CHAPTER 246

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 12-1281

BY REPRESENTATIVE(S) Young and Gerou, Ferrandino, Fields, Kefalas, Kerr A., McCann, Peniston, Schafer S., Casso, Fischer, Hamner, Hullinghorst, Kagan, Labuda, Levy, Massey, Miklosi, Pabon, Pace, Solano, Todd, Williams A., Wilson, Duran, Singer, Tyler;
also SENATOR(S) Steadman and Roberts, Aguilar, Boyd, Giron, Guzman, Hodge, Newell, Tochtrop.

AN ACT

CONCERNING A PILOT PROGRAM ESTABLISHING NEW PAYMENT METHODOLOGIES IN MEDICAID, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 25.5-1-205 as follows:

25.5-1-205. Providing for the efficient provision of health care through state-supervised cooperative action - rules. (1) COOPERATION AMONG HEALTH CARE PAYORS, INCLUDING BOTH PRIVATE SECTOR ENTITIES AND FEDERAL AND STATE-ADMINISTERED HEALTH CARE PROGRAMS, HAS THE POTENTIAL TO ELIMINATE NEEDLESS AND COSTLY COMPLEXITY IN THE ADMINISTRATION OF THE PROGRAMS AND TO BENEFIT PATIENTS, PAYORS, AND THE GOVERNMENT. FURTHER, ALIGNMENT OF FINANCIAL INCENTIVES AMONG PRIVATE AND PUBLIC ENTITIES MAY ACCELERATE AND REINFORCE IMPROVEMENTS IN HEALTH CARE QUALITY AND PATIENT OUTCOMES.

(2) THE EXECUTIVE DIRECTOR SHALL FACILITATE DEPARTMENTAL OVERSIGHT OF COLLABORATION AMONG PROVIDERS, MEDICAID CLIENTS AND ADVOCATES, AND PAYORS THAT IS DESIGNED TO IMPROVE HEALTH OUTCOMES AND PATIENT SATISFACTION AND SUPPORT THE FINANCIAL SUSTAINABILITY OF THE MEDICAID PROGRAM.

(3) THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES RELATING TO THE COLLABORATIVE PROCESS SET FORTH IN THIS SECTION.

SECTION 2. In Colorado Revised Statutes, **add** 25.5-5-415 and 25.5-5-416 as follows:

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

25.5-5-415. Medicaid payment reform and innovation pilot program - legislative declaration - creation - selection of payment projects - report - rules. (1) (a) THE GENERAL ASSEMBLY FINDS THAT:

(I) INCREASING HEALTH CARE COSTS IN COLORADO'S MEDICAID PROGRAM CREATES CHALLENGES FOR THE STATE'S BUDGET. FURTHER, THE INCREASING HEALTH CARE COSTS DO NOT NECESSARILY REFLECT IMPROVEMENTS IN EITHER HEALTH OUTCOMES FOR PATIENTS OR IN PATIENT SATISFACTION WITH THE CARE RECEIVED;

(II) MOREOVER, THE FEE-FOR-SERVICE PAYMENT MODEL MAY NOT SUPPORT OR ALIGN FINANCIALLY WITH EVOLVING CARE COORDINATION AND DELIVERY SYSTEMS;

(III) THE REFORM OF MEDICAID PAYMENT POLICIES OFFERS A SIGNIFICANT OPPORTUNITY FOR THE STATE TO CONTAIN COSTS AND IMPROVE QUALITY;

(IV) NEW PAYMENT METHODOLOGIES, INCLUDING GLOBAL PAYMENTS, HAVE BEEN DEVELOPED TO RESPOND TO RISING COSTS AND THE COMPLEXITIES OF HEALTH CARE DELIVERY. OPPORTUNITIES NOW EXIST TO EXPLORE, TEST, AND IMPLEMENT SUCH PAYMENT REFORMS IN THE MEDICAID PROGRAM.

(V) THE STATE DEPARTMENT SHOULD EXPLORE HOW THESE NEW PAYMENT METHODOLOGIES MAY RESULT IN IMPROVED HEALTH OUTCOMES AND PATIENT SATISFACTION AND SUPPORT THE FINANCIAL SUSTAINABILITY OF THE MEDICAID PROGRAM.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT COLORADO SHOULD BUILD UPON ONGOING REFORMS OF HEALTH CARE DELIVERY IN THE MEDICAID PROGRAM BY IMPLEMENTING A PILOT PROGRAM WITHIN THE STRUCTURE OF THE STATE DEPARTMENT'S CURRENT MEDICAID COORDINATED CARE SYSTEM THAT ENCOURAGES THE USE OF NEW AND INNOVATIVE PAYMENT METHODOLOGIES, INCLUDING GLOBAL PAYMENTS.

(2) (a) THERE IS HEREBY CREATED THE MEDICAID PAYMENT REFORM AND INNOVATION PILOT PROGRAM FOR PURPOSES OF FOSTERING THE USE OF INNOVATIVE PAYMENT METHODOLOGIES IN THE MEDICAID PROGRAM THAT ARE DESIGNED TO PROVIDE GREATER VALUE WHILE ENSURING GOOD HEALTH OUTCOMES AND CLIENT SATISFACTION.

(b) (I) THE STATE DEPARTMENT SHALL CREATE A PROCESS FOR INTERESTED CONTRACTORS OF THE STATE DEPARTMENT'S CURRENT MEDICAID COORDINATED CARE SYSTEM TO SUBMIT PAYMENT PROJECTS FOR CONSIDERATION UNDER THE PILOT PROGRAM. PAYMENT PROJECTS SUBMITTED PURSUANT TO THE PILOT PROGRAM MAY INCLUDE, BUT NEED NOT BE LIMITED TO, GLOBAL PAYMENTS, RISK ADJUSTMENT, RISK SHARING, AND ALIGNED PAYMENT INCENTIVES, INCLUDING, BUT NOT LIMITED TO, GAINSHARING, TO ACHIEVE IMPROVED QUALITY AND TO CONTROL COSTS.

(II) THE DESIGN OF THE PAYMENT PROJECT OR PROJECTS SHALL ADDRESS THE CLIENT POPULATION OF THE STATE DEPARTMENT'S CURRENT MEDICAID COORDINATED CARE SYSTEM AND BE TAILORED TO THE REGION'S HEALTH CARE NEEDS AND THE RESOURCES OF THE STATE DEPARTMENT'S CURRENT MEDICAID

COORDINATED CARE SYSTEM.

(III) A CONTRACTOR OF THE STATE DEPARTMENT'S CURRENT MEDICAID COORDINATED CARE SYSTEM SHALL WORK IN COORDINATION WITH THE PROVIDERS AND MANAGED CARE ENTITIES CONTRACTED WITH THE CONTRACTOR OF THE STATE DEPARTMENT'S CURRENT MEDICAID COORDINATED CARE SYSTEM IN DEVELOPING THE PAYMENT PROJECT OR PROJECTS.

(c) (I) ON OR BEFORE JULY 1, 2013, THE STATE DEPARTMENT SHALL COMPLETE ITS REVIEW OF PAYMENT PROJECTS AND SHALL SELECT PAYMENT PROJECTS TO BE INCLUDED IN THE PILOT PROGRAM.

(II) FOR PURPOSES OF SELECTING PAYMENT PROJECTS FOR THE PILOT PROGRAM, THE STATE DEPARTMENT SHALL CONSIDER, AT A MINIMUM:

(A) THE LIKELY EFFECT OF THE PAYMENT PROJECT ON QUALITY MEASURES, HEALTH OUTCOMES, AND CLIENT SATISFACTION;

(B) THE POTENTIAL OF THE PAYMENT PROJECT TO REDUCE THE STATE'S MEDICAID EXPENDITURES;

(C) THE STATE DEPARTMENT'S ABILITY TO ENSURE THAT INPATIENT AND OUTPATIENT HOSPITAL REIMBURSEMENTS ARE MAXIMIZED UP TO THE UPPER PAYMENT LIMITS, AS DEFINED IN 42 CFR 447.272 AND 42 CFR 447.321 AND CALCULATED BY THE STATE DEPARTMENT PERIODICALLY;

(D) THE CLIENT POPULATION SERVED BY THE STATE DEPARTMENT'S CURRENT MEDICAID COORDINATED CARE SYSTEM AND THE PARTICULAR HEALTH NEEDS OF THE REGION;

(E) THE BUSINESS STRUCTURE OR STRUCTURES LIKELY TO FOSTER COOPERATION, COORDINATION, AND ALIGNMENT AND THE ABILITY OF THE CONTRACTOR OF THE STATE DEPARTMENT'S CURRENT MEDICAID COORDINATED CARE SYSTEM TO IMPLEMENT THE PAYMENT PROJECT, INCLUDING THE RESOURCES AVAILABLE TO THE CONTRACTOR OF THE STATE DEPARTMENT'S CURRENT MEDICAID COORDINATED CARE SYSTEM AND THE TECHNOLOGICAL INFRASTRUCTURE REQUIRED; AND

(F) THE ABILITY OF THE CONTRACTOR OF THE STATE DEPARTMENT'S CURRENT MEDICAID COORDINATED CARE SYSTEM TO COORDINATE AMONG PROVIDERS OF PHYSICAL HEALTH CARE, BEHAVIORAL HEALTH CARE, ORAL HEALTH CARE, AND THE SYSTEM OF LONG-TERM CARE SERVICES AND SUPPORTS.

(III) FOR PAYMENT PROJECTS NOT SELECTED BY THE STATE DEPARTMENT, THE STATE DEPARTMENT SHALL RESPOND TO THE CONTRACTOR OF THE STATE DEPARTMENT'S CURRENT MEDICAID COORDINATED CARE SYSTEM, IN WRITING, ON OR BEFORE JULY 1, 2013, STATING THE REASON OR REASONS WHY THE PAYMENT PROJECT WAS NOT SELECTED. THE STATE DEPARTMENT SHALL SEND A COPY OF THE RESPONSE TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEE, AND THE HEALTH AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEE.

(d) (I) THE PAYMENT PROJECTS SELECTED FOR THE PROGRAM SHALL BE FOR A PERIOD OF AT LEAST TWO YEARS, BUT SHALL NOT EXTEND BEYOND JUNE 30, 2016. THE PROVIDER CONTRACT SHALL SPECIFY THE PAYMENT METHODOLOGY UTILIZED IN THE PAYMENT PROJECT.

(II) THE REQUIREMENTS OF SECTION 25.5-5-408 DO NOT APPLY TO THE RATE-CALCULATION PROCESS FOR PAYMENTS MADE TO MCES PURSUANT TO THIS SECTION.

(III) MCES PARTICIPATING IN THE PILOT PROGRAM ARE SUBJECT TO THE REQUIREMENTS OF SECTION 25.5-5-404 (1) (k) AND (1) (l), AS APPLICABLE.

(IV) PAYMENTS MADE TO MCES UNDER THE PILOT PROGRAM SHALL ACCOUNT FOR PROSPECTIVE, LOCAL COMMUNITY OR HEALTH SYSTEM COST TRENDS AND VALUES, AS MEASURED BY QUALITY AND SATISFACTION MEASURES, AND SHALL INCORPORATE COMMUNITY COST EXPERIENCE AND REPORTED ENCOUNTER DATA TO THE EXTENT POSSIBLE TO ADDRESS REGIONAL VARIATION AND IMPROVE LONGITUDINAL PERFORMANCE.

(V) NOTWITHSTANDING ANY PROVISIONS OF THIS SECTION OR STATE BOARD RULES TO THE CONTRARY, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT TOTAL PAYMENTS, ADJUSTMENTS, AND INCENTIVES WILL BE BUDGET-NEUTRAL WITH RESPECT TO STATE EXPENDITURES. THE STATE DEPARTMENT SHALL NOT ENTER INTO A CONTRACT WITH A PROVIDER PURSUANT TO THIS SECTION IF THE STATE DEPARTMENT ESTIMATES THAT TOTAL PAYMENTS TO THE PROVIDER WILL BE GREATER THAN WITHOUT THE CONTRACT.

(3) PILOT PROGRAM PARTICIPANTS SHALL PROVIDE DATA AND INFORMATION TO THE STATE DEPARTMENT AND ANY DESIGNATED EVALUATOR CONCERNING HEALTH OUTCOMES, COST, PROVIDER PARTICIPATION AND SATISFACTION, CLIENT SATISFACTION, AND ANY OTHER DATA AND INFORMATION NECESSARY TO EVALUATE THE EFFICACY OF THE PAYMENT METHODOLOGY.

(4) (a) THE STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEE, AND THE HEALTH AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEE, AS FOLLOWS:

(I) ON OR BEFORE FEBRUARY 1, 2013, CONCERNING THE DESIGN AND IMPLEMENTATION OF THE PILOT PROGRAM, INCLUDING A DESCRIPTION OF ANY PAYMENT PROJECTS RECEIVED BY THE STATE DEPARTMENT AND THE TIME FRAME FOR IMPLEMENTATION;

(II) ON OR BEFORE SEPTEMBER 15, 2014, CONCERNING THE PILOT PROGRAM AS IMPLEMENTED, INCLUDING BUT NOT LIMITED TO AN ANALYSIS OF THE INITIAL DATA AND INFORMATION CONCERNING THE UTILIZATION OF THE PAYMENT METHODOLOGY, QUALITY MEASURES, AND THE IMPACT OF THE PAYMENT METHODOLOGY ON HEALTH OUTCOMES, COST, PROVIDER PARTICIPATION AND SATISFACTION, AND PATIENT SATISFACTION; AND

(III) ON OR BEFORE SEPTEMBER 15, 2015, AND EACH SEPTEMBER 15 THAT THE PROGRAM IS BEING IMPLEMENTED, CONCERNING THE PROGRAM AS IMPLEMENTED, INCLUDING BUT NOT LIMITED TO AN ANALYSIS OF THE DATA AND INFORMATION CONCERNING THE UTILIZATION OF THE PAYMENT METHODOLOGY, INCLUDING AN ASSESSMENT OF HOW THE PAYMENT METHODOLOGY DRIVES PROVIDER PERFORMANCE AND PARTICIPATION AND THE IMPACT OF THE PAYMENT METHODOLOGY ON QUALITY MEASURES, HEALTH OUTCOMES, COST, PROVIDER SATISFACTION, AND PATIENT SATISFACTION, COMPARING THOSE OUTCOMES ACROSS ALL PATIENTS UTILIZING EXISTING STATE DEPARTMENT DATA.

(b) FOR PURPOSES OF EVALUATING THE PILOT PROGRAM AND PAYMENT METHODOLOGIES, THE STATE DEPARTMENT MAY COLLABORATE WITH A NONPROFIT ENTITY OR AN INSTITUTION OF HIGHER EDUCATION TO ANALYZE AND VERIFY DATA AND INFORMATION RECEIVED FROM PILOT PARTICIPANTS AND TO EVALUATE QUALITY MEASURES AND THE COST EFFECTIVENESS OF THE PAYMENT REFORMS.

(5) THE STATE DEPARTMENT SHALL SEEK ANY FEDERAL AUTHORIZATION NECESSARY TO IMPLEMENT THE PILOT PROGRAM.

(6) THE STATE DEPARTMENT MAY PROMULGATE ANY RULES NECESSARY TO IMPLEMENT THE PILOT PROGRAM.

25.5-5-416. Report concerning efficient contracting in managed care - legislative declaration - repeal. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE STATE DEPARTMENT ADMINISTERS A WIDE VARIETY OF CONTRACTS THAT ARE AUTHORIZED PURSUANT TO THIS PART 4. EACH CONTRACT REQUIRES A SEPARATE ADMINISTRATIVE INFRASTRUCTURE AND THE COMMITMENT OF STATE DEPARTMENT RESOURCES. STREAMLINING AND SIMPLIFYING THE ADMINISTRATIVE STRUCTURE MAY MAKE THE STATE DEPARTMENT MORE EFFICIENT AND ALLOW THE STATE DEPARTMENT TO FOCUS MORE RESOURCES ON IMPROVING VALUE IN HEALTH CARE.

(2) ON OR BEFORE JANUARY 1, 2013, THE STATE DEPARTMENT SHALL REPORT TO THE JOINT BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEE, AND THE HEALTH AND ENVIRONMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEE, CONCERNING:

(a) AN ASSESSMENT OF THE POLICY GOAL AND EFFICACY OF EACH TYPE OF CONTRACT ADMINISTERED PURSUANT TO THIS PART 4;

(b) A COMPARISON OF THE POLICY GOAL WITH THE RELATIVE AMOUNT OF ADMINISTRATIVE COST NECESSARY TO APPROPRIATELY MANAGE EACH PROGRAM; AND

(c) RECOMMENDATIONS TO THE GENERAL ASSEMBLY FOR STATUTORY OR OTHER CHANGES NECESSARY TO STREAMLINE AND SIMPLIFY CONTRACTS AUTHORIZED PURSUANT TO THIS PART 4.

(3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2013.

SECTION 3. In Colorado Revised Statutes, 25.5-5-402, **add** (6) as follows:

25.5-5-402. Statewide managed care system. (6) (a) FOR REQUESTS FOR PROPOSALS OCCURRING ON AND AFTER JANUARY 1, 2015, THE STATE DEPARTMENT SHALL ALLOW FOR PAYMENT PROPOSALS THAT INCLUDE, BUT NEED NOT BE LIMITED TO, GLOBAL PAYMENT, RISK ADJUSTMENT, RISK SHARING, AND ALIGNED PAYMENT INCENTIVES, INCLUDING, BUT NOT LIMITED TO, GAINSHARING, FOR HEALTH BENEFITS AND SERVICES PROVIDED TO MEDICAL ASSISTANCE CLIENTS PURSUANT TO SECTIONS 25.5-5-404 (1) (k) AND (1) (l), 25.5-5-406 (2), AND PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION.

(b) THE STATE DEPARTMENT SHALL HAVE THE DISCRETION TO DETERMINE WHICH PROPOSALS SATISFY THE REQUEST FOR PROPOSAL, INCLUDING:

(I) WHETHER THE PROPOSALS ARE APPROPRIATE FOR THE STATE'S COORDINATED CARE SYSTEM; AND

(II) THE STATE DEPARTMENT'S ABILITY TO ENSURE INPATIENT AND OUTPATIENT HOSPITAL REIMBURSEMENTS ARE MAXIMIZED UP TO THE UPPER LIMITS, AS DEFINED IN 42 CFR 447.272 AND 42 CFR 447.321 AND CALCULATED BY THE STATE DEPARTMENT PERIODICALLY.

(c) THE STATE DEPARTMENT MAY SEEK ANY FEDERAL WAIVER NECESSARY TO ENSURE THAT THE EFFECT OF THE REQUEST FOR PROPOSALS DOES NOT ADVERSELY IMPACT UPPER PAYMENT LIMITS AND CONSIDERATIONS SHALL INCLUDE, BUT ARE NOT LIMITED TO, THE ESTABLISHMENT OF AN UNCOMPENSATED CARE COST POOL OR A HOSPITAL INCENTIVE PROGRAM.

SECTION 4. In Colorado Revised Statutes, 25.5-5-403, **add** (2.5) as follows:

25.5-5-403. Definitions. As used in this part 4, unless the context otherwise requires:

(2.5) "GLOBAL PAYMENT" MEANS A POPULATION-BASED PAYMENT MECHANISM THAT IS CONSTRUCTED ON A PER-MEMBER, PER-MONTH CALCULATION. GLOBAL PAYMENTS SHALL ACCOUNT FOR PROSPECTIVE LOCAL COMMUNITY OR HEALTH SYSTEM COST TRENDS AND VALUE, AS MEASURED BY QUALITY AND SATISFACTION METRICS, AND SHALL INCORPORATE COMMUNITY COST EXPERIENCE AND REPORTED ENCOUNTER DATA TO THE GREATEST EXTENT POSSIBLE TO ADDRESS REGIONAL VARIATION AND IMPROVE LONGITUDINAL PERFORMANCE. RISK ADJUSTMENTS, RISK-SHARING, AND ALIGNED PAYMENT INCENTIVES MAY BE UTILIZED TO ACHIEVE PERFORMANCE IMPROVEMENT. THE RATE CALCULATIONS FOR GLOBAL PAYMENT ARE EXEMPT FROM THE PROVISIONS OF SECTION 25.5-5-408. AN ENTITY THAT USES GLOBAL PAYMENT PURSUANT TO SECTION 25.5-5-404 SHALL MEET THE APPLICABLE FINANCIAL SOLVENCY REQUIREMENTS OF SECTION 25.5-5-404 (1) (k) AND (1) (l), AND THE ESSENTIAL COMMUNITY PROVIDER REQUIREMENTS OF SECTION 25.5-5-404 (2) AND (3).

SECTION 5. In Colorado Revised Statutes, 25.5-5-406, **add** (2) as follows:

25.5-5-406. Required features of managed care system. (2) (a) AFTER

JANUARY 1, 2015, THE STATE DEPARTMENT SHALL OPEN FOR COMPETITIVE BID THE STATE DEPARTMENT'S MEDICAID COORDINATED CARE SYSTEM WITHIN REGIONS OF THE STATE. BEFORE ISSUING A REQUEST FOR PROPOSAL, THE STATE DEPARTMENT SHALL ANALYZE THE REGIONS OF THE STATE TO DETERMINE THE APPROPRIATE NUMBER OF CARE COORDINATION REGIONS THAT SHOULD BE CREATED. FURTHER, BEFORE ISSUING A REQUEST FOR PROPOSAL, THE STATE DEPARTMENT SHALL ALSO ANALYZE THE APPROPRIATE NUMBER OF CARE COORDINATION CONTRACTS IN EACH REGION OF THE STATE.

(b) NOTHING IN THIS SUBSECTION (2) SHALL DELAY THE IMPLEMENTATION OF THE MEDICAID PAYMENT REFORM AND INNOVATION PILOT PROGRAM CREATED IN SECTION 25.5-5-415.

SECTION 6. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, to the department of health care policy and financing, for the fiscal year beginning July 1, 2012, the sum of $213,079 and 0.8 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) $47,538 and 0.8 FTE for personal services, of which sum $23,769 is from the general fund and $23,769 is from federal funds;

(b) $5,541 for operating expenses, of which sum $2,771 is from the general fund and $2,770 is from federal funds; and

(c) $160,000 for general professional services, of which sum $80,000 is from the general fund and $80,000 is from 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, and safety.

Approved: June 4, 2012