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Revised Fiscal Note

(replaces fiscal note dated March 30, 2021)

Drafting Number: LLS 21-0634 **Date:** May 21, 2021
Prime Sponsors: Rep. Jodeh **Bill Status:** Senate HHS
 Sen. Buckner; Kolker **Fiscal Analyst:** Aaron Carpenter | 303-866-4918
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Bill Topic: HEALTH-CARE BILLING REQUIREMENTS FOR INDIGENT PATIENTS

Summary of Fiscal Impact:

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

The bill repeals, reenacts, relocates, and expands the discounted health care program. The bill increases state and statutory public entity revenue and expenditures on an ongoing basis.

Appropriation Summary: The bill requires appropriation adjustments totaling \$181,182 to the Department of Health Care Policy and Financing and the Colorado Department of Public Health and Environment. See State Expenditures section.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under HB 21-1198**

	Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	-	-
Expenditures		
General Fund ¹	\$181,182	\$480,815
Centrally Appropriated	\$5,239	\$40,312
Total Expenditures	\$186,421	\$521,127
Total FTE	0.3 FTE	2.4 FTE
Transfers	-	-
TABOR Refund	-	-

¹ These costs may be eligible for 50 percent federal match; see State Expenditures section.

Summary of Legislation

The bill repeals, reenacts, and expands hospital requirements around providing discount care to uninsured patients (discount program) and moves regulatory authority over the program from the Colorado Department of Public Health and Environment (CDPHE) to the Department of Health Care Policy and Financing (HCPF). Changes to the program include:

- applying regulations to health care facilities, instead of just hospitals;
- requiring HCPF to develop a standard application for health care facilities to screen uninsured patients for eligibility for public health insurance programs, the Colorado Indigent Care Program (CICP), or discounted care;
- creating an appeals process if a patient is found to be ineligible;
- limiting the amount that a health care facility can charge eligible patients to not more than the discount rate established by HCPF;
- limiting collection amounts to monthly payments of no more than 4.0 percent of the patient's monthly household income on a bill from a health care facility and not paying more than 2.0 percent of the patient's monthly household income on a bill from a licensed health care professional;
- considering a patient's bill paid in full after 36 months of payments;
- requiring health care facilities to post information on patient's rights under the discount program, as developed by HCPF;
- requiring health care facilities to report certain information to HCPF to determine compliance across demographics;
- requiring HCPF to periodically review health care facilities to ensure compliance; and
- requiring HCPF to promulgate rules prohibiting hospitals from considering assets when determining if a patient's income eligibility and to ensure the method used to determine eligibility is uniform across hospitals.

By April 1, 2022, the Medical Services Board in HCPF must promulgate rules to implement the program and HCPF must develop information on patient's rights, establish a process for patients to appeal a determination of ineligibility, establish rates for discounted care, and begin to periodically review health care facilities for compliance. By June 1, 2023, and each June 1 after, each health care facility must collect and report data to HCPF on compliance.

Collection of medical debt. The bill updates regulations around the collection of medical debt. Specifically, before a health care facility can assign or sell patient debt to a collection agency or before pursuing permissible extraordinary collection action, the facility must: screen the patient for eligibility for programs listed above; provide discounted care or offer a payment plan that does not exceed 4.0 percent of the patient's monthly household income on a bill from a health care facility or 2.0 percent of the patient's monthly household income on a bill from a licensed health care professional, and bill any third-party payer for providing health care coverage to the patient. A health care facility that does not follow these steps is liable to the patient for damages, as specified in the bill.

A medical creditor or medical debt collector cannot engage in any permissible extraordinary collection actions until 182 days after the date the patient receives hospital services. In addition, 30 days before taking an action, a creditor must notify the patient of potential collection actions and provide the patient with a notice explaining the availability of discounted care for qualified individuals developed by HCPF.

Background and Assumptions

Currently, there are 82 hospitals in Colorado and about 16,272 active physicians. The fiscal note assumes that 4,000 practitioners provide services in a hospital and would be required to offer discount services under the bill and be subject to periodic reviews from HCPF.

State Revenue

To the extent the bill increases civil case filings, General Fund and cash fund revenue to the Judicial Department will increase from filing fees. In addition, any fines assessed on health care facilities for not being in compliance will increase General Fund revenue. This revenue is subject to the state's TABOR revenue limit.

State Expenditures

The bill will increase net state expenditures by \$186,421 and 0.3 FTE in FY 2021-22 and \$521,127 and 2.4 FTE in FY 2022-23, as shown in Table 2 and described below.

Table 2
Expenditures Under HB 21-1198

Cost Components	FY 2021-22	FY 2022-23
Department of Health Care Policy and Financing		
Personal Services	\$47,855	\$203,386
Operating Expenses	\$1,080	\$4,050
Capital Outlay Costs	\$6,200	\$12,400
Rulemaking Consultant	\$113,200	-
Compliance Management Contractor	\$50,960	\$257,152
Travel and Per Diem		\$41,940
Centrally Appropriated Costs ¹	\$11,330	\$46,403
FTE – Personal Services	0.7 FTE	2.8 FTE
HCPF Subtotal	\$230,625	\$565,331

**Table 2
 Expenditures Under HB 21-1198 (Cont.)**

Cost Components	FY 2021-22	FY 2022-23
Department of Public Health and Environment		
Personal Services	(\$23,113)	(\$23,113)
Consultant	(\$5,000)	(\$5,000)
Investigations	(\$10,000)	(\$10,000)
Centrally Appropriated Costs ¹	(\$6,091)	(\$6,091)
FTE – Personal Services	(0.4 FTE)	(0.4 FTE)
CDPHE Subtotal	(\$44,204)	(\$44,204)
Total	\$186,421	\$521,127
Total FTE	0.3 FTE	2.4 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Health Care Policy and Financing. The bill will increase expenditures in HCPF by \$230,625 and 1.0 FTE in FY 2021-22 and \$565,331 and 3.0 FTE in FY 2022-23. Staff is needed in FY 2021-22 to assist in rulemaking, develop an official statement of patient rights, and develop a uniform screening application.

In FY 2022-23, the department will require an additional 2.0 FTE to ensure compliance including surveying billing patterns and collection practices, verifying appropriate screening and application processes, enforcing corrective action, monitoring complaints, levying fines, and confirming data submission requirements are met. The fiscal note assumes that 1.0 FTE can review 444 practitioners a year and that a practitioner will be reviewed every three years (resulting in 1,333 practitioners reviewed per year). Costs in FY 2021-22 are prorated for an October 1, 2021, start date and the General Fund pay date shift. Costs in FY 2022-23, are prorated for the General Fund pay date shift for the additional 2.0 FTE.

Consultant. In FY 2021-22 only, HCPF will require a contractor for stakeholder engagement and policy consultation during the rulemaking process. This fiscal note estimates that 400 hours of work will be required at a cost of around \$280 per hour.

Compliance Manager Contractor. HCPF will require a contractor to develop a reporting tool to manage the compliance process and to provide data collection and analysis. The fiscal note assumes that 260 hours of work is required in FY 2021-22 and 1,312 hours of work is required in FY 2022-23 and in future years at around \$200 per hour.

Travel and per diem. Starting in FY 2022-23, costs in HCPF will increase for travel reimbursement and per diem to conduct in-person reviews. The fiscal note assumes that each FTE will conduct 52 trips a year with an average of 300 miles. In addition, the fiscal note assume that 12 trips will be two night overnight stays requiring per diem payments of \$450 per trip.

Federal match. Costs identified in this fiscal note may be eligible for a 50 percent federal match, however, it is unknown if the federal government will approve the use of federal funds for the purposes of the bill. Therefore, the fiscal note shows costs as being from the General Fund. If HCPF receives federal match, the fiscal note assumes appropriation adjustments will be through the annual budget process.

Colorado Department of Public Health and Environment. The bill will decrease expenditures in the CDPHE by \$44,204 and 0.4 FTE beginning in FY 2021-22. In addition to a reduction in personal services, CDPHE will have a reduction of \$5,000 for a financial services consultant and \$10,000 to investigate hospital compliance.

Department of Human Services. Workload in the Department of Human Services will increase to send data to HCPF. Because the department's system already separates its data as required by the bill, workload can be accomplished within existing appropriations.

Judicial Department. To the extent more civil cases are filed with the trial courts, workload in the Judicial Department will increase. The fiscal note assumes that the bill will not increase the number of cases to require additional FTE; therefore, no change in appropriation is required.

University of Colorado hospital system. Expenditures in the University of Colorado may increase to comply with the bill. If additional FTE are needed, the fiscal note assumes the health system will adjust current revenue sources to cover any additional expenditures affected by the bill. The bill may also affect revenue to these facilities in two main ways. First, it may limit revenue and debt collections from certain patients. Second, additional screening for public health insurance or the indigent care program may increase reimbursement for care provided.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$5,239 in FY 2021-22 and \$40,312 in FY 2022-23.

TABOR refunds. The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Statutory Public Entity

Similar to the University of Colorado health system, expenditures in the Denver Health System may increase to comply with the bill. Denver Health will adjust current revenue sources to cover any additional expenditures affected by the bill. Additional screening for public programs and limitations on debt collection may also affect system revenue.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2021-22, the bill requires the following adjustments in appropriations:

- an increase of \$219,295 from the General Fund and 0.7 FTE to the Department of Health Care Policy and Financing; and
- a decrease of \$38,113 from the General Fund and reduction of 0.4 FTE to the Colorado Department of Public Health and Environment.

State and Local Government Contacts

Health Care Policy and Financing
Information Technology
Public Health and Environment

Higher Education
Judicial

Human Services
Law