

**Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 26-0051.02 Chelsea Princell x4335

**HOUSE BILL 26-1018**

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**HOUSE SPONSORSHIP**

**Jackson and Joseph,**

**SENATE SPONSORSHIP**

**Amabile,**

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**House Committees**  
Health & Human Services

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING THE ESTABLISHMENT OF LONG-TERM SERVICES AND**  
102             **SUPPORTS FOR AN INDIVIDUAL TRANSITIONING OUT OF A**  
103             **NURSING FACILITY.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill requires an individual being discharged from a nursing facility to be presumptively eligible for long-term services and supports under medicaid.

The bill requires the department of health care policy and financing (state department) to determine presumptive eligibility and

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

requires county departments of human or social services (county departments) to set up the long-term services and supports for an individual being discharged from a nursing facility prior to the individual's discharge date.

The state department is required to submit an annual report to the state auditor and post the report on the state department's website detailing information about the individuals discharged from a nursing facility and the associated presumptive eligibility determinations.

The bill establishes remedial measures against a county department if the county department fails to set up long-term services and supports for the individual. The bill establishes remedial measures against a nursing facility that fails to discharge an individual on the discharge date due to a failure within the nursing facility's control or fails to cooperate in good faith with the state department to ensure long-term care services and supports are in place for the individual.

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

2             **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-6-315 as  
3     follows:

4             **25.5-6-315. Long-term services and supports for nursing**  
5     **facility residents - discharge planning - presumptive eligibility -**  
6     **reporting - definition.**

7             (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
8     REQUIRES, "PRESUMPTIVE ELIGIBILITY" HAS THE MEANING SET FORTH IN  
9     SECTION 25.5-5-204.

10            (2) (a) IF THE STATE DEPARTMENT RECEIVES FEDERAL  
11     AUTHORIZATION PURSUANT TO SECTION 25.5-5-204 (2.7) AND, AS  
12     NECESSARY, SUBSECTION (15) OF THIS SECTION, AN INDIVIDUAL BEING  
13     DISCHARGED FROM A NURSING FACILITY IS PRESUMPTIVELY ELIGIBLE FOR  
14     THE MEDICAL ASSISTANCE PROGRAM PURSUANT TO THIS ARTICLE 6 AND  
15     ARTICLES 4 AND 5 OF THIS TITLE 25.5 TO RECEIVE LONG-TERM SERVICES  
16     AND SUPPORTS, INCLUDING HOME- AND COMMUNITY-BASED SERVICES,  
17     PURSUANT TO THIS ARTICLE 6 IF THE INDIVIDUAL:

1           (I) IS FUNCTIONALLY ELIGIBLE FOR LONG-TERM SERVICES AND  
2       SUPPORTS PURSUANT TO THIS ARTICLE 6; AND

3           (II) ATTESTS TO INFORMATION THAT MEETS THE INCOME, ASSETS,  
4       AND IMMIGRATION ELIGIBILITY REQUIREMENTS FOR THE MEDICAL  
5       ASSISTANCE PROGRAM.

6           (b) THE ATTESTATION REQUIRED BY SUBSECTION (2)(a)(II) OF THIS  
7       SECTION MUST BE MADE TO THE STATE DEPARTMENT IN THE MANNER  
8       PRESCRIBED BY THE STATE DEPARTMENT AT THE TIME OF THE FUNCTIONAL  
9       ELIGIBILITY ASSESSMENT REQUIRED IN SUBSECTION (4) OF THIS SECTION.

10          (3) A NURSING FACILITY SHALL NOTIFY THE STATE DEPARTMENT  
11       WITHIN THREE BUSINESS DAYS OF AN INDIVIDUAL WHO IS ELIGIBLE TO  
12       TRANSITION OUT OF A NURSING FACILITY AFTER DETERMINING THE  
13       INDIVIDUAL'S ELIGIBILITY TO TRANSITION OUT OF THE NURSING FACILITY.

14          (4) (a) THE STATE DEPARTMENT MUST ASSESS AN INDIVIDUAL  
15       BEING DISCHARGED FROM A NURSING FACILITY TO DETERMINE WHETHER  
16       THE INDIVIDUAL IS FUNCTIONALLY ELIGIBLE FOR LONG-TERM SERVICES  
17       AND SUPPORTS PURSUANT TO THIS ARTICLE 6 WITHIN ONE BUSINESS DAY  
18       AFTER RECEIVING NOTIFICATION THAT THE INDIVIDUAL IS ELIGIBLE TO  
19       TRANSITION OUT OF A NURSING FACILITY. A FUNCTIONAL ELIGIBILITY  
20       DETERMINATION MUST BE MADE BEFORE HOUSING IS SECURED FOR THE  
21       INDIVIDUAL.

22          (b) IF THE STATE DEPARTMENT DETERMINES THAT AN INDIVIDUAL  
23       IS FUNCTIONALLY ELIGIBLE FOR LONG-TERM SERVICES AND SUPPORTS  
24       PURSUANT TO THIS ARTICLE 6 AND SUBSECTION (4)(a) OF THIS SECTION,  
25       AND THE INDIVIDUAL COMPLETED THE ATTESTATION REQUIRED IN  
26       SUBSECTION (2)(a)(II) OF THIS SECTION, THE STATE DEPARTMENT SHALL  
27       DETERMINE THAT THE INDIVIDUAL IS PRESUMPTIVELY ELIGIBLE TO

1 RECEIVE LONG-TERM SERVICES AND SUPPORTS PURSUANT TO THIS  
2 SECTION. THE STATE DEPARTMENT SHALL NOTIFY THE COUNTY  
3 DEPARTMENT THAT THE INDIVIDUAL IS PRESUMPTIVELY ELIGIBLE.

4 (c) UPON RECEIPT OF THE PRESUMPTIVE ELIGIBILITY  
5 DETERMINATION MADE PURSUANT TO SUBSECTION (4)(b) OF THIS SECTION  
6 AND WITHIN THREE BUSINESS DAYS AFTER RECEIVING THE NOTIFICATION,  
7 THE COUNTY DEPARTMENT MUST ENROLL THE INDIVIDUAL IN LONG-TERM  
8 SERVICES AND SUPPORTS THAT MEET THE INDIVIDUAL'S NEEDS. THE  
9 COUNTY DEPARTMENT SHALL NOT ENGAGE IN A FINANCIAL ELIGIBILITY  
10 DETERMINATION FOR THE INDIVIDUAL.

11 (5) THE INDIVIDUAL OR THE INDIVIDUAL'S LEGAL REPRESENTATIVE  
12 MUST SUBMIT AN APPLICATION FOR LONG-TERM SERVICES AND SUPPORTS  
13 TO THE STATE DEPARTMENT WITHIN TEN CALENDAR DAYS AFTER THE  
14 PRESUMPTIVE ELIGIBILITY DETERMINATION.

15 (6) IF AN INDIVIDUAL BEING DISCHARGED FROM A NURSING  
16 FACILITY IS DETERMINED TO BE PRESUMPTIVELY ELIGIBLE FOR SERVICES  
17 THROUGH A LONG-TERM CARE PROGRAM PURSUANT TO THIS ARTICLE 6,  
18 ANY PRIOR AUTHORIZATION REQUIRED FOR A SERVICE PROVIDER TO BILL  
19 FOR HOME HEALTH SERVICES RENDERED TO THE INDIVIDUAL MUST BE  
20 APPROVED BY THE STATE DEPARTMENT, AND THE NECESSARY SERVICES  
21 MUST BE IN PLACE PRIOR TO THE INDIVIDUAL'S DATE OF DISCHARGE FROM  
22 THE NURSING FACILITY.

23 (7) AFTER PRESUMPTIVE ELIGIBILITY IS DETERMINED FOR AN  
24 INDIVIDUAL, THE NURSING FACILITY MUST WORK WITH ALL APPROPRIATE  
25 ENTITIES TO ENSURE THE LONG-TERM SERVICES AND SUPPORTS THAT THE  
26 INDIVIDUAL REQUIRES ARE IN PLACE PRIOR TO THE INDIVIDUAL'S DATE OF  
27 DISCHARGE FROM THE NURSING FACILITY.

1           (8) THE PRESUMPTIVE ELIGIBILITY PERIOD BEGINS ON THE DATE  
2 THE INDIVIDUAL IS DETERMINED FUNCTIONALLY ELIGIBLE FOR LONG-TERM  
3 SERVICES AND SUPPORTS PURSUANT TO THIS ARTICLE 6 AND SUBSECTION  
4 (4)(a) OF THIS SECTION AND ENDS ON THE LATER OF:

5           (a) THE LAST DAY OF THE MONTH FOLLOWING THE MONTH OF THE  
6 PRESUMPTIVE ELIGIBILITY DETERMINATION IF A LONG-TERM SERVICE AND  
7 SUPPORT APPLICATION IS NOT COMPLETED AND SUBMITTED PURSUANT TO  
8 SUBSECTION (5) OF THIS SECTION WITHIN TEN CALENDAR DAYS AFTER THE  
9 PRESUMPTIVE ELIGIBILITY DETERMINATION; OR

10          (b) THE LAST DAY OF THE MONTH THAT FINAL ELIGIBILITY  
11 DETERMINATION IS MADE IF A LONG-TERM SERVICE AND SUPPORT  
12 APPLICATION IS SUBMITTED PURSUANT TO SUBSECTION (5) OF THIS  
13 SECTION WITHIN TEN CALENDAR DAYS AFTER THE PRESUMPTIVE  
14 ELIGIBILITY DETERMINATION.

15          (9) IF IT IS DETERMINED THAT AN INDIVIDUAL IS NOT ELIGIBLE FOR  
16 MEDICAL BENEFITS AFTER THE INDIVIDUAL WAS DETERMINED TO BE  
17 ELIGIBLE FOR SERVICES THROUGH A LONG-TERM CARE PROGRAM  
18 PURSUANT TO THIS ARTICLE 6 BASED ON PRESUMPTIVE ELIGIBILITY, THE  
19 STATE DEPARTMENT SHALL NOT PURSUE RECOVERY FROM A COUNTY  
20 DEPARTMENT FOR THE COST OF MEDICAL SERVICES PROVIDED TO THE  
21 INDIVIDUAL. THE COUNTY DEPARTMENT IS NOT RESPONSIBLE FOR ANY  
22 FEDERAL ERROR RATE SANCTIONS RESULTING FROM THE DETERMINATION.

23          (10) REDETERMINATION OF ELIGIBILITY FOR MEDICAL ASSISTANCE  
24 MUST TAKE PLACE ANNUALLY ON THE DATE THE MEMBER WAS INITIALLY  
25 ENROLLED IN THE STATE MEDICAL ASSISTANCE PROGRAM.

26          (11) ON OR BEFORE JANUARY 1, 2028, AND EACH JANUARY 1  
27 THEREAFTER, THE STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE

1 STATE AUDITOR AND POST THE REPORT ON THE STATE DEPARTMENT'S  
2 WEBSITE DETAILING THE FOLLOWING FOR THE PREVIOUS CALENDAR YEAR:

3 (a) THE NUMBER OF INDIVIDUALS DISCHARGED FROM A NURSING  
4 FACILITY WHO WERE DETERMINED TO BE PRESUMPTIVELY ELIGIBLE FOR  
5 LONG-TERM SERVICES AND SUPPORTS AS DESCRIBED IN THE STATE  
6 MEDICAL ASSISTANCE PROGRAM ESTABLISHED PURSUANT TO THIS ARTICLE  
7 6 AND ARTICLES 4 AND 5 OF THIS TITLE 25.5;

8 (b) HOW LONG IT TOOK FOR EACH PRESUMPTIVE ELIGIBILITY  
9 DETERMINATION TO BE MADE;

10 (c) HOW LONG IT TOOK TO DETERMINE FUNCTIONAL ELIGIBILITY  
11 AND FINANCIAL ELIGIBILITY FOR EACH INDIVIDUAL;

12 (d) FOR EACH INDIVIDUAL, THE NUMBER OF DAYS BETWEEN WHEN  
13 THE STATE DEPARTMENT NOTIFIED THE COUNTY DEPARTMENT THAT THE  
14 INDIVIDUAL WAS FUNCTIONALLY ELIGIBLE FOR LONG-TERM SERVICES AND  
15 SUPPORTS AND WHEN THE COUNTY DEPARTMENT ENROLLED THE  
16 INDIVIDUAL IN LONG-TERM SERVICES AND SUPPORTS;

17 (e) THE NUMBER OF INDIVIDUALS WHO WERE DETERMINED TO BE  
18 PRESUMPTIVELY ELIGIBLE FOR LONG-TERM SERVICES AND SUPPORTS AND  
19 DISCHARGED FROM A NURSING FACILITY WITHOUT LONG-TERM SERVICES  
20 AND SUPPORTS IN PLACE AND THE REASON THAT THE NECESSARY SERVICES  
21 AND SUPPORTS WERE NOT IN PLACE AT THE TIME OF THE INDIVIDUAL'S  
22 DISCHARGE FROM THE NURSING FACILITY; AND

23 (f) A LIST OF LOCAL SUPPORT AGENCIES, INCLUDING ANY OF THE  
24 STATE-CONTRACTED INDEPENDENT LIVING CENTERS, AREA AGENCY ON  
25 AGING CENTERS, OR OTHER COMMUNITY SUPPORT AGENCIES, THAT  
26 PROVIDE SERVICES TO THE ELDERLY, BLIND, OR DISABLED COMMUNITY.

27 (12) UPON RECEIPT OF THE REPORT SUBMITTED PURSUANT TO

1 SUBSECTION (11) OF THIS SECTION, THE STATE AUDITOR MAY CONDUCT AN  
2 AUDIT OF THE STATE DEPARTMENT FOR ANY DELAY DETAILED IN THE  
3 REPORT THAT RESULTED IN AN INDIVIDUAL BEING DISCHARGED FROM A  
4 NURSING FACILITY WITHOUT LONG-TERM SERVICES AND SUPPORTS IN  
5 PLACE.

6 (13) IF A COUNTY DEPARTMENT FAILS THREE TIMES WITHIN A  
7 CALENDAR YEAR TO ENROLL AN INDIVIDUAL IN LONG-TERM SERVICES AND  
8 SUPPORTS WITHIN THREE BUSINESS DAYS AFTER RECEIVING NOTIFICATION  
9 FROM THE STATE DEPARTMENT AS REQUIRED BY SUBSECTION (3)(c) OF  
10 THIS SECTION, THE STATE DEPARTMENT MAY TRANSFER THE  
11 RESPONSIBILITY TO ANOTHER AGENCY OR VENDOR.

12 (14) (a) IF A NURSING FACILITY FAILS TO DISCHARGE AN  
13 INDIVIDUAL ON THE DATE OF DISCHARGE DUE TO A FAILURE WITHIN THE  
14 NURSING FACILITY'S CONTROL OR FAILS TO COOPERATE IN GOOD FAITH  
15 WITH THE STATE DEPARTMENT TO ENSURE LONG-TERM CARE SERVICES  
16 AND SUPPORTS ARE IN PLACE FOR THE INDIVIDUAL ON THE INDIVIDUAL'S  
17 DATE OF DISCHARGE, THE STATE DEPARTMENT MAY ISSUE A BILLING  
18 PENALTY RESULTING IN THE NURSING FACILITY'S INABILITY TO BILL THE  
19 MEDICAL ASSISTANCE PROGRAM FOR UP TO A MAXIMUM OF SEVEN  
20 CALENDAR DAYS FOR THE SERVICES RENDERED AS A RESULT OF THE  
21 DELAY.

22 (b) THE PENALTY DESCRIBED IN SUBSECTION (14)(a) OF THIS  
23 SECTION DOES NOT APPLY IF THE DELAY WAS THE RESULT OF FACTORS  
24 BEYOND THE NURSING FACILITY'S CONTROL.

25 (15) THE STATE DEPARTMENT IS AUTHORIZED TO SEEK FEDERAL  
26 AUTHORIZATION TO ALLOW A NURSING FACILITY RESIDENT WHO REQUIRES  
27 SERVICES THROUGH A LONG-TERM CARE PROGRAM PURSUANT TO THIS

1 ARTICLE 6 UPON DISCHARGE FROM A NURSING FACILITY TO BE  
2 PRESUMPTIVELY ELIGIBLE FOR LONG-TERM SERVICES AND SUPPORTS AS  
3 DESCRIBED IN THE STATE MEDICAL ASSISTANCE PROGRAM ESTABLISHED  
4 PURSUANT TO THIS ARTICLE 6 AND ARTICLES 4 AND 5 OF THIS TITLE 25.5.  
5 IF FEDERAL AUTHORIZATION IS NEEDED TO IMPLEMENT THE  
6 REQUIREMENTS OF THIS SECTION, THIS SECTION DOES NOT TAKE EFFECT  
7 UNTIL FEDERAL AUTHORIZATION IS APPROVED.

8 (16) THE STATE DEPARTMENT SHALL MAKE ANY NECESSARY  
9 CHANGES TO THE STATE PLAN WAIVERS FOR HOME- AND  
10 COMMUNITY-BASED SERVICE PROGRAMS AND ANY OTHER FEDERAL  
11 AUTHORIZATIONS THAT ARE AUTHORIZED PURSUANT TO THIS ARTICLE 6 TO  
12 COMPLY WITH THIS SECTION.

13 (17) THE STATE DEPARTMENT SHALL SATISFY THE REQUIREMENTS  
14 OF THIS SECTION USING EXISTING RESOURCES OF THE STATE DEPARTMENT.

15 **SECTION 2. Act subject to petition - effective date.** This act  
16 takes effect at 12:01 a.m. on the day following the expiration of the  
17 ninety-day period after final adjournment of the general assembly (August  
18 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a  
19 referendum petition is filed pursuant to section 1 (3) of article V of the  
20 state constitution against this act or an item, section, or part of this act  
21 within such period, then the act, item, section, or part will not take effect  
22 unless approved by the people at the general election to be held in  
23 November 2026 and, in such case, will take effect on the date of the  
24 official declaration of the vote thereon by the governor.