

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

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-1243.01 Jerry Barry x4341

SENATE BILL 18-266

SENATE SPONSORSHIP

Lundberg, Lambert, Moreno

HOUSE SPONSORSHIP

Young, Hamner, Rankin

Senate Committees
Appropriations

House Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING CONTROLLING COSTS UNDER THE "COLORADO MEDICAL**
102 **ASSISTANCE ACT", AND, IN CONNECTION THEREWITH, USING**
103 **DATA AND TECHNOLOGY, CREATING A HOSPITAL REVIEW**
104 **PROGRAM, AND MAKING AND REDUCING AN APPROPRIATION.**

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/>.)

Joint Budget Committee. The bill directs the department of health care policy and financing (department) to provide information to providers participating in the accountable care collaborative regarding:

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

HOUSE
3rd Reading Unamended
May 3, 2018

HOUSE
Amended 2nd Reading
May 2, 2018

SENATE
3rd Reading Unamended
April 30, 2018

SENATE
Amended 2nd Reading
April 27, 2018

- ! Cost and quality of medical services provided by hospitals and other medicaid providers; and
- ! Cost and quality of available pharmaceuticals prescribed by medicaid providers.

The department may make the same information available to other medicaid providers.

The department shall automatically review claims to identify and correct improper coding prior to payment and may obtain commercial technology to conduct the reviews.

The department is authorized to pursue cost-control strategies, value-based payments, and other approaches to reduce the rate of expenditure growth in the medicaid program. The department shall allow recipients, providers, and stakeholders an opportunity to comment and shall report to the joint budget committee prior to implementing any strategies or measures. The department is required to contract for an independent evaluation of any measures pursued and to provide reports to the joint budget committee on the evaluations.

Subject to federal approval, the department is also directed to design and implement an evidence-based hospital review program to ensure that utilization of hospital services is based on a recipient's need for care. Prior to implementing any changes, the department shall allow recipients, providers, and stakeholders an opportunity to comment and shall report to the joint budget committee. The department shall also report to the joint budget committee on the estimated savings from the changes.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-4-419 as
3 follows:

4 **25.5-4-419. Cost control - legislative intent - use of technology**
5 **- stakeholder feedback - reporting - rules.** (1) IT IS THE INTENT OF THE
6 GENERAL ASSEMBLY THAT:

7 (a) THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
8 PURSUES STRATEGIES TO CONTROL COSTS IN THE MEDICAID PROGRAM
9 AUTHORIZED IN THE "COLORADO MEDICAL ASSISTANCE ACT";

10 (b) THE STATE DEPARTMENT DEDICATES PERMANENT STAFF AND
11 RESOURCES TO PURSUE COST-CONTROL STRATEGIES, VALUE-BASED

1 PAYMENTS, AND OTHER APPROACHES TO REDUCE THE RATE OF
2 EXPENDITURE GROWTH IN THE MEDICAID PROGRAM; AND

3 (c) THIS SECTION DOES NOT PRECLUDE THE STATE DEPARTMENT
4 FROM PURSUING OTHER COST-CONTAINMENT ACTIVITIES THAT ARE NOT
5 SPECIFICALLY DESCRIBED IN THIS SECTION.

6 (2) (a) THE STATE DEPARTMENT SHALL PROVIDE INFORMATION
7 REGARDING MEDICAID EXPENDITURES AND THE QUALITY OF MEDICAL
8 SERVICES PROVIDED BY PROVIDERS PARTICIPATING IN THE MEDICAID
9 PROGRAM TO PROVIDERS PARTICIPATING IN THE ACCOUNTABLE CARE
10 COLLABORATIVE PURSUANT TO SECTION 25.5-5-419.

11 (b) THE STATE DEPARTMENT SHALL PROVIDE INFORMATION
12 REGARDING MEDICAID EXPENDITURES AND THE QUALITY OF AVAILABLE
13 PHARMACEUTICALS PRESCRIBED BY PROVIDERS PARTICIPATING IN THE
14 MEDICAID PROGRAM TO PROVIDERS PARTICIPATING IN THE ACCOUNTABLE
15 CARE COLLABORATIVE PURSUANT TO SECTION 25.5-5-419.

16 (c) THE STATE DEPARTMENT MAY PROVIDE THE INFORMATION
17 DESCRIBED IN SUBSECTIONS (2)(a) AND (2)(b) OF THIS SECTION TO OTHER
18 PROVIDERS PARTICIPATING IN THE MEDICAID PROGRAM.

19 (3) (a) THE STATE DEPARTMENT SHALL UTILIZE THE MEDICAID
20 MANAGEMENT INFORMATION SYSTEM TO ENSURE THAT CLAIMS ARE
21 AUTOMATICALLY REVIEWED PRIOR TO PAYMENT TO IDENTIFY AND
22 CORRECT IMPROPER CODING THAT LEADS TO INAPPROPRIATE PAYMENT IN
23 MEDICAID CLAIMS.

24 (b) THE STATE DEPARTMENT MAY PROCURE COMMERCIAL
25 TECHNOLOGY TO IMPLEMENT THE REQUIREMENTS OF SUBSECTION (3)(a)
26 OF THIS SECTION.

27 (4) (a) THE STATE DEPARTMENT SHALL PURSUE COST-CONTROL

1 STRATEGIES, VALUE-BASED PAYMENTS, AND OTHER APPROACHES TO
2 REDUCE THE RATE OF EXPENDITURE GROWTH IN THE MEDICAID PROGRAM.

3 (b) PRIOR TO IMPLEMENTING AND REPORTING ON ANY NEW
4 MEASURES AUTHORIZED BY THIS SECTION, THE STATE DEPARTMENT SHALL
5 PROVIDE AN OPPORTUNITY FOR AFFECTED RECIPIENTS, PROVIDERS, AND
6 STAKEHOLDERS TO PROVIDE FEEDBACK AND MAKE RECOMMENDATIONS ON
7 THE STATE DEPARTMENT'S PROPOSED IMPLEMENTATION.

8 (5) BY NOVEMBER 1, 2018, THE STATE DEPARTMENT SHALL
9 PROVIDE A REPORT TO THE JOINT BUDGET COMMITTEE CONCERNING:

10 (a) THE FEEDBACK RECEIVED PURSUANT TO SUBSECTION (4)(b) OF
11 THIS SECTION;

12 (b) THE TIMELINES FOR IMPLEMENTATION OF ANY COST-CONTROL
13 MEASURES ENACTED PURSUANT TO THIS SECTION; AND

14 (c) A DESCRIPTION OF THE EXPECTED IMPACT ON RECIPIENTS AND
15 RECIPIENTS' HEALTH OUTCOMES AND HOW THE STATE DEPARTMENT PLANS
16 TO MEASURE THE EFFECT ON RECIPIENTS.

17 (6) (a) THE STATE DEPARTMENT SHALL CONTRACT WITH A THIRD
18 PARTY TO PERFORM AN INDEPENDENT EVALUATION OF THE COST-CONTROL
19 MEASURES AUTHORIZED PURSUANT TO THIS SECTION.

20 (b) THE STATE DEPARTMENT SHALL PROVIDE A REPORT TO THE
21 JOINT BUDGET COMMITTEE ON NOVEMBER 1, 2019, AND NOVEMBER 1,
22 2020, DETAILING THE RESULTS OF THE INDEPENDENT EVALUATION,
23 INCLUDING ESTIMATES OF THE COST SAVINGS ACHIEVED AND THE IMPACT
24 OF THE COST-CONTROL MEASURES AUTHORIZED PURSUANT TO THIS
25 SECTION ON RECIPIENTS AND RECIPIENTS' HEALTH OUTCOMES.

26 (7) THE STATE BOARD SHALL ADOPT ANY RULES NECESSARY FOR
27 THE ADMINISTRATION AND IMPLEMENTATION OF THIS SECTION.

1 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-402, **add** (4)
2 as follows:

3 **25.5-4-402. Providers - hospital reimbursement - hospital**
4 **review program - rules.** (4) (a) SUBJECT TO FEDERAL APPROVAL, AND
5 NOTWITHSTANDING ANY OTHER PROVISION OF THE "COLORADO MEDICAL
6 ASSISTANCE ACT", THE STATE DEPARTMENT SHALL DESIGN AND
7 IMPLEMENT AN EVIDENCE-BASED HOSPITAL REVIEW PROGRAM TO ENSURE
8 APPROPRIATE UTILIZATION OF HOSPITAL SERVICES.

9 (b) CONSISTENT WITH FEDERAL REGULATIONS SET FORTH IN 42
10 CFR 456, THE HOSPITAL REVIEW PROGRAM MAY INCLUDE THE FOLLOWING:

- 11 (I) PREADMISSION REVIEW;
- 12 (II) CONTINUED STAY REVIEW;
- 13 (III) TRANSFER PLANNING;
- 14 (IV) DISCHARGE PLANNING;
- 15 (V) CARE COORDINATION; AND
- 16 (VI) RETROSPECTIVE CLAIMS REVIEW.

17 (c) THE FOLLOWING FACTORS MUST BE CONSIDERED IN ANY
18 COVERAGE DETERMINATIONS MADE PURSUANT TO THE HOSPITAL REVIEW
19 PROGRAMS:

- 20 (I) INFORMATION PROVIDED, DIAGNOSIS DETERMINED, AND
21 TREATMENT RECOMMENDED BY THE TREATING PROVIDER OR PROVIDERS;
- 22 (II) EVIDENCE-BASED CLINICAL COVERAGE CRITERIA AND
23 RECIPIENT COVERAGE GUIDELINES AS ESTABLISHED BY THE STATE
24 DEPARTMENT;
- 25 (III) NATIONALLY RECOGNIZED UTILIZATION AND TECHNOLOGY
26 ASSESSMENT GUIDELINES; AND
- 27 (IV) INDUSTRY STANDARD CRITERIA, AS APPROPRIATE.

1 (d) (I) THE STATE DEPARTMENT SHALL CONSULT WITH AFFECTED
2 STAKEHOLDERS PRIOR TO IMPLEMENTATION OF THE HOSPITAL REVIEW
3 PROGRAM. AT A MINIMUM, THE STATE DEPARTMENT SHALL SOLICIT
4 FEEDBACK FROM RECIPIENTS, HOSPITALS WITHIN COLORADO THAT
5 PARTICIPATE IN MEDICAID, PROVIDERS PARTICIPATING IN THE
6 ACCOUNTABLE CARE COLLABORATIVE PURSUANT TO SECTION 25.5-5-419,
7 AND THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
8 ENTERPRISE BOARD ESTABLISHED IN SECTION 25.5-4-402.4 (7). IF THE
9 STATE DEPARTMENT CONTRACTS WITH A THIRD-PARTY VENDOR TO
10 IMPLEMENT THE HOSPITAL REVIEW PROGRAM, THE STATE DEPARTMENT
11 SHALL REQUIRE THE VENDOR TO PARTICIPATE IN THE STAKEHOLDER
12 OUTREACH WITH HOSPITALS REQUIRED PURSUANT TO THIS SUBSECTION
13 (4)(d)(I).

14 (II) PRIOR TO IMPLEMENTATION OF THE HOSPITAL REVIEW
15 PROGRAM, THE STATE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR
16 HOSPITALS TO TEST CONNECTIVITY TO AND WORKABILITY OF ANY NEW
17 ELECTRONIC INTERFACE CREATED OR IMPLEMENTED AS PART OF THIS
18 SECTION. THE STATE DEPARTMENT SHALL SELECT A LIMITED GROUP OF
19 HOSPITALS TO TEST ANY NEW REQUIREMENTS PRIOR TO FULL
20 IMPLEMENTATION.

21 (III) THE STATE DEPARTMENT SHALL PROVIDE A REPORT TO THE
22 JOINT BUDGET COMMITTEE BY NOVEMBER 1, 2018, ON THE STATUS OF THE
23 IMPLEMENTATION OF THE HOSPITAL REVIEW PROGRAM. THE REPORT MUST
24 INCLUDE THE COMMENTS RECEIVED AS PART OF THE STAKEHOLDER
25 PROCESS DESCRIBED IN SUBSECTION (4)(d)(I) OF THIS SECTION AND A
26 DESCRIPTION OF, AND ANY AVAILABLE RESULTS FROM, THE TESTING
27 PROCESS DESCRIBED IN SUBSECTION (4)(d)(II) OF THIS SECTION.

1 (IV) THE STATE DEPARTMENT SHALL PROVIDE A REPORT TO THE
2 JOINT BUDGET COMMITTEE ON NOVEMBER 1, 2019, AND NOVEMBER 1,
3 2020, DETAILING THE ESTIMATES OF THE COST SAVINGS ACHIEVED AND
4 THE IMPACT OF THE COST-CONTROL MEASURES AUTHORIZED PURSUANT TO
5 THIS SECTION ON RECIPIENTS AND RECIPIENTS' HEALTH OUTCOMES.

6 (V) BEGINNING IN 2018, AND EVERY YEAR THEREAFTER THROUGH
7 2020, THE STATE DEPARTMENT SHALL REPORT ON THE STATUS OF THE
8 IMPLEMENTATION OF THE HOSPITAL REVIEW PROGRAM, ANY COST SAVINGS
9 ESTIMATED OR ACHIEVED DUE TO THE PROGRAM, AND THE IMPACT ON
10 RECIPIENTS AND RECIPIENTS' OUTCOMES OF ANY COST-CONTROL
11 MEASURES AS PART OF ITS "STATE MEASUREMENT FOR ACCOUNTABLE,
12 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" HEARING
13 REQUIRED BY SECTION 2-7-203.

14 (e) THE STATE BOARD SHALL ADOPT ANY RULES NECESSARY FOR
15 THE ADMINISTRATION AND IMPLEMENTATION OF THIS SECTION.

16 **SECTION 3. Appropriation - adjustments to 2018 long bill.**

17 (1) For the 2018-19 state fiscal year, \$2,737,764 is appropriated to the
18 department of health care policy and financing for use by the executive
19 director's office. Of this appropriation, \$2,007,911 is from the general
20 fund and \$729,853 is from the healthcare affordability and sustainability
21 fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S. To implement
22 this act, the department may use this appropriation as follows:

23 (a) \$333,902 from the general fund for personal services, which
24 amount is based on an assumption that the department will require an
25 additional 6.8 FTE;

26 (b) \$22,612 from the general fund for operating expenses;

27 (c) \$1,750,000, which consists of \$1,213,625 from the general

1 fund and \$536,375 from the healthcare affordability and sustainability fee
2 cash fund created in section 25.5-4-402.4 (5)(a), C.R.S., for general
3 professional services;

4 (d) \$237,500, which consists of \$164,706 from the general fund,
5 which amount is subject to the "(M)" notation as defined in the annual
6 general appropriation act for the same fiscal year, and \$72,794 from the
7 healthcare affordability and sustainability fee cash fund created in section
8 25.5-4-402.4 (5)(a), C.R.S., for medicaid management information system
9 maintenance and projects; and

10 (e) \$393,750, which consists of \$273,066 from the general fund,
11 which amount is subject to the "(M)" notation as defined in the annual
12 general appropriation act for the same fiscal year, and \$120,684 from the
13 healthcare affordability and sustainability fee cash fund created in section
14 25.5-4-402.4 (5)(a), C.R.S., for utilization and quality review contracts.

15 (2) For the 2018-19 state fiscal year, the general assembly
16 anticipates that the department of health care policy and financing will
17 receive \$5,200,263 in federal funds to implement this act. The
18 appropriation in subsection (1) of this section is based on the assumption
19 that the department will receive this amount of federal funds to be used
20 as follows:

21 (a) \$333,901 for personal services;

22 (b) \$22,612 for operating expenses;

23 (c) \$1,750,000 for general professional services;

24 (d) \$1,912,500 for medicaid management information system
25 maintenance and projects; and

26 (e) \$1,181,250 for utilization and quality review contracts.

27 (3) To implement this act, appropriations made in the annual

1 general appropriation act for the 2018-19 state fiscal year to the
2 department of health care policy and financing are adjusted as follows:

3 (a) The general fund appropriation for medical and long-term care
4 services for medicaid eligible individuals is decreased by \$2,738,227,
5 which amount is subject to the "(M)" notation as defined in the annual
6 general appropriation act for the same fiscal year; and

7 (b) The cash funds appropriation from the healthcare affordability
8 and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a),
9 C.R.S. for medical and long-term care services for medicaid eligible
10 individuals is decreased by \$507,240.

11 (4) The decrease of the appropriations in subsection (3) of this
12 section is based on the assumption that the anticipated amount of federal
13 funds received for the 2018-19 state fiscal year by the department of
14 health care policy and financing for medical and long-term care services
15 for medicaid eligible individuals will decrease by \$6,754,533.

16 **SECTION 4. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.