



**Colorado  
Legislative  
Council  
Staff**

**Bill 2**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0160  
**Prime Sponsor(s):**

**Date:** September 27, 2016  
**Bill Status:** Interim Study Committee on  
Communication Between HCPF  
and Medicaid Clients Bill Request

**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** MEDICAID APPEAL REVIEW LEGAL NOTICE REQUIREMENTS

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Expenditures	Minimal workload increase.	
Appropriation Required: None.		
Future Year Impacts: Ongoing minimal workload increase.		

**Summary of Legislation**

This bill, *requested by the Interim Study Committee on Communication Between the Department of Health Care Policy and Financing (HCPF) and Medicaid Clients*, requires administrative law judges to review the legal sufficiency of Medicaid notices of action when a client appeals a termination or reduction in benefits (adverse action). The legal review of notices will take place at the start of an appeal. If the administrative law judge determines that the notice is not legally sufficient, he or she shall inform the client that the adverse action may be set aside. The client may then ask the administrative law judge to decide the case in his or her favor on the basis of the insufficient notice. Alternately, the client may waive his or her defense on the basis of insufficient notice and request that the appeal proceed to a hearing on the merits of the case. Administrative law judges must inform clients that the HCPF may issue a legally sufficient notice in the future and that the client may be required to repay any benefits received, as provided under current law, if the adverse action is upheld after the new notice is issued.

**Background**

Under current law, HCPF must provide Medicaid clients at least a ten-day advanced notice before the effect date of any adverse action affecting Medicaid eligibility. A client may file an appeal with the Office of Administrative Courts within 60 days after the notice date. During an appeal, a client may continue to receive Medicaid benefits; however, if the appeal is rejected, HCPF may seek to recoup the costs of any benefits provided while the case was on appeal. In most cases, clients do not have the ability to pay back any recoupment costs if an appeal is unsuccessful and HCPF does not send the case to collections.

## **State Expenditures**

The bill increases workload by a minimal amount in the Office of Administrative Courts in the Department of Personnel and Administration and in HCPF beginning in FY 2017-18. These impacts are discussed below

**Office of Administrative Courts workload.** By requiring an additional review in Medicaid appeal hearings, workload will increase by a minimal amount. Currently there are about 200 appeals cases per year involving current Medicaid recipients. Assuming the new review adds 15 minutes per case, this new task will require an additional 50 hours of administrative law judge time per year. This amount can be accomplished within the existing appropriations of the Office of Administrative Courts. In the event additional time is required beyond this estimate, it is assumed that funding to the Office of Administrative Courts will be adjusted through the annual budget process based on actual administrative law judge hours billed to HCPF.

**Reissuance of notices and continued eligibility.** To the extent notices of adverse actions issued by HCPF are found to be legally insufficient, HCPF will have additional workload to reissue notices so that they are legally sufficient. An increase in the number of notices found to be legally insufficient may also increase the amount of time that clients are enrolled in Medicaid until sufficient notice is issued and the adverse action takes effect or a new appeal is filed. The exact costs of extending Medicaid benefits cannot be estimated at this time and will depend on the number of notices found to be legally insufficient and the amount of time required for the HCPF to reissue a compliant notice. If such costs are incurred, the fiscal note assumes they will be addressed through the annual budget process. The bill is not expected to affect the workload or costs associated with recoupment of Medicaid benefits following an unsuccessful appeal.

## **Local Government Impact**

To the extent notices are found to be insufficient, county departments of social services may have additional workload to assist in reissuing notices or to communicate with clients about new notices that are sent. Any impact on county caseworkers is assumed to be minimal.

## **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. It applies to hearings conducted on and after January 1, 2018.

## **State and Local Government Contacts**

Counties  
Law

Health Care Policy And Financing  
Information Technology

Human Services  
Personnel