

CHAPTER 276

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 25-1213

BY REPRESENTATIVE(S) Feret and Weinberg, Bacon, Bird, Boesenecker, Duran, English, Garcia, Gonzalez R., Jackson, Joseph, Lieder, Lindstedt, Ricks, Stewart K., Stewart R., Titone, McCluskie, Brown, Gilchrist, Lindsay, Phillips, Rutinel, Story, Zokaie;
also SENATOR(S) Daugherty and Ball, Amabile, Michaelson Jenet.

AN ACT**CONCERNING CHANGES TO THE MEDICAL ASSISTANCE PROGRAM.**

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

SECTION 1. In Colorado Revised Statutes, 10-16-1203, **amend** (12)(c) as follows:

10-16-1203. Definitions. As used in this part 12, unless the context otherwise requires:

(12) "Qualified individual" means an individual, regardless of immigration status, who:

(c) Is not eligible for the premium tax credit, medicaid, medicare, or the children's basic health plan, EXCEPT FOR INDIVIDUALS ELIGIBLE PURSUANT TO SECTION 25.5-5-201 (6) OR SECTION 25.5-8-109 (7).

SECTION 2. In Colorado Revised Statutes, 25-27-104, **add** (3) as follows:

25-27-104. Minimum standards for assisted living residences - rules - definition. (3)(a) RULES ADOPTED BY THE STATE BOARD PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST EXEMPT AN ASSISTED LIVING RESIDENCE FROM COMPLYING WITH THE FACILITY GUIDELINE INSTITUTE (FGI) GUIDELINES, EXCEPT IN THE CASE OF NEW CONSTRUCTION OR MAJOR RENOVATIONS. AN ASSISTED LIVING RESIDENCE MUST STILL COMPLY WITH ALL OTHER FIRE AND LOCAL BUILDING CODES AND THE STANDARDS OUTLINED IN THIS SECTION.

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.

(b) FOR PURPOSES OF SUBSECTION (3)(a) OF THIS SECTION, "MAJOR RENOVATIONS" MEANS ADDITIONS TO A BUILDING'S STRUCTURE OR CHANGES THAT AFFECT THE STRUCTURAL INTEGRITY OF THE BUILDING. MAJOR RENOVATIONS DO NOT INCLUDE CHANGING THE FUNCTIONAL OPERATION OF A SPACE IF NO CONSTRUCTION IS COMPLETED AND THE FLOOR PLAN OF THE BUILDING REMAINS THE SAME. IT ALSO DOES NOT INCLUDE ADDING BEDS TO ACCOMMODATE MORE RESIDENTS OR UPGRADES TO THE HEATING OR COOLING SYSTEMS AND ELECTRICAL SYSTEMS IF THOSE IMPROVEMENTS DO NOT REQUIRE CONSTRUCTION.

SECTION 3. In Colorado Revised Statutes, **add** 25.5-1-136 as follows:

25.5-1-136. Billing manual. USING EXISTING RESOURCES ALLOCATED FOR BILLING MANUAL REVIEWS, THE STATE DEPARTMENT SHALL ESTABLISH A PROCESS TO REVIEW AND UPDATE THE GENERAL BILLING MANUAL ON AN ANNUAL BASIS, WHICH MUST ENSURE THAT THE GENERAL BILLING MANUAL INCLUDES ALL NECESSARY CPT CODES, OR PROVIDES LINKS TO THE STATE DEPARTMENT'S LIST OF CPT CODES.

SECTION 4. In Colorado Revised Statutes, 25.5-4-402.4, **amend** (2)(f), (3)(d)(V), (3)(d)(VI), (3)(d)(VII), (4)(b) introductory portion, (4)(b)(II), (5)(a), (5)(b)(VI)(B), (6)(a)(I), (6)(b)(II), and (6)(c); **amend as they will become effective July 1, 2025**, (4)(a) introductory portion and (5)(b)(VI)(D); and **add** (2)(f.5), (3)(d)(VIII), (5)(b)(I.5), and (10) as follows:

25.5-4-402.4. Hospitals - healthcare affordability and sustainability fee - receipt of public funds - 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 charged and collected by the Colorado healthcare affordability and sustainability enterprise is a fee, not a tax, because the fee is 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) of this section to hospitals that pay the fee and is collected at rates that are reasonably calculated based on the benefits received by those hospitals; ~~and~~

(f.5) TRANSFERS FROM GOVERNMENTAL HEALTH-CARE PROVIDERS TO THE ENTERPRISE THROUGH A MUTUALLY EXECUTED AGREEMENT, AND AS AUTHORIZED BY 42 CFR 433.51, ARE NOT "GRANTS" UNDER SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION BECAUSE:

(I) PARTICIPATING PROVIDERS RECEIVE FEDERAL FUNDS AND OTHER BUSINESS SERVICES AS DESCRIBED IN THIS SECTION; AND

(II) SUCH TRANSFERS MUST BE REPAID IF THEY ARE NOT UTILIZED OR APPROVED,

AND THUS DO NOT MEET THE DEFINITION OF "GRANT" SET FORTH IN SECTION 24-77-102; AND

(3) Colorado healthcare affordability and sustainability enterprise. (d) The enterprise's primary powers and duties are:

(V) To enter into agreements with the state department to the extent necessary to ~~collect and expend~~ MONEY FROM THE healthcare affordability and sustainability fee ~~revenue~~ CASH FUND;

(VI) To engage the services of private persons or entities serving as contractors, consultants, and legal counsel for professional and technical assistance and advice and to supply other services related to the conduct of the affairs of the enterprise, including the provision of additional business services to hospitals as specified in subsection (4)(a)(IV) of this section; ~~and~~

(VII) To adopt and amend or repeal policies for the regulation of its affairs and the conduct of its business consistent with the provisions of this section; AND

(VIII) TO RECEIVE PUBLIC FUNDS AS DESCRIBED IN SUBSECTION (4) OF THIS SECTION.

(4) Healthcare affordability and sustainability fee. (a) For the fiscal year commencing July 1, 2017, and for each fiscal year thereafter, the enterprise is authorized to charge and collect a healthcare affordability and sustainability fee, as described in 42 CFR 433.68 (b), OR AS OTHERWISE IN COMPLIANCE WITH 42 CFR 433, on outpatient and inpatient services provided by all licensed or certified hospitals, referred to in this section as "hospitals", AND RECEIVE PUBLIC FUNDS AS DESCRIBED IN 42 CFR 433.51, for the purpose of obtaining federal financial participation under the state medical assistance program as described in this article 4 and articles 5 and 6 of this title 25.5, referred to in this section as the "state medical assistance program", including disproportionate share hospital payments pursuant to 42 U.S.C. sec. 1396r-4. If the amount of healthcare affordability and sustainability fee revenue collected exceeds the federal net patient revenue-based limit on the amount of such fee revenue that may be collected, requiring repayment to the federal government of excess federal matching money received, hospitals that received such excess federal matching money are responsible for repaying the excess federal money and any associated federal penalties to the federal government. The enterprise shall use the healthcare affordability and sustainability fee revenue to:

(b) The enterprise shall recommend for approval and establishment by the state board the amount of the healthcare affordability and sustainability fee that it intends to charge and collect AND THE AMOUNT OF PUBLIC FUNDS THAT IT INTENDS TO RECEIVE. The state board must establish the final amount of the fee by rules promulgated in accordance with article 4 of title 24. The state board shall not establish any amount that exceeds the federal limit for such fees OR PUBLIC FUNDS. The state board may deviate from the recommendations of the enterprise, but shall express in writing the reasons for any deviations. In establishing the amount of the fee and in promulgating the rules governing the fee, the state board shall:

(II) Establish the amount of the healthcare affordability and sustainability fee AND PUBLIC FUNDS so that the amount collected from the fee, THE AMOUNT RECEIVED FROM PUBLIC FUNDS, and federal matching funds associated with the fee AND PUBLIC FUNDS are sufficient to pay for the items described in subsection (4)(a) of this section, but nothing in this subsection (4)(b)(II) requires the state board to increase the HEALTHCARE AFFORDABILITY AND SUSTAINABILITY fee OR THE AMOUNT OF PUBLIC FUNDS TO BE RECEIVED above the ~~amount~~ AMOUNTS recommended by the enterprise; and

(5) Healthcare affordability and sustainability fee cash fund. (a) Any healthcare affordability and sustainability fee collected OR PUBLIC FUNDS RECEIVED pursuant to this section by the enterprise must be transmitted to the state treasurer, who shall credit the fee OR PUBLIC FUNDS to the healthcare affordability and sustainability fee cash fund, which fund is hereby created and referred to in this section as the "fund". The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. The state treasurer shall invest any money in the fund not expended for the purposes specified in subsection (5)(b) of this section as provided by law. Money in the 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) and in subsection (4) of this section.

(b) All money in the fund is subject to federal matching as authorized under federal law and, subject to annual appropriation by the general assembly, shall be expended by the enterprise for the following purposes:

(I.5) TO MAXIMIZE THE INPATIENT AND OUTPATIENT HOSPITAL REIMBURSEMENTS, AS PERMITTED IN 42 CFR 438.6(c);

(VI) To pay the enterprise's actual administrative costs of implementing and administering this section, including but not limited to the following costs:

(B) The enterprise's actual costs related to implementing and maintaining the healthcare affordability and sustainability fee AND RECEIPT OF PUBLIC FUNDS, including personal services, operating, and consulting expenses;

(D) The enterprise's personal services and operating costs related to personnel, consulting services, and for review of hospital costs necessary to implement and administer the increases in inpatient and outpatient hospital payments made pursuant to ~~subsection (5)(b)(I)~~ SUBSECTIONS (5)(b)(I) AND (5)(b)(I.5) of this section, disproportionate share hospital payments made pursuant to subsection (5)(b)(II) of this section, and quality incentive payments made pursuant to subsection (5)(b)(III) of this section;

(6) Appropriations. (a) (I) Except as otherwise provided in subsection (6)(b)(I.5) or (6)(b)(I.7) of this section, the healthcare affordability and sustainability fee ~~is~~ AND PUBLIC FUNDS ARE to supplement, not supplant, general fund appropriations to support hospital reimbursements. General fund appropriations for hospital reimbursements shall be maintained at the level of appropriations in the medical services premium line item made for the fiscal year commencing July 1, 2008; except that general fund appropriations for hospital reimbursements may be reduced if an index of appropriations to other providers shows that general fund

appropriations are reduced for other providers. If the index shows that general fund appropriations are reduced for other providers, the general fund appropriations for hospital reimbursements shall not be reduced by a greater percentage than the reductions of appropriations for the other providers as shown by the index.

(b) If the revenue from the healthcare affordability and sustainability fee is insufficient to fully fund all of the purposes described in subsection (5)(b) of this section:

(II) The hospital provider reimbursement and quality incentive payment increases described in ~~subsections (5)(b)(I) to (5)(b)(III)~~ SUBSECTIONS (5)(b)(I), (5)(b)(II), AND (5)(b)(III) of this section and the costs described in subsection (5)(b)(VI) of this section shall be fully funded using revenue from the healthcare affordability and sustainability fee and federal matching funds before any eligibility expansion is funded; and

(c) Notwithstanding any other provision of this section, if, after receipt of authorization to receive federal matching funds for money in the fund, the authorization is withdrawn or changed so that federal matching funds are no longer available, the enterprise shall cease collecting the healthcare affordability and sustainability fee AND RECEIVING PUBLIC FUNDS and shall repay to the hospitals any money received by the fund that is not subject to federal matching funds.

(10) State-directed payments program - funding and implementation. THE ENTERPRISE, ACTING IN CONCERT WITH, OR THROUGH AN AGREEMENT WITH, THE STATE DEPARTMENT, IF REQUIRED BY FEDERAL LAW, SHALL SEEK A STATE PLAN AMENDMENT OR ANY FEDERAL AUTHORIZATION NECESSARY TO FUND AND, IN COOPERATION WITH THE STATE DEPARTMENT AND HOSPITALS, SUPPORT THE IMPLEMENTATION OF A STATE-DIRECTED PAYMENT PROGRAM IN COMPLIANCE WITH 42CFR 438.6(c) THAT COMPLIES WITH ALL FEDERAL REQUIREMENTS FOR FINANCING OF THE NON-FEDERAL SHARE AND SHALL SUPPORT A TOTAL PAYMENT RATE FOR EACH STATE-DIRECTED PAYMENT THAT DOES NOT EXCEED THE AVERAGE COMMERCIAL RATE AND IS DISTRIBUTED PURSUANT TO THE REQUIREMENTS OF SUBSECTION (5) OF THIS SECTION.

SECTION 5. In Colorado Revised Statutes, 25.5-5-402, **add** (7.3) as follows:

25.5-5-402. Statewide managed care system - rules - definitions. (7.3) (a) BEGINNING JANUARY 1, 2026, FOR A CLAIM THAT MUST BE REPROCESSED AS A RESULT OF UPDATING THE PROVIDER RATES, AN MCO SHALL ISSUE PAYMENT TO THE CONTRACTED PROVIDER WITHIN ONE YEAR AFTER THE PROVIDER RATE IS UPDATED.

(b) THE STATE DEPARTMENT SHALL NOTIFY THE MCOs OF ANY CHANGE TO THE PROVIDER RATES WITHIN SIXTY DAYS OF CHANGING THE PROVIDER RATES.

SECTION 6. In Colorado Revised Statutes, **add** 25.5-5-427 as follows:

25.5-5-427. Managed care entities - disclosure of payment and medical loss ratio - definition. (1) THE STATE DEPARTMENT SHALL INCLUDE IN EACH NEW CONTRACT WITH, OR RENEWAL OF A CONTRACT WITH, AN MCE A PROVISION

REQUIRING THE MCE TO SUBMIT TO THE STATE DEPARTMENT, ON AN ANNUAL BASIS, THE AMOUNT THE MCE IS PAID FOR DELIVERING SERVICES AND THE MCE'S MEDICAL LOSS RATIO.

(2) THE STATE DEPARTMENT SHALL ANNUALLY PUBLISH THE FOLLOWING INFORMATION ON ITS WEBSITE:

(a) THE INFORMATION RECEIVED PURSUANT TO SUBSECTION (1) OF THIS SECTION;

(b) HISTORICAL MEDICAL LOSS RATIO DATA FOR EACH MCE; AND

(c) AUDIT FINDINGS REGARDING AN MCE'S MOST RECENTLY COMPLETED MEDICAL LOSS RATIO AUDIT.

(3) FOR PURPOSES OF SUBSECTION (1) OF THIS SECTION, "MEDICAL LOSS RATIO" MEANS THE PERCENTAGE OF PREMIUM REVENUE THAT THE MCE SPENDS ON HEALTH-CARE SERVICES AND QUALITY IMPROVEMENT ACTIVITIES.

SECTION 7. In Colorado Revised Statutes, **add** 25.5-6-118 as follows:

25.5-6-118. Plan of care - rehabilitation therapy - requirements - definition.

(1) AS USED IN THE SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "PLAN OF CARE" HAS THE SAME MEANING AS SET FORTH IN SECTION 25.5-6-403.

(2) THE STATE DEPARTMENT SHALL NOT IMPOSE SIGNATURE REQUIREMENTS BEYOND WHAT IS REQUIRED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES PURSUANT TO 42 CFR 409.43 ON A PHYSICIAN OR PRACTITIONER CERTIFYING A MEMBER'S PLAN OF CARE THAT INVOLVES PHYSICAL THERAPY, OCCUPATIONAL THERAPY, OR SPEECH THERAPY SERVICES.

SECTION 8. In Colorado Revised Statutes, **add** 25.5-6-119 as follows:

25.5-6-119. Long-term care for members with permanent disability. (1) FOR A MEMBER RECEIVING SERVICES THROUGH A LONG-TERM CARE PROGRAM PURSUANT TO PARTS 3 TO 10 OF THIS ARTICLE 6, IF A SERVICE THE MEMBER RECEIVES IS DISCONTINUED OR IS NO LONGER A COVERED SERVICE, THE STATE DEPARTMENT MUST CONFIRM THE TIMELINE FOR CONTINUITY OF TREATMENT WITH THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID DURING THE TRANSITION PERIOD OF THE BENEFIT OR SERVICE BEING DISCONTINUED. UPON CONFIRMATION, THE STATE DEPARTMENT SHALL COMMUNICATE THE TIMELINE TO THE MEMBER IMPACTED BY THE BENEFIT OR SERVICE BEING DISCONTINUED.

(2) THIS SECTION APPLIES TO MEMBERS WHO ARE FUNCTIONALLY AND FINANCIALLY ELIGIBLE TO RECEIVE LONG-TERM CARE SERVICES PURSUANT TO PARTS 3 TO 10 OF THIS ARTICLE 6.

SECTION 9. In Colorado Revised Statutes, 25.5-6-2001, **amend** (2)(a), (2)(c)(II), (2)(c)(III), (3)(a), and (7)(b) as follows:

25.5-6-2001. System of care for children and youth - federal authorization - leadership and implementation team - report - rules - definition. (2) (a) ~~No~~

~~later than November 1, 2024,~~ The state department shall convene a leadership team that is responsible for ~~the decision-making and oversight~~ ADVISING AND REVIEWING THE DEVELOPMENT AND OPERATION of the system of care for children and youth who have complex behavioral health needs.

(c) The leadership team has the following duties and responsibilities:

(II) To ~~oversee and advise~~ REVIEW AND ADVISE ON the strategic direction of the development of the system of care; and

(III) To ~~provide fiscal oversight of the state department's development and oversight of the system of care~~ REVIEW AND COMMENT ON THE STATE DEPARTMENT'S FISCAL DEVELOPMENT AND OVERSIGHT OF THE SYSTEM OF CARE.

(3) (a) ~~No later than October 1, 2024,~~ The state department shall convene an implementation team that shall create a plan UTILIZING THE RECOMMENDATIONS FROM THE LEADERSHIP TEAM, AS APPROPRIATE, to implement the system of care for children and youth who have complex behavioral health needs.

(7) (b) Beginning January 2025, and each quarter thereafter, the state department shall report progress on the development and implementation of the system of care developed pursuant to this section to the joint budget committee, THE IMPLEMENTATION TEAM, THE LEADERSHIP TEAM, THE SENATE HEALTH AND HUMAN SERVICES COMMITTEE, AND THE HOUSE OF REPRESENTATIVES HEALTH AND HUMAN SERVICES COMMITTEE. THE REPORT REQUIRED BY THIS SUBSECTION (7)(b) MUST INCLUDE THE RATIONALE FOR ANY RECOMMENDATION FROM THE LEADERSHIP TEAM THAT THE DEPARTMENT ELECTS NOT TO IMPLEMENT.

SECTION 10. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 28, 2025