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An Act

HOUSE BILL 21-1206

BY REPRESENTATIVE(S) Larson and Valdez A., Bird, Exum, Froelich, Hooton, Jackson, McCluskie, McLachlan, Michaelson Jenet, Mullica, Ortiz, Ricks, Snyder, Titone, Young, Duran, Jodeh, Valdez D., Woodrow; also SENATOR(S) Moreno and Coram, Bridges, Buckner, Donovan, Ginal, Hansen, Kirkmeyer, Lee, Rankin, Smallwood.

CONCERNING THE PROTECTION OF CRITICAL SERVICES THROUGH THE CREATION OF SUSTAINABLE MEDICAID TRANSPORTATION SAFETY REQUIREMENTS, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** part 8 to article 1 of title 25.5 as follows:

PART 8
MEDICAID NONMEDICAL AND
NONEMERGENCY MEDICAL TRANSPORTATION

25.5-1-801. Definitions. AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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.

(1) "NONEMERGENCY MEDICAL TRANSPORTATION" MEANS TRANSPORTATION TO OR FROM MEDICALLY NECESSARY NONEMERGENCY TREATMENT.

(2) "NONMEDICAL TRANSPORTATION" MEANS TRANSPORTATION TO ENABLE PASSENGERS WHO ARE RECIPIENTS OF MEDICAID TO GAIN ACCESS TO WAIVER AND OTHER COMMUNITY SERVICES, ACTIVITIES, AND RESOURCES.

(3) "TRANSPORTATION BROKER" MEANS AN ENTITY DESIGNATED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO ADMINISTER NONEMERGENCY MEDICAL TRANSPORTATION.

(4) "TRANSPORTATION PROVIDER" MEANS AN INDIVIDUAL OR BUSINESS ENTITY, OTHER THAN A TRANSPORTATION BROKER, THAT:

(a) PROVIDES TRANSPORTATION SERVICES; OR

(b) ARRANGES THE FACILITATION OF TRANSPORTATION SERVICES BY AN INDIVIDUAL.

(5) "TRANSPORTATION SERVICES" MEANS NONEMERGENCY MEDICAL TRANSPORTATION OR NONMEDICAL TRANSPORTATION SERVICES PROVIDED TO MEDICAID RECIPIENTS.

25.5-1-802. Medicaid transportation services - safety and oversight - rules. (1) THE STATE DEPARTMENT SHALL COLLABORATE WITH STAKEHOLDERS, INCLUDING BUT NOT LIMITED TO DISABILITY AND MEMBER ADVOCATES, PACE PROVIDERS OPERATING PURSUANT TO SECTION 25.5-5-412, TRANSPORTATION BROKERS, AND TRANSPORTATION PROVIDERS, TO ESTABLISH RULES AND PROCESSES FOR THE SAFETY AND OVERSIGHT OF NONMEDICAL TRANSPORTATION SERVICES AND NONEMERGENCY MEDICAL TRANSPORTATION SERVICES PROVIDED TO MEDICAID RECIPIENTS PURSUANT TO ARTICLES 4 TO 6 OF THIS TITLE 25.5. THE RULES AND PROCESSES MUST:

(a) ENSURE THE SAFETY OF PASSENGERS;

(b) PROTECT PASSENGER ACCESS TO TRANSPORTATION SERVICES;
AND

(c) ESTABLISH DRIVER AND VEHICLE REQUIREMENTS THAT MINIMIZE FINANCIAL AND ADMINISTRATIVE BURDENS FOR TRANSPORTATION PROVIDERS, DIRECT SUPPORT PROFESSIONALS AS DEFINED IN SECTION 25.5-6-406, LONG-TERM CARE DIRECT CARE WORKERS, INDEPENDENT CONTRACTORS, AND EMPLOYEES PROVIDING TRANSPORTATION SERVICES.

(2) TO THE EXTENT POSSIBLE, THE STATE DEPARTMENT SHALL USE EXISTING OVERSIGHT PROCEDURES TO ENSURE COMPLIANCE WITH THE REQUIREMENTS AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

(3) IF A PROVIDER OF TRANSPORTATION SERVICES ALREADY COMPLIES WITH TRANSPORTATION SAFETY STANDARDS ESTABLISHED BY ANOTHER STATE DEPARTMENT WHICH MEET OR EXCEED THE RULES AND PROCESSES ESTABLISHED PURSUANT TO SUBSECTION (1) OF THIS SECTION, DEMONSTRATING SUCH COMPLIANCE TO THE STATE DEPARTMENT IS SUFFICIENT TO VERIFY COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 40-10.1-105, **amend** (1) introductory portion, (1)(j), and (1)(k); and **add** (1)(l) as follows:

40-10.1-105. Transportation not subject to regulation. (1) The following types of transportation are not subject to regulation under this ~~article~~ ARTICLE 10.1:

(j) Transportation performed by the federal government, a state, or any agency or political subdivision of either, whether through an intergovernmental agreement, contractual arrangement, or otherwise; ~~and~~

(k) Transportation of repossessed property by a secured creditor or assignee, or by a reposessor on behalf of a secured creditor or assignee, when repossessing pursuant to section 4-9-629; ~~C.R.S.~~ AND

(l) TRANSPORTATION BY MOTOR VEHICLES WHEN THOSE MOTOR VEHICLES ARE BEING USED FOR NONMEDICAL TRANSPORTATION AND NONEMERGENCY MEDICAL TRANSPORTATION PROVIDED THROUGH MEDICAID PURSUANT TO SECTION 25.5-1-802.

SECTION 3. In Colorado Revised Statutes, 40-10.1-110, **amend** (1)(a) as follows:

40-10.1-110. Criminal history record check - rules. (1) (a) An individual who wishes to drive: A taxicab for a motor carrier that is the holder of a certificate to provide taxicab service issued under part 2 of this article 10.1; a motor vehicle for a motor carrier that is the holder of a permit to operate as a charter bus, children's activity bus, luxury limousine, ~~medicaid client transport~~, or off-road scenic charter under part 3 of this article 10.1; or a motor vehicle for a motor carrier that is the holder of a permit to operate as a large-market taxicab service under part 7 of this article 10.1 must have the individual's fingerprints taken by a local law enforcement agency or any third party approved by the Colorado bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check.

SECTION 4. In Colorado Revised Statutes, 40-10.1-301, **repeal** (9), (10), and (11) as follows:

40-10.1-301. Definitions. As used in this part 3, unless the context otherwise requires:

(9) ~~"Medicaid client transport" means a motor vehicle that transports passengers who are recipients of medicaid pursuant to articles 4 to 6 of title 25.5, C.R.S., and are being transported under a medicaid nonemergent medical transportation contract or a medicaid nonmedical transportation contract.~~

(10) ~~"Medicaid nonemergent medical transportation contract" means a contract or provider agreement with the department of health care policy and financing or its approved agent for the purpose of providing nonemergent medical transportation to approved recipients of medicaid.~~

(11) ~~"Medicaid nonmedical transportation contract" means a contract or provider agreement with the department of health care policy and financing or its approved agent for the purpose of providing nonmedical transportation to approved recipients of medicaid.~~

SECTION 5. In Colorado Revised Statutes, 40-10.1-302, **amend** (1)(a); and **repeal** (2)(b) as follows:

40-10.1-302. Permit requirements. (1) (a) A person shall not operate or offer to operate a charter bus, children's activity bus, fire crew

transport, luxury limousine, ~~medicaid client transport~~, or off-road scenic charter in intrastate commerce without first having obtained a permit therefor from the commission in accordance with this part 3.

~~(2) (b) (f) In addition to the requirements of paragraph (a) of this subsection (2), a person applying for a medicaid client transport permit shall provide the commission proof of a medicaid client transport agreement with the department of health care policy and financing or its approved agent in such form and with such information as the commission may require.~~

~~(H) The department of health care policy and financing may transfer medicaid money to the commission to assist the commission in its regulation of medicaid transport under this article. Any money that the commission receives from the department of health care policy and financing is continuously appropriated to the commission.~~

SECTION 6. Appropriation - adjustments to 2021 long bill.

(1) To implement this act, the general fund appropriation made in the annual general appropriation act for the 2021-22 state fiscal year to the department of health care policy and financing for transfer to department of regulatory agencies for regulation of Medicaid transportation is decreased by \$66,003.

(2) The decrease of the appropriations in subsection (1) of this section is based on the assumption that the anticipated amount of federal funds received for the 2021-22 state fiscal year by the department of health care policy and financing for transfer to department of regulatory agencies for regulation of Medicaid transportation will decrease by \$37,500, which is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year.

(3) For the 2021-22 state fiscal year, \$66,003 is appropriated to the department of health care policy and financing. This appropriation is from the general fund, which is subject to the "(M)" notation as defined in the annual general appropriation act for the same fiscal year. To implement this act, the department may use this appropriation for medical and long-term care services for Medicaid eligible individuals.

(4) For the 2021-22 state fiscal year, the general assembly anticipates that the department of health care policy and financing will

receive \$37,500 in federal funds for medical and long-term care services for Medicaid eligible individuals to implement this act. The appropriation in subsection (3) of this section is based on the assumption that the department will receive this amount of federal funds.

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

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Leroy M. Garcia
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO