



# COLORADO

## GENERAL ASSEMBLY

**LEGISLATIVE TASK FORCE  
ON LONG-TERM  
HEALTH CARE**

**FIRST PROGRESS REPORT  
AND RECOMMENDATIONS**

**NOVEMBER, 1988**

**PROGRESS REPORT  
AND RECOMMENDATIONS FOR 1989**

**LEGISLATIVE TASK FORCE ON  
LONG-TERM HEALTH CARE**

**Report to the  
Colorado General Assembly**

**Research Publication No. 328  
November, 1988**

**COLORADO GENERAL ASSEMBLY**



**LEGISLATIVE COUNCIL**

ROOM 029 STATE CAPITOL  
DENVER, COLORADO 80203-1784  
(303) 866-3521

**OFFICERS**

Sen. Ted L. Strickland  
*Chairman*  
Rep. Carl B. "Bev" Bledsoe  
*Vice Chairman*

**STAFF**

Charles S. Brown  
*Director*  
David Hite  
*Deputy Director*  
Stanley D. Eloffson  
*Assistant Director*

**MEMBERS**

Sen. Wayne Allard  
Sen. Harold McCormick  
Sen. Jana Mendez  
Sen. Ray Paterson  
Sen. Ray Powers  
Sen. Jeffrey Wells  
Rep. Vickie Armstrong  
Rep. Charles Berry  
Rep. Chris Paulson  
Rep. Gilbert Romero  
Rep. Paul Schauer  
Rep. Ruth Wright

To Members of the Fifty-seventh Colorado General Assembly:

Submitted herewith is the first progress report of the Legislative Task Force on Long-Term Health Care. The Task Force was appointed by the President of the Senate and the Speaker of the House pursuant to House Bill 1046, 1988 session.

At its meeting on October 24, the Legislative Council reviewed this report. A motion to forward the report and recommendations of the Task Force on Long-Term Health Care to the Fifty-seventh General Assembly was approved.

Respectfully submitted,

Senator Ted Strickland  
Chairman  
Colorado Legislative Council

TS/sw

# TABLE OF CONTENTS

	Page
<b>LETTER OF TRANSMITTAL</b> . . . . .	iii
<b>TABLE OF CONTENTS</b> . . . . .	v
<b>TASK FORCE ON LONG-TERM HEALTH CARE</b>	
Members of Task Force . . . . .	1
Background Report . . . . .	3
Legislative Recommendations . . . . .	8
<b>LEGISLATION MANDATED BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987</b>	
Bill 1 -- Rights of Certain Residents in Nursing Homes . . . . .	11
Bill 2 -- Remedies Which May Be Assessed Against Certain Nursing Care Facilities . . . . .	13
<b>LEGISLATION MANDATED BY THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988</b>	
Bill 3 -- Certain Medicaid Benefits to Medicare-Eligible and Disabled Individuals . . . . .	17
Bill 4 -- Impact of Institutionalization on the Financial Resources of Certain Individuals . . . . .	19
<b>OTHER LONG-TERM HEALTH CARE LEGISLATION</b>	
Bill 5 -- Provision of Long-Term Services to Persons With Health Conditions Related to AIDS . . . . .	23
Bill 6 -- Uniformity of Personal Care Boarding Home Building and Fire Standards . . . . .	27
Bill 7 -- Prohibition Against Reimbursing Personal Care Services Provided by a Spouse . . . . .	29

## **TASK FORCE ON LONG-TERM HEALTH CARE**

### **Members of the Task Force**

Sen. Dottie Wham, Chairman	Dr. Bernard Nelson
Rep. Norma Anderson, Vice Chairman	Dr. Mark Litvin
Sen. Dennis Gallagher	Arlene Linton
Rep. Wilma Webb	Mary Kaufmann
Bob Wilson	Charles Hayes
Henry Solano	Virginia Fraser
Mildred Simmons	Kathy Dick
Youlon Savage	Margaret Cranson
Tom Sangster	John Collins
Anita Sanborn	Dr. Paul Bell
Darlene Park	Alice Archibald
Denny O'Malley	Arlan Anderson

### **Legislative Council Staff**

Jim Hill Senior Analyst	Stephen Wheelock Senior Research Assistant
----------------------------	---

### **Legislative Legal Services Staff**

Elaine Sabyan Staff Attorney	Melissa Davis Staff Attorney
---------------------------------	---------------------------------

### **Office of State Auditor**

Herb Covey  
Senior Auditor

---

## **PROGRESS REPORT OF THE TASK FORCE ON LONG-TERM HEALTH CARE**

### **Purpose**

---

Due to the expansion of the elderly and disabled populations in Colorado, the number of persons in need of long-term health care is expected to more than double between the years 1980 and 2000. In addition, long-term care provided in home and community settings is both preferred by clients and is frequently more cost-effective than care in nursing homes. With these premises in mind, the purpose of the task force is to study comprehensively the need for the development and support of a well-organized, managed, and controlled long-term health care system in the state and to recommend legislation to improve Colorado's long-term health care system.

Towards this end, a twenty-four member task force was appointed by the Speaker of the House and the President of the Senate pursuant to House Bill 1046. In addition to four legislators, members of the task force include those knowledgeable about hospitals, nursing homes, dietetics, government regulations, mental health, strokes, Alzheimer's Disease, paralyzed veterans, and retired persons. Membership also includes the state's Long-term Care Ombudsman, the Chancellor of the University of Colorado Health Sciences Center, and the executive directors of the Departments of Health, Institutions, and Social Services.

The task force began its work in July 1988, will continue to meet through the legislative session, and then will conclude its study in November of 1989. In April, an annual report will be made to the General Assembly, and by January 1, 1990, the task force plans to deliver its final report on recommendations for legislation concerning the long-term health care system.

### **Development of a Study Plan**

---

In an effort to better address the numerous study charges of House Bill 1046 and to effectively utilize the time of the task force, six subcommittees were established. Two subcommittees were created by statute (Alzheimer's Disease and case management) and four more were established by the task force: financing/case mix reimbursement; quality of care; continuum of care; and special populations. Interested legislators and other individuals were invited to serve on the subcommittees, resulting in over 150 persons volunteering to participate. The six subcommittees serve as the working groups of the task force.

Task force members suggested that the subcommittees develop commonalities among their individual study charges. The subcommittees agreed to: identify the strengths and weaknesses of the present health care system; review existing studies; consider the roles of the state, the local governments, and the private sector relating to long-term health care; evaluate ways to improve long-term care access; review recent federal legislation concerning long-term health care that impacts the state; and study the urban and rural systems of long-term health care. Each subcommittee and its charges are listed below.

**Subcommittee on Financing/Case Mix Reimbursement System (Chairman: Tom Sangster, Colorado Hospital Association)**

- Study innovative funding mechanisms, including but not limited to long-term care insurance, social health maintenance organizations, reverse home equity programs, and individual medical accounts.
- Consider tax incentives and sources of private and public funds.
- Review rate and reimbursement methodology for community-based and institutional services.
- Evaluate the relationship of the rates for private pay nursing home residents compared with rates under the Colorado Medical Assistance Act.
- Review reimbursement of dietetic services under insurance laws.
- Study reimbursement for those persons under the age of 65.
- Consider ways to address spousal impoverishment.
- Address the "Utah Gap," which refers to individuals with income above welfare eligibility but who are still in need of assistance.

**Subcommittee on Special Populations (Chairman: Arlene Linton, Colorado Health Care Association)**

- Study the needs of special populations requiring long-term care.
- Evaluate the needs of the developmentally disabled.
- Study the diagnosis and treatment of certain diseases and conditions, including AIDS.
- Review disabled adult protection, including guardianship programs.

- Consider the special needs of the veteran population.
- Evaluate the special needs of the elderly blind.
- Study the special needs of the chronically mentally ill population to determine which services may be lacking.

**Subcommittee on Quality of Care (Chairman: Virginia Fraser, Long-term Care Ombudsman)**

- Study the methods to ensure adequate standards for board and care.
- Evaluate nutrition and education training programs.
- Consider the need for the development of nutrition services to prevent chronic disease and to improve the general health of citizens.
- Review the impact on the long-term care system of shortages of physical therapists, nurses, and other health care providers.
- Study the impact a continuum of care would have on the quality of long-term care.

**Subcommittee on Continuum of Long-Term Health Care, Including Nursing Homes, Home Health Care, and Other Alternative Care (Chairman: Representative Norma Anderson)**

- Integrate programs and services into a continuum of care.
- Consider support of family caregivers.
- Evaluate respite care services.
- Discuss education and training of the public and of caregivers.
- Review nursing home regulations.
- Study hospice care services.

**Subcommittee on Alzheimer's Disease (Chairman: Senator Dennis Gallagher)**

- Study all aspects of Alzheimer's disease from diagnosis through treatment, cure, and research, and the impacts of the disease on the health care system, family systems, social support system, and financing system.

- Consider the current interaction of relevant policies and programs and make recommendations for improvements and recommend methods to improve coordination and reduce duplication of effort.
- Review available data and recommend other types of data that would be useful to collect.
- Discuss issues including: assistance for persons under 65 years; family support; nursing home regulations; access to care; diagnosis and treatment; public and new sources of private financing; education and training of caregivers, including physicians; public information; Alzheimer's specific programs; and continuum of care models with case management.
- Develop specific programs for Alzheimer's Disease.

**Subcommittee on Case Management (Chairman: Senator Dottie Wham)**

For the developmentally disabled, chronically mentally ill, physically disabled, including the frail elderly, and the emotionally or behaviorally disturbed populations, the case management subcommittee shall:

- Study the delivery, administrative structure, and financing implications of case management services.
- Consider the feasibility and cost-effectiveness of establishing an independent and external case management system which is separated from any service provider, and would serve clients of the Departments of Education, Health, Institutions, Corrections, and Social Services.
- Review the "citywide" case management demonstration project operated in the city and county of Denver.
- Review the delivery of case management services in urban, suburban, and rural areas of the state.
- Discuss similar case management programs in other states.
- Study the impact of case management on Medicaid funding.
- Review client assessment.
- Evaluate the development of the long-term care access system.

## **Meetings, Testimony and Recommendations**

The three formal meetings since the inception of the task force in July have been informational in nature. The task force heard testimony from representatives of the Departments of Health, Institutions, Regulatory Agencies, and Social Services on the following topics: nursing home revisions of the Omnibus Budget Reconciliation Act of 1987 (OBRA), including the community placement of chronically mentally ill persons; the expansion of certain Medicaid benefits to elderly and disabled individuals; and protection against impoverishment for spouses of Medicaid funded nursing home residents under the Medicare Catastrophic Coverage Act of 1988.

The Omnibus Budget Reconciliation Act of 1987, a far reaching nursing home reform law, contains a number of provisions which require states to develop intermediate sanctions for noncompliance of nursing homes to federal standards, a nursing home patient's bill of rights, and a nurses aide registry and certification. Failure to comply with the provisions of OBRA could jeopardize millions of federal Medicaid dollars used each year to care for the elderly and disabled in Colorado nursing homes.

Members of the task force had initially agreed to wait until the 1990 legislative session before recommending any changes to the long-term health care system. Although the federal government is phasing in the required OBRA changes over a period of four years, enabling legislation is required now to allow the Department of Health and the Department of Social Services to implement OBRA and to be eligible for federal matching funds. The rationale behind the nursing home reform act is to improve the quality of care in long-term care facilities by enhancing residents' rights, adding nursing training requirements, and increasing regulatory sensitivity to true indicators of quality of care.

The Medicare Catastrophic Coverage Act of 1988 has been described as the most sweeping expansion of Medicare in its 23 year history. In addition to its impact on the Medicare Program, this act also has significant impacts on the Medicaid program and requires modifications in Colorado's Medicaid statutes. This act mandates that the state protect spouses of Medicaid-funded nursing home residents from impoverishment. The act also expands certain Medicaid benefits to Medicare eligible and disabled individuals.

In addition to legislation originating from OBRA and the Catastrophic Coverage Act, the task force recommends three other long-term health care bills that were determined to be of critical importance. The proposals include: a bill designed to contain costs associated with the treatment of AIDS patients; a recommendation concerning building and fire code standards for personal care boarding homes; and a bill to comply with a federal requirement in the state Medicaid manual concerning reimbursement of personal care services under the state Home and Community-Based Services and Home Health Act.

## **LEGISLATIVE RECOMMENDATIONS**

---

### **Legislation Mandated by the Federal Omnibus Budget Reconciliation Act of 1987**

#### **Concerning the Rights of Certain Residents in Nursing Homes -- Bill 1**

Bill 1 requires Medicaid-certified skilled and intermediate care nursing facilities to protect and promote the rights of Medicaid patients as provided in the federal Omnibus Budget Reconciliation Act of 1987 (OBRA). Included in the list of specific residents' rights are the following: free choice of a personal physician, freedom from restraints, privacy, confidentiality, the accommodation of needs, participation in resident and family groups, and other rights concerning transfer and discharge, access and visitation, and the protection of resident funds.

#### **Concerning the Development of Remedies Which May Be Assessed Against Certain Skilled and Intermediate Nursing Care Facilities for Violations of Nursing Home Standards -- Bill 2**

In accordance with the federal Omnibus Reconciliation Act of 1987, Bill 2 authorizes the Department of Health to promulgate rules and regulations establishing a series of remedies which could be imposed upon a nursing facility when there is a violation of any federal regulation of the Medicaid or Medicare program. It also specifies that such remedies shall include the imposition of civil penalties and sets forth criteria which shall be considered in determining the penalty amount.

The bill would also authorize the Department of Health to make recommendations to the Department of Social Services regarding the imposition of civil penalties. In turn, the Department of Social Services is authorized to access and enforce the series of remedies established by the Department of Health, including the assessment of civil penalties.

In addition, the bill would create a nursing home penalty cash fund, administered by the Department of Health, into which monies from civil penalties would be deposited. The department would determine under which circumstances such funds would be distributed in order to protect the health or property of individuals residing in nursing facilities which have violated federal regulations. Finally, the Department of Social Services is required to promulgate rules and regulations concerning the procedures for nursing facilities to appeal such an assessment.

**Legislation Mandated by the Federal  
Medicare Catastrophic Coverage Act of 1988**

**Concerning the Expansion of Certain Medicaid Benefits to Medicare- Eligible and Disabled Individuals Under the Federal "Medicare Catastrophic Coverage Act of 1988", and Making an Appropriation Therefor -- Bill 3**

Bill 3 expands the definition of "categorically needy" to include Medicare eligible elderly and disabled individuals who meet income and resource levels under the federal Medicare Catastrophic Coverage Act of 1988. The bill specifies that the Department of Social Services is not required to extend to such individuals the full services available to others who are deemed categorically needy. Benefits are limited for such individuals under the Medical Assistance program to only those mandated by the federal act.

**Concerning the Impact of Institutionalization on the Financial Resources of Certain Individuals, and Making an Appropriation in Connection Therewith -- Bill 4**

The Medicare Catastrophic Coverage Act of 1988 mandates that the state protect spouses of Medicaid-funded nursing home residents from impoverishment. Bill 4 establishes the amount of income to which a noninstitutionalized spouse is entitled if the institutionalized spouse is eligible for medical assistance and has income which is available to the noninstitutionalized spouse. The bill also provides that resources of a couple shall be split fifty-fifty when the institutionalized spouse is eligible for medical assistance and establishes the minimum and maximum amount of resources which the noninstitutionalized spouse may retain. In addition, the bill authorizes the Department of Social Services to promulgate rules and regulations to ensure that these amounts are not utilized for the cost of the institutionalized spouse's care and that a process exists for appealing any determination of the department regarding the treatment of a married couple's income and resources. The amount paid to an institutionalized individual for personal needs is also increased.

**Other Long-Term Health Care Legislation**

**Concerning the Provision of Long-Term Care Services to Persons With Health Conditions Related To Acquired Immune Deficiency Syndrome in Home and Community-Based Settings, and Making an Appropriation in Connection Therewith -- Bill 5**

Bill 5 allows the Department of Social Services to apply for a Medicaid waiver to provide at-home and community-based care for persons with acquired immune deficiency syndrome (AIDS) and AIDS-related conditions (ARC). The department is authorized to provide services to AIDS and ARC clients when such services are less costly than institutional care.

The bill also authorizes the department to conduct a feasibility study and a pilot program concerning the payment of employee health insurance premiums for eligible individuals with AIDS. Persons eligible are those who have been diagnosed as having AIDS, who have been terminated from employment, and who no longer have the income to pay insurance premiums. This provision resulted from a State Auditor's recommendation that Colorado reduce its Medicaid expenditures by paying employee health insurance premiums for AIDS patients instead of paying for their direct medical costs through Medicaid funds.

**Concerning Uniformity in Personal Care Boarding Home Building and Fire Standards, and Making an Appropriation in Connection Therewith -- Bill 6**

The bill directs the Department of Health's personal care boarding home advisory board to study and develop uniform building and fire standards for personal care boarding homes. These standards shall be recommended as regulations, and upon promulgation by the department, shall be conditions of licensure of such facilities unless more stringent, but appropriate, local standards exist. The bill also requires that individuals inspecting personal care boarding homes for licensure have knowledge and practical experience in building and fire safety.

**Concerning the Prohibition Against Reimbursing Personal Care Services Provided by a Spouse Under the "Home and Community-Based Services and Home Health Act" -- Bill 7**

State law permits family members to be reimbursed for providing personal care services, but the federal government has recently ruled that spouses may no longer be reimbursed for providing such care. Bill 7 is recommended to comply with the new federal requirement and prevent jeopardizing the home and community based services Medicaid waiver in future federal compliance reviews. Under Bill 7, the spouse of a person receiving personal care services may no longer be reimbursed for the provision of such services.

A BILL FOR AN ACT

1 CONCERNING THE RIGHTS OF CERTAIN RESIDENTS IN NURSING HOMES.

---

Bill Summary

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

Requires medicaid-certified skilled and intermediate care nursing facilities to protect and promote the rights of residents as provided in the federal "Omnibus Budget Reconciliation Act of 1987", as amended, (P.L. 100-203).

---

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

3 SECTION 1. 25-1-120 (3) (a) and (8), Colorado Revised  
4 Statutes, 1982 Repl. Vol., are amended, and the said 25-1-120  
5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to  
6 read:

7 25-1-120. Nursing and intermediate care facilities -  
8 rights of patients. (3) (a) A resident of any facility, the  
9 ~~resident's~~ RESIDENTS' advisory council, or the sibling, child,  
10 spouse, or parent of any resident may formally complain in the  
11 manner described in this subsection (3) about any conditions,  
12 treatment, or violations of his rights by the facility or its

1 staff or about any treatment, conditions, or violations of the  
2 rights of any other resident, regardless of the consent of the  
3 victim of the alleged improper treatment, condition, or  
4 violation of rights by the facility or its staff.

5 (8) (a) A patient who is eligible to receive medicaid  
6 benefits pursuant to article 4 of title 26, C.R.S., ~~1973,~~ and  
7 who qualifies for skilled or intermediate nursing care shall  
8 have the right to select any skilled or intermediate nursing  
9 care facility certified by the department of health under  
10 Title XIX of the FEDERAL "Social Security Act", AS AMENDED, as  
11 a provider of medicaid services and licensed by the department  
12 pursuant to article 3 of this title where space is available,  
13 and the department of social services shall reimburse the  
14 selected facility for services pursuant to section 26-4-110  
15 (5), C.R.S., ~~1973,~~ unless such nursing care facility shall  
16 have been notified by the department of social services at the  
17 time of or prior to action on its application for certificate  
18 of public necessity that it may not qualify as a provider of  
19 medicaid services.

20 (b) A PATIENT WHO IS RESIDING IN SUCH NURSING CARE  
21 FACILITY SHALL BE ASSURED THE RESIDENT RIGHTS WHICH ARE  
22 PROVIDED BY SECTION 4211 OF TITLE IV OF THE FEDERAL "OMNIBUS  
23 BUDGET RECONCILIATION ACT OF 1987", AS AMENDED, (P.L.  
24 100-203). FAILURE TO PROTECT AND PROMOTE THOSE RIGHTS SHALL  
25 SUBJECT THE VIOLATING FACILITY TO SANCTIONS IMPOSED BY THE  
26 DEPARTMENT.

27 (9) A PATIENT WHO IS ELIGIBLE TO RECEIVE BENEFITS FROM A

1 SKILLED OR INTERMEDIATE NURSING CARE FACILITY CERTIFIED BY THE  
2 DEPARTMENT UNDER TITLE XVIII OF THE FEDERAL "SOCIAL SECURITY  
3 ACT", AS AMENDED, AS A PROVIDER OF MEDICARE SERVICES SHALL BE  
4 ASSURED THE SAME RIGHTS AS PROVIDED IN PARAGRAPH (a) OF  
5 SUBSECTION (B) OF THIS SECTION.

6 SECTION 2. Safety clause. The general assembly hereby  
7 finds, determines, and declares that this act is necessary  
8 for the immediate preservation of the public peace, health,  
9 and safety.

A BILL FOR AN ACT

1 CONCERNING THE DEVELOPMENT OF REMEDIES WHICH MAY BE ASSESSED  
2 AGAINST CERTAIN SKILLED AND INTERMEDIATE NURSING CARE  
3 FACILITIES FOR VIOLATIONS OF NURSING HOME STANDARDS.

Bill Summary

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

Authorizes the department of health to establish, pursuant to rules and regulations, a series of remedies in accordance with the federal "Omnibus Reconciliation Act of 1987", as amended, which may be imposed upon a nursing facility when there is a violation by such facility of any federal regulation for participation in the medicaid or medicare program. Specifies that such remedies shall include the imposition of civil money penalties and sets forth criteria which shall be considered in determining the penalty amount. Authorizes the department of health to make recommendations to the department of social services regarding the imposition of civil money penalties. Authorizes the department of social services to assess and enforce the series of remedies established by the department of health, including the assessment of civil money penalties. Creates a nursing home penalty cash fund into which civil money penalties shall be credited. Directs the department of health to administer the fund and to establish circumstances under which the funds may be distributed in order to protect the health or property of individuals residing in nursing facilities which have been found to be in violation of federal regulations for participation. Requires the department to promulgate rules and regulations which provide any nursing facility which is assessed a civil money penalty the opportunity to appeal such

assessment and which govern the procedures for such appeal.

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

2 SECTION 1. Part 1 of article 1 of title 25, Colorado  
3 Revised Statutes, 1982 Repl. Vol., as amended, is amended BY  
4 THE ADDITION OF A NEW SECTION to read:

5 25-1-107.5. Additional authority of the department -  
6 remedies against nursing facilities - criteria for assessing  
7 civil penalties - cooperation with the department of social  
8 services - maintaining the nursing home penalty cash fund.

9 (1) For the purposes of this section, unless the context  
10 otherwise requires:

11 (a) "Federal regulations for participation" means the  
12 regulations found at 42 C.F.R. 405.1101 et seq. and 42 C.F.R.  
13 442.1250 et seq. for participation under Title XVIII and Title  
14 XIX of the federal "Social Security Act," as amended.

15 (b) "Nursing facility" means any skilled or intermediate  
16 nursing care facility which receives federal funds under Title  
17 XVIII of the federal "Social Security Act", as amended, or  
18 federal and state funds under Title XIX of the federal "Social  
19 Security Act", as amended.

20 (2) (a) The department, as the state agency responsible  
21 for certifying skilled and intermediate nursing facilities  
22 which receive federal funds under Title XVIII of the federal  
23 "Social Security Act", as amended, and federal and state funds  
24 under Title XIX of the federal "Social Security Act", as  
25 amended, is hereby given the authority to adopt rules and

1 regulations necessary to establish a series of remedies in  
2 accordance with the federal "Omnibus Reconciliation Act of  
3 1987" (P.L. 100-203), as amended, which may be imposed by the  
4 department of social services when a nursing facility violates  
5 federal regulations for participation in medicaid and medicare  
6 programs. The remedies which are established shall include  
7 any remedies required under federal law and shall include the  
8 imposition of civil money penalties.

9 (b) Any rules and regulations promulgated by the  
10 department with regard to the assessment of civil money  
11 penalties shall include:

12 (I) That the penalty assessed shall not be less than one  
13 hundred dollars nor more than ten thousand dollars, with the  
14 legal rate of interest, for each day the facility violates  
15 federal regulations for participation under Title XVIII and  
16 Title XIX of the federal "Social Security Act", as amended;  
17 and

18 (II) That criteria for assessing the amount of the  
19 penalty shall include:

20 (A) The period of time over which the violation  
21 occurred;

22 (B) The frequency of the violation;

23 (C) The nursing facility's history concerning the type  
24 of violation for which the penalty is assessed;

25 (D) The nursing facility's intent or reason for the  
26 violation;

27 (E) The effect, if any, of the violation on residents'

1 health, safety, security, or welfare;

2 (F) The existence of other violations, in combination  
3 with the violation for which the penalty is assessed, which  
4 increase the risk of residents' health, safety, security, or  
5 welfare;

6 (G) The accuracy and extent of the nursing facility's  
7 records regarding the violation and the availability of such  
8 records to the department;

9 (H) The number of additional related violations  
10 occurring within the same time span as the violation in  
11 question.

12 (3) (a) In accordance with the rules and regulations  
13 promulgated under this section, the department shall be  
14 authorized to recommend to the department of social services  
15 an appropriate civil money penalty based on the nature of the  
16 federal regulation for participation violation.

17 (b) The department of social services, after receiving a  
18 recommendation from the department shall be authorized to  
19 assess, enforce, and collect the civil money penalty pursuant  
20 to section 26-4-120, C.R.S., for credit to the nursing home  
21 penalty cash fund, created pursuant to section 26-4-120  
22 (3)(a), C.R.S.

23 (c) The department shall have the authority for  
24 administering the nursing home penalty cash fund. This  
25 authority shall include establishing circumstances under which  
26 funds may be distributed in order to protect the health or  
27 property of individuals residing in nursing facilities which

1 either the department or the secretary of the United States  
2 department of health and human services has found to be in  
3 violation of federal regulations for participation in medicaid  
4 and medicare programs.

5 (d) Circumstances which shall be considered as a basis  
6 for distribution from the nursing home penalty cash fund shall  
7 include, but need not be limited to, paying costs to:

- 8 (I) Relocate residents to other nursing facilities;
- 9 (II) Maintain the operation of a nursing facility  
10 pending correction of violations;
- 11 (III) Close a nursing facility;
- 12 (IV) Reimburse residents for personal funds lost.

13 (e) The department shall not be authorized under  
14 paragraph (c) of this subsection (3) to utilize moneys from  
15 the nursing home penalty cash fund for the purpose of paying  
16 the department's cost for administering such fund.

17 SECTION 2. Article 4 of title 26, Colorado Revised  
18 Statutes, 1982 Repl. Vol., as amended, is amended BY THE  
19 ADDITION OF A NEW SECTION to read:

20 26-4-120. Collection of penalties assessed against  
21 nursing facilities - creation of a cash fund. (1) (a) The  
22 state department shall assess, enforce, and collect any civil  
23 penalties which are recommended by the department of health  
24 pursuant to the authority granted under section 25-1-107.5,  
25 C.R.S.

26 (b) Prior to the denial of medicaid payments or the  
27 assessment of a civil money penalty against a nursing

1 facility, the nursing facility shall be offered by the state  
2 department an opportunity for a hearing in accordance with the  
3 provisions of section 24-4-105, C.R.S. Such hearing shall be  
4 held and determined prior to the enforcement and collection of  
5 the denial of medicaid payments or civil money penalty.

6 (2) In conjunction with the authority granted under  
7 subsection (1) of this section, the state department shall  
8 promulgate rules and regulations which:

- 9 (a) Provide any nursing facility assessed a civil  
10 penalty the opportunity to appeal such assessment;
- 11 (b) Govern the procedures for such appeals, including  
12 the right of a nursing facility to thirty days' notice prior  
13 to the assessment of any civil money penalty; and
- 14 (c) Are otherwise necessary to implement this section.

15 (3) (a) Any civil penalties collected by the state  
16 department pursuant to this section shall be transmitted to  
17 the state treasurer, who shall credit the same to the nursing  
18 home penalty cash fund, which fund is hereby created.

19 (b) (1) The moneys in the fund are hereby continuously  
20 appropriated to the department of health for the purposes set  
21 forth in section 25-1-107.5, C.R.S., including establishing  
22 circumstances under which funds may be distributed in order to  
23 protect the health or property of residents of nursing  
24 facilities which are found to be in violation of federal  
25 standards.

26 (II) Such money shall be used in the manner prescribed  
27 in section 25-1-107.5, C.R.S., and the rules and regulations

1 promulgated thereunder.

2 (c) All interest derived from the deposit and investment  
3 of moneys in the fund shall be credited to the fund.

4 (d) At the end of any fiscal year, all unexpended and  
5 unencumbered moneys remaining in the fund shall remain therein  
6 and shall not be credited or transferred to the general fund  
7 or any other fund.

8 SECTION 3. Safety clause. The general assembly hereby  
9 finds, determines, and declares that this act is necessary  
10 for the immediate preservation of the public peace, health,  
11 and safety.

A BILL FOR AN ACT

1 CONCERNING THE EXPANSION OF CERTAIN MEDICAID BENEFITS TO  
 2 MEDICARE-ELIGIBLE ELDERLY AND DISABLED INDIVIDUALS UNDER  
 3 THE FEDERAL "MEDICARE CATASTROPHIC COVERAGE ACT OF 1988",  
 4 AND MAKING AN APPROPRIATION THEREFOR.

---

Bill Summary

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

Expands the definition of "categorically needy" to include medicare-eligible elderly and disabled individuals with an income and resource level which makes them eligible for certain medicaid services under the federal "Medicare Catastrophic Coverage Act of 1988". Specifies that the department of social services is not required to extend to such individuals the full range of services available to others who are deemed categorically needy. Limits the benefits of such individuals under the medical assistance program to only those mandated by the federal act.

---

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

6 SECTION 1. 26-4-103 (2), Colorado Revised Statutes, 1982  
 7 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
 8 PARAGRAPH to read:  
 9 26-4-103. Definitions. (2) (e) Individuals with income

1 and resources at a level which qualifies them as medicare-  
 2 eligible under section 301 of Title III of the federal  
 3 "Medicare Catastrophic Coverage Act of 1988", as amended,  
 4 (P.L. 100-360). For the purposes of this article, such  
 5 individuals shall be referred to as "indigent medicare  
 6 beneficiaries".

7 SECTION 2. 26-4-104, Colorado Revised Statutes, 1982  
 8 Repl. Vol., is amended to read:

9 26-4-104. Medical programs - limitation on services.

10 (1) The state department, by rules and regulations, shall  
 11 establish a program of medical assistance to provide necessary  
 12 medical care for the categorically needy. The state  
 13 department is hereby designated as the single state agency to  
 14 administer such program in accordance with Title XIX and this  
 15 article. Such program shall not be required to furnish  
 16 recipients under sixty-five years of age the benefits that are  
 17 provided to recipients sixty-five years of age and over under  
 18 Title XVIII of the social security act; but said program shall  
 19 otherwise be uniform to the extent required by Title XIX of  
 20 the social security act.

21 (2) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF  
 22 THIS SECTION, THE STATE DEPARTMENT SHALL NOT BE REQUIRED TO  
 23 PROVIDE INDIGENT MEDICARE BENEFICIARIES, AS DEFINED IN SECTION  
 24 26-4-103 (2) (e), THE ENTIRE RANGE OF SERVICES SET FORTH IN  
 25 SECTION 26-4-105.

26 SECTION 3. Appropriation. In addition to any other  
 27 appropriation, there is hereby appropriated, to the department

1 of social services, for the fiscal year beginning July 1,  
2 1989, the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), or so much  
3 thereof as may be necessary, for the implementation of this  
4 act. Of said sum, \_\_\_\_\_ dollars (\$ \_\_\_\_\_) shall be  
5 from the general fund, and \_\_\_\_\_ dollars (\$ \_\_\_\_\_)  
6 shall be from federal funds.

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

1 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
2 SUBSECTION to read:

3 26-4-107. Application - verification of eligibility -  
4 eligibility for the elderly, blind, and disabled requiring  
5 intermediate care. (1.5) (a) Any married couple, at the  
6 beginning of a continuous period of institutionalization of  
7 one spouse, may request the county department to assess and  
8 document the total joint income and resources of the couple,  
9 if the couple supplies to the county department the necessary  
10 information and documentation which is needed to make such an  
11 assessment.

12 (b) Any assessment prepared by the county department and  
13 provided to a couple shall contain a procedure for appealing  
14 any determinations which have been made.

15 (c) If a request for assessment and documentation is not  
16 part of an application for medical assistance, the county  
17 department may establish a fee to cover the direct and  
18 indirect costs of such assessment and documentation by the  
19 county department.

20 SECTION 2. Article 4 of title 26, Colorado Revised  
21 Statutes, 1982 Repl. Vol., as amended, is amended BY THE  
22 ADDITION OF A NEW SECTION to read:

23 26-4-107.5. Protection of income and resources for  
24 community spouse - definitions - amounts retained -  
25 responsibility of state department - right to appeal. (1) As

26 used in this section, unless the context otherwise requires:  
27 (a) "Community spouse" means the spouse of a person who  
28 is in an institution or nursing facility.

A BILL FOR AN ACT

1 CONCERNING THE IMPACT OF INSTITUTIONALIZATION ON THE FINANCIAL  
2 RESOURCES OF CERTAIN INDIVIDUALS, AND MAKING AN  
3 APPROPRIATION IN CONNECTION THEREWITH.

Bill Summary

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

Establishes the monthly amount of income to which a  
noninstitutionalized spouse is entitled prior to payment for  
the costs of care in an institution if the institutionalized  
spouse is eligible for medical assistance and has income which  
is available to the noninstitutionalized spouse. Provides  
that resources of a couple shall be split fifty-fifty when the  
institutionalized spouse is eligible for medical assistance  
and establishes the minimum and maximum amount of resources  
which can be retained by the noninstitutionalized spouse.  
Authorizes the department of social services to promulgate  
rules and regulations to provide that these amounts are not  
utilized for the cost of the institutionalized spouse's care  
and that a process exists for appealing any determination of  
the department regarding the treatment of a married couple's  
income and resources.

Increases the amount paid to an institutionalized  
individual for personal needs.

4 Be it enacted by the General Assembly of the State of Colorado:  
5 SECTION 1. 26-4-107, Colorado Revised Statutes, 1982

1 (b) "Community spouse monthly income allowance" means  
2 the amount that the minimum monthly maintenance needs  
3 allowance exceeds the amount of monthly income which is  
4 available to the community spouse.

5 (c) "Community spouse resource allowance" means the  
6 amount of assets, excluding the value of the home and other  
7 exempt resources under federal law, which the community spouse  
8 shall be allowed to retain and which shall not be available to  
9 cover an institutionalized spouse's cost of care.

10 (d) "Institutionalized spouse" means an individual who  
11 is in an institution or nursing facility who is married to a  
12 spouse who is not in an institution or nursing facility.

13 (e) "Minimum monthly maintenance needs allowance" means  
14 the monthly income level which is retained by the community  
15 spouse from the income of the institutionalized spouse and  
16 which is made available to the community spouse.

17 (2) (a) In order to implement the medical assistance  
18 program in compliance with the federal "Medicare Catastrophic  
19 Coverage Act of 1988", as amended, the state department shall  
20 ensure, when an institutionalized spouse is eligible for  
21 medical assistance under this article, that the community  
22 spouse retain a minimum monthly maintenance needs allowance  
23 which is equal to an applicable percent of the official  
24 federal poverty line (increased annually by the consumer price  
25 index for all urban consumers), as defined by the federal  
26 office of management and budget, for a family unit of two  
27 members but only to the extent that income of the  
28 institutionalized spouse is made available to the community

1 spouse.

2 (b) (I) For the purposes of paragraph (a) of subsection  
3 (2) of this section, the applicable percent shall be:

4 (A) As of September 30, 1989, one hundred twenty-two  
5 percent;

6 (B) As of July 1, 1991, one hundred thirty-three  
7 percent;

8 (C) As of July 1, 1992, one hundred fifty percent.

9 (II) Notwithstanding the provisions of subparagraph (I)  
10 of this paragraph (b), the minimum monthly maintenance needs  
11 allowance may be increased on an individual basis if any one  
12 of the following factors is present:

13 (A) The community spouse has shelter and utilities  
14 expenses that exceed thirty percent of the minimum monthly  
15 maintenance needs allowance; except that the total allowance  
16 shall not exceed fifteen hundred dollars (increased annually  
17 by the consumer price index for all urban consumers);

18 (B) Either spouse is responsible for a dependent family  
19 member, including children, parents, or siblings who reside  
20 with the community spouse;

21 (C) The community spouse has exceptional circumstances  
22 which would result in significant financial duress.

23 (c) (I) The resources available to the married couple at  
24 the time the institutionalized spouse becomes eligible for  
25 medical assistance, shall be divided fifty-fifty with the  
26 provision that the community spouse retain the first twelve  
27 thousand dollars in resources, up to a maximum of sixty  
28 thousand dollars (increased annually by the consumer price

1 index for all urban consumers) as a community spouse resources  
2 allowance.

3 (II) Notwithstanding the provisions of subparagraph (I)  
4 of this paragraph (c), if either spouse establishes that the  
5 community spouse resource allowance is inadequate to raise the  
6 community spouse's income to the minimum monthly maintenance  
7 needs allowance, an amount adequate to provide the minimum  
8 monthly maintenance needs allowance shall be substituted.

9 (3) The state department shall have the authority to  
10 promulgate any rules and regulations which are necessary to  
11 implement the provisions of this section in accordance with  
12 the federal "Medicare Catastrophic Coverage Act of 1988", as  
13 amended. The rules adopted by the state department shall  
14 include, as a minimum, provisions regarding the following  
15 matters:

16 (a) The treatment of a married couple's income and  
17 resources before and after eligibility for medical assistance  
18 is established, including the basis for dividing such income  
19 and resources between the two parties;

20 (b) The process for appealing any determinations  
21 regarding income and resources which are made pursuant to  
22 these rules and regulations.

23 SECTION 3. 26-4-115.5 (1), Colorado Revised Statutes,  
24 1982 Repl. Vol., is amended to read:

25 26-4-115.5. Amount of personal needs payments. (1) The  
26 basic minimum amount payable pursuant to section 26-4-106 (2)  
27 for personal needs to any recipient admitted to a nursing care  
28 facility or intermediate care facility shall be twenty-nine

1 THIRTY-FOUR dollars monthly.

2 SECTION 4. Appropriation. In addition to any other  
3 appropriation, there is hereby appropriated, to the department  
4 of social services, for the fiscal year beginning July 1,  
5 1989, the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), or so much thereof  
6 as may be necessary, for the implementation of the provisions  
7 of section 26-4-107.5, Colorado Revised Statutes. Of said  
8 sum, \_\_\_\_\_ dollars (\$ \_\_\_\_\_) shall be from the general  
9 fund, and \_\_\_\_\_ dollars (\$ \_\_\_\_\_) shall be from federal  
10 funds.

11 SECTION 5. Effective date. This act shall take effect  
12 September 30, 1989.

13 SECTION 6. Safety clause. The general assembly hereby  
14 finds, determines, and declares that this act is necessary  
15 for the immediate preservation of the public peace, health,  
16 and safety.

-23-

A BILL FOR AN ACT

1 CONCERNING THE PROVISION OF LONG-TERM CARE SERVICES TO PERSONS  
2 WITH HEALTH CONDITIONS RELATED TO ACQUIRED IMMUNE  
3 DEFICIENCY SYNDROME IN HOME AND COMMUNITY-BASED SETTINGS,  
4 AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Bill Summary

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

Allows the department of social services to apply for a medicaid waiver to provide home and community-based care for persons with acquired immune deficiency syndrome (AIDS) and AIDS-related conditions (ARC). Authorizes the department to provide services to AIDS and ARC clients when such services are less costly than institutional care.

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

6 SECTION 1. 26-4.5-103, Colorado Revised Statutes, 1982  
7 Repl. Vol., as amended, is amended BY THE ADDITION OF THE  
8 FOLLOWING NEW SUBSECTIONS, to read:

9 26-4.5-103. Definitions. (1.5) "AIDS" means the  
10 acquired immune deficiency syndrome.

11 (1.7) "ARC" means an AIDS-related condition which is

1 defined by the center for disease control of the United States  
2 public health service.

3 (11.5) "Hospice care" means a comprehensive program of  
4 palliative, supportive, and interdisciplinary team services  
5 which provide physical, psychological, sociological, and  
6 spiritual care for persons who are terminally ill and their  
7 families. Services are provided within a continuum of  
8 inpatient care, home care, and follow-up bereavement services,  
9 available twenty-four hours a day, seven days a week. Hospice  
10 care is predominantly provided in the individual's home on a  
11 routine or continuous basis, with intermittent inpatient stays  
12 in a hospital, inpatient hospice, or nursing home. Inpatient  
13 stays are for pain control, symptom management, or occasional  
14 inpatient respite in order to temporarily relieve the provider  
15 of care.

16 SECTION 2. 26-4.5-104.5 (1), Colorado Revised Statutes,  
17 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A  
18 NEW PARAGRAPH to read:

19 26-4.5-104.5. Services for long-term-care eligible  
20 persons. (1) (j) Home and community based services for  
21 persons with AIDS or ARC as alternatives to more expensive  
22 institutionalization.

23 SECTION 3. 26-4.5-104.5 (2) and (3), Colorado Revised  
24 Statutes, 1982 Repl. Vol., as amended, are amended, and the  
25 said 26-4.5-104.5 is further amended BY THE ADDITION OF A NEW  
26 SUBSECTION, to read:

27 26-4.5-104.5. Services for long-term-care eligible

BILL 5

1 persons. (2)(a) The provision of the services set forth in  
2 subsection (1) of this section shall be subject to the  
3 availability of federal matching medicaid funds, pursuant to  
4 Title XIX of the federal "Social Security Act", as amended,  
5 for payment of the costs for administration and costs for the  
6 provision of such services.

7 (b) THE HOME AND COMMUNITY-BASED SERVICES FOR PERSONS  
8 WITH AIDS AND AIDS-RELATED CONDITIONS SHALL INCLUDE THE  
9 FOLLOWING LONG-TERM CARE SERVICES:

- 10 (I) CASE MANAGEMENT SERVICES;
- 11 (II) PERSONAL CARE AND HOMEMAKER SERVICES;
- 12 (III) HOME HEALTH SERVICES;
- 13 (IV) ADULT DAY CARE SERVICES;
- 14 (V) HOSPICE SERVICES;
- 15 (VI) PRIVATE DUTY NURSING SERVICES;
- 16 (VII) INTENSIVE SUPERVISION FOR FOSTER CARE CHILDREN  
17 WITH AIDS OR ARC; and
- 18 (VIII) MENTAL HEALTH SERVICES, UNLESS THE STATE  
19 DEPARTMENT DETERMINES THAT INCLUSION OF SUCH SERVICES WOULD  
20 JEOPARDIZE THE AVAILABILITY OF FEDERAL MATCHING MEDICAID  
21 FUNDS.

22 (3) (a) If the state department or the case management  
23 agency makes a determination, in the case of a specific  
24 long-term-care eligible person, that the costs for the  
25 provision of services necessary to allow such person to avoid  
26 nursing home placement exceeds or would exceed, if such  
27 services were provided, the average cost of intermediate

1 nursing home care, such person shall not be considered  
2 eligible for home and community-based services. The state  
3 department or the case management agency may provide for any  
4 long-term-care eligible person any of the services set forth  
5 in subsection (1) of this section subject to the provisions of  
6 this part 1.

7 (b) IF THE STATE DEPARTMENT OR THE CASE MANAGEMENT  
8 AGENCY MAKES A DETERMINATION THAT THE COST FOR THE PROVISION  
9 OF HOME AND COMMUNITY-BASED SERVICES NECESSARY TO ALLOW EITHER  
10 AN AIDS OR AN ARC CLIENT TO AVOID INSTITUTIONALIZATION EXCEEDS  
11 OR WOULD EXCEED THE AVERAGE COST OF HOSPITAL CARE OR NURSING  
12 HOME CARE, SUCH CLIENT SHALL NOT BE CONSIDERED ELIGIBLE FOR  
13 HOME AND COMMUNITY-BASED SERVICES.

14 (c) CASE MANAGEMENT AGENCY RESPONSIBILITIES FOR BOTH  
15 AIDS AND ARC CLIENTS INCLUDE THE DETERMINATION THAT THE CASE  
16 PLAN FOR AN INDIVIDUAL IS LESS THAN THE COST OF INSTITUTIONAL  
17 CARE, THE ASSESSMENT OF CLIENT NEEDS, THE DEVELOPMENT AND  
18 IMPLEMENTATION OF A CASE PLAN FOR THE INDIVIDUAL, THE  
19 MONITORING OF SERVICE DELIVERY AND SERVICE EFFECTIVENESS, AND  
20 THE REASSESSMENT OF THE NEEDS OF INDIVIDUAL CLIENTS.

21 (d) PLACEMENT FOR THE PROVISION OF HOME AND  
22 COMMUNITY-BASED SERVICES SHALL BE MADE IN CONSULTATION AND  
23 AGREEMENT WITH THE CASE MANAGEMENT AGENCY AND THE AIDS OR ARC  
24 CLIENT.

25 (6) (a) The state department shall conduct a feasibility  
26 study and a pilot program concerning payment of employee  
27 health insurance premiums for certain individuals with AIDS.

1 Persons eligible for this program are those who have been  
2 diagnosed as having AIDS, who have been terminated from  
3 employment, and who no longer have incomes from which to pay  
4 insurance premiums. The feasibility study shall determine the  
5 cost-effectiveness of such a program and establish  
6 cost-effectiveness criteria for payments on individual  
7 employee insurance policies. If a determination is made by  
8 the state department that such an effort would be  
9 cost-effective, a pilot program shall begin on or after  
10 January 1, 1990, as part of the HCBS-AIDS waiver program. The  
11 pilot program shall end on June 30, 1992, unless extended by  
12 the general assembly.

13 (b) This subsection (6) is repealed, effective June 30,  
14 1992.

15 SECTION 4. Appropriation. In addition to any other  
16 appropriation, there is hereby appropriated, out of any moneys  
17 in the general fund not otherwise appropriated, to the  
18 department of social services, for the fiscal year beginning  
19 July 1, 1989, the sum of \_\_\_\_\_ dollars (\$ ) and 2.0 FTE  
20 for administration of the waiver program and 1.5 FTE for  
21 continuation of employee health insurance premiums for AIDS  
22 and ARC clients, or so much thereof as may be necessary, to be  
23 used for the purpose only of conducting a feasibility study  
24 and pilot program pursuant to section 26-4.5-104.5 (6),  
25 Colorado Revised Statutes.

26 SECTION 5. Effective date. This act shall take effect  
27 July 1, 1989.

1 SECTION 6. Safety clause. The general assembly hereby  
2 finds, determines, and declares that this act is necessary  
3 for the immediate preservation of the public peace, health,  
4 and safety.

A BILL FOR AN ACT

1 CONCERNING UNIFORMITY IN PERSONAL CARE BOARDING HOME BUILDING  
2 AND FIRE STANDARDS, AND MAKING AN APPROPRIATION IN  
3 CONNECTION THEREWITH.

---

Bill Summary

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

Directs the committee which advises the department of health on personal care boarding homes to study and develop uniform building and fire standards for such homes. Provides that these uniform standards shall be recommended to the department for adoption as regulations and that, upon adoption, such standards shall be a condition of licensure unless more stringent, but appropriate, local standards exist. Allows the department of health to decide whether a more stringent local standard is appropriate for licensure of personal care boarding homes.

Requires that individuals inspecting personal care boarding homes for licensure have knowledge and practical experience in building and fire safety.

---

4 Be it enacted by the General Assembly of the State of Colorado:  
5 SECTION 1. 25-27-104 (2) (a), Colorado Revised Statutes,  
6 1982 Repl. Vol., as amended, is amended, and the said  
7 25-27-104 is further amended BY THE ADDITION OF A NEW

1 SUBSECTION, to read:

2 25-27-104. Minimum standards for personal care boarding  
3 homes - rules. (2) (a) EXCEPT AS PROVIDED IN SUBSECTION (3)  
4 OF THIS SECTION, compliance with all applicable zoning,  
5 ~~housing, fire,~~ sanitary, and all other codes and ordinances of  
6 the city, city and county, or county where the home is  
7 situated;

8 (3) (a) The department shall promulgate regulations  
9 adopting uniform building and fire standards for personal care  
10 boarding homes, based on recommendations of the advisory  
11 committee pursuant to section 25-27-110 (2.5).

12 (b) Except as provided in paragraph (c) of this  
13 subsection (3), compliance with such building and fire  
14 standards shall be required for licensure.

15 (c) When a city, city and county, or county where the  
16 personal care boarding home is situated, has adopted building  
17 and fire standards which are more stringent than those adopted  
18 by the department, compliance with such local standards shall  
19 be required for licensure if the department finds that the  
20 local standards are an appropriate and not unduly burdensome  
21 requirement for the licensure of a personal care boarding  
22 home.

23 SECTION 2. 25-27-105 (2), Colorado Revised Statutes,  
24 1982 Repl. Vol., as amended, is amended to read:

25 25-27-105. License - application - inspection -  
26 issuance. (2) (a) The department shall investigate and pass  
27 on each original application and each renewal application for

1 a license. The department shall inspect or cause to be  
2 inspected the facilities to be operated by an applicant for an  
3 original license before the license is granted and shall  
4 annually thereafter inspect or cause to be inspected the  
5 facilities of all licensees. The department shall make such  
6 other inspections as it deems necessary to insure that the  
7 health, safety, and welfare of the residents are being  
8 protected.

9 (b) ALL INVESTIGATIONS PERFORMED PURSUANT TO PARAGRAPH  
10 (a) OF THIS SUBSECTION (2) SHALL BE COMPLETED BY INDIVIDUALS  
11 WITH KNOWLEDGE AND PRACTICAL EXPERIENCE IN BUILDING AND FIRE  
12 SAFETY.

13 SECTION 3. 25-27-110, Colorado Revised Statutes, 1982  
14 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
15 SUBSECTION to read:

16 25-27-110. Advisory committee - development of uniform  
17 building and fire standards - sunset review. (2.5) The  
18 advisory committee shall study and develop by July 1, 1990,  
19 uniform building and fire standards applicable to personal  
20 care boarding homes of different sizes. Such standards shall  
21 be recommended to the department for adoption as regulations.

22 SECTION 4. Appropriation. In addition to any other  
23 appropriation, there is hereby appropriated, out of any moneys  
24 in the general fund not otherwise appropriated, to the  
25 department of health for allocation to the advisory committee  
26 created pursuant to section 25-27-110, Colorado Revised  
27 Statutes, for the fiscal year beginning July 1, 1989, the sum

1 of \_\_\_\_\_ dollars (\$ ), or so much thereof as may be  
2 necessary, for the implementation of this act.

3 SECTION 5. Safety clause. The general assembly hereby  
4 finds, determines, and declares that this act is necessary  
5 for the immediate preservation of the public peace, health,  
6 and safety.

A BILL FOR AN ACT

1 CONCERNING THE PROHIBITION AGAINST REIMBURSING PERSONAL CARE  
2 SERVICES PROVIDED BY A SPOUSE UNDER THE "HOME AND  
3 COMMUNITY-BASED SERVICES AND HOME HEALTH ACT".

---

Bill Summary

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

Specifies that the spouse of a person receiving personal care services cannot be reimbursed for the provision of such services.

---

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

5 SECTION 1. 26-4.5-109.5 (2), Colorado Revised Statutes,  
6 1982 Repl. Vol., as amended, is amended to read:

7 26-4.5-109.5. Personal care services provided by a  
8 family. (2) (a) The maximum reimbursement for the services  
9 provided by a member of a person's family per year for each  
10 client shall not exceed five thousand dollars per family per  
11 year or fifty percent of the maximum amount of expenditures  
12 authorized as provided in section 26-4.5-111 (2), whichever is

1 less.

2 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF  
3 THIS SUBSECTION (2), PERSONAL CARE SERVICES PROVIDED BY THE  
4 PERSON'S SPOUSE SHALL NOT BE SUBJECT TO REIMBURSEMENT.

5 SECTION 2. Safety clause. The general assembly hereby  
6 finds, determines, and declares that this act is necessary  
7 for the immediate preservation of the public peace, health,  
8 and safety.