

SENATE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

April 27, 2023  
Date

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

HB23-1215 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend reengrossed bill, page 4, strike line 27.
- 2 Page 5, strike line 1.
- 3 Page 5, strike lines 4 through 8 and substitute "COLLECT A FACILITY FEE  
4 THAT IS NOT COVERED BY A PATIENT'S INSURANCE FOR PREVENTIVE  
5 HEALTH CARE SERVICES, AS DESCRIBED IN SECTION 10-16-104 (18), THAT  
6 ARE PROVIDED IN AN OUTPATIENT SETTING."
- 7 Page 7, strike lines 22 through 27 and substitute  
8 "SECTION 2. In Colorado Revised Statutes, add 10-16-158 as  
9 follows:  
10 **10-16-158. Hospital facility fee report - data collection.** THE  
11 COMMISSIONER IS AUTHORIZED TO COLLECT FROM A CARRIER OFFERING A  
12 HEALTH BENEFIT PLAN INFORMATION SPECIFIED IN SECTION 25.5-4-216, IF  
13 AVAILABLE, FOR PURPOSES OF FACILITATING THE DEVELOPMENT OF THE  
14 REPORT RELATING TO FACILITY FEES."
- 15 Strike page 8.
- 16 Page 9, strike lines 1 through 6.
- 17 Page 9, line 18, strike "**definitions.**" and substitute "**definitions - steering  
18 committee - repeal.**"
- 19 Page 9, after line 20 insert:  
20 "(b) "CAMPUS" HAS THE SAME MEANING SET FORTH IN SECTION

1 6-20-102 (1)(b)."

2 Reletter succeeding paragraphs accordingly.

3 Page 9, line 24, strike "(1)(c)." and substitute "(1)(d)."

4 Page 9, line 26, strike "(1)(e)." and substitute "(1)(f)."

5 Page 10, line 3, strike "(1)(i)." and substitute "(1)(j)."

6 Page 10, line 5, strike "(1)(n)." and substitute "(1)(m)."

7 Page 10, after line 5 insert:

8           "(i) "PAYER TYPE" HAS THE MEANING SET FORTH IN SECTION  
9 6-20-102 (1)(n).

10           (j) "STEERING COMMITTEE" MEANS THE STEERING COMMITTEE  
11 CREATED IN SUBSECTION (2) OF THIS SECTION."

12 Page 10, strike lines 6 through 27 and substitute:

13           "(2) THERE IS CREATED IN THE STATE DEPARTMENT A STEERING  
14 COMMITTEE TO RESEARCH AND REPORT ON THE IMPACT OF OUTPATIENT  
15 FACILITY FEES. THE STEERING COMMITTEE CONSISTS OF THE FOLLOWING  
16 SEVEN MEMBERS APPOINTED BY THE GOVERNOR WITH RELEVANT  
17 EXPERTISE IN HEALTH-CARE BILLING AND PAYMENT POLICY:

18           (a) TWO MEMBERS REPRESENTING HEALTH-CARE CONSUMERS,  
19 WITH AT LEAST ONE OF THE MEMBERS REPRESENTING A HEALTH-CARE  
20 CONSUMER ADVOCACY ORGANIZATION;

21           (b) ONE MEMBER REPRESENTING A HEALTH-CARE PAYER OR  
22 PAYERS;

23           (c) ONE MEMBER REPRESENTING HEALTH-CARE PROVIDERS NOT  
24 AFFILIATED WITH OR OWNED BY A HOSPITAL OR HEALTH SYSTEM OR WHO  
25 HAS INDEPENDENT PHYSICIAN BILLING EXPERTISE;

26           (d) ONE MEMBER REPRESENTING A STATEWIDE ASSOCIATION OF  
27 HOSPITALS;

28           (e) ONE MEMBER REPRESENTING A RURAL, CRITICAL ACCESS OR  
29 INDEPENDENT HOSPITAL; AND

30           (f) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH  
31 CARE POLICY AND FINANCING, OR THE EXECUTIVE DIRECTOR'S DESIGNEE.

32           (3) (a) THE STEERING COMMITTEE SHALL FACILITATE THE  
33 DEVELOPMENT OF A REPORT DETAILING THE IMPACT OF OUTPATIENT  
34 FACILITY FEES ON THE COLORADO HEALTH-CARE SYSTEM, INCLUDING THE

1 IMPACT ON CONSUMERS, EMPLOYERS, HEALTH-CARE PROVIDERS, AND  
2 HOSPITALS. IN DEVELOPING VARIOUS ASPECTS OF THE REPORT REQUIRED  
3 IN THIS SECTION, THE STEERING COMMITTEE SHALL WORK WITH  
4 INDEPENDENT THIRD PARTIES TO CONDUCT RELATED RESEARCH AND  
5 ANALYSIS NECESSARY TO IDENTIFY AND EVALUATE THE IMPACT OF  
6 OUTPATIENT FACILITY FEES.

7 (b) THE STEERING COMMITTEE SHALL PREPARE A PRELIMINARY  
8 VERSION OF THE REPORT ON OR BEFORE AUGUST 1, 2024, UNLESS MORE  
9 TIME IS REQUIRED, AND A FINAL REPORT PREPARED ON OR BEFORE  
10 OCTOBER 1, 2024, THAT MUST BE SUBMITTED TO THE HOUSE OF  
11 REPRESENTATIVES HEALTH AND INSURANCE COMMITTEE AND THE SENATE  
12 HEALTH AND HUMAN SERVICES COMMITTEE, OR THEIR SUCCESSOR  
13 COMMITTEES.

14 (4) (a) FOR PURPOSES OF DEVELOPING THE REPORT, THE STEERING  
15 COMMITTEE, WITH ADMINISTRATIVE SUPPORT FROM THE STATE  
16 DEPARTMENT, MAY:

17 (I) SELECT THIRD-PARTY CONTRACTORS TO ASSIST IN  
18 RESEARCHING AND CREATING THE REPORT, WITH AN APPROPRIATION MADE  
19 TO THE STATE DEPARTMENT FOR SUCH PURPOSE;

20 (II) DEVELOP THE FORMAT, SCOPE, AND TEMPLATES FOR REQUESTS  
21 FOR INFORMATION;

22 (III) REVIEW DRAFTS, PROVIDE FEEDBACK, AND FINALIZE THE  
23 REPORT;

24 (IV) ANSWER TECHNICAL QUESTIONS FROM THIRD-PARTY  
25 CONTRACTORS; AND

26 (V) CONSULT WITH EXTERNAL STAKEHOLDERS.

27 (b) THE STEERING COMMITTEE, STATE DEPARTMENT, AND ANY  
28 THIRD-PARTY CONTRACTORS ENGAGED IN THE DEVELOPMENT OF THE  
29 REPORT ARE ENCOURAGED TO USE BOTH PRIMARY AND SECONDARY  
30 SOURCES AND RESEARCH, WHERE POSSIBLE, AND, TO THE EXTENT  
31 FEASIBLE, ENSURE THE REPORT IS WELL-INFORMED BY THE PERSPECTIVES  
32 OF DIVERSE STAKEHOLDERS. THE STEERING COMMITTEE SHALL WORK  
33 ONLY WITH THIRD-PARTY CONTRACTORS THAT ARE ALREADY APPROVED  
34 AS ONE OF THE STATE DEPARTMENT'S PROJECT-BASED CONTRACTS.

35 (c) TO THE EXTENT PRACTICABLE, EVALUATION AND ANALYSIS  
36 PERFORMED FOR THE REPORT MUST ATTEMPT TO LEVERAGE  
37 COLORADO-SPECIFIC DATA SOURCES AND PUBLICLY AVAILABLE NATIONAL  
38 DATA AND RESEARCH.

39 (5) THE REPORT MUST IDENTIFY AND EVALUATE:

40 (a) PAYER REIMBURSEMENT AND PAYMENT POLICIES FOR  
41 OUTPATIENT FACILITY FEES ACROSS PAYER TYPES, INCLUDING INSIGHTS,  
42 WHERE AVAILABLE, INTO CHANGES OVER TIME, AS WELL AS PROVIDER  
43 BILLING GUIDELINES AND PRACTICES FOR OUTPATIENT FACILITY FEES

1 ACROSS PROVIDER TYPES, INCLUDING INSIGHTS, WHERE AVAILABLE, INTO  
2 CHANGES MADE OVER TIME;

3 (b) PAYMENTS FOR OUTPATIENT FACILITY FEES, INCLUDING  
4 INSIGHTS INTO THE ASSOCIATED CARE ACROSS PAYER TYPES;

5 (c) COVERAGE AND COST-SHARING PROVISIONS FOR OUTPATIENT  
6 CARE SERVICES ASSOCIATED WITH FACILITY FEES ACROSS PAYERS AND  
7 PAYER TYPES;

8 (d) DENIED FACILITY FEE CLAIMS BY PAYER TYPE AND PROVIDER  
9 TYPE;

10 (e) THE IMPACT OF FACILITY FEES AND PAYER COVERAGE POLICIES  
11 ON CONSUMERS, SMALL AND LARGE EMPLOYERS, AND THE MEDICAL  
12 ASSISTANCE PROGRAM;

13 (f) THE IMPACT OF FACILITY FEES AND PAYER COVERAGE POLICIES  
14 ON THE CHARGES FOR HEALTH-CARE SERVICES RENDERED BY  
15 INDEPENDENT HEALTH-CARE PROVIDERS, INCLUDING A COMPARISON OF  
16 PROFESSIONAL FEE CHARGES AND FACILITY FEE CHARGES; AND

17 (g) THE CHARGES FOR HEALTH-CARE SERVICES RENDERED BY  
18 HEALTH-CARE PROVIDERS AFFILIATED WITH OR OWNED BY A HOSPITAL OR  
19 HEALTH SYSTEM, AND INCLUDING A COMPARISON OF PROFESSIONAL FEE  
20 AND FACILITY FEE CHARGES.

21 (6) THE REPORT MUST INCLUDE AN ANALYSIS OF:

22 (a) DATA FROM THE COLORADO ALL-PAYER HEALTH CLAIMS  
23 DATABASE AS REPORTED UNDER DSG14, INCLUDING, AT A MINIMUM:

24 (I) THE NUMBER OF PATIENT VISITS FOR WHICH FACILITY FEES  
25 WERE CHARGED, INCLUDING, TO THE EXTENT POSSIBLE, A BREAKDOWN OF  
26 WHICH VISITS WERE IN-NETWORK AND WHICH WERE OUT-OF-NETWORK;

27 (II) TO THE EXTENT POSSIBLE, THE NUMBER OF PATIENT VISITS FOR  
28 WHICH THE FACILITY FEES WERE CHARGED OUT-OF-NETWORK AND THE  
29 PROFESSIONAL FEES WERE CHARGED IN-NETWORK FOR THE SAME  
30 OUTPATIENT SERVICE;

31 (III) THE TOTAL ALLOWED FACILITY FEE AMOUNTS BILLED AND  
32 DENIED;

33 (IV) THE TOP TEN MOST FREQUENT CPT CODES, REVENUE CODES,  
34 OR COMBINATION THEREOF, AT THE STEERING COMMITTEE'S DISCRETION,  
35 FOR WHICH FACILITY FEES WERE CHARGED;

36 (V) THE TOP TEN CPT CODES, REVENUE CODES, OR COMBINATION  
37 THEREOF, AT THE STEERING COMMITTEE'S DISCRETION, WITH THE HIGHEST  
38 TOTAL ALLOWED AMOUNTS FROM FACILITY FEES;

39 (VI) THE TOP TEN CPT CODES, REVENUE CODES, OR COMBINATION  
40 THEREOF, AT THE STEERING COMMITTEE'S DISCRETION, FOR WHICH  
41 FACILITY FEES ARE CHARGED WITH THE HIGHEST MEMBER COST SHARING;  
42 AND

43 (VII) THE TOTAL NUMBER OF FACILITY FEE CLAIM DENIALS, BY

1 SITE OF SERVICE;

2 (b) DATA FROM HOSPITALS AND HEALTH SYSTEMS, WHICH DATA  
3 SHALL BE PROVIDED TO THE STEERING COMMITTEE, INCLUDING:

4 (I) THE NUMBER OF PATIENT VISITS FOR WHICH FACILITY FEES  
5 WERE CHARGED;

6 (II) THE TOTAL REVENUE COLLECTED IN FACILITY FEES;

7 (III) A DESCRIPTION OF THE MOST FREQUENT HEALTH-CARE  
8 SERVICES FOR WHICH FACILITY FEES WERE CHARGED AND NET REVENUE  
9 RECEIVED FOR EACH SUCH SERVICE; AND

10 (IV) A DESCRIPTION OF HEALTH-CARE SERVICES THAT GENERATED  
11 THE GREATEST AMOUNT OF GROSS FACILITY FEE REVENUE AND NET  
12 REVENUE RECEIVED FOR EACH SUCH SERVICE; AND

13 (V) DATA FROM OFF-CAMPUS HEALTH-CARE PROVIDERS THAT ARE  
14 AFFILIATED WITH OR OWNED BY A HOSPITAL OR HEALTH SYSTEM,  
15 INCLUDING:

16 (A) HISTORIC AND CURRENT BUSINESS NAMES AND ADDRESSES;

17 (B) HISTORIC AND CURRENT TAX IDENTIFICATION NUMBERS AND  
18 NATIONAL PROVIDER IDENTIFIERS;

19 (C) HEALTH-CARE PROVIDER ACQUISITION OR AFFILIATION DATE;

20 (D) FACILITY FEE BILLING POLICIES, INCLUDING WHETHER ANY  
21 CHANGES WERE MADE TO SUCH POLICIES BEFORE OR AFTER THE  
22 ACQUISITION OR AFFILIATION DATE; AND

23 (E) THE TOP TEN CPT CODES, REVENUE CODES, OR COMBINATION  
24 THEREOF, AT THE STATE DEPARTMENT'S DISCRETION, FOR WHICH A  
25 FACILITY FEE IS BILLED AND THE PROFESSIONAL FEE AMOUNT FOR THE  
26 SAME SERVICE;

27 (c) DATA, IF AVAILABLE, FROM THE STATE DEPARTMENT, THE  
28 DIVISION OF INSURANCE, AND COMMERCIAL PAYERS, INCLUDING:

29 (I) THE PAYMENT POLICY EACH PAYER USES FOR PAYMENT OF  
30 FACILITY FEES FOR NETWORK PRODUCTS, INCLUDING ANY CHANGES THAT  
31 WERE MADE TO SUCH POLICIES WITHIN THE LAST FIVE YEARS;

32 (II) A LIST OF COMMON PROCEDURES ASSOCIATED WITH FACILITY  
33 FEES;

34 (III) EACH PAYER'S NETWORK PRODUCT NAMES;

35 (IV) PAID AGGREGATE FACILITY FEE BILLINGS FROM OUTPATIENT  
36 PROVIDERS AND THE ASSOCIATED NUMBER OF FACILITY FEE CLAIMS,  
37 BROKEN DOWN BY HOSPITAL OR HEALTH SYSTEM; AND

38 (V) A DESCRIPTION OF THE ESTIMATED IMPACT OF FACILITY FEES  
39 ON PREMIUM RATES, OUT-OF-NETWORK CLAIMS, MEMBER COST SHARING,  
40 AND EMPLOYER COSTS;

41 (d) DATA FROM INDEPENDENT HEALTH-CARE PROVIDERS THAT ARE  
42 NOT AFFILIATED WITH OR OWNED BY A HOSPITAL OR HEALTH SYSTEM,  
43 INCLUDING:

1 (I) HISTORIC AND CURRENT BUSINESS NAMES AND ADDRESSES;  
2 (II) HISTORIC AND CURRENT TAX IDENTIFICATION NUMBERS AND  
3 NATIONAL PROVIDER IDENTIFIERS;  
4 (III) FACILITY FEE BILLING POLICIES, INCLUDING WHETHER ANY  
5 CHANGES WERE MADE TO SUCH POLICIES IN THE PAST FIVE YEARS; AND  
6 (IV) WHERE APPLICABLE, THE TOP TEN CPT CODES, REVENUE  
7 CODES, OR COMBINATION THEREOF, AT THE STEERING COMMITTEE'S  
8 DISCRETION, FOR WHICH A FACILITY FEE IS BILLED AND THE PROFESSIONAL  
9 FEE AMOUNT FOR THE SAME SERVICE;  
10 (e) THE IMPACT OF FACILITY FEES AND PAYER COVERAGE POLICIES  
11 ON THE COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY  
12 ENTERPRISE, CREATED IN SECTION 25.5-4-402.4, THE MEDICAID  
13 EXPANSION, UNCOMPENSATED CARE, AND UNDERCOMPENSATED CARE;  
14 (f) THE IMPACT OF FACILITY FEES ON ACCESS TO CARE, INCLUDING  
15 SPECIALTY CARE, PRIMARY CARE, AND BEHAVIORAL HEALTH CARE;  
16 INTEGRATED CARE SYSTEMS; HEALTH EQUITY; AND THE HEALTH-CARE  
17 WORKFORCE; AND  
18 (g) A DESCRIPTION OF THE WAY IN WHICH HEALTH-CARE  
19 PROVIDERS MAY BE PAID OR REIMBURSED BY PAYERS FOR OUTPATIENT  
20 HEALTH-CARE SERVICES, WITH OR WITHOUT FACILITY FEES, THAT  
21 EXPLORES ANY LEGAL AND HISTORICAL REASONS FOR SPLIT BILLING  
22 BETWEEN PROFESSIONAL AND FACILITY FEES AT:  
23 (I) ON-CAMPUS LOCATIONS;  
24 (II) OFF-CAMPUS LOCATIONS BY HEALTH-CARE PROVIDERS  
25 AFFILIATED WITH OR OWNED BY A HOSPITAL OR HEALTH SYSTEM; AND  
26 (III) LOCATIONS BY INDEPENDENT HEALTH-CARE PROVIDERS NOT  
27 AFFILIATED WITH OR OWNED BY A HOSPITAL SYSTEM.  
28 (7) TO THE EXTENT FEASIBLE, DATA ANALYZED FOR PURPOSES OF  
29 SUBSECTION (6) OF THIS SECTION MUST BE SOURCED FROM 2014 THROUGH  
30 2022, AS DETERMINED BY THE STEERING COMMITTEE AND THIRD-PARTY  
31 CONTRACTORS, AND SHALL BE DISAGGREGATED BY:  
32 (a) YEAR;  
33 (b) HOSPITAL OR HEALTH SYSTEM, WHERE APPLICABLE;  
34 (c) TYPE OF SERVICE;  
35 (d) FACILITY SITE TYPE, INCLUDING ON OR OFF CAMPUS; AND  
36 (e) PAYER.  
37 (8) THE STEERING COMMITTEE MAY INCLUDE IN THE REPORT  
38 INFORMATION RECEIVED IN ACCORDANCE WITH THIS SECTION; EXCEPT  
39 THAT THE STEERING COMMITTEE SHALL NOT SHARE PUBLICLY ANY  
40 INFORMATION SUBMITTED TO THE STEERING COMMITTEE THAT IS  
41 CONFIDENTIAL, IS PROPRIETARY, CONTAINS TRADE SECRETS, OR IS NOT A  
42 PUBLIC RECORD PURSUANT TO PART 2 OF ARTICLE 72 OF TITLE 24 EXCEPT  
43 IN AGGREGATED AND DE-IDENTIFIED FORM.

1           (9) THE DATA DESCRIBED IN THIS SECTION MUST BE SOUGHT IN A  
2 FORM AND MANNER DETERMINED BY THE STEERING COMMITTEE, STATE  
3 DEPARTMENT, OR THIRD-PARTY CONTRACTORS TO FACILITATE SUBMISSION  
4 OF INFORMATION. THE STEERING COMMITTEE SHALL SEEK TO EXHAUST  
5 EXISTING DATA SOURCES BEFORE MAKING ADDITIONAL REQUESTS FOR  
6 INFORMATION AND SUCH REQUESTS SHALL BE MADE ONLY ONCE FOR THE  
7 PURPOSE OF THE STUDY. THE REPORT MUST INCLUDE A DESCRIPTION OF  
8 WHICH ENTITIES WERE CONTACTED FOR INFORMATION AND THE OUTCOME  
9 OF EACH REQUEST.

10           (10) A STATEWIDE ASSOCIATION OF HOSPITALS MAY ALSO PROVIDE  
11 DATA SPECIFIED IN SUBSECTION (6)(b) OF THIS SECTION TO THE STEERING  
12 COMMITTEE.

13           (11) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2025."

14   Strike pages 11 and 12.

15   Page 13, strike lines 1 through 7.

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