

Second Regular Session  
Seventy-fifth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0978.01 Shelby Ross x4510

HOUSE BILL 26-1412

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HOUSE SPONSORSHIP

**Sirota and Taggart**, Brown

SENATE SPONSORSHIP

**Bridges and Kirkmeyer**, Amabile

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**House Committees**  
Appropriations

**Senate Committees**

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A BILL FOR AN ACT

101 CONCERNING AUTHORIZING THE DEPARTMENT OF HEALTH CARE  
102 POLICY AND FINANCING TO USE STATISTICAL SAMPLING AND  
103 EXTRAPOLATION TO RECOVER OVERPAYMENTS TO PROVIDERS  
104 FOR CERTAIN MEDICAID SERVICES, AND, IN CONNECTION  
105 THEREWITH, MAKING AND REDUCING AN APPROPRIATION.

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**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.** If an audit of a medicaid provider who provides nonemergency medical transportation services or pediatric

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.

behavioral therapy is initiated after July 1, 2026, for services provided from January 1, 2022, through December 31, 2023, the department of health care policy and financing (state department) is authorized to determine and recover overpayments to a provider using statistical sampling and extrapolation. If an audit identifies a statistically significant pattern of alleged overpayments to a provider, the auditor is authorized to use the same statistical sampling and extrapolation methods to audit services provided by the provider from January 1, 2024, through December 31, 2025.

If the audit identifies an alleged overpayment, the state department is required to issue a notice of the alleged overpayment within 60 days after the alleged overpayment is identified. The notice of alleged overpayment must include the basis of the alleged overpayment, the rationale for the alleged overpayment, the methodology used to calculate the alleged overpayment, and information on how the state department identified the alleged overpayment.

If the state department enters into a contract for the purpose of conducting an audit, the contract must not be a contingency-based contract based on a percentage of the amount of recovery collected from the provider.

After the state department completes an audit of a provider, the state auditor's office is required to conduct an examination to determine that proper statistical sampling and extrapolation methods were used by the state department when determining whether overpayments were made to a provider. The state auditor shall annually present a report of the findings to the legislative audit committee and the joint budget committee.

The bill reduces a general fund appropriation and increases a cash fund appropriation to the state department.

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

2           **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds and declares that:

4           (a) The federal centers for medicare and medicaid services, the  
5 office of inspector general in the federal department of health and human  
6 services, and other federal agencies regularly employ statistical sampling  
7 and extrapolation methodologies to identify and recover improper  
8 payments from the Colorado medicaid program administered by the

1 department of health care policy and financing, or HCPF;

2 (b) Certain medicaid service areas, including nonemergency  
3 medical transportation and pediatric behavioral therapy, such as applied  
4 behavior analysis services, have been identified as having elevated rates  
5 of insufficient documentation, improper billing, or fraud, waste, and  
6 abuse, characterized by rapid outsized spending growth not explained or  
7 supported by a corresponding increase in the number of individuals  
8 served;

9 (c) Requiring HCPF to individually audit each claim submitted for  
10 payment by a provider to determine the appropriate error rate and  
11 overpayment recovery imposes an unrealistic and unsustainable  
12 administrative burden;

13 (d) The inability for HCPF to audit every claim submitted by a  
14 provider results in under-represented recoupments, recovery delays, and  
15 increased risk for federal disallowance, which the state is solely  
16 financially responsible for;

17 (e) Statistical sampling and extrapolation methodologies, when  
18 applied consistently with recognized federal standards, provide a reliable  
19 and efficient basis for overpayment recovery; and

20 (f) Using statistical sampling and extrapolation across providers  
21 treating medicaid members for services covered under the nonemergent  
22 medical transportation benefit and the pediatric behavioral therapy  
23 benefit, including applied behavioral analysis, will protect Colorado  
24 medicaid funds and the state general fund; deter fraud, waste, and abuse  
25 and related practices; and align state practices with established federal  
26 methodologies and standards.

27 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-301, **add**

1 (3)(a)(VI.5) as follows:

2 **25.5-4-301. Recoveries - overpayments - penalties - interest -**  
3 **adjustments - liens - review or audit procedures - cash fund - rules -**  
4 **definitions - repeal.**

5 (3) (a) A review or audit of a provider is subject to the following  
6 procedures:

7 (VI.5) (A) IF AN AUDIT OF A PROVIDER WHO PROVIDES  
8 NONEMERGENCY MEDICAL TRANSPORTATION SERVICES OR PEDIATRIC  
9 BEHAVIORAL THERAPY, INCLUDING APPLIED BEHAVIORAL ANALYSIS, IS  
10 INITIATED AFTER JULY 1, 2026, FOR SERVICES PROVIDED FROM JANUARY  
11 1, 2022, THROUGH DECEMBER 31, 2023, THE STATE DEPARTMENT IS  
12 AUTHORIZED TO DETERMINE AND RECOVER AN OVERPAYMENT TO A  
13 PROVIDER USING A SAMPLING OF RECORDS AND EXTRAPOLATION OF THE  
14 RECORDS SO LONG AS THE SAMPLING AND EXTRAPOLATION METHODS  
15 EMPLOYED UTILIZE A STATISTICALLY VALID SAMPLE AND ARE DESIGNED  
16 AND IMPLEMENTED IN ACCORDANCE WITH NATIONALLY RECOGNIZED,  
17 GENERALLY ACCEPTED STATISTICAL PRINCIPLES, STANDARDS, AND  
18 METHODS.

19 (B) IF AN AUDIT CONDUCTED PURSUANT TO SUBSECTION  
20 (3)(a)(VI.5)(A) OF THIS SECTION IDENTIFIES A STATISTICALLY SIGNIFICANT  
21 PATTERN OF ALLEGED OVERPAYMENTS TO A PROVIDER OF NONEMERGENCY  
22 MEDICAL TRANSPORTATION SERVICES OR PEDIATRIC BEHAVIORAL  
23 THERAPY, THE AUDITOR IS AUTHORIZED TO USE THE SAME STATISTICAL  
24 SAMPLING AND EXTRAPOLATION METHODS TO AUDIT SERVICES PROVIDED  
25 BY THE PROVIDER FROM JANUARY 1, 2024, THROUGH DECEMBER 31, 2025.  
26 FOR THE PURPOSES OF THIS SUBSECTION (3)(a)(VI.5)(B), "STATISTICALLY  
27 SIGNIFICANT PATTERN" MEANS A CLAIMS ERROR RATE IDENTIFIED

1 THROUGH THE AUDIT THAT EXCEEDS TEN PERCENT.

2 (C) IF AN AUDIT IDENTIFIES AN ALLEGED OVERPAYMENT, THE  
3 STATE DEPARTMENT SHALL ISSUE A NOTICE TO THE PROVIDER OF THE  
4 ALLEGED OVERPAYMENT WITHIN SIXTY DAYS AFTER THE ALLEGED  
5 OVERPAYMENT IS IDENTIFIED. THE NOTICE OF THE ALLEGED  
6 OVERPAYMENT MUST INCLUDE THE BASIS OF THE ALLEGED OVERPAYMENT,  
7 THE RATIONALE FOR THE ALLEGED OVERPAYMENT, THE METHODOLOGY  
8 USED TO CALCULATE THE ALLEGED OVERPAYMENT, AND INFORMATION ON  
9 HOW THE STATE DEPARTMENT IDENTIFIED THE ALLEGED OVERPAYMENT,  
10 INCLUDING CLAIMS SAMPLES USED, CLAIM-LEVEL FINDINGS, AND OTHER  
11 DOCUMENTATION TO ENABLE THE PROVIDER TO FULLY EVALUATE AND  
12 REPLICATE THE AUDITOR'S ANALYSIS. PRIOR TO THE STATE DEPARTMENT  
13 IMPLEMENTING RECOVERY OF AN OVERPAYMENT, THE PROVIDER HAS THE  
14 RIGHT TO AN INFORMAL RECONSIDERATION IN ACCORDANCE WITH  
15 SUBSECTION (3)(a)(VII) OF THIS SECTION OR THE RIGHT TO A FORMAL  
16 APPEAL IN ACCORDANCE WITH SUBSECTION (3)(a)(VIII) OF THIS SECTION.

17 (D) IF THE STATE DEPARTMENT ENTERS INTO A CONTRACT FOR THE  
18 PURPOSE OF CONDUCTING AN AUDIT PURSUANT TO THIS SUBSECTION  
19 (3)(a)(VI.5), THE CONTRACT MUST NOT BE A CONTINGENCY-BASED  
20 CONTRACT BASED ON A PERCENTAGE OF THE AMOUNT OF RECOVERY  
21 COLLECTED FROM THE PROVIDER.

22 (E) AFTER THE STATE DEPARTMENT COMPLETES AN AUDIT OF A  
23 PROVIDER PURSUANT TO THIS SUBSECTION (3)(a)(VI.5), THE STATE  
24 AUDITOR OR A PERSON AUTHORIZED BY THE STATE AUDITOR SHALL  
25 CONDUCT AN EXAMINATION IN ACCORDANCE WITH SECTION 2-3-103 TO  
26 DETERMINE WHETHER THE STATE DEPARTMENT USED PROPER STATISTICAL  
27 SAMPLING AND EXTRAPOLATION METHODS WHEN DETERMINING WHETHER

1 OVERPAYMENTS WERE MADE TO A PROVIDER. THE STATE AUDITOR SHALL  
2 ANNUALLY PRESENT A REPORT OF THE FINDINGS MADE PURSUANT TO THIS  
3 SUBSECTION (3)(a)(VI.5)(E) TO THE LEGISLATIVE AUDIT COMMITTEE AND  
4 THE JOINT BUDGET COMMITTEE UNTIL THE AUDITS ARE COMPLETE.

5 **SECTION 3. Appropriation - adjustments to 2026 long bill.**

6 (1) Except as provided in subsection (3) of this section, to implement this  
7 act, the appropriation made in the annual general appropriation act for the  
8 2026-27 state fiscal year to the department of health care policy and  
9 financing for medical and long-term care services for Medicaid-eligible  
10 individuals is adjusted as follows:

11 (a) The general fund appropriation is decreased by \$6,861,775,  
12 which amount is subject to the "(M)" notation as defined in the annual  
13 general appropriation act for the same fiscal year; and

14 (b) The cash funds appropriation from recoveries and  
15 recoupments is increased by \$13,723,550.

16 (2) For the 2026-27 state fiscal year, the general assembly  
17 anticipates that the federal funds received by the department of health  
18 care policy and financing for medical and long-term care services for  
19 Medicaid-eligible individuals will decrease by \$6,861,775. The  
20 appropriation in subsection (1)(a) of this section is based on the  
21 assumption that the department will not receive this amount of federal  
22 funds.

23 (3) Subsection (1)(a) of this section does not require a reduction  
24 of an appropriation in the annual general appropriation act for the  
25 2026-27 state fiscal year if:

26 (a) The amount of the general fund appropriation made in the  
27 annual general appropriation act for the 2026-27 state fiscal year to the

1 department of health care policy and financing for medical and long-term  
2 care services for Medicaid-eligible individuals is less than the amount of  
3 the adjustment required in subsection (1)(a) of this section; or

4 (b) The annual general appropriation act for the 2026-27 state  
5 fiscal year does not include an appropriation to the department of health  
6 care policy and financing for medical and long-term care services for  
7 Medicaid-eligible individuals.

8 **SECTION 4. Effective date.** This act takes effect upon passage;  
9 except that section 3 of this act takes effect only if the annual general  
10 appropriation act for the 2026-27 state fiscal year becomes law, in which  
11 case section 3 of this act takes effect upon the effective date of this act or  
12 of the annual general appropriation act for state fiscal year 2026-27,  
13 whichever is later.

14 **SECTION 5. Safety clause.** The general assembly finds,  
15 determines, and declares that this act is necessary for the immediate  
16 preservation of the public peace, health, or safety or for appropriations for  
17 the support and maintenance of the departments of the state and state  
18 institutions.