

September 23, 2019

Dear Medical Services Board:

The Colorado Cross Disability Coalition and Disability Law Colorado are writing today to express our strong opposition to the changes to the pooled trust regulations proposed by David Smith. The proposed changes will eliminate the right of individuals over the age of 65 to use pooled trusts and allow the Department of Health Care Policy and Financing (Department) to retain 50% of funds remaining in these trusts upon the death of the beneficiary; monies that currently go to a charitable fund operated by the Colorado Fund for People with Disabilities. If enacted the unnecessary, proposed changes will have a significant and negative impact on people with disabilities and older adults.

To begin with the Department seeks to eliminate the use of pooled trusts for people over 65 even though neither state nor federal law sets an age limit for pooled trust. Colorado Revised Statute 15-14-412.9 does not set an age limit for the establishment of a pooled trust and, at the federal level, 42 USC 1396p d(4)(c) does not limit the age for the establishment of a pooled trust. Setting such arbitrary age restrictions places an undue burden older people with disabilities, who now lose a benefit simply because they are over 65. We see no justification for this harmful change.

Second, allowing the Department to retain 50% of the funds in the trusts upon death, will dramatically reduce the charitable services that CFPD provides with those funds. These are programs such as case management services, representative payee services, and other programs that serve low-income individuals with disabilities across the state. These are services used by 1200 individuals with disabilities. To put the amount of funds that the Department is seeking to collect at the expense of people with disabilities into perspective, at a recent Medical Services Board it was estimated that the Department would recoup less than \$250,000.00. To a state department with a budget in the billions of dollars, this is a miniscule amount of money that is currently being used to have a substantial and positive impact on Coloradans with disabilities. Once again, we do not see a legal justification that requires the Department to take money from a highly reputable and well-run charitable fund.

The Colorado Cross Disability Coalition and Disability Law Colorado oppose the proposed regulations in the strongest possible terms. We ask that the Medical Services Board reject these harmful and unjustifiable changes.

Sincerely,



Mary Anne Harvey
Executive Director
Disability Law Colorado



Julie Reskin
Executive Director
Colorado Cross Disability Coalition