



COLORADO CENTER
on LAW & POLICY

Justice and Economic Security for all Coloradans

Oppose HB10-1353 as introduced
March 1, 2010

Old Age Pension (OAP) is a state-funded program that provides financial assistance to low-income Colorado residents over age 60. HB1353 proposes a number of changes that will result in eliminating eligibility for certain legal immigrant OAP recipients. These changes could result in significant hardship for the recipients by not only eliminating financial assistance but also taking away associated health and medical benefits these recipients have been **lawfully granted** under Colorado law.

HB1353 proposes the following substantive changes

Institute a five-year waiting period before legal immigrants can apply for and receive OAP.

- **This change should not be made. If this change is made, amend HB1353 so it applies only to new applicants to OAP.** The five-year waiting period before accessing public benefits is an arbitrary provision of federal law dating back to welfare reform. There is **no reason** to implement the five-year waiting period for state-only programs. Creating a five-year bar for state programs could result in arbitrarily dumping recipients off the program and forcing them to wait a few years before reapplying. This is unjust and there is no sound reason in public policy for doing so. The federal government implemented the five-year bar prospectively when it adopted the provision in 1996.

Require that all sponsored immigrants count their sponsor's income for purposes of calculating eligibility for OAP.

- **Amend HB1353 to make this change apply prospectively, to only new OAP applicants.** Currently, Colorado law authorizes OAP payments to legal immigrants who meet eligibility criteria and allows immigrants with relative sponsors to not count their sponsor's income and resources. Because legal immigrants with relative sponsors have been lawfully applying for and receiving OAP benefits without counting the sponsor's income, it could create a significant hardship to now count this income thereby possibly eliminating OAP and health benefits to these immigrants.

Seek recovery from a sponsor for OAP benefits paid to an elder legal immigrant.

- **Amend HB1353 to make this change prospective. Require the department to provide adequate notice of potential recovery to recipients and sponsors.** Notwithstanding the existence of an affidavit of support, the law in Colorado is written such that legal immigrants can **lawfully** receive OAP, and such that legal immigrants with relative sponsors do not have to count the sponsor's income. It would be completely unjust and possibly financially devastating to go back and recover the payments.

Colorado Center on Law and Policy proposes this additional change to HB1353

- **Add language that precludes termination of health and medical benefits for OAP recipients who lose eligibility for financial assistance due to the changes in HB1353.** Medically supporting a legal immigrant old age pensioner may be far more difficult and expensive than the sponsor realized, especially in light of the rapid increase in medical costs and the age of the immigrant. Given the age of the immigrant, finding affordable coverage on individual market is much less likely.

Summary of current law related to OAP and legal immigrants

OAP was created by a 1936 amendment to the Colorado Constitution and amended in 1956 to create the OAP Health and Medical program. To qualify for OAP, an applicant must be older than 60, a resident of Colorado, a citizen or legal resident of the United States, and meet income and resource limits. OAP recipients can receive up to \$699 per month, as well as a limited medical benefit or Medicaid depending on the circumstances.

Currently, Colorado law authorizes OAP payments to legal immigrants who meet eligibility criteria, including the sponsor responsibility policies. The law on how income is counted for certain legal immigrants has become a patchwork because of the mingling of Colorado laws and federal law related to public benefits for immigrants. The Colorado Constitution, Article XXIV, Section 3 states "that no person otherwise qualified shall be denied a pension...for the reason that relatives may be financially able to contribute to the person's support and maintenance...." This exact provision is contained in statute at C.R.S. § 26-2-111(2)(b).

Because of this language and its application in statute to legal immigrants, it has been the lawful practice in Colorado that legal immigrants who meet the age and income requirements can receive OAP benefits and accompanying medical benefits without counting the income and resources of a sponsor who is a relative.