

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

REREVISED

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

LLS NO. 24-0514.02 Kristen Forrestal x4217

SENATE BILL 24-093

SENATE SPONSORSHIP

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Senate Committees
Health & Human Services

House Committees
Health & Human Services

HOUSE
3rd Reading Unamended
March 18, 2024

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUITY OF HEALTH-CARE BENEFITS DURING**
102 **THE TRANSITION TO A NEW HEALTH BENEFIT PLAN WHEN THE**
103 **ENROLLEES'S HEALTH-CARE PROVIDER DOES NOT HAVE A**
104 **CONTRACT WITH THE NEW HEALTH INSURANCE CARRIER.**

HOUSE
2nd Reading Unamended
March 15, 2024

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>.)

SENATE
Amended 3rd Reading
February 22, 2024

The bill allows an enrollee in the state medicaid program or with a private health insurance carrier whose coverage has been terminated or not renewed to receive continued care with the enrollee's same health-care

SENATE
Amended 2nd Reading
February 21, 2024

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

provider or health-care facility under the enrollee's new health benefit plan at the in-network level under the enrollee's new health benefit plan for specified time periods if certain conditions exist.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-705, **add** (4.5)
3 as follows:

4 **10-16-705. Requirements for carriers and participating**
5 **providers - definitions - rules.** (4.5) (a) AS USED IN THIS SUBSECTION
6 (4.5):

7 (I) "FACILITY" MEANS A HEALTH-CARE FACILITY LICENSED OR
8 CERTIFIED PURSUANT TO SECTION 25-1.5-103.

9 (II) "MEDICAID" MEANS A MEDICAL ASSISTANCE PROGRAM
10 ESTABLISHED PURSUANT TO THE "COLORADO MEDICAL ASSISTANCE ACT",
11 ARTICLES 4 TO 6 OF TITLE 25.5.

12 (III) "SERIOUS AND COMPLEX MEDICAL CONDITION" HAS THE SAME
13 MEANING AS SET FORTH IN SUBSECTION (4)(d)(III)(B) OF THIS SECTION.

14 =
15 (IV) "TRANSFERRING ENROLLEE" MEANS AN INDIVIDUAL WHO:

16 (A) WAS ENROLLED IN MEDICAID OR THE CHILDREN'S BASIC
17 HEALTH PLAN, BUT IS NO LONGER ELIGIBLE FOR BENEFITS THROUGH THE
18 PROGRAM IN WHICH THE INDIVIDUAL WAS ENROLLED; OR

19 (B) WAS COVERED UNDER A HEALTH BENEFIT PLAN WHOSE
20 COVERAGE HAS NOT BEEN RENEWED BECAUSE THE CARRIER IS NO LONGER
21 OFFERING ANY HEALTH BENEFIT PLANS THAT THE INDIVIDUAL IS ELIGIBLE
22 FOR AND IS THEREFORE ENROLLED IN A NEW HEALTH BENEFIT PLAN AND
23 WHO: IS UNDERGOING A COURSE OF TREATMENT FOR A SERIOUS AND
24 COMPLEX MEDICAL CONDITION THAT IS TREATED BY THE PROVIDER OR

1 FACILITY; IS UNDERGOING A COURSE OF INPATIENT CARE PROVIDED BY THE
2 PROVIDER OR FACILITY; IS PREGNANT AND UNDERGOING A COURSE OF
3 TREATMENT FOR THE PREGNANCY PROVIDED BY THE PROVIDER OR
4 FACILITY; IS TERMINALLY ILL AS DETERMINED UNDER SECTION 1861
5 (dd)(3)(A) OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC.
6 1395x, AS AMENDED, AND IS RECEIVING TREATMENT FOR THE ILLNESS
7 FROM THE PROVIDER OR FACILITY; OR IS SCHEDULED TO UNDERGO
8 NONELECTIVE SURGERY FROM THE PROVIDER OR FACILITY, INCLUDING THE
9 RECEIPT OF POSTOPERATIVE CARE FROM THE PROVIDER OR FACILITY WITH
10 RESPECT TO THE SURGERY.

11 (b) A CARRIER SHALL ALLOW A TRANSFERRING ENROLLEE TO
12 CONTINUE TO RECEIVE TREATMENT AS AN IN-NETWORK BENEFIT FROM AN
13 OUT-OF-NETWORK PROVIDER OR FACILITY AS FOLLOWS:

14 (I) A TRANSFERRING ENROLLEE BEING TREATED BY AN
15 OUT-OF-NETWORK PROVIDER OR FACILITY MAY CONTINUE TO RECEIVE
16 TREATMENT FROM THAT PROVIDER OR FACILITY UNTIL THE CURRENT
17 EPISODE OF TREATMENT ENDS OR UNTIL NINETY DAYS AFTER THE
18 ENROLLEE IS COVERED BY A NEW HEALTH BENEFIT PLAN, WHICHEVER
19 OCCURS FIRST.

20 (II) A TRANSFERRING ENROLLEE WHO IS PREGNANT AND BEING
21 TREATED BY AN OUT-OF-NETWORK PROVIDER OR FACILITY MAY CONTINUE
22 TO RECEIVE TREATMENT THROUGH THE COMPLETION OF POSTPARTUM
23 CARE, BEGINNING ON THE DATE OF THE ENROLLEE'S FIRST DAY AS A
24 COVERED PERSON UNDER A NEW HEALTH BENEFIT PLAN.

25 (c) (I) DURING THE TIME PERIODS COVERED UNDER SUBSECTION
26 (4.5)(b) OF THIS SECTION:

27 (A) A CARRIER SHALL REIMBURSE THE OUT-OF-NETWORK

1 PROVIDER OR FACILITY AT THE CARRIER'S STANDARD IN-NETWORK
2 REIMBURSEMENT RATE; AND

3 (B) THE CARRIER MAY REQUIRE THE OUT-OF-NETWORK PROVIDER
4 OR FACILITY TO ADHERE TO THE CARRIER'S TERMS AND CONDITIONS,
5 QUALITY OF CARE STANDARDS AND PROTOCOLS, REFERRAL PROCESS, AND
6 REPORTING STANDARDS THAT APPLY TO COMPARABLE IN-NETWORK
7 PROVIDERS OR FACILITIES IN ORDER FOR THE OUT-OF-NETWORK PROVIDER
8 OR FACILITY TO BE ELIGIBLE FOR REIMBURSEMENT UNDER SUBSECTION
9 (4.5)(c)(I)(A) OF THIS SECTION.

10 (II) IF AN OUT-OF-NETWORK PROVIDER OR FACILITY HAS BEEN
11 REIMBURSED PURSUANT TO SUBSECTION (4.5)(c)(I)(A) OF THIS SECTION,
12 THE TRANSFERRING ENROLLEE SHALL NOT BE BALANCE BILLED.

13 (d) THIS SUBSECTION (4.5) DOES NOT REQUIRE A PROVIDER OR
14 FACILITY TO CONTINUE TO PROVIDE CARE FOR A TRANSFERRING ENROLLEE
15 AFTER THE APPLICABLE TIME PERIOD IN SUBSECTION (4)(b) OF THIS
16 SECTION.

17 (e) A CARRIER SUBJECT TO THIS SUBSECTION (4.5) SHALL:

18 (I) NOTIFY THE TRANSFERRING ENROLLEE, IN PLAIN LANGUAGE, AT
19 THE TIME OF ENROLLMENT THAT THE ENROLLEE HAS THE RIGHT TO ELECT
20 CONTINUED TRANSITIONAL CARE FROM AN OUT-OF-NETWORK PROVIDER
21 OR FACILITY IF THE ENROLLEE IS A TRANSFERRING ENROLLEE; AND

22 (II) AT THE REQUEST OF THE TRANSFERRING ENROLLEE OR THE
23 ENROLLEE'S PROVIDER, GRANT THE TRANSFERRING ENROLLEE AN
24 OPPORTUNITY TO NOTIFY THE CARRIER OF THE NEED FOR CONTINUED
25 TRANSITIONAL CARE WITHIN ONE MONTH AFTER THE TRANSFERRING
26 ENROLLEE'S EFFECTIVE DATE OF COVERAGE.

27 (f) (I) AT THE REQUEST OF THE TRANSFERRING ENROLLEE OR

1 PROVIDER, A NEW CARRIER SHALL ACCEPT A PREAUTHORIZATION FOR
2 TREATMENT FROM THE PREVIOUS CARRIER FOR COVERAGE BY THE NEW
3 CARRIER OR FROM THE DEPARTMENT OF HEALTH CARE POLICY AND
4 FINANCING FOR:

5 (A) THE PROCEDURES, TREATMENT, MEDICATIONS, OR SERVICES
6 THAT ARE COVERED BENEFITS UNDER THE NEW HEALTH BENEFIT PLAN;
7 AND

8 (B) A PERIOD OF NINETY DAYS OR FOR THE COURSE OF
9 TREATMENT, WHICHEVER IS LESS, OR UNTIL THE COMPLETION OF
10 POSTPARTUM CARE.

11 (II) SUBJECT TO STATE AND FEDERAL LAWS RELATING TO THE
12 CONFIDENTIALITY OF MEDICAL RECORDS, AT THE REQUEST AND WITH THE
13 CONSENT OF AN ENROLLEE, A CARRIER SHALL PROVIDE A COPY OF THE
14 ENROLLEE'S PREAUTHORIZATION FOR TREATMENT TO THE ENROLLEE'S NEW
15 CARRIER WITHIN TEN DAYS AFTER RECEIPT OF THE REQUEST.

16 (III) AFTER THE APPLICABLE TIME PERIOD UNDER SUBSECTION
17 (4.5)(b) OF THIS SECTION HAS LAPSED, THE NEW CARRIER MAY ELECT TO
18 PERFORM ITS OWN UTILIZATION REVIEW IN ORDER TO:

19 (A) REASSESS AND MAKE ITS OWN DETERMINATION REGARDING
20 THE NEED FOR CONTINUED TREATMENT; AND

21 (B) AUTHORIZE ANY CONTINUED PROCEDURE, TREATMENT,
22 MEDICATION, OR SERVICE DEEMED TO BE MEDICALLY NECESSARY.

23 (g) THIS SUBSECTION (4.5) DOES NOT REQUIRE A CARRIER TO
24 PROVIDE BENEFITS TO AN ENROLLEE THAT ARE NOT OTHERWISE COVERED
25 BENEFITS UNDER THE HEALTH BENEFIT PLAN.

26 (h) THE COMMISSIONER MAY ADOPT RULES TO IMPLEMENT THIS
27 SUBSECTION (4.5).

1 **SECTION 2.** In Colorado Revised Statutes, 12-30-112, **add (3.7)**
2 **as follows:**

3 **12-30-112. Health-care providers - required disclosures -**
4 **balance billing - deceptive trade practice - rules - definitions.**
5 **(3.7) AN OUT-OF-NETWORK PROVIDER SHALL NOT BALANCE BILL A**
6 **COVERED PERSON FOR SERVICES IF THE PROVISIONS OF SECTION 10-16-705**
7 **(4.5)(c)(II) APPLY.**

8 **SECTION 3.** In Colorado Revised Statutes, 25-3-121, **add**
9 **(3.5)(d) as follows:**

10 **25-3-121. Health-care facilities - emergency and**
11 **nonemergency services - required disclosures - balance billing -**
12 **deceptive trade practice - rules - definitions. (3.5) (d) AN**
13 **OUT-OF-NETWORK FACILITY SHALL NOT BALANCE BILL A COVERED**
14 **PERSON, AS DEFINED IN SECTION 10-16-102 (15), FOR SERVICES IF THE**
15 **PROVISIONS OF SECTION 10-16-705 (4.5)(c)(II) APPLY.**

16 **SECTION 4.** In Colorado Revised Statutes, **add 25.5-4-431 as**
17 **follows:**

18 **25.5-4-431. Preauthorization for treatment - request to share**
19 **with insurance carrier. SUBJECT TO STATE AND FEDERAL LAWS**
20 **RELATING TO THE CONFIDENTIALITY OF MEDICAL RECORDS, AT THE**
21 **REQUEST AND WITH THE CONSENT OF AN ENROLLEE IN THE MEDICAL**
22 **ASSISTANCE PROGRAM, THE STATE DEPARTMENT SHALL PROVIDE A COPY**
23 **OF THE ENROLLEE'S PREAUTHORIZATION FOR TREATMENT TO THE**
24 **ENROLLEE'S NEW INSURANCE CARRIER WITHIN TEN DAYS AFTER RECEIPT**
25 **OF THE REQUEST IF THE ENROLLEE IS NO LONGER ENROLLED IN THE**
26 **MEDICAL ASSISTANCE PROGRAM.**

27 **SECTION 5.** Act subject to petition - effective date -

1 **applicability.** (1) This act takes effect January 1, 2025; except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within the ninety-day period after final adjournment of the general
5 assembly, then the act, item, section, or part will not take effect unless
6 approved by the people at the general election to be held in November
7 2024 and, in such case, will take effect January 1, 2025, or on the date of
8 the official declaration of the vote thereon by the governor, whichever is
9 later.

10 (2) This act applies to health benefit plans issued on or after the
11 applicable effective date of this act.