

CHAPTER 264

HEALTH CARE POLICY AND FINANCING

SENATE BILL 18-266

BY SENATOR(S) Lundberg, Lambert, Moreno, Aguilar, Court, Crowder, Donovan, Fields, Guzman, Jahn, Kefalas, Kerr, Martinez Humenik, Merrifield, Priola, Smallwood, Sonnenberg, Tate, Todd, Grantham;
 also REPRESENTATIVE(S) Young, Hamner, Rankin, Arndt, Bridges, Buckner, Carver, Catlin, Coleman, Covarrubias, Danielson, Esgar, Exum, Foote, Garnett, Ginal, Gray, Hansen, Herod, Hooton, Jackson, Kennedy, Kraft-Tharp, Landgraf, Lee, Liston, Lontine, McLachlan, Melton, Michaelson Jenet, Pabon, Pettersen, Ransom, Reyher, Roberts, Rosenthal, Saine, Salazar, Sandridge, Singer, Valdez, Van Winkle, Weissman, Wilson, Winkler, Winter, Duran.

AN ACT

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

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

SECTION 1. In Colorado Revised Statutes, **add 25.5-4-422** as follows:

25.5-4-422. Cost control - legislative intent - use of technology - stakeholder feedback - reporting - rules. (1) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

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

(b) THE STATE DEPARTMENT DEDICATES PERMANENT STAFF AND RESOURCES TO PURSUE COST-CONTROL STRATEGIES, VALUE-BASED PAYMENTS, AND OTHER APPROACHES TO REDUCE THE RATE OF EXPENDITURE GROWTH IN THE MEDICAID PROGRAM; AND

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

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

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

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

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

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

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

(4) (a) THE STATE DEPARTMENT SHALL PURSUE COST-CONTROL STRATEGIES, VALUE-BASED PAYMENTS, AND OTHER APPROACHES TO REDUCE THE RATE OF EXPENDITURE GROWTH IN THE MEDICAID PROGRAM.

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

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

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

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

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

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

(b) THE STATE DEPARTMENT SHALL PROVIDE A REPORT TO THE JOINT BUDGET COMMITTEE ON NOVEMBER 1, 2019, AND NOVEMBER 1, 2020, DETAILING THE

RESULTS OF THE INDEPENDENT EVALUATION, INCLUDING ESTIMATES OF THE COST SAVINGS ACHIEVED AND THE IMPACT OF THE COST-CONTROL MEASURES AUTHORIZED PURSUANT TO THIS SECTION ON RECIPIENTS AND RECIPIENTS' HEALTH OUTCOMES.

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

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

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

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

- (I) PREADMISSION REVIEW;
- (II) CONTINUED STAY REVIEW;
- (III) TRANSFER PLANNING;
- (IV) DISCHARGE PLANNING;
- (V) CARE COORDINATION; AND
- (VI) RETROSPECTIVE CLAIMS REVIEW.

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

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

(d)(I) THE STATE DEPARTMENT SHALL CONSULT WITH AFFECTED STAKEHOLDERS PRIOR TO IMPLEMENTATION OF THE HOSPITAL REVIEW PROGRAM. AT A MINIMUM, THE STATE DEPARTMENT SHALL SOLICIT FEEDBACK FROM RECIPIENTS, HOSPITALS WITHIN COLORADO THAT PARTICIPATE IN MEDICAID, PROVIDERS PARTICIPATING IN THE ACCOUNTABLE CARE COLLABORATIVE PURSUANT TO SECTION 25.5-5-419, AND THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE BOARD ESTABLISHED IN SECTION 25.5-4-402.4 (7). IF THE STATE DEPARTMENT CONTRACTS

WITH A THIRD-PARTY VENDOR TO IMPLEMENT THE HOSPITAL REVIEW PROGRAM, THE STATE DEPARTMENT SHALL REQUIRE THE VENDOR TO PARTICIPATE IN THE STAKEHOLDER OUTREACH WITH HOSPITALS REQUIRED PURSUANT TO THIS SUBSECTION (4)(d)(I).

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

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

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

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

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

SECTION 3. Appropriation - adjustments to 2018 long bill. (1) For the 2018-19 state fiscal year, \$2,737,764 is appropriated to the department of health care policy and financing for use by the executive director's office. Of this appropriation, \$2,007,911 is from the general fund and \$729,853 is from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S. To implement this act, the department may use this appropriation as follows:

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

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

(c) \$1,750,000, which consists of \$1,213,625 from the general fund and \$536,375 from the healthcare affordability and sustainability fee cash fund created in section

25.5-4-402.4 (5)(a), C.R.S., for general professional services;

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

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

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

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

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

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

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

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

(3) To implement this act, appropriations made in the annual general appropriation act for the 2018-19 state fiscal year to the department of health care policy and financing are adjusted as follows:

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

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

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

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

Approved: May 29, 2018