

# Colorado

## I. Government Funded Indigent Care

While Colorado has made some efforts to provide for the care of the indigent, the state legislature has been wary of creating open-ended entitlements. State statutes contain frank admissions of the inability and unwillingness of state and local authorities to provide comprehensive medical coverage for the indigent.

### A. General Assistance

Under state law, counties may provide temporary general assistance to the poor.<sup>1</sup> While this statute is phrased in permissive terms, Colorado's courts have long held that this statute mandates county aid to the poor.<sup>2</sup> In addition, this obligation extends to the provision of medical services.<sup>3</sup>

Colorado counties set their own rules for financial eligibility. However, counties may not disqualify individuals from benefits based upon their ownership of a primary residence.<sup>4</sup> Counties may require able-bodied applicants under age 65 to search for and accept employment as a condition of receiving aid.<sup>5</sup>

Counties may also claim reimbursement from applicants for relief provided to them.<sup>6</sup> However, counties may only seek relief from property acquired by individuals after they have applied for relief.<sup>7</sup>

In addition, the scope of the general assistance obligation is quite limited. The Colorado legislature has stated that county obligations "are necessarily restricted by the limited ability of the county government to make appropriations therefor."<sup>8</sup> In fact, under state law, county obligations are limited by the willingness of counties to make appropriations, rather than their ability to do so. State law explicitly provides that county obligations under general assistance laws shall not exceed the amount of county

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<sup>1</sup>Colo. Rev. Stat. § 30-17-102.

<sup>2</sup>*McNichols v. City and County of Denver*, 74 P.2d 104 (Colo. 1937).

<sup>3</sup>*Cherrington v. Board of Commissioners*, 99 P.2d 171 (1931).

<sup>4</sup>*Denver Dep't of Welfare v. Gomer*, 346 P.2d 1016 (Colo. 1959).

<sup>5</sup>Colo. Rev. Stat. § 30-17-102.

<sup>6</sup>Colo. Rev. Stat. § 103.

<sup>7</sup>*Denver Dep't of Welfare v. Gomer*, 346 P.2d at 1018.

<sup>8</sup>Colo. Rev. Stat. § 30-17-101.

appropriations.<sup>9</sup>

Appropriations under this program are extremely limited. Counties have complete discretion about how to use these funds and typically employ them to provide emergency, short term aid such as rent for homeless families.<sup>10</sup> When counties run out of funds, county general relief applicants are routinely denied General Assistance benefits.

#### B. The Reform Act for Provision of Care to the Medically Indigent

The state also has assumed a limited role in dealing with the health needs of the uninsured. Under the Reform Act for Provision of Care to the Medically Indigent, the legislature has appropriated some funds for indigent health generally.<sup>11</sup> However, the legislature has explicitly found that "the State has insufficient funds to pay for all medical services for persons who are indigent."<sup>12</sup> The right of indigent persons to receive health care under the act "only exists to the extent of available appropriations."<sup>13</sup>

Under the Act, the state contracts with providers to furnish medical services to the indigent.<sup>14</sup> Denver General Hospital provides services to indigent residents in the City of Denver. The University of Colorado hospital system and various other hospitals and clinics furnish services to individuals in other areas of the state.

To participate in the program, hospitals and clinics must be licensed by the state, provide three percent of their care as charity care, notify all state residents of the availability of subsidized care at the time financial arrangements are made, and determine the eligibility of patients who qualify for benefits.<sup>15</sup>

Patients who want subsidized care under the medically indigent program may obtain applications from providers or the state. However, providers are responsible for determining whether their patients meet financial eligibility criteria.<sup>16</sup>

The legislature has not established specific eligibility criteria, leaving these decisions up to the

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<sup>9</sup>Colo. Rev. Stat. § 30-17-108.

<sup>10</sup>Telephone conversation of September 9, 1996 with Peter Komlos-Hrobsky, Legal Aid Society of Denver.

<sup>11</sup>Colo. Rev. Stat. § 26-15-102 et seq.

<sup>12</sup>Colo. Rev. Stat. § 26-15-102(1).

<sup>13</sup>Colo. Rev. Stat. § 26-15-102(2).

<sup>14</sup>Colo. Rev. Stat. § 26-15-104.

<sup>15</sup>COLORADO DEPARTMENT OF HEALTH CARE AND FINANCING, COLORADO INDIGENT CARE PROGRAM (CICP) CLIENT ELIGIBILITY MANUAL at 1 (September 1, 1996).

<sup>16</sup>Colo. Rev. Stat. § 26-15-106(3).

Colorado Department of Health Care Policy and Financing. The Department has promulgated a manual that purports to establish eligibility criteria.<sup>17</sup> However, because these manual provisions have not been adopted as regulations pursuant to the Colorado Administrative Procedures Act, the validity of these provisions are questionable.<sup>18</sup>

Under these policies, the Medically Indigent Program provides coverage for Colorado residents on a sliding scale basis, based upon an individual's combined annual income and assets.<sup>19</sup> In making this calculation, actual payments made for medical expenses are subtracted from income.<sup>20</sup> Benefits are limited to citizens, permanent residents, or other persons permanently residing in the United States under color of law.<sup>21</sup>

The legislature has set priorities for the use of funds under the Medically Indigent Program. Emergency medical services have the highest priority.<sup>22</sup> Additional services that the state determines pose the most serious threat to health are accorded the next highest priority.<sup>23</sup> Primary care services that are necessary to prevent the deterioration of health are also mentioned as a priority service.<sup>24</sup> The act also provides funds for payment of maternity services for low risk pregnancies.<sup>25</sup>

Other medical services are accorded less importance by statute, but as a practical matter, a wide range of medical services, including prescription medicines and primary care services, are available to indigent patients under the medically indigent program.<sup>26</sup> Long term care services are not covered. In addition, funds provided under the medically indigent may not be used for abortions unless the life of the

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<sup>17</sup>COLORADO DEPARTMENT OF HEALTH CARE AND FINANCING, COLORADO INDIGENT CARE PROGRAM (CICP) CLIENT ELIGIBILITY MANUAL at 1 (September 1, 1996).

<sup>18</sup> See *Jefferson County School District v. Division of Labor*, 791 P.2d 1217, 1219 (agency rules of general applicability that have future effect are invalid and unenforceable, absent compliance with the APA).

<sup>19</sup>CLIENT ELIGIBILITY MANUAL, *supra* note 18, at 48.

<sup>20</sup>*Id.* at 32.

<sup>21</sup>*Id.* at 10-12.

<sup>22</sup>Colo Rev. Stat. § 26-15-106(9)(b)(I).

<sup>23</sup>Colo Rev. Stat. § 26-15-106(9)(b)(II).

<sup>24</sup>Colo. Rev. Code § 26-15-102(1)(a).

<sup>25</sup>Colo. Rev. Code § 26-15-109.

<sup>26</sup>Telephone conversation of September 9, 1996 with Peter Komlos-Hrobsky, Legal Aid Society of Denver.

mother or the unborn child is endangered.<sup>27</sup>

### C. Old Age Pensions

Colorado has long provided financial assistance to low income senior citizens over the age of 60 through its Old Age Pension program. As part of the state constitution, Colorado has established an Old Age Pension fund whose proceeds are dedicated to providing grants to qualified recipients.<sup>28</sup> Amounts remaining in the fund after payment of these benefits are used to provide medical care to individuals who are eligible to receive old age pensions and are not patients in institutions for tuberculosis or mental disease.<sup>29</sup> Colorado has used the proceeds of this fund to extend the full range of state financed Medicaid benefits to old age pension recipients who do not qualify for federally financed coverage as aged, blind or disabled persons under the Supplemental Security Income Program.<sup>30</sup>

### D. University of Colorado Hospital Authority

For many years, state law identified indigent health care as the primary mission of the University of Colorado Hospitals.<sup>31</sup> Recently, the state turned over management of the hospitals to a separate entity—the Hospital Authority. The state statute that authorizes creation of the authority charges the Hospital Authority with responsibility for providing medical care to individuals eligible for public assistance through any program for the medically indigent.<sup>32</sup>

The state has also used the creation of the Hospital Authority to leverage expanded health care services for the poor. For every three dollars appropriated by the state to the Hospital Authority under its Medically Indigent Program, the Hospital Authority is required to deliver four dollars worth of care to the indigent.<sup>33</sup>

### E. County Hospitals

State law also authorizes counties to establish county hospitals through the use of property tax

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<sup>27</sup>Colo. Rev. Stat. § 26-15-104.5. In addition, the Colorado Department of Health Care Policy and Financing has issued a manual that purports to exclude coverage of various other procedures including non-emergent dental care, chiropractic services, sex change operations, experimental treatments, elective surgery and court ordered procedures. CICP CLIENT ELIGIBILITY MANUAL at 3.

<sup>28</sup>Colo. Const., Art. XXIV, Sec. 7; Colo. Rev. Stat. 26-2-110 *et seq.*

<sup>29</sup>Colo. Rev. Stat. 26-2-117.

<sup>30</sup>COLO. DEP'T OF HEALTH CARE POLICY AND FINANCING STAFF MANUAL § 8.100.52.P.

<sup>31</sup>Former Colo. Rev. Stat. § 23-2-101.

<sup>32</sup>Colo. Rev. Stat. § 23-21-504(1).

<sup>33</sup>Colo. Rev. Stat. § 23-21-504(1).

levies.<sup>34</sup> While county hospitals are designed to serve the needs of all county residents, the indigent are not required to pay for these services.<sup>35</sup>

#### E. The Children's Health Plan Act

Under the Children's Health Plan Act,<sup>36</sup> Colorado provides outpatient services to uninsured children who are not covered by Medicaid. Services covered under this program include check-ups, lab tests, radiology, outpatient care for illness or injury and outpatient surgery.<sup>37</sup> In-patient care in hospitals, skilled and intermediate care facilities and substance abuse treatment facilities are excluded from coverage.

To be eligible, a child must be part of a family that meets income criteria under the Women Infants and Children's (WIC) Program, the Food Stamps Program, the Aid For Families With Dependent Children (AFDC) Program, or the state's Medically Indigent Program.<sup>38</sup> An annual enrollment fee of \$25 per child, up to a maximum of \$150 per family is required to enroll in this program.<sup>39</sup>

#### F. Other Services

The Colorado Department of Public Health also maintains a range of programs designed to promote the health of individuals, including health programs designed to assist disabled children,<sup>40</sup> programs for the immunization of infants and schoolchildren,<sup>41</sup> for the use of chemicals to prevent potentially blinding eye infections in newborns,<sup>42</sup> for drug and alcohol abuse treatment,<sup>43</sup> for HIV education, testing and counseling,<sup>44</sup> for treatment of sexually transmitted diseases at public expense,<sup>45</sup>

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<sup>34</sup>Colo. Rev. Stat. § 25-3-301.

<sup>35</sup>Colo. Rev. Stat. § 25-3-309.

<sup>36</sup>Colo. Rev. Stat. § 26-17-102

<sup>37</sup>Colo. Rev. Stat. § 26-17-103(4).

<sup>38</sup>Colo. Rev. Stat. § 26-17-105.

<sup>39</sup>Colo. Rev. Stat. § 26-17-108.

<sup>40</sup>Colo Rev. Stat. § 25-1-107.

<sup>41</sup>Colo Rev. Stat. §§ 25-4-905 and 25-4-1701.

<sup>42</sup>Colo. Rev. Stat. § 25-4-301.

<sup>43</sup>Colo. Rev. Stat. § 25-4-301.

<sup>44</sup>Colo. Rev. Stat. § 25-4-1503.

<sup>45</sup>Colo. Rev. Stat. § 25-4-404.

and for streptococcus treatment and testing.<sup>46</sup> Publicly funded tuberculosis treatment is available for individuals who have resided in the state for at least a year.<sup>47</sup>

State law also has created a fund for breast cancer screening.<sup>48</sup> Colorado maintains an additional program for screening and follow up treatment of infants for various congenital diseases.<sup>49</sup> However, federal funding for follow up treatment under this program has been eliminated and the legislature has warned that the state program also will be eliminated if alternative sources of funding are not found.

The state also funds dental care for indigent individuals aged 60 or older.<sup>50</sup>

## II. State Efforts to Ensure Private Coverage or Treatment of the Uninsured

### A. High Risk Pools

Colorado has also established a program of state sponsored insurance for the uninsured.<sup>51</sup> Individuals who have resided in the state for at least six months may purchase insurance through the state's high risk pool if they have (1) been rejected for coverage by another plan, (2) subjected to a preexisting condition exclusion of more than six months, or (3) accepted for coverage at premium rates that are higher than those available under the high risk pool.

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<sup>46</sup>Colo. Rev. Stat. § 25-4-1202.

<sup>47</sup>Colo. Rev. Stat. § 25-4-501 et. seq. States bear 80% and counties bear 20% of the burden of funding TB treatment.

<sup>48</sup>Colo. Rev. Stat. § 25-4-1503.

<sup>49</sup>Colo Rev. Stat. § 25-4-1004.

<sup>50</sup>Colo. Rev. Stat. § 25-2-101.

<sup>51</sup>Colo Rev. Code § 10-8-501.