



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 18-1211

FINAL
FISCAL NOTE

Drafting Number:	LLS 18-0358	Date:	July 26, 2018
Prime Sponsors:	Rep. Wist; Foote Sen. Smallwood; Aguilar	Bill Status:	Signed into Law
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Bill Topic: MEDICAID FRAUD CONTROL UNIT

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>)	<input checked="" type="checkbox"/> Local Government (<i>minimal</i>)
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill establishes the Medicaid Fraud Control Unit in statute, and defines Medicaid fraud as a crime. Beginning in FY 2019-20, it will minimally increase state revenue and state and local government expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Summary of Legislation

This bill establishes the Medicaid Fraud Control Unit (MFCU) in the Department of Law (DOL) in statute, and defines Medicaid fraud as a crime. It requires the Department of Health Care Policy and Financing (HCPF), the Department of Public Health and Environment, and managed care organizations and their contractors to report cases of suspected Medicaid fraud to the MFCU. The bill gives HCPF the authority to add the contact information and detail on the MFCU process to the explanation of benefits provided to clients.

Under this bill, the MFCU has the authority to investigate and prosecute civil and criminal actions and proceedings, criminal Medicaid fraud and waste, and patient abuse, neglect, or exploitation. It also lists the activities that constitute Medicaid fraud and waste, and outlines the penalties associated with each activity. Additionally, the bill clarifies that it is unlawful to knowingly offer, pay, solicit, or receive any remuneration in return for referrals or the purchasing, leasing, ordering or arranging of any good, facility, service, or item for which payment can be made pursuant to the Colorado Medical Assistance Act.

Background

The MFCU was created through two executive orders from Governor Richard Lamm in 1978 and 1979. A third executive order continuing and ratifying these orders was issued in 1987 by Governor Roy Romer. The MFCU is administered by the Office of the Attorney General in the Department of Law, and it investigates and prosecutes Medicaid fraud and patient abuse cases.

The MFCU currently has 17.0 FTE; the program is funded through a federal grant, with a 25 percent General Fund match. The current grant runs through September 2018, and provides up to \$1.8 million of federal funds, with a required General Fund match of \$614,756.

Comparable Crime

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill creates the crime of Medicaid fraud. The penalty for Medicaid fraud varies depending on the amount of payments illegally claimed or received. Under current law, Medicaid fraud is prosecuted under theft and forgery statutes, which have similar penalties to the new crime created in this bill. It is unknown how many cases of theft and forgery were related to Medicaid fraud.

State Revenue

To the extent that the number of filings for Medicaid fraud increase, this bill may increase revenue from fines and filing fees to the Judicial department beginning in FY 2019-20. Medicaid fraud is currently charged as theft or fraud under current law, and any increase in the number of cases is expected to be minimal. Additionally, the new penalties for Medicaid fraud are similar to the penalties for theft, resulting in similar fine revenue.

To the extent that more state funds are recovered from people convicted of Medicaid fraud under this bill, state General Fund revenue may also increase. This revenue increase has not been estimated.

TABOR Refund

This bill increases state revenue from fines and fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

Beginning in FY 2019-20, the bill codifies the existing MCFU into statute, which is not expected to affect workload or costs for the MCFU in the Department of Law. To the extent that formalizing the statutes of the MCFU or codifying Medicaid fraud as a unique crime increases civil or criminal cases involving Medicaid fraud, several agencies may have an increase in workload or costs, as described below

Department of Law. This bill defines Medicaid fraud as a crime, and workload in the DOL will increase to the extent that more people are charged for activities related to Medicaid fraud and waste. It is expected that any workload increases can be accomplished within the existing appropriations to the department.

Judicial Department. To the extent that more Medicaid fraud cases are heard, this bill may increase workload in the trial courts. It may also result in more cases being sentenced to probation. Any increase in cases is expected to be minimal, and can be accomplished within existing appropriations.

Agencies providing representation to indigent persons. General Fund costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel may increase under the bill if more Medicaid fraud cases are tried and the offender is deemed indigent. Any increase in costs for these agencies are expected to be minimal.

Departments of Health Care Policy and Financing and Public Health and Environment. These departments currently monitor for and report cases of suspected Medicaid Fraud to the Attorney General. As this is current practice, any increase in workload is expected to be minimal.

Local Impact

Under this bill, counties must refer any suspected provider fraud and patient abuse allegations to the Attorney General. As this is current practice, this bill codifies current law and any impact is expected to be minimal.

District Attorneys. The bill directs the MCFU to consult with the appropriate District Attorney before investigating and prosecuting patient abuse, neglect, or exploitation. If the District Attorney agrees with the filing of charges, the District Attorney or his or her designated assistant must serve as a special assistant attorney general on the case. To the extent that this occurs, workload will increase for District Attorneys. This workload increase is expected to be minimal.

Effective Date

The bill was signed into law by the Governor on April 25, 2018, and takes effect January 1, 2019, assuming no referendum petition is filed.

State and Local Government Contacts

Counties
Health Care Policy and Financing
Information Technology
Law

District Attorneys
Human Services
Judicial
Public Health and Environment