subpart 1 shall be offered only to persons:

1 (d) ~~For whom the costs of services necessary to prevent nursing facility~~
2 ~~placement would not exceed the average cost of nursing facility care.~~

3 **SECTION 3.** Part 6 of article 4 of title 26, Colorado Revised Statutes, is
4 amended BY THE ADDITION OF A NEW SECTION to read:

5 **26-4-607.5. Cost of services.** HOME- AND COMMUNITY-BASED
6 SERVICES FOR THE ELDERLY, BLIND, AND DISABLED SHALL MEET
7 AGGREGATE FEDERAL WAIVER BUDGET NEUTRALITY REQUIREMENTS.

8 **SECTION 4. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate preservation of
10 the public peace, health, and safety.