

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**



HOUSE BILL 26-1432

BY REPRESENTATIVE(S) Soper and Stewart K., Bacon, Boesenecker, Bradley, Brown, Carter, Duran, English, Flanell, Froelich, Gonzalez R., Hamrick, Johnson, Lindsay, McCormick, Nguyen, Rydin, Story, Titone, Winter T., Woodrow, McCluskie;  
also SENATOR(S) Roberts and Pelton R., Catlin, Kipp, Coleman.

CONCERNING HEALTH-CARE PAYMENT PROGRAMS.

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

**SECTION 1.** In Colorado Revised Statutes, 25.5-4-402, **amend** (3)(a) and (3)(b) as follows:

**25.5-4-402. Providers - hospital reimbursement - hospital review program - rules.**

(3) (a) (I) In addition to the reimbursement rate process described in subsection (1) of this section and subject to FEDERAL APPROVAL AND adequate funding being made available pursuant to section 25.5-4-402.4, the Colorado healthcare affordability and sustainability enterprise created in section 25.5-4-402.4 (3) shall pay an additional amount based upon performance IN THE HOSPITAL QUALITY INCENTIVE PROGRAM to those

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

~~hospitals that provide services that improve health-care outcomes for their patients, including DELIVER SAFER, MORE EFFECTIVE CARE THAT IMPROVES PATIENT OUTCOMES AND REDUCES PREVENTABLE UTILIZATION TO REDUCE HEALTH-CARE COSTS. THE HOSPITAL QUALITY INCENTIVE PROGRAM MUST INCLUDE a performance metric related to workplace violence. The state department shall determine this amount based upon nationally recognized performance measures established in rules adopted by the state board. The state quality standards must be consistent with federal quality standards published by an organization with expertise in health-care quality, including, but not limited to, the federal centers for medicare and medicaid services, the agency for healthcare research and quality, or the national quality forum.~~

(II) (A) PRIOR TO IMPLEMENTATION OF THE PROGRAM, THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE BOARD SHALL APPROVE THE PERCENTAGE OF HOSPITALS' REIMBURSEMENT IN THE HOSPITAL QUALITY INCENTIVE PROGRAM, PROGRAM STRUCTURE, PERFORMANCE MEASURES, AND SCORING METHODOLOGY.

(B) WHEN APPROVING A PROGRAM PURSUANT TO THIS SUBSECTION (3)(a), THE BOARD SHALL REQUIRE THAT NEW MEASURES REMAIN IN PLACE FOR A DEFINED PERIOD OF TIME NOT TO EXCEED THREE YEARS PRIOR TO MODIFICATION OR REPLACEMENT OF THE NEW MEASURES; EXCEPT THAT THE BOARD MAY APPROVE MODIFICATIONS OR REPLACEMENTS PRIOR TO THE END OF THE DEFINED PERIOD OF TIME IF THE BOARD IS PRESENTED WITH EVIDENCE THAT THE APPROVED MEASURES ARE NOT MEETING THE GOALS OF THE PROGRAM OR REQUIRE TECHNICAL ADJUSTMENTS. NOTHING IN THIS SUBSECTION (3)(a) PRECLUDES THE BOARD FROM RENEWING MEASURES THAT MEET THE GOALS OF THE PROGRAM AFTER THE DEFINED PERIOD OF TIME NOT TO EXCEED THREE YEARS HAS EXPIRED.

(C) ANY MODIFICATIONS TO THE HOSPITAL QUALITY INCENTIVE PROGRAM MUST BE APPROVED BY THE BOARD PRIOR TO IMPLEMENTATION; EXCEPT THAT CHANGES NECESSARY TO COMPLY WITH FEDERAL LAW MAY BE IMPLEMENTED IMMEDIATELY.

(III) PERFORMANCE MEASURES AND METHODOLOGIES MUST BE BASED ON FACTORS THAT ARE REASONABLY WITHIN HOSPITALS' CONTROL, ALIGNED WITH NATIONALLY RECOGNIZED STANDARDS TO THE MAXIMUM EXTENT PRACTICABLE, AND DESIGNED TO MINIMIZE ADMINISTRATIVE

BURDEN, INCLUDING BY AVOIDING DUPLICATIVE REPORTING AND LEVERAGING EXISTING DATA SOURCES WHEN POSSIBLE. THE HOSPITAL QUALITY INCENTIVE PROGRAM SHOULD ALIGN WITH FEDERAL QUALITY STANDARDS.

(b) (I) ~~The amount of the payments made pursuant to subsection (3)(a) of this section must be computed annually.~~ For each state fiscal year, the total amount of the payments must be no more than seven percent of the total reimbursements made to hospitals in the previous state fiscal year.

(II) NOTWITHSTANDING SUBSECTION (3)(b)(I) OF THIS SECTION, THE MAXIMUM PERCENTAGE OF PAYMENTS MUST NOT EXCEED SEVEN PERCENT OF THE TOTAL REIMBURSEMENTS MADE TO HOSPITALS IN THE PREVIOUS STATE FISCAL YEAR UNLESS AND UNTIL THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE BOARD FORMALLY APPROVES A HOSPITAL QUALITY INCENTIVE PROGRAM PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, DEVELOPED WITH INPUT FROM HOSPITAL REPRESENTATIVES WITH CLINICAL EXPERTISE, AFTER WHICH THE MAXIMUM PERCENTAGE OF PAYMENTS MUST NOT EXCEED NINE PERCENT OF THE TOTAL REIMBURSEMENTS MADE TO HOSPITALS.

**SECTION 2.** In Colorado Revised Statutes, 25.5-4-402.4, **amend** (4)(a)(IV)(E), (4)(c)(I) introductory portion, (5)(b)(VIII), (7)(d)(V), and (7)(e)(VI); and **repeal** (8) as follows:

**25.5-4-402.4. Hospitals - healthcare affordability and sustainability hospital provider fee - healthcare affordability and sustainability nursing facility provider fee - healthcare affordability and sustainability intermediate care facility fee - receipt of public funds - Colorado healthcare affordability and sustainability enterprise - federal waiver - funds created - reports - rules - legislative declaration - definitions - repeal.**

**(4) Healthcare affordability and sustainability hospital provider fee.**

(a) For the fiscal year commencing July 1, 2017, and for each fiscal year thereafter, the enterprise is authorized to charge and collect a healthcare affordability and sustainability hospital provider fee, as described in 42 CFR 433.68 (b), or as otherwise in compliance with 42 CFR 433, on

outpatient and inpatient services provided by all licensed or certified hospitals, and receive public funds as described in 42 CFR 433.51, for the purpose of obtaining federal financial participation under the state medical assistance program as described in this article 4 and articles 5 and 6 of this title 25.5, including disproportionate share hospital payments pursuant to 42 U.S.C. sec. 1396r-4. If the amount of hospital provider fee revenue collected exceeds the federal net patient revenue-based limit on the amount of such fee revenue that may be collected, requiring repayment to the federal government of excess federal matching money received, hospitals that received such excess federal matching money are responsible for repaying the excess federal money and any associated federal penalties to the federal government. The enterprise shall use the hospital provider fee revenue to:

(IV) Provide or contract for or arrange the provision of additional business services to hospitals by:

(E) Providing funding for, and in cooperation with the state department and hospitals supporting the implementation of ~~a health-care delivery system reform incentive payments program as described in subsection (8) of this section~~ THE HOSPITAL QUALITY INCENTIVE PROGRAM CREATED IN SECTION 25.5-4-402 (3)(a).

(c) (I) In accordance with the redistributive method set forth in 42 CFR 433.68 (e)(1) and (e)(2), the enterprise, acting in concert with or through an agreement with the state department if required by federal law, may seek a waiver from the broad-based hospital provider fee requirement or the uniform hospital provider fee requirement, or both. ~~In addition, the enterprise, acting in concert with or through an agreement with the state department if required by federal law, shall seek any federal waiver necessary to fund and, in cooperation with the state department and hospitals, support the implementation of a health-care delivery system reform incentive payments program as described in subsection (8) of this section.~~ Subject to federal approval and to minimize the financial impact on certain hospitals, the enterprise may exempt from payment of the hospital provider fee certain types of hospitals, including but not limited to:

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

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

~~(VIII) Subject to any necessary federal waivers being obtained, to provide funding for a health-care delivery system reform incentive payments program as described in subsection (8) of this section~~ SUBJECT TO FEDERAL APPROVAL, FOR THE HOSPITAL QUALITY INCENTIVE PROGRAM DESCRIBED IN SECTION 25.5-4-402 (3);

**(7) Colorado healthcare affordability and sustainability enterprise board.**

(d) The enterprise board has, at a minimum, the following duties:

(V) To direct and oversee the enterprise in seeking, in concert with or through an agreement with the state department if required by federal law, any federal waiver necessary to fund and, in cooperation with the state department and hospitals, support the implementation of ~~a health-care delivery system reform incentive payments program as described in subsection (8) of this section~~ THE HOSPITAL QUALITY INCENTIVE PROGRAM CREATED IN SECTION 25.5-4-402 (3)(a);

(e) On or before January 15, 2018, and on or before January 15 each year thereafter, the enterprise board shall submit a written report to the health and human services committee of the senate and the health and human services committee of the house of representatives, or any successor committees, the joint budget committee of the general assembly, the governor, and the state board. The report shall include, but need not be limited to:

(VI) A summary of:

(A) The efforts made by the enterprise ~~acting in concert with or through an agreement with the state department if required by federal law, to seek any federal waiver necessary to fund and, in cooperation with the state department and hospitals, support the implementation of a health-care delivery system reform incentive payments program as described in subsection (8) of this section~~ TO IMPLEMENT THE HOSPITAL QUALITY

INCENTIVE PROGRAM REQUIRED PURSUANT TO SECTION 25.5-4-402 (3), INCLUDING INFORMATION ABOUT THE STRUCTURE OF THE HOSPITAL QUALITY INCENTIVE PROGRAM AND ANY RESULTS ACHIEVED AS A RESULT OF THE HOSPITAL QUALITY INCENTIVE PROGRAM; and

(B) The progress actually made by the enterprise, in cooperation with the state department and hospitals, towards the goal of implementing such a program AND THE ENTERPRISE BOARD'S LEGISLATIVE RECOMMENDATIONS FOR CHANGES TO THE HOSPITAL QUALITY INCENTIVE PROGRAM.

~~(8) **Health-care delivery system reform incentive payments program-funding and implementation.** The enterprise, acting in concert with or through an agreement with the state department if required by federal law, shall seek any federal waiver necessary to fund and, in cooperation with the state department and hospitals, support the implementation, no earlier than October 1, 2019, of a health-care delivery system reform incentive payments program that will improve health-care access and outcomes for individuals served by the state department while efficiently utilizing available financial resources. Such a program must, at a minimum:~~

~~(a) Include an initial planning phase to:~~

~~(i) Assess needs; and~~

~~(ii) Develop achievable outcome-based metrics to be used to measure progress towards program goals, including the goals of health-care delivery system integration, improved patient outcomes, and more efficient provision of care; and~~

~~(b) Address the following focus areas:~~

~~(i) Care coordination and care transition management;~~

~~(ii) Integration of physical and behavioral health-care services;~~

~~(iii) Chronic condition management;~~

~~(iv) Targeted population health; and~~

~~(V) Data-driven accountability and outcome measurement.~~

**SECTION 3. Safety clause.** The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

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Julie McCluskie  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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James Rashad Coleman, Sr.  
PRESIDENT OF  
THE SENATE

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Vanessa Reilly  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

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Esther van Mourik  
SECRETARY OF  
THE SENATE

APPROVED \_\_\_\_\_  
(Date and Time)

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Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO