

University of Denver

Digital Commons @ DU

All Publications

Colorado Legislative Council Research
Publications

11-1988

0328 Legislative Tax Force on Long-Term Health Care

Colorado Legislative Council

Follow this and additional works at: https://digitalcommons.du.edu/colc_all

Recommended Citation

Colorado Legislative Council, "0328 Legislative Tax Force on Long-Term Health Care" (1988). *All Publications*. 336.

https://digitalcommons.du.edu/colc_all/336

This Article is brought to you for free and open access by the Colorado Legislative Council Research Publications at Digital Commons @ DU. It has been accepted for inclusion in All Publications by an authorized administrator of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.



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

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



LEGISLATIVE COUNCIL

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

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
LETTER OF TRANSMITTAL	iii
TABLE OF CONTENTS	v
TASK FORCE ON LONG-TERM HEALTH CARE	
Members of Task Force	1
Background Report	3
Legislative Recommendations	8
LEGISLATION MANDATED BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987	
Bill 1 -- Rights of Certain Residents in Nursing Homes	11
Bill 2 -- Remedies Which May Be Assessed Against Certain Nursing Care Facilities	13
LEGISLATION MANDATED BY THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988	
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
OTHER LONG-TERM HEALTH CARE LEGISLATION	
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.