

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

DRAFT
5.19.20

DRAFT

LLS NO. 20-1195.02 Jerry Barry x4341

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: "Use Of Increased Medicaid Match"

A BILL FOR AN ACT

101 **CONCERNING THE INCREASED MONEY RECEIVED DUE TO THE FEDERAL**
102 **"FAMILIES FIRST CORONAVIRUS RESPONSE ACT", AND, IN**
103 **CONNECTION THEREWITH, MAKING AND REDUCING**
104 **APPROPRIATIONS.**

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/>.)

Joint Budget Committee. For fiscal years 2019-20 and 2020-21, the bill specifies that:

- If a provider or a school district submits a certification of

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

public expenditure pursuant to federal law, the provider, or school district shall receive federal matching funds in the amount of 50% of the amount certified, and any federal financial participation in excess of 50% of the amount certified must be transferred to the general fund for the medical assistance program;

- The amount of increased federal financial participation in excess of 50% generated from appropriations out of the healthcare affordability and sustainability fee cash fund must be used to offset other general fund appropriations for the medical assistance program;
- The amount of increased federal financial participation in excess of 50% for reimbursements and payments must be transferred from the medicaid nursing facility cash fund to the general fund for the medical assistance program expenditures; and
- The appropriation to the university of Colorado for fee-for-service contracts for health services is reduced by the amount of federal financial participation that exceeds 50%.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-3-108, **add** (19)
3 as follows:

4 **25.5-3-108. Responsibility of the department of health care**
5 **policy and financing - provider reimbursement - repeal.**

6 (19)(a) [(I)] NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR THE
7 STATE FISCAL YEARS COMMENCING JULY 1, 2019, AND JULY 1, 2020, IF A
8 PROVIDER SUBMITS A CERTIFICATION OF PUBLIC EXPENDITURES PURSUANT
9 TO 42 CFR 433.51 (b), THE STATE DEPARTMENT SHALL RETAIN ANY
10 FEDERAL MONEY PAYABLE AS REIMBURSEMENT FOR THE EXPENDITURE IN
11 EXCESS OF FIFTY PERCENT OF THE EXPENDITURE AMOUNT. THE STATE
12 TREASURER SHALL TRANSFER SUCH MONEY TO THE GENERAL FUND
13 CREATED IN SECTION 24-75-201 FOR APPROPRIATION FOR THE STATE
14 MEDICAL ASSISTANCE PROGRAM.

1 [(II) THE PROVISIONS OF THIS SUBSECTION (19) DO NOT APPLY TO
2 EXPENDITURES PROVIDED BY SCHOOL DISTRICTS PURSUANT TO SECTION
3 25.5-5-318.]

4 (b) THIS SUBSECTION (19) IS REPEALED, EFFECTIVE DECEMBER 31,
5 2021.

6 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-402.4, **amend**
7 (5)(b)(VIII) and (6)(a)(I); and **add** (4)(a)(II.5), (5)(b)(VIII.5), and
8 (6)(b)(I.5) as follows:

9 **25.5-4-402.4. Hospitals - healthcare affordability and**
10 **sustainability fee - legislative declaration - Colorado healthcare**
11 **affordability and sustainability enterprise - federal waiver - fund**
12 **created - rules - reports - repeal.** (4) **Healthcare affordability and**
13 **sustainability fee.** (a) For the fiscal year commencing July 1, 2017, and
14 for each fiscal year thereafter, the enterprise is authorized to charge and
15 collect a healthcare affordability and sustainability fee, as described in 42
16 CFR 433.68 (b), on outpatient and inpatient services provided by all
17 licensed or certified hospitals, referred to in this section as "hospitals", for
18 the purpose of obtaining federal financial participation under the state
19 medical assistance program as described in this article 4 and articles 5 and
20 6 of this title 25.5, referred to in this section as the "state medical
21 assistance program", and the Colorado indigent care program described
22 in part 1 of article 3 of this title 25.5, referred to in this section as the
23 "Colorado indigent care program". The enterprise shall use the healthcare
24 affordability and sustainability fee revenue to:

25 (II.5) (A) FOR STATE FISCAL YEARS 2019-20 AND 2020-21 ONLY,
26 OFFSET GENERAL FUND EXPENDITURES FOR THE STATE MEDICAL
27 ASSISTANCE PROGRAM.

1 (B) THIS SUBSECTION (4)(a)(II.5) IS REPEALED, EFFECTIVE
2 DECEMBER 31, 2021.

3 (5) **Healthcare affordability and sustainability fee cash fund.**

4 (b) All money in the fund is subject to federal matching as authorized
5 under federal law and, subject to annual appropriation by the general
6 assembly, shall be expended by the enterprise for the following purposes:

7 (VIII) Subject to any necessary federal waivers being obtained, to
8 provide funding for a health care delivery system reform incentive
9 payments program as described in subsection (8) of this section; ~~and~~

10 (VIII.5) (A) FOR STATE FISCAL YEARS 2019-20 AND 2020-21
11 ONLY, AND REGARDLESS OF WHEN THIS FEDERAL MONEY IS MADE
12 AVAILABLE, THE AMOUNT IN EXCESS OF THE FIFTY PERCENT FEDERAL
13 FINANCIAL PARTICIPATION GENERATED BY INCREASED REIMBURSEMENTS
14 AND PAYMENTS APPROPRIATED FOR USE IN SUBSECTIONS (5)(b)(I) TO
15 (5)(b)(III) OF THIS SECTION PURSUANT TO THE FEDERAL "FAMILIES FIRST
16 CORONAVIRUS RESPONSE ACT", PUB.L. 116-127, OR ANY AMENDMENT
17 THERE TO, TO OFFSET GENERAL FUND EXPENDITURES FOR THE STATE
18 MEDICAL ASSISTANCE PROGRAM.

19 (B) THIS SUBSECTION (5)(b)(VIII.5) IS REPEALED, EFFECTIVE
20 DECEMBER 31, 2021.

21 (6) **Appropriations.** (a) (I) EXCEPT AS OTHERWISE PROVIDED IN
22 SUBSECTION (6)(b)(I.5) OF THIS SECTION, the healthcare affordability and
23 sustainability fee is to supplement, not supplant, general fund
24 appropriations to support hospital reimbursements. General fund
25 appropriations for hospital reimbursements shall be maintained at the
26 level of appropriations in the medical services premium line item made
27 for the fiscal year commencing July 1, 2008; except that general fund

1 appropriations for hospital reimbursements may be reduced if an index of
2 appropriations to other providers shows that general fund appropriations
3 are reduced for other providers. If the index shows that general fund
4 appropriations are reduced for other providers, the general fund
5 appropriations for hospital reimbursements shall not be reduced by a
6 greater percentage than the reductions of appropriations for the other
7 providers as shown by the index.

8 (b) If the revenue from the healthcare affordability and
9 sustainability fee is insufficient to fully fund all of the purposes described
10 in subsection (5)(b) of this section:

11 (I.5) (A) THE AMOUNT IN EXCESS OF THE FIFTY PERCENT FEDERAL
12 FINANCIAL PARTICIPATION GENERATED BY INCREASED REIMBURSEMENTS
13 AND PAYMENTS APPROPRIATED FOR USE IN SUBSECTIONS (5)(b)(I) TO
14 (5)(b)(III) OF THIS SECTION PURSUANT TO THE FEDERAL "FAMILIES FIRST
15 CORONAVIRUS RESPONSE ACT", PUB.L. 116-127, OR ANY AMENDMENT
16 THERETO, SHALL BE APPROPRIATED TO OFFSET GENERAL FUND
17 EXPENDITURES FOR THE STATE MEDICAL ASSISTANCE PROGRAM.

18 (B) THIS SUBSECTION (6)(b)(I.5) IS REPEALED, EFFECTIVE
19 DECEMBER 31, 2021.

20 **SECTION 3.** In Colorado Revised Statutes, 25.5-6-203, **add**
21 (2)(b)(VII) as follows:

22 **25.5-6-203. Nursing facilities - provider fees - federal waiver -**
23 **fund created - rules - repeal.** (2) (b) (VII) (A) NOTWITHSTANDING ANY
24 OTHER PROVISION OF THIS SUBSECTION (2)(b), FOR STATE MEDICAID
25 EXPENDITURES FOR STATE FISCAL YEARS 2019-20 AND 2020-21 ONLY, AND
26 REGARDLESS OF WHEN THIS FEDERAL MONEY IS MADE AVAILABLE, MONEY
27 IN THE FUND MAY BE USED TO OFFSET GENERAL FUND EXPENDITURES IN

1 THE MEDICAID PROGRAM IN AN EQUIVALENT AMOUNT THAT WOULD HAVE
2 BEEN IN EXCESS OF THE FIFTY PERCENT FEDERAL FINANCIAL
3 PARTICIPATION GENERATED BY INCREASED REIMBURSEMENTS AND
4 PAYMENTS APPROPRIATED FOR USE IN SUBSECTIONS (2)(b)(I) TO (2)(b)(V)
5 OF THIS SECTION PURSUANT TO THE FEDERAL "FAMILIES FIRST
6 CORONAVIRUS RESPONSE ACT", PUB.L. 116-127, OR ANY AMENDMENT
7 THERETO, OR ANY OTHER FEDERAL LAW THAT INCREASES FEDERAL
8 FINANCIAL PARTICIPATION ABOVE THE FEDERAL FINANCIAL PARTICIPATION
9 PERCENTAGE IN EFFECT PRIOR TO THE INCREASE IN FEDERAL FINANCIAL
10 PARTICIPATION PROVIDED THROUGH THE FEDERAL "FAMILIES FIRST
11 CORONAVIRUS RESPONSE ACT". THE STATE TREASURER SHALL TRANSFER
12 SUCH AMOUNT TO THE GENERAL FUND FOR THE STATE MEDICAID
13 PROGRAM.

14 (B) THIS SUBSECTION (2)(b)(VII) IS REPEALED, EFFECTIVE
15 DECEMBER 31, 2021.

16 **SECTION 4.** In Colorado Revised Statutes, 23-18-304, **amend**
17 (1)(c) as follows:

18 **23-18-304. Funding for specialty education programs - area**
19 **technical colleges - local district colleges - repeal.** (1) (c) (I) Specialty
20 education services provided by the health sciences center campus at the
21 university of Colorado as authorized by ~~paragraph (a) of this subsection~~
22 ~~(I)~~ SUBSECTION (1)(a) OF THIS SECTION include care provided by the
23 faculty of the health sciences center campus at the university of Colorado
24 that are eligible for payment pursuant to section 25.5-4-401. ~~C.R.S.~~

25 (II) (A) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION
26 (1)(a)(I) OF THIS SECTION FOR THE 2019-20 AND 2020-21 STATE FISCAL
27 YEARS, THE APPROPRIATIONS TO THE UNIVERSITY OF COLORADO FOR

1 FEE-FOR-SERVICE CONTRACTS FOR THE SERVICES PROVIDED PURSUANT TO
2 SUBSECTION (1)(c)(I) OF THIS SECTION ARE REDUCED BY THE AMOUNT OF
3 THE FEDERAL PARTICIPATION RECEIVED THAT EXCEEDS FIFTY PERCENT
4 PURSUANT TO THE FEDERAL "FAMILIES FIRST CORONAVIRUS RESPONSE
5 ACT", PUB.L. 116-127, OR ANY AMENDMENT THERETO.

6 (B) THIS SUBSECTION (1)(c)(II) IS REPEALED, EFFECTIVE
7 DECEMBER 31, 2021.

DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
-----------------	-------	--------------	---------------------	------------	----------------------	---------------

SECTION 5. Appropriation to the department of health care policy and financing for the fiscal year beginning July 1, 2019. In Session Laws of Colorado 2019, section 2 of chapter 454, (SB 19-207), **amend** Part V (2) and the affected totals, as Part V (2) and the affected totals are amended by section 1 of HB20-1246, as follows:

Section 2. **Appropriation.**

PART V

DEPARTMENT OF HEALTH CARE POLICY AND FINANCING

(2) MEDICAL SERVICES PREMIUMS

Medical and Long-Term

Care Services for Medicaid

Eligible Individuals ^{15, 15c}	7,938,925,336	1,414,399,130(M)	897,710,833 ^a	1,025,976,104^b	88,876,290 ^c	4,511,962,979
		1,389,665,185(M)		1,050,710,049 ^b		

^a This amount shall be from the General Fund Exempt Account created in Section 24-77-103.6 (2), C.R.S.

DRAFT
2019-20
APPROPRIATION FROM

ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

^b Of this amount, ~~\$765,860,621~~ \$786,993,436 shall be from the Healthcare Affordability and Sustainability Fee Cash Fund created in Section 25.5-4-402.4 (5)(a), C.R.S., \$62,514,460 shall be from the Health Care Expansion Fund created in Section 24-22-117 (2)(a)(I), C.R.S., \$70,773,939 shall be from recoveries and recoupments, ~~\$58,082,714~~ \$61,683,844 shall be from the Medicaid Nursing Facility Cash Fund created in Section 25.5-6-203 (2)(a), C.R.S., \$26,174,181 shall be from the Adult Dental Fund created in Section 25.5-5-207 (4)(a), C.R.S., \$22,951,185 represents public funds certified as expenditures incurred by public hospitals and agencies that are eligible for federal financial participation under the Medicaid program, \$9,547,069 represents public funds certified as expenditures incurred by public emergency medical transportation providers, \$4,612,286 shall be from the Medicaid Buy-In Cash Fund created in Section 25.5-6-1404 (3)(b), C.R.S., \$2,038,515 shall be from the Tobacco Tax Cash Fund created in section 24-22-117 (1)(a), C.R.S., and meets the requirement to appropriate a portion of the revenues collected from the imposition of additional state cigarette and tobacco taxes to the Old Age Pension program for health related purposes pursuant to Section 21 of Article X of the State Constitution, \$1,663,523 shall be from the Colorado Autism Treatment Fund created in Section 25.5-6-805 (1), C.R.S., \$857,151 shall be from the Tobacco Education Programs Fund created in Section 24-22-117 (2)(c)(I), C.R.S., \$700,000 shall be from an intergovernmental transfer from Denver Health, and \$200,460 shall be from the Service Fee Fund created in Section 25.5-6-204 (1)(c)(II), C.R.S.

^c Of this amount, \$77,998,160 shall be transferred from the Department of Higher Education from the Fee-for-service Contracts with State Institutions for Speciality Education Programs line item, \$9,769,438 shall be transferred from the Old Age Pension State Medical Program line item appropriation in the Other Medical Services division of this department, and \$1,108,692 shall be transferred from Public School Health Services line item in the Other Medical Services division of this department.

DRAFT
2019-20
APPROPRIATION FROM

1
2
3
4
5
6
7
8
9
10
11
12
13

ITEM & SUBTOTAL	TOTAL	GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
TOTALS PART V						
(HEALTH CARE						
POLICY AND						
FINANCING)²²	\$10,716,549,200	\$2,281,552,243	\$898,118,536 ^a	\$1,426,817,710 ^b	\$93,615,672	\$6,016,445,039 ^c
		\$2,256,818,298		\$1,451,551,655 ^b		

^a Of this amount, \$897,710,833 shall be from the General Fund Exempt Account created in Section 24-77-103.6 (2), C.R.S., and \$407,703 shall be General Fund Exempt pursuant to Section 24-22-117 (1)(c)(I)(B), C.R.S. Said \$407,703 is not subject to the statutory limitation on General Fund appropriations imposed by Section 24-75-201.1, C.R.S.

^b Of this amount, \$16,315,459 contains an (I) notation.

^c Of this amount, \$276,904,852 contains an (I) notation.

1 **SECTION 6. Appropriation - adjustments to 2020 long bill.**

2 (1) To implement this act, appropriations made in the annual general
3 appropriation act for the 2020-21 state fiscal year to the department of
4 health care policy and financing are adjusted as follows:

5 (a) The general fund appropriation, which is subject to the "(M)"
6 notation as defined in the annual general appropriation act for the same
7 fiscal year, for medical services premiums is decreased by \$24,733,945;

8 (b) The appropriation for medical services premiums is reduced
9 by \$4,835,885. This appropriation is from reappropriated funds received
10 from the department of higher education under subsection (2)(b) of this
11 section; and

12 (c) The appropriation for medical services premiums is increased
13 by \$24,733,945, which consists of \$21,132,815 from the healthcare
14 affordability and sustainability fee cash fund created in section
15 25.5-4-402.4 (5)(a), C.R.S., and \$3,601,130 from the medicaid nursing
16 facility cash fund created in section 25.5-6-203 (2)(a), C.R.S.

17 (2) To implement this act, appropriations made in the annual
18 general appropriation act for the 2020-21 state fiscal year to the
19 department of higher education are adjusted as follows:

20 (a) The general fund appropriation for fee-for-service contracts
21 with state institutions for specialty education programs is decreased by
22 \$4,835,885; and

23 (b) The appropriation for the regents of the university of Colorado
24 is reduced by \$4,835,885. This appropriation is from reappropriated funds
25 received from the department of higher education under subsection (2)(a)
26 of this section.

27 **SECTION 7. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.