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HOUSE BILL 09-1237

BY REPRESENTATIVE(S) Primavera, Casso, Green, Soper, Apuan, Ferrandino, Frangas, Gerou, Hullinghorst, Kefalas, Kerr J., Labuda, Middleton, Nikkel, Peniston, Pommer, Priola, Ryden, Schafer S., Solano, Todd;

also SENATOR(S) Shaffer B., Boyd, Carroll M., Foster, Gibbs, Heath, Hodge, Hudak, Morse, Newell, Schwartz, Spence, Williams.

CONCERNING THE COORDINATED SYSTEM OF PAYMENT FOR EARLY INTERVENTION SERVICES FOR CHILDREN ELIGIBLE FOR BENEFITS UNDER PART C OF THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT", AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 10-16-104 (1.3) (a) (VI), (1.3) (b), and (1.3) (e), Colorado Revised Statutes, are amended, and the said 10-16-104 (1.3) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

10-16-104. Mandatory coverage provisions - definitions.
(1.3) Early intervention services. (a) As used in this subsection (1.3), unless the context otherwise requires:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(VI) "Qualified early intervention service provider" or "qualified provider" means a person or agency, as defined by the ~~department~~ DIVISION in accordance with part C, who provides early intervention services and is listed on the registry of early intervention service providers pursuant to section 27-10.5-708 (1) (a), C.R.S.

(b) (I) All individual and group sickness and accident insurance policies OR CONTRACTS issued OR RENEWED by an entity subject to part 2 of this article on or after January 1, 2008, and all service or indemnity contracts issued OR RENEWED by an entity subject to part 3 or 4 of this article on or after January 1, 2008, that include dependent coverage shall provide coverage for early intervention services delivered by a qualified early intervention service provider to an eligible child. Early intervention services specified in an eligible child's IFSP shall qualify as meeting the standard for medically necessary health care services as used by private health insurance plans.

(II) The coverage required by this subsection (1.3) shall be available annually to an eligible child from birth up to the child's third birthday and shall be limited to five thousand seven hundred twenty-five dollars, including case management costs, for early intervention services for each dependent child per calendar or policy year. For policies or contracts issued or renewed on or after January 1, 2009, and on or after each January 1 thereafter, the limit shall be adjusted by the division based on the consumer price index for the Denver-Boulder-Greeley metropolitan statistical area for the state fiscal year that ends in the preceding calendar year, OR BY SUCH ADDITIONAL AMOUNT TO BE EQUAL TO THE INCREASE BY THE GENERAL ASSEMBLY TO THE ANNUAL APPROPRIATED RATE TO SERVE ONE CHILD FOR ONE FISCAL YEAR IN THE STATE-FUNDED EARLY INTERVENTION PROGRAM IF THAT INCREASE IS MORE THAN THE CONSUMER PRICE INDEX INCREASE.

(III) Except as provided in paragraph (d) of this subsection (1.3), the coverage shall not be subject to deductibles or copayments, and any benefits paid under the coverage required by this subsection (1.3) shall not be applied to an annual or lifetime maximum benefit contained in the policy or contract. Unless the carrier agrees prior to the provision of early intervention services, a carrier shall not be required to pay a reimbursement rate for early intervention services provided by a nonparticipating provider that exceeds the reimbursement rate allowed for comparable early

intervention services provided by a participating provider.

(IV) The limit on the amount of coverage for early intervention services specified in subparagraph (II) of this paragraph (b) shall not apply to:

(A) Rehabilitation or therapeutic services that are necessary as the result of an acute medical condition OR POST-SURGICAL REHABILITATION;

(B) Services provided to a child who is not participating in part C and services that are not provided pursuant to an IFSP. However, such services shall be covered at the level specified in paragraph (b) of subsection (1.7) of this section.

(d.5) PAYMENT OF BENEFITS FOR AN ELIGIBLE CHILD SHALL BE MADE IN ACCORDANCE WITH SECTION 27-10.5-709 (1), C.R.S. QUALIFIED EARLY INTERVENTION SERVICE PROVIDERS THAT RECEIVE REIMBURSEMENT IN ACCORDANCE WITH THIS PARAGRAPH (d.5) SHALL ACCEPT SUCH REIMBURSEMENT AS PAYMENT IN FULL FOR SERVICES PROVIDED UNDER THIS SUBSECTION (1.3) AND SHALL NOT SEEK ADDITIONAL REIMBURSEMENT FROM EITHER THE COVERED PERSON OR THE CARRIER.

(e) Within ~~sixty~~ NINETY days after the division determines that a child is no longer an eligible child for purposes of this subsection (1.3), the division shall notify the carrier that the child is no longer eligible and that the carrier is no longer required to provide the coverage required by this subsection (1.3) for that child.

(f) USE OF AVAILABLE COVERAGE UNDER THIS SUBSECTION (1.3) FOR THE COST OF EARLY INTERVENTION SERVICES IS MANDATORY, CONSISTENT WITH THE REQUIREMENTS OF PART C. AN ELIGIBLE CHILD MUST FULLY UTILIZE AVAILABLE COVERAGE UNDER THIS SUBSECTION (1.3) PRIOR TO ACCESSING STATE GENERAL FUNDS OR FEDERAL PART C FUNDS. A CARRIER SHALL NOT TERMINATE OR FAIL TO RENEW HEALTH COVERAGE ON THE BASIS THAT AN ELIGIBLE CHILD HAS ACCESSED OR WILL BE ACCESSING EARLY INTERVENTION SERVICES UNDER THIS SUBSECTION (1.3).

SECTION 2. 27-10.5-701 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

27-10.5-701. Legislative declaration. (1) The general assembly hereby finds that:

(j) THE INVOLVEMENT OF A CHILD'S PRIMARY HEALTH CARE PROVIDER AND OTHER HEALTH CARE PROVIDERS IS AN ESSENTIAL COMPONENT OF EFFECTIVE PLANNING FOR THE PROVISION OF EARLY INTERVENTION SERVICES; AND

(k) THE PROVISION OF EARLY INTERVENTION SERVICES IS INTENDED ONLY TO MEET THE DEVELOPMENTAL NEEDS OF AN INFANT OR TODDLER AND NOT TO REPLACE OTHER NEEDED MEDICAL SERVICES THAT ARE RECOMMENDED BY THE CHILD'S PRIMARY HEALTH CARE PROVIDER.

SECTION 3. 27-10.5-708 (4), Colorado Revised Statutes, is amended to read:

27-10.5-708. Certified early intervention service brokers - duties - payment for early intervention services - fees. (4) Use of a certified early intervention broker is voluntary; ~~and~~ EXCEPT THAT PRIVATE HEALTH INSURANCE CARRIERS THAT ARE INCLUDED UNDER SECTION 10-16-104 (1.3), C.R.S., SHALL BE REQUIRED TO MAKE PAYMENT IN TRUST UNDER SECTION 27-10.5-709. Nothing in this part 7 shall prohibit a qualified provider of early intervention services from directly billing the appropriate program of public medical assistance or a participating provider, as defined in section 10-16-102 (28.5), C.R.S., or from directly billing a private health insurance carrier for services rendered under this part 7 FOR INSURANCE PLANS THAT ARE NOT INCLUDED UNDER SECTION 10-16-104 (1.3), C.R.S.

SECTION 4. 27-10.5-709 (1), (2) (a), (2) (c), and (3), Colorado Revised Statutes, are amended to read:

27-10.5-709. Payment from private health insurance for early intervention services - trust fund. (1) ~~The department shall negotiate with Private health insurance carriers regarding the method of~~ THAT ARE REQUIRED TO MAKE payment of benefits for early intervention services for which coverage is required pursuant to section 10-16-104 (1.3), C.R.S., ~~The department may allow each private health insurance carrier that is subject to the requirements of section 10-16-104 (1.3), C.R.S., to pay benefits to a certified early intervention service broker, to a qualified early intervention service provider, or~~ SHALL PAY BENEFITS to the department in trust for

payment to a broker or provider for early intervention services provided to an eligible child. UPON NOTIFICATION FROM THE DEPARTMENT THAT A CHILD IS ELIGIBLE, THE CHILD'S PRIVATE HEALTH INSURANCE CARRIER SHALL HAVE THIRTY DAYS TO MAKE PAYMENT TO THE DEPARTMENT.

(2) (a) ~~If~~ WHEN a private health insurance carrier ~~negotiates to make~~ MAKES payments of benefits for an eligible child to the department in trust, those moneys shall be deposited in the early intervention services trust fund, which trust fund is hereby created in the state treasury. Except as provided in paragraph (b) of this subsection (2), the principal of the trust fund shall only be used to pay certified early intervention service brokers or qualified early intervention service providers for early intervention services provided to the eligible child for whom the moneys were paid to the department in trust by the private health insurance carrier. Except as provided in paragraph (b) of this subsection (2), the principal of the trust fund shall not constitute state fiscal year spending for purposes of section 20 of article X of the state constitution, and such moneys shall be deemed custodial funds that are not subject to appropriation by the general assembly.

(c) Within ~~sixty~~ NINETY days after the department determines that a child is no longer an eligible child for purposes of section 10-16-104 (1.3), C.R.S., the department shall notify the carrier that the child is no longer eligible and that the carrier is no longer required to provide the coverage required by said section for that child. Any moneys deposited in the trust fund on behalf of an eligible child that are not expended on behalf of the child before the child becomes ineligible shall be returned to the carrier that made the payments in trust for the child.

(3) No later than March 1, 2009, and no later than ~~March~~ APRIL 1 each year thereafter, the department shall provide a report to each private health insurance carrier that has made payments of benefits for an eligible child to the department in trust. The report shall specify the total amount of benefits paid to brokers or qualified providers for services provided to the eligible child during the prior calendar year, including the amount paid to each broker or qualified provider and the services provided to the eligible child. The report required by this subsection (3) shall be provided at least annually and more often, as determined by the department and the carrier.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the early

intervention services trust fund created in section 27-10.5-709 (2) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of human services, for allocation to services for people with disabilities, community services for people with developmental disabilities, for the fiscal year beginning July 1, 2009, the sum of forty-six thousand nine hundred forty-three dollars (\$46,943) cash funds and 1.0 FTE, or so much thereof as may be necessary, for the implementation of this act. In addition to said appropriation, the general assembly anticipates that, for the fiscal year beginning July 1, 2009, the department of human services will receive the sum of three million five hundred fourteen thousand fifty-seven dollars (\$3,514,057) cash funds custodial funds, for early intervention services, from the early intervention services trust fund created pursuant to section 27-10.5-709 (2) (a), Colorado Revised Statutes. Although the cash funds custodial funds are not appropriated in this act, they are noted for the purpose of indicating the assumptions used relative to these funds in developing state appropriation amounts.

SECTION 6. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Peter C. Groff
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO