

CHAPTER 150

HEALTH CARE POLICY AND FINANCING

SENATE BILL 25-228

BY SENATOR(S) Amabile and Bridges, Kirkmeyer, Cutter, Exum, Michaelson Jenet, Mullica;
also REPRESENTATIVE(S) Bird and Sirota, Taggart, Stewart R., Story.

AN ACT

CONCERNING THE CREATION OF A CASH FUND WITHIN THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE FOR PREMIUMS PAID BY INDIVIDUALS TO BUY IN TO THE STATE MEDICAL ASSISTANCE PROGRAMS FOR LOW-INCOME INDIVIDUALS WITH DISABILITIES, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

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

SECTION 1. In Colorado Revised Statutes, 25.5-4-402.4, **amend** (2) introductory portion, (2)(f), (2)(g), (3)(a), (3)(d)(I), and (3)(d)(III); and **add** (3)(c)(III), (5.1), and (7)(g) as follows:

25.5-4-402.4. Hospitals - healthcare affordability and sustainability fee - Colorado healthcare affordability and sustainability enterprise - federal waiver - fund created - reports - rules - legislative declaration - repeal.
(2) Legislative declaration. The general assembly hereby finds and declares that:

(f) Consistent with the determination of the Colorado supreme court in *Nicholl v. E-470 Public Highway Authority*, 896 P.2d 859 (Colo. 1995), that the power to impose taxes is inconsistent with enterprise status under section 20 of article X of the state constitution, it is the conclusion of the general assembly that the healthcare affordability and sustainability fee AND THE MEDICAID BUY-IN PREMIUMS charged and collected by the Colorado healthcare affordability and sustainability enterprise ~~is a fee~~ ARE FEES, not ~~a tax~~ TAXES, because the ~~fee is~~ FEES ARE imposed for the specific purposes of allowing the enterprise to defray the costs of providing the business services specified in subsections (2)(d)(I), ~~and~~ (2)(d)(II), AND (2)(c) of this section to hospitals AND INDIVIDUALS that pay the ~~fee~~ FEES and ~~is~~ ARE collected at rates that are reasonably calculated based on the benefits received by those hospitals AND INDIVIDUALS; and

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(g) So long as the Colorado healthcare affordability and sustainability enterprise qualifies as an enterprise for purposes of section 20 of article X of the state constitution, the revenues from the ~~healthcare affordability and sustainability fee~~ FEES charged and collected by the enterprise are not state fiscal year spending, as defined in section 24-77-102 (17), or state revenues, as defined in section 24-77-103.6 (6)(c), and do not count against either the state fiscal year spending limit imposed by section 20 of article X of the state constitution or the excess state revenues cap, as defined in section 24-77-103.6 (6)(b)(I).

(3) Colorado healthcare affordability and sustainability enterprise. (a) The Colorado healthcare affordability and sustainability enterprise, referred to in this section as the "enterprise", is created. The enterprise is and operates as a government-owned business within the state department for the purpose of:

(I) Charging and collecting:

(A) The healthcare affordability and sustainability fee; AND

(B) MEDICAID BUY-IN PREMIUMS;

(II) Leveraging healthcare affordability and sustainability fee revenue to obtain federal matching money; and

(III) Utilizing and deploying:

(A) The healthcare affordability and sustainability fee revenue and federal matching money to provide the business services specified in subsections (2)(d)(I) and (2)(d)(II) of this section to hospitals that pay the healthcare affordability and sustainability fee; AND

(B) THE MEDICAID BUY-IN PREMIUM REVENUE TO PROVIDE THE MEDICAID BUY-IN PROGRAMS CREATED PURSUANT TO PART 14 OF ARTICLE 6 OF THIS TITLE 25.5 AND SECTION 25.5-5-206, WHICH ARE SERVICES AND BENEFITS SPECIFIED IN SUBSECTION (2)(c) OF THIS SECTION.

(c) (III) THE REPEAL OF THE MEDICAID BUY-IN CASH FUND, AS IT EXISTED IN SECTION 25.5-6-1404 (3)(b) BEFORE ITS REPEAL, EFFECTIVE MAY 1, 2025, BY THIS SENATE BILL 25-228, ENACTED IN 2025, AND THE ENTERPRISE'S ABILITY TO CHARGE AND COLLECT THE MEDICAID BUY-IN PREMIUMS AND PROVIDE PREMIUM-FUNDED BUSINESS SERVICES TO INDIVIDUALS AND HOSPITALS THAT REPLACE AND SUPPLEMENT SERVICES PREVIOUSLY FUNDED BOTH BY THE MEDICAID BUY-IN PREMIUMS AND THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE DO NOT CONSTITUTE CREATION OF A NEW ENTERPRISE OR THE QUALIFICATION OF AN EXISTING GOVERNMENT-OWNED BUSINESS AS AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, SECTION 24-77-103.6 (6)(b)(II), OR SECTION 24-77-108, AND, THEREFORE, DO NOT REQUIRE OR AUTHORIZE ADJUSTMENT OF THE STATE FISCAL YEAR SPENDING LIMIT CALCULATED PURSUANT TO SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION OR THE EXCESS STATE REVENUES CAP, AS DEFINED IN SECTION 24-77-103.6 (6)(b)(I), AND DO NOT REQUIRE VOTER APPROVAL.

(d) The enterprise's primary powers and duties are:

(I) To charge and collect:

(A) The healthcare affordability and sustainability fee as specified in subsection (4) of this section; AND

(B) THE MEDICAID BUY-IN PREMIUMS DESCRIBED IN SUBSECTION (5.1) OF THIS SECTION AND SECTIONS 25.5-5-206 AND 25.5-6-1404;

(III) To expend:

(A) Healthcare affordability and sustainability fee revenue, matching federal money, and any other money from the healthcare affordability and sustainability fee cash fund as specified in subsections (4) and (5) of this section; AND

(B) MEDICAID BUY-IN PREMIUM REVENUE FROM THE BUY-IN FUND AS SPECIFIED IN SUBSECTION (5.1) OF THIS SECTION;

(5.1) Healthcare affordability and sustainability medicaid buy-in cash fund.

(a) THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY MEDICAID BUY-IN CASH FUND, REFERRED TO IN THIS SECTION AS THE "BUY-IN FUND", IS CREATED IN THE STATE TREASURY. THE BUY-IN FUND CONSISTS OF THE PREMIUMS CREDITED TO THE BUY-IN FUND PURSUANT TO SECTIONS 25.5-5-206 AND 25.5-6-1404 AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE BUY-IN FUND. MONEY IN THE BUY-IN FUND SHALL NOT BE TRANSFERRED TO ANY OTHER FUND AND SHALL NOT BE USED FOR ANY PURPOSE OTHER THAN THE PURPOSES SPECIFIED IN THIS SUBSECTION (5.1).

(b) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE BUY-IN FUND TO THE BUY-IN FUND.

(c) SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY, THE ENTERPRISE MAY EXPEND MONEY FROM THE BUY-IN FUND FOR THE PURPOSE OF PROVIDING THE MEDICAID BUY-IN PROGRAMS CREATED PURSUANT TO PART 14 OF ARTICLE 6 OF THIS TITLE 25.5 AND SECTION 25.5-5-206.

(7) Colorado healthcare affordability and sustainability enterprise board.

(g) (I) THE MEDICAID BUY-IN ENTERPRISE SUPPORT BOARD IS CREATED WITHIN THE ENTERPRISE FOR THE PURPOSE OF SUPPORTING THE ENTERPRISE BOARD WITH THE IMPLEMENTATION OF THE MEDICAID BUY-IN PROGRAMS. THE MEDICAID BUY-IN ENTERPRISE SUPPORT BOARD CONSISTS OF FIVE MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, AS FOLLOWS:

(A) ONE MEMBER WHO IS A REPRESENTATIVE OF PERSONS WITH DISABILITIES, WHO IS LIVING WITH A DISABILITY;

(B) TWO MEMBERS WHO ARE REPRESENTATIVES OF A DISABILITY RIGHTS ORGANIZATION OR A DISABLED PERSONS CONSUMER ADVOCACY ORGANIZATION;

(C) ONE EMPLOYEE OF THE STATE DEPARTMENT; AND

(D) ONE EMPLOYEE OF THE DEPARTMENT OF LABOR AND EMPLOYMENT CREATED IN SECTION 24-1-121.

(II) (A) MEMBERS OF THE MEDICAID BUY-IN ENTERPRISE SUPPORT BOARD SERVE AT THE PLEASURE OF THE GOVERNOR. ALL TERMS ARE FOR FOUR YEARS. A MEMBER WHO IS APPOINTED TO FILL A VACANCY SHALL SERVE THE REMAINDER OF THE UNEXPIRED TERM OF THE FORMER MEMBER.

(B) THE GOVERNOR SHALL MAKE THE INITIAL APPOINTMENTS TO THE MEDICAID BUY-IN ENTERPRISE SUPPORT BOARD AS SOON AS PRACTICAL FOLLOWING MAY 1, 2025.

(III) THE MEDICAID BUY-IN ENTERPRISE SUPPORT BOARD SHALL ELECT A CHAIR AND A VICE-CHAIR FROM AMONG ITS MEMBERS.

(IV) ON BEHALF OF THE ENTERPRISE, THE MEDICAID BUY-IN ENTERPRISE SUPPORT BOARD SHALL CONSULT WITH THE STATE DEPARTMENT AND THE STATE BOARD ON THE AMOUNT OF THE PREMIUMS FOR AND OTHER COMPONENTS OF THE MEDICAID BUY-IN PROGRAMS CREATED PURSUANT TO PART 14 OF ARTICLE 6 OF THIS TITLE 25.5 AND SECTION 25.5-5-206.

(V) MEMBERS OF THE MEDICAID BUY-IN ENTERPRISE SUPPORT BOARD SERVE WITHOUT COMPENSATION BUT MUST BE REIMBURSED FROM MONEY IN THE BUY-IN FUND FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES PURSUANT TO THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 25.5-5-206, **add** (3) as follows:

25.5-5-206. Medicaid buy-in program - disabled children - disabled adults - federal authorization - rules. (3) ANY PREMIUMS OR COST-SHARING CHARGES PAID FOR THE MEDICAID BUY-IN PROGRAMS ESTABLISHED PURSUANT TO THIS SECTION ARE CREDITED TO THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY MEDICAID BUY-IN CASH FUND CREATED IN SECTION 25.5-4-402.4 (5.1).

SECTION 3. In Colorado Revised Statutes, 25.5-6-1404, **amend** (3)(a) and (3)(b) as follows:

25.5-6-1404. Medicaid buy-in program - eligibility - premiums - medicaid buy-in fund - report - rules - repeal. (3) **Premiums.** (a) An individual who is eligible for and receives medicaid under subsection (1) of this section shall pay a premium pursuant to a payment schedule established by the state department IN CONSULTATION WITH THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3)(a). The amount of the premium shall be determined from a sliding-fee scale adopted by rule of the state board that is based on a percentage of the individual's income adjusted for family size and on any impairment-related work expenses; except that, consistent with federal law, if the amount of the individual's adjusted gross income exceeds seventy-five thousand dollars, the individual shall be responsible for paying one hundred percent of the premium. The rules shall specify the amount of unearned

income the state department shall disregard in calculating the individual's income. PREMIUMS ARE CREDITED TO THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY MEDICAID BUY-IN CASH FUND CREATED IN SECTION 25.5-4-402.4 (5.1) FOR THE PURPOSE OF OFFSETTING PROGRAM COSTS.

(b) (I) The rules setting the premiums and the sliding-fee scale ~~shall~~ MUST be based on an actuarial study of the disabled population in this state. The state department may solicit and accept federal grants to cover the costs of the actuarial study. ~~Moneys MONEY received through any grants and any premiums shall be~~ IS credited to the medicaid buy-in cash fund, which fund is ~~hereby~~ created in the state treasury. ~~Moneys MONEY in the fund shall be~~ IS appropriated by the general assembly and expended by the state department for the purpose of conducting implementation activities as determined by the state department, including conducting the actuarial study. ~~Premiums shall be credited to the fund for the purpose of offsetting program costs.~~

(II) ON JUNE 30, 2025, THE STATE TREASURER SHALL TRANSFER THE BALANCE OF THE MEDICAID BUY-IN CASH FUND TO THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY MEDICAID BUY-IN CASH FUND CREATED IN SECTION 25.5-4-402.4 (5.1).

(III) THIS SUBSECTION (3)(b) IS REPEALED, EFFECTIVE JULY 1, 2025.

SECTION 4. In Colorado Revised Statutes, 25.5-6-1405, **amend** (1) as follows:

25.5-6-1405. Rule-making authority. (1) The state board shall promulgate rules necessary to implement and administer the medicaid buy-in program created in this part 14, including, IN CONSULTATION WITH THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE CREATED IN SECTION 25.5-4-402.4 (3)(a), the establishment of appropriate premium and cost-sharing charges on a sliding-fee scale based on income. The premiums and cost-sharing charges shall be based upon an actuarial study of the disabled population in this state.

SECTION 5. Appropriation - adjustments to 2025 long bill. (1) To implement this act, appropriations made in the annual general appropriation act for the 2025-26 state fiscal year to the department of health care policy and financing are adjusted as follows:

(a) The cash funds appropriation from the Medicaid buy-in cash fund created in section 25.5-6-1404 (3)(b), C.R.S., for medical and long-term care services for Medicaid-eligible individuals is decreased by \$6,660,761.

(b) The cash funds appropriation from the healthcare affordability and sustainability Medicaid buy-in cash fund created in section 25.5-4-402.4 (5.1)(a), C.R.S., for medical and long-term care services for Medicaid-eligible individuals is increased by \$6,660,761.

(2) To implement this act, appropriations made in the annual general appropriation act for the 2024-25 state fiscal year to the department of health care policy and financing, as amended by Senate Bill 25-206, enacted in 2025, are adjusted as follows:

(a) The cash funds appropriation from the Medicaid buy-in cash fund created in section 25.5-6-1404 (3)(b), C.R.S., for medical and long-term care services for Medicaid-eligible individuals is decreased by \$1,110,126.

(b) The cash funds appropriation from the healthcare affordability and sustainability Medicaid buy-in cash fund created in section 25.5-4-402.4 (5.1)(a), C.R.S., for medical and long-term care services for Medicaid-eligible individuals is increased by \$1,110,126.

SECTION 6. Effective date. This act takes effect May 1, 2025.

SECTION 7. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: April 30, 2025