



The National Association of Community Health Centers, Inc.

MODEL State Legislation Requiring Legislative Approval of Submission of Section 1115 Waiver Proposal

1. The [State] Department of _____ shall not submit to the U.S. Department of Health and Human Services (HHS) a proposal to waive sections of Title XIX or XXI of the Social Security Act pursuant to Section 1115 of such Act, or to amend or extend waivers previously approved by HHS under Section 1115, unless such proposal has been submitted to, reviewed and approved by the State legislature as provided in subsections 2-4.
2. Prior to seeking legislative approval of a proposal described in subsection 1, the Department of _____ shall provide notice and opportunity for public comment of such proposal. Notice shall be provided to all persons who have made requests of the agency for advance notice and also shall be published in the [state publication that is comparable to the Federal Register] as well as in [newspapers with state-wide circulation] not less than ___ days prior to the date that the Department notifies the state legislature of its intended action. Notice by the Department both to the public and to the state legislature, shall include, but not be limited to:
 - a. The Department's proposal, including the specific provisions of Title XIX or XXI that the Department will be seeking to waive.
 - b. The justification and goals of the proposal.
 - c. The methodologies, assumptions, calculations, and actuarial analyses applied by, and studies reviewed or carried out by, the Department in constructing its proposal.
 - d. The Department's projections regarding the likely effect and impact of the proposal on individuals eligible for medical assistance and providers and suppliers of items or services under Title XIX or XXI.
 - e. Any other relevant information that will provide insight into how the Department constructed, and the anticipated impact of, its proposal.
3. No sooner than ___ days from the date of receipt of the notice described in subsection 2, the _____ committee of the [Senate] and the _____ committee of the [House] shall hold no less than (no.) public hearings, in (no.) geographic regions of the state, during which interested parties shall be provided an opportunity to testify and submit written comments with regard to such waiver proposal. These hearings may be held jointly or separately by the two committees.
4. Within (no.) days from the conclusion of such hearings, the ___ committee of the [Senate] and the _____ committee of the [House] shall advise the Department of their approval, denial or proposed modifications of the waiver proposal.
 - a. If both committees disapprove of the waiver proposal, the Department shall not submit the proposal to HHS.

- b. If both committees concur with the Department's proposal, the Department may submit the waiver to HHS in the form approved by the two committees.
- c. If one committee approves the proposal, and the other does not or does so conditioned on certain modifications of the proposal, or if both committees condition approval on certain modifications of the proposal, the chairpersons of the House and Senate committees shall each appoint three committee members (with at least one member from the minority party) to a joint House-Senate conference committee. Within ___ days of the appointment of members of the conference committee, the conference committee shall issue a report to the respective House and Senate committees with recommendations for approval, rejection or modifications of the Department's proposal.
 - i. If the conference committee recommends approval or rejection of the proposal, the two committees shall be bound by such recommendations and shall inform the Department of such decision, and should that decision be a rejection of the proposal, the Department shall not submit such proposal to HHS.
 - ii. If the conference committee conditions acceptance of the proposal on certain modifications, the House and Senate committees shall accept such recommendations and notify the Department of approval subject to the itemized modifications. Should the Department then determine to pursue its waiver proposal, it shall revise its proposal pursuant to such modifications and resubmit the proposal to the House and Senate committees which shall have ___ days to inform the Department whether such modifications are consistent with their recommendations.
 - I. In the event that both committees determine that such modifications are consistent with their recommendations, they shall so notify the Department, which may then submit its modified proposal to HHS.
 - II. In the event that both committees determine that such modifications are not consistent with their recommendations, they shall so notify the Department, which shall then result in the Department not submitting its proposal to HHS.
 - III. In the event that one committee determines that such modifications are not consistent with their recommendations, the conference committee shall convene and within _____ days determine whether to approve or reject the modified proposal and so inform the House and Senate committees. The House and Senate committees shall be bound by the determination of the conference committee and inform the Department of their approval or rejection of the modified proposal. Should the determination of the committees be to reject the modified proposal, the Department shall not submit such proposal to HHS.
- d. In the event that the above process results in submission of a waiver proposal to HHS and approval of the proposal by HHS, the Department shall submit the final proposal as approved by HHS to the aforementioned House and Senate committees, either of which may prohibit the State from implementing such waiver if it determines within ___ days of receipt of such proposal that as approved by HHS such proposal differs significantly from the version approved by the committee prior to submission to HHS.

CURRENT STATE LEGISLATIVE LANGUAGE RELATED TO PUBLIC PROCESS AND/OR LEGISLATIVE APPROVAL OF MEDICAID WAIVERS

Please Note: This is just for the purpose of sharing information and does not imply support of any language. NACHC is currently drafting “model” legislation for this purpose.

NEW HAMPSHIRE

25. Purpose. The purpose of section 26 of this act is to facilitate legislative involvement in any efforts at so-called "Medicaid Modernization."

26. Medical Care; State Plan; Amendments. Amend RSA 161:2, VI to read as follows:

IV. MEDICAL CARE. In cooperation with state health authorities and county and local officials, develop and administer a state plan for providing medical or other remedial assistance. The department of health and human services shall not amend nor seek to amend, nor gain nor seek to gain approval of waivers to, the state Medicaid plan in any way that results at any time in the consolidation of federal grants or allotments, caps on the federal portion of Medicaid spending, reductions in the federal share of Medicaid spending, or increases in the state share of Medicaid spending, without the prior approval of the fiscal committee of the general court.

WYOMING

10. The department of health shall not agree to any Medicaid waiver or extension of any Medicaid waiver where the federal government, as a condition of granting the waiver, requires the state to agree to any limit on the normal federal cost share in the program where the state expenditures are not comparably restricted.

FLORIDA

Section 409.912(11) , Fla. Stat. (copied below) is the statute currently providing rights to notice and opportunity for public comment prior to the legislature seeking Medicaid waivers:

11) The agency, after notifying the Legislature, may apply for waivers of applicable federal laws and regulations as necessary to implement more appropriate systems of health care for Medicaid recipients and reduce the cost of the Medicaid program to the state and federal governments and shall implement such programs, after legislative approval, within a reasonable period of time after federal approval. These programs must be designed primarily to reduce the need for inpatient care, custodial care and other long-term or institutional care, and other high-cost services.

(a) Prior to seeking legislative approval of such a waiver as authorized by this subsection, the agency shall provide notice and an opportunity for public comment. Notice shall be provided to

all persons who have made requests of the agency for advance notice and shall be published in the Florida Administrative Weekly not less than 28 days prior to the intended action.

CONNECTICUT

Senate Bill No. 801

Public Act No. 05-112

AN ACT CONCERNING LEGISLATIVE REVIEW AND APPROVAL OF WAIVER APPLICATIONS PRIOR TO SUBMITTAL TO THE FEDERAL GOVERNMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 17b-8 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(a) The Commissioner of Social Services shall submit an application for a federal waiver of any assistance program requirements, except such application pertaining to routine operational issues, to the joint standing [committee] committees of the General Assembly having cognizance of matters relating to human services and appropriations and the budgets of state agencies [and to the joint standing committee of the General Assembly having cognizance of matters relating to human services] prior to the submission of such application to the federal government. [Within] Not later than thirty days after the date of their receipt of such application, the joint standing committees [may] shall: (1) Hold a public hearing on the waiver application, and (2) thereafter advise the commissioner of their approval, denial or modifications, if any, of [his] the commissioner's application. If the joint standing committees advise the commissioner of their denial of the commissioner's application, the commissioner shall not submit the application for a federal waiver to the federal government. If such committees do not concur, the committee chairpersons shall appoint a committee of conference which shall be comprised of three members from each joint standing committee. At least one member appointed from each joint standing committee shall be a member of the minority party. The report of the committee of conference shall be made to each joint standing committee, which shall vote to accept or reject the report. The report of the committee of conference may not be amended. If a joint standing committee rejects the report of the committee of conference, such committee shall notify the commissioner of the rejection and the commissioner's application shall be deemed approved. If the joint standing committees accept the report, the committee having cognizance of matters relating to appropriations and the budgets of state agencies shall advise the commissioner of their approval, denial or modifications, if any, of the commissioner's application. If the joint standing committees do not so advise the commissioner during the thirty-day period, the application shall be deemed approved. Any application for a federal waiver submitted by the commissioner, pursuant to this section, shall be in accordance with the approval or modifications, if any, of the joint standing committees of the General Assembly having cognizance of matters relating to human services and appropriations and the budgets of state agencies.

(b) If in developing the budget for the department for the next fiscal year, the commissioner contemplates applying for a federal waiver, [he] the commissioner shall notify the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies and the joint standing committee of the General Assembly having cognizance of matters relating to human services of the possibility of such application.

(c) Prior to submission of an application for a waiver from federal law to the General Assembly under subsection (a) of this section, the Commissioner of Social Services shall publish a notice

that the commissioner intends to seek such a waiver in the Connecticut Law Journal, along with a summary of the provisions of the waiver application and the manner in which individuals may submit comments. The commissioner shall allow fifteen days for written comments on the waiver application prior to submission of the application for a waiver to the General Assembly under subsection (a) of this section and shall include all written comments with the waiver application in the submission to the General Assembly.

(d) The commissioner shall include with any waiver application submitted to the federal government pursuant to this section: (1) Any written comments received pursuant to subsection (c) of this section; and (2) a complete transcript of the joint standing committee proceedings held pursuant to subsection (a) of this section, including any additional written comments submitted to the joint standing committees at such proceedings. The joint standing committees shall transmit any such materials to the commissioner for inclusion with any such waiver application.
Vetoed June 24, 2005

COLORADO

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

SENATE BILL 05-221

BY SENATOR(S) Hagedorn, Bacon, Johnson, Shaffer, Tochtrop, Tupa, Williams, and Keller;

also REPRESENTATIVE(S) Buescher, Berens, Boyd, Butcher, Carroll M., Coleman, Frangas, and Paccione.

CONCERNING A REQUIREMENT THAT THE STATE SEEK A WAIVER UNDER THE HEALTH INSURANCE FLEXIBILITY AND ACCOUNTABILITY DEMONSTRATION PROGRAM, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. Part 5 of article 4 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-4-534. ColoradoCares program - health insurance flexibility and accountability waiver - evaluation. (1) THE STATE DEPARTMENT SHALL PREPARE A WAIVER UNDER THE HEALTH INSURANCE FLEXIBILITY AND ACCOUNTABILITY DEMONSTRATION PROGRAM TO PERMIT THE STATE DEPARTMENT TO CREATE A NEW SERVICE DELIVERY OR PURCHASING SYSTEM IN ORDER TO BETTER SERVE CHILDREN AND ADULTS UNDER THIS ARTICLE OR UNDER ARTICLE 19 OF THIS TITLE, REFERRED TO AS THE COLORADOCARES PROGRAM. THE WAIVER MAY INCLUDE THE POPULATIONS IDENTIFIED IN

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SECTION 26-4-201 (1) (a), (1) (b), (1) (f), (1) (g), AND (1) (o), 26-4-301 (1) (a), (1) (d), (1) (e), (1) (o), AND (1) (s), 26-4-508, OR 26-19-109 AND ANY ADDITIONAL POPULATIONS THAT THE STATE DEPARTMENT DETERMINES THE FEDERAL GOVERNMENT SHALL REQUIRE TO BE COVERED FOR APPROVAL OF THE WAIVER. THE STATE DEPARTMENT SHALL NOT FINALIZE ANY WAIVER WITH THE FEDERAL GOVERNMENT THAT REDUCES OR DIMINISHES FEDERAL

FINANCIAL PARTICIPATION IN THE MEDICAL ASSISTANCE PROGRAM, THE CHILDREN'S BASIC HEALTH PLAN ESTABLISHED PURSUANT TO ARTICLE 19 OF THIS TITLE, THE DISPROPORTIONATE SHARE HOSPITAL FACTOR, OR ANY OTHER CURRENT OR FUTURE FEDERAL PROGRAM TO PROVIDE HEALTH SERVICES TO LOW-INCOME POPULATIONS. THE STATE DEPARTMENT SHALL NOT IMPLEMENT, WITHOUT PRIOR STATUTORY AUTHORIZATION, THE WAIVER IF IT WOULD RESULT IN A REDUCTION OF BENEFITS COVERED TO THE CATEGORICALLY NEEDY AS REQUIRED BY SECTIONS 26-4-202, 26-4-203, AND 26-4-302.

(2) (a) THE STATE DEPARTMENT SHALL SUBMIT THE PROPOSED WAIVER TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES. IF NOT INCLUDED IN THE WAIVER, THE STATE DEPARTMENT SHALL ALSO SUBMIT TO THE COMMITTEES INFORMATION ON:

(I) ANY ACTUARIAL ANALYSIS OR OTHER FINANCIAL STUDY CONDUCTED, INCLUDING BUT NOT LIMITED TO ANY STUDY REGARDING THE FEASIBILITY OF THE WAIVER AND COST SAVINGS TO BE REALIZED UNDER THE WAIVER;

(II) WHETHER THE WAIVER SEEKS A PROGRAMMATIC CAP ON FEDERAL MONEYS OR A PER CAPITA CAP ON FEDERAL MONEYS AND HOW THE WAIVER WILL ADDRESS INCREASES IN COSTS DUE TO POPULATION GROWTH OR GROWTH IN EXPENDITURES;

(III) THE SPECIFIC REQUIREMENTS OF FEDERAL OR STATE LAW, INCLUDING BUT NOT LIMITED TO ANY RULE OR REGULATION, PROPOSED TO BE WAIVED;

(IV) HOW BENEFITS PROVIDED TO A RECIPIENT WHO IS ELIGIBLE FOR BENEFITS BEFORE THE IMPLEMENTATION OF THE WAIVER WILL BE INCREASED OR DECREASED;

(V) THE ELIGIBILITY OF RECIPIENTS WHO WERE NOT ELIGIBLE BEFORE

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THE IMPLEMENTATION OF THE WAIVER AND A COMPARISON OF THE BENEFITS AND COST SHARING REQUIREMENTS OF THE NEWLY ELIGIBLE RECIPIENTS TO RECIPIENTS WHO WERE ELIGIBLE FOR BENEFITS BEFORE THE IMPLEMENTATION OF THE WAIVER;

(VI) WHETHER EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES SHALL BE PART OF THE CORE WAIVER SERVICE PACKAGE AND WHICH OUTREACH EFFORTS SHALL BE INCLUDED;

(VII) HOW THE WAIVER WILL ADDRESS DURABLE MEDICAL EQUIPMENT AND WHETHER THERE WILL BE A MONETARY CAP ON SUCH EQUIPMENT;

(VIII) HOW THE WAIVER WILL DEFINE "MEDICAL NECESSITY" AND WHETHER IT WILL INCLUDE DIFFERENT DEFINITIONS FOR ADULTS AND CHILDREN;

(IX) WHETHER THE WAIVER WILL INCLUDE A RESTRUCTURING OF

ANY PROVIDER REIMBURSEMENT RATES AND, IF SO, AN EXPLANATION OF THE PROPOSED CHANGES TO REIMBURSEMENT RATES;

(X) HOW THE SERVICES DESCRIBED IN THE WAIVER SHALL BE DELIVERED INCLUDING AN IDENTIFICATION OF THE TYPES OF ENTITIES OR ORGANIZATIONS THAT WILL DELIVER THE SERVICES AND HOW THE IMPLEMENTATION OF THE WAIVER WILL ENCOURAGE THE PARTICIPATION OF NEW MANAGED CARE ORGANIZATIONS;

(XI) HOW THE WAIVER WILL MINIMIZE BARRIERS TO ACCESS OR DELAYS IN THE AVAILABILITY OF SERVICES TO RECIPIENTS REQUIRING SERVICES, INCLUDING WRAP-AROUND SERVICES; AND

(XII) HOW THE WAIVER WILL IMPROVE ON THE ADEQUACY OF A STATEWIDE NETWORK OF PROVIDERS AVAILABLE TO RECIPIENTS UNDER THE WAIVER, INCLUDING BUT NOT LIMITED TO PROVISIONS FOR ADEQUATE REIMBURSEMENT RATES AND CONSIDERATION OF THE BURDEN OF PROGRAM ADMINISTRATION ON PROVIDERS.

(b) THE HEALTH AND HUMAN SERVICES COMMITTEES SHALL HOLD AT LEAST FOUR JOINT PUBLIC HEARINGS ON THE WAIVER, AT WHICH PUBLIC TESTIMONY SHALL BE ACCEPTED. THE HEARINGS AT WHICH PUBLIC TESTIMONY IS ACCEPTED MAY BE CONDUCTED WITH THE ATTENDANCE OF

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FEWER MEMBERS THAN A QUORUM OF EACH OF THE HEALTH AND HUMAN SERVICES COMMITTEES. ONE JOINT HEARING SHALL BE CONDUCTED IN THE DENVER METROPOLITAN AREA, ONE JOINT HEARING SHALL BE HELD WEST OF THE CONTINENTAL DIVIDE, ONE JOINT HEARING SHALL BE HELD IN NORTHERN COLORADO, AND ONE JOINT HEARING SHALL BE HELD IN SOUTHERN COLORADO. FOLLOWING THE JOINT HEARINGS BUT WITHIN SIXTY DAYS AFTER THE SUBMISSION OF THE WAIVER TO THE JOINT COMMITTEES, AT A HEARING AT WHICH A QUORUM OF EACH HEALTH AND HUMAN SERVICES COMMITTEE IS PRESENT, THE JOINT HEALTH AND HUMAN SERVICES COMMITTEE SHALL EITHER APPROVE OR REJECT THE WAIVER AS SUBMITTED BY THE DEPARTMENT. IF A MAJORITY OF THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE AND A MAJORITY OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE APPROVES THE WAIVER, THE JOINT HEALTH AND HUMAN SERVICES COMMITTEE SHALL SUBMIT THE WAIVER TO THE JOINT BUDGET COMMITTEE FOR APPROVAL.

(c) THE JOINT BUDGET COMMITTEE MAY HOLD HEARINGS AND ACCEPT PUBLIC TESTIMONY ON THE WAIVER. WITHIN FIFTEEN DAYS AFTER THE APPROVAL OF THE WAIVER BY THE JOINT COMMITTEES, THE JOINT BUDGET COMMITTEE SHALL EITHER APPROVE OR REJECT THE WAIVER AS SUBMITTED BY THE DEPARTMENT. IF THE JOINT BUDGET COMMITTEE APPROVES THE WAIVER, THE STATE DEPARTMENT SHALL SUBMIT THE WAIVER TO THE FEDERAL GOVERNMENT.

(3) (a) IF THE FEDERAL GOVERNMENT RETURNS THE WAIVER WITH SUGGESTED OR REQUIRED AMENDMENTS, THE STATE DEPARTMENT SHALL SUBMIT AN AMENDED WAIVER TO THE HEALTH AND HUMAN SERVICES

COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES. THE COMMITTEES SHALL HOLD A JOINT HEARING AND MAY TAKE PUBLIC TESTIMONY ON THE AMENDED WAIVER. IF A MAJORITY OF THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE AND A MAJORITY OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE APPROVES THE AMENDED WAIVER, THE JOINT HEALTH AND HUMAN SERVICES COMMITTEE SHALL SUBMIT THE AMENDED WAIVER TO THE JOINT BUDGET COMMITTEE FOR ITS APPROVAL.

(b) THE JOINT BUDGET COMMITTEE MAY HOLD HEARINGS AND ACCEPT PUBLIC TESTIMONY ON THE AMENDED WAIVER. IF THE JOINT BUDGET COMMITTEE APPROVES THE AMENDED WAIVER, THE STATE DEPARTMENT SHALL SUBMIT THE AMENDED WAIVER TO THE FEDERAL GOVERNMENT.

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(4) (a) IF A WAIVER SUBMITTED PURSUANT TO THIS SECTION IS IMPLEMENTED, THE STATE AUDITOR'S OFFICE SHALL OVERSEE AN EVALUATION OF THE WAIVER PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (4). OUT OF MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY TO COVER THE COSTS OF THE EVALUATIONS REQUIRED BY THIS SUBSECTION (4), THE STATE AUDITOR'S OFFICE SHALL BE REIMBURSED FOR ITS REASONABLE AND NECESSARY COSTS INCURRED IN CONNECTION WITH ADMINISTERING THE CONTRACT FOR THE EVALUATION.

(b) THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL NOTIFY THE STATE AUDITOR ONCE THE WAIVER IS IMPLEMENTED. NO MORE THAN SIX MONTHS FOLLOWING THE IMPLEMENTATION OF THE WAIVER, THE STATE AUDITOR'S OFFICE SHALL ISSUE A REQUEST FOR PROPOSALS FOR A PUBLIC OR PRIVATE ENTITY TO CONDUCT THE EVALUATIONS REQUIRED BY THIS SUBSECTION (4). NO ENTITY INVOLVED WITH THE DEVELOPMENT OR OVERSIGHT OF THE WAIVER SHALL BE ELIGIBLE TO SUBMIT A RESPONSE TO THE REQUEST FOR PROPOSALS. THE STATE AUDITOR'S OFFICE SHALL SEEK INPUT FROM RECIPIENTS, PROVIDERS, AND ADVOCATES IN DEVELOPING THE REQUEST FOR PROPOSALS REQUIRED BY THIS PARAGRAPH (b).

(c) THE GOALS OF THE EVALUATIONS SHALL BE TO OBTAIN AN OBJECTIVE ANALYSIS OF THE OUTCOMES REALIZED AS A RESULT OF THE IMPLEMENTATION OF THE WAIVER AND WHETHER THERE SHOULD BE ANY CHANGES TO THE WAIVER. SUCH OUTCOMES SHALL INCLUDE BUT ARE NOT LIMITED TO:

(I) THE NUMBER OF NEW RECIPIENTS WHO WOULD NOT HAVE BEEN ELIGIBLE FOR BENEFITS WITHOUT THE WAIVER;

(II) THE LENGTH OF TIME RECIPIENTS UNDER THE WAIVER REMAIN IN THE MEDICAL ASSISTANCE PROGRAM AS COMPARED TO OTHER RECIPIENTS NOT UNDER THE WAIVER;

(III) THE UTILIZATION RATES OF RECIPIENTS UNDER THE WAIVER FOR PRIMARY AND PREVENTATIVE CARE AND EMERGENCY ROOM AND HOSPITAL-BASED CARE AND THE REASONS FOR ANY INCREASE OR DECREASE IN THE RATES;

(IV) THE RATE OF UTILIZATION FOR EARLY AND PERIODIC SCREENING,

DIAGNOSTIC, AND TREATMENT SERVICES AND PROCEDURES FOR MAKING RECIPIENTS AWARE OF EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND

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TREATMENT SERVICES;

(V) THE RATE OF PROVIDER PARTICIPATION AND THE REASONS FOR ANY INCREASE OR DECREASE IN THE RATE;

(VI) THE ACCESS TO CARE IN ALL GEOGRAPHIC AREAS OF THE STATE;

(VII) THE CONTINUED AVAILABILITY OF THE SAME APPELLATE PROCEDURES AVAILABLE TO RECIPIENTS WHO ARE NOT PART OF THE WAIVER;

(VIII) THE STABILITY OF HEALTH OUTCOMES FOR RECIPIENTS AND THE REASONS FOR ANY CHANGES IN THE STABILITY;

(IX) THE IMPACT OF COST SHARING, IF ANY, ON UTILIZATION OF PRIMARY AND PREVENTATIVE CARE, INCLUDING BUT NOT LIMITED TO WHETHER COST SHARING HAS RESULTED IN COLLECTION ACTIONS BEING INITIATED BY PROVIDERS;

(X) IF THERE IS A PREMIUM ASSISTANCE WAIVER COMPONENT, HOW THIS COMPONENT IMPACTS A RECIPIENT'S ABILITY TO ACCESS SERVICES; AND

(XI) THE IMPACT OF THE WAIVER ON THE STATE DEPARTMENT'S ADMINISTRATIVE COSTS.

(d) THE EVALUATIONS REQUIRED BY THIS SUBSECTION (4) SHALL BE CONDUCTED FOLLOWING THE FIRST, SECOND, AND FOURTH YEAR OF IMPLEMENTATION OF THE WAIVER.

(e) TO THE EXTENT PERMISSIBLE UNDER THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SEC. 1320d TO 1320d-8, THE STATE AUDITOR'S OFFICE AND THE ENTITY CONDUCTING THE EVALUATIONS SHALL HAVE ACCESS TO ALL RECORDS, DOCUMENTS, AND REPORTS PREPARED BY OR FOR, OR MAINTAINED BY OR FOR, THE STATE DEPARTMENT. THE STATE AUDITOR'S OFFICE AND THE ENTITY CONDUCTING THE EVALUATIONS SHALL COMPLY WITH ALL PROVISIONS OF THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SEC. 1320d TO 1320d-8.

(f) THE ENTITY THAT CONDUCTS THE EVALUATIONS SHALL REPORT TO THE STATE AUDITOR'S OFFICE ON A QUARTERLY BASIS CONCERNING ITS PROGRESS IN COMPLETING THE EVALUATIONS REQUIRED BY THIS SUBSECTION

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(4).

SECTION 2. Article 19 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-19-112.5. Health insurance flexibility and accountability

waiver. IF THE STATE DEPARTMENT IMPLEMENTS A WAIVER SUBMITTED PURSUANT TO SECTION 26-4-534 AFFECTING AN ELIGIBLE PERSON UNDER THIS ARTICLE, THE BENEFITS OF THE ELIGIBLE PERSON SHALL BE DETERMINED BY THE PROVISIONS OF THE WAIVER.

SECTION 3. Appropriation. (1) In addition to any other

appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the legislative department, for allocation to the general assembly, for the fiscal year beginning July 1, 2005, the sum of twenty thousand dollars (\$20,000), or so much thereof as may be necessary, for the implementation of this act.

(2) It is the intent of the general assembly that the general fund appropriation in subsection (1) of this section shall be derived from savings generated from the implementation of the provisions of House Bill 05-1243, as enacted during the First Regular Session of the Sixty-fifth General Assembly.

SECTION 4. Effective date. This act shall take effect upon passage only if:

(a) House Bill 05-1243 is enacted at the First Regular Session of the Sixty-fifth General Assembly and becomes law; and

(b) The final fiscal estimate for House Bill 05-1243, as determined from the appropriations enacted in said bill, shows a net reduction in the amount of general fund revenues appropriated for the state fiscal year 2005-06, that is equal to or greater than the amount of the general fund appropriation made for the implementation of this act for the state fiscal year 2005-06, as reflected in section 3 of this act; and

(c) The staff director of the joint budget committee files written notice with the revisor of statutes no later than July 15, 2005, that the requirement set forth in paragraph (b) of this subsection (2) has been met.

SECTION 5. 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.
