

CHAPTER 193

GOVERNMENT - LOCAL

SENATE BILL 06-145

BY SENATOR(S) Shaffer, Hagedorn, Bacon, Gordon, Groff, Hanna, Tapia, Tochtrop, Tupa, Williams, Windels, and Boyd;
also REPRESENTATIVE(S) McCluskey, Butcher, Cloer, Jahn, Madden, McGihon, Paccione, Riesberg, Solano, Witwer, Coleman,
Frangas, Garcia, and Kerr J.

AN ACT

CONCERNING THE AUTHORITY OF A LOCAL GOVERNMENT TO IMPOSE A FEE ON CERTAIN MEDICAL PROVIDERS FOR PURPOSES OF OBTAINING FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID FOR UNREIMBURSED MEDICAID COSTS.

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

SECTION 1. Title 29, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 28
Medical Provider Fees

29-28-101. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) MEDICAID REIMBURSEMENT RATES COVER ONLY APPROXIMATELY SIXTY-FIVE PERCENT OF THE ACTUAL COSTS INCURRED BY SERVICE PROVIDERS RENDERING SERVICES TO MEDICAID RECIPIENTS;

(b) LOW MEDICAID REIMBURSEMENT RATES AND INCREASED CASELOADS HAVE CAUSED THE COSTS TO SHIFT WITHIN THE HEALTH CARE DELIVERY SYSTEM, RESULTING IN HIGHER MEDICAL COSTS FOR THE GENERAL POPULATION;

(c) THE MEDICAID CASELOAD CONTINUES TO EXPAND AND, THEREFORE, THE NEED FOR PROVIDERS TO SERVE THESE MEDICAID RECIPIENTS CONTINUES TO INCREASE;

(d) RISING HEALTH CARE COSTS ARE A PRIMARY CONCERN FOR COLORADO CITIZENS AND BUSINESSES;

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

(e) IT IS THEREFORE IN THE BEST INTEREST OF THE STATE OF COLORADO TO AUTHORIZE LOCAL GOVERNMENTS TO IMPOSE A FEE ON CERTAIN MEDICAL PROVIDERS TO ASSIST IN FINANCING UNREIMBURSED MEDICAID COSTS.

29-28-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

(2) "LOCAL GOVERNMENT" MEANS A COUNTY, HOME RULE COUNTY, HOME RULE OR STATUTORY CITY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND COUNTY.

(3) "QUALIFIED PROVIDER" MEANS A NONGOVERNMENT HOSPITAL LICENSED PURSUANT TO SECTION 25-3-101, C.R.S., OR A NONGOVERNMENT CERTIFIED HOME HEALTH CARE AGENCY WITHIN THE TERRITORIAL BOUNDARIES OF A LOCAL GOVERNMENT.

(4) "UNREIMBURSED MEDICAID COSTS" MEANS MEDICAID COSTS, AS DEFINED BY THE MEDICAL SERVICES BOARD, CREATED IN SECTION 25.5-1-301 (1), C.R.S., THAT ARE ELIGIBLE FOR FEDERAL FINANCIAL PARTICIPATION PURSUANT TO SECTION 26-4-427, C.R.S.

29-28-103. Powers of the governing body - fee authorization - unreimbursed medicaid costs. (1) (a) THE GOVERNING BODY OF A LOCAL GOVERNMENT MAY IMPOSE A FEE ON A QUALIFIED PROVIDER LOCATED WITHIN ITS TERRITORIAL BOUNDARIES FOR THE PURPOSE OF OBTAINING FEDERAL FINANCIAL PARTICIPATION UNDER THE STATE'S MEDICAL ASSISTANCE PROGRAM, ARTICLE 4 OF TITLE 26, C.R.S., TO REIMBURSE QUALIFIED PROVIDERS FOR UNREIMBURSED MEDICAID COSTS.

(b) (I) THE FEE IMPOSED SHALL BE SET AS A PERCENTAGE OF THE GROSS OR NET REVENUES OF A QUALIFIED PROVIDER, AND THE AMOUNT OF THE FEE SHALL NOT EXCEED THE MAXIMUM AMOUNT OF THE FEE ALLOWED UNDER FEDERAL LAW CONSISTENT WITH THE PROVISIONS OF 42 U.S.C. SEC. 1396b. THE LOCAL GOVERNMENT MAY EXEMPT REVENUE CATEGORIES FROM THE GROSS OR NET REVENUE CALCULATION AND THE COLLECTION OF THE FEE FROM QUALIFIED PROVIDERS, AS AUTHORIZED BY FEDERAL LAW. THE LOCAL GOVERNMENT MAY EXEMPT COST CATEGORIES, AS DEFINED BY THE DEPARTMENT, FROM THE CALCULATION OF UNREIMBURSED MEDICAID COSTS AS AUTHORIZED BY FEDERAL LAW.

(II) SUBJECT TO FEDERAL MEDICAID RULES AND REGULATIONS, IN ANY GIVEN YEAR, A LOCAL GOVERNMENT MAY ELECT TO NOT ASSESS THE FEE IMPOSED ON QUALIFIED PROVIDERS PURSUANT TO THIS SUBSECTION (1) AND NOT MAKE THE REIMBURSEMENTS TO QUALIFIED PROVIDERS WITHIN ITS TERRITORIAL BOUNDARIES FOR THAT YEAR.

(c) PRIOR TO THE IMPOSITION AND COLLECTION OF THE FEE, THE GOVERNING BODY OF THE LOCAL GOVERNMENT SHALL:

(I) APPROVE THE FEE BY ORDINANCE OR RESOLUTION; AND

(II) NOTIFY THE DEPARTMENT THAT THE LOCAL GOVERNMENT HAS AUTHORIZED THE IMPOSITION OF A FEE PURSUANT TO THIS SUBSECTION (1).

(2) THE LOCAL GOVERNMENT SHALL COLLECT THE FEE IMPOSED ON QUALIFIED PROVIDERS PURSUANT TO SUBSECTION (1) OF THIS SECTION AND SHALL CERTIFY TO THE DEPARTMENT THE AMOUNT THAT THE LOCAL GOVERNMENT PAYS THE QUALIFIED PROVIDERS FOR UNREIMBURSED MEDICAID COSTS, WHICH SHALL INCLUDE THE DISTRIBUTION OF MONEYS COLLECTED FROM THE FEE COLLECTED PURSUANT TO THIS SECTION TO QUALIFIED PROVIDERS BASED ON THE UNREIMBURSED MEDICAID COSTS CALCULATED BY THE DEPARTMENT PURSUANT TO SECTION 26-4-427 (4), C.R.S. THE LOCAL GOVERNMENT SHALL DISTRIBUTE ALL FEDERAL FINANCIAL PARTICIPATION RECEIVED FOR ELIGIBLE UNREIMBURSED MEDICAID COSTS OF THE QUALIFIED PROVIDERS WITHIN THE LOCAL GOVERNMENT'S TERRITORIAL BOUNDARIES AND ALL MONEYS COLLECTED FROM THE FEE COLLECTED PURSUANT TO THIS SECTION TO QUALIFIED PROVIDERS WITHIN ITS TERRITORIAL BOUNDARIES. THE DISTRIBUTION SHALL BE MADE BASED ON THE DEPARTMENT'S CALCULATION OF UNREIMBURSED MEDICAID COSTS.

(3) FEES IMPOSED AND DISTRIBUTED PURSUANT TO THIS SECTION FROM CERTIFIED HOME HEALTH CARE AGENCIES AND LICENSED HOSPITALS WITHIN THE TERRITORIAL BOUNDARIES OF A LOCAL GOVERNMENT SHALL BE KEPT SEPARATE TO ENSURE THAT THE FEES COLLECTED FROM CERTIFIED HOME HEALTH CARE AGENCIES WITHIN THE TERRITORIAL BOUNDARIES OF THE LOCAL GOVERNMENT ARE DISTRIBUTED ONLY TO CERTIFIED HOME HEALTH CARE AGENCIES AND THE FEES COLLECTED FROM LICENSED HOSPITALS WITHIN THE TERRITORIAL BOUNDARIES OF THE LOCAL GOVERNMENT ARE DISTRIBUTED ONLY TO LICENSED HOSPITALS.

(4) A LOCAL GOVERNMENT THAT ELECTS TO IMPOSE AND COLLECT A FEE FROM QUALIFIED PROVIDERS PURSUANT TO THIS SECTION SHALL FOLLOW ALL APPLICABLE FEDERAL MEDICAID RULES AND REGULATIONS REGARDING PROVIDER FEES.

SECTION 2. Part 4 of article 4 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-4-427. Unreimbursed costs - medicaid providers - state plan amendment - rules. (1) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "LOCAL GOVERNMENT" MEANS A COUNTY, HOME RULE COUNTY, HOME RULE OR STATUTORY CITY, TOWN, TERRITORIAL CHARTER CITY, OR CITY AND COUNTY.

(b) "OUTSTATIONING" MEANS THE REGISTRATION OF NEW MEDICAID RECIPIENTS BY REGISTRATION CLERKS LOCATED WITHIN A HOSPITAL INSTEAD OF BY A COUNTY DEPARTMENT OF SOCIAL SERVICES.

(c) "QUALIFIED PROVIDER" MEANS A NONGOVERNMENT HOSPITAL LICENSED PURSUANT TO SECTION 25-3-101, C.R.S., OR A NONGOVERNMENT CERTIFIED HOME HEALTH CARE AGENCY WITHIN THE TERRITORIAL BOUNDARIES OF THE LOCAL GOVERNMENT.

(2) FOR THE PURPOSE OF PAYING FOR UNREIMBURSED MEDICAID COSTS INCURRED BY QUALIFIED PROVIDERS, THE STATE DEPARTMENT SHALL AMEND THE STATE PLAN EFFECTIVE JULY 1, 2006. IMPLEMENTATION OF THE STATE PLAN AMENDMENT SHALL BE SUBJECT TO THE APPROVAL OF THE FEDERAL GOVERNMENT. THE IMPOSITION AND COLLECTION OF A PROVIDER FEE BY A LOCAL GOVERNMENT PURSUANT TO ARTICLE 28 OF TITLE 29, C.R.S., SHALL BE PROHIBITED WITHOUT THE FEDERAL GOVERNMENT'S APPROVAL OF A STATE PLAN AMENDMENT AUTHORIZING FEDERAL FINANCIAL PARTICIPATION FOR THE PROVIDER FEES.

(3) THE STATE DEPARTMENT SHALL DEFINE UNREIMBURSED MEDICAID COSTS, WHICH SHALL BE ADOPTED IN RULE BY THE STATE BOARD. UNREIMBURSED MEDICAID COSTS SHALL INCLUDE BUT NOT BE LIMITED TO THE UNREIMBURSED COSTS FOR INPATIENT AND OUTPATIENT HOSPITAL CARE, EMERGENCY HOSPITAL CARE, PHYSICIAN SERVICES, PRESCRIPTION DRUGS, DENTAL SERVICES, LAB AND X RAY, DURABLE MEDICAL EQUIPMENT, TRANSPORTATION SERVICES, OUTSTATIONING, AND HOME HEALTH CARE.

(4) UPON NOTICE OF THE IMPOSITION OF A FEE BY A LOCAL GOVERNMENT AS AUTHORIZED BY ARTICLE 28 OF TITLE 29, C.R.S., THE STATE DEPARTMENT SHALL CALCULATE THE UNREIMBURSED MEDICAID COSTS FOR QUALIFIED PROVIDERS WITHIN THE LOCAL GOVERNMENT, EXCLUDING ANY SPECIFIC COSTS THE LOCAL GOVERNMENT EXEMPTS FROM THE CALCULATION PURSUANT TO SECTION 29-28-103 (1) (b), C.R.S.

(5) THE STATE DEPARTMENT SHALL DISTRIBUTE TO A LOCAL GOVERNMENT THAT HAS CERTIFIED PAYMENT TO QUALIFIED PROVIDERS THE FEDERAL FINANCIAL PARTICIPATION RECEIVED FOR ELIGIBLE UNREIMBURSED MEDICAID COSTS OF THE QUALIFIED PROVIDERS WITHIN THE LOCAL GOVERNMENT.

SECTION 3. 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 5, 2006