

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0719.01 Brita Darling x2241

HOUSE BILL 17-1139

HOUSE SPONSORSHIP

Landgraf and Michaelson Jenet,

SENATE SPONSORSHIP

Martinez Humenik and Kefalas,

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING IMPROVING MEDICAID CLIENT PROTECTIONS THROUGH**
102 **EFFECTIVE ENFORCEMENT OF MEDICAID PROVIDER**
103 **REQUIREMENTS.**

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>.)

The bill subjects a provider of medicaid services to a civil monetary penalty if the provider improperly bills or seeks collection from a medicaid recipient or the estate of a medicaid recipient.

In addition, the bill allows the department of health care policy and financing (department) to require a corrective action plan from any

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

provider who fails to comply with rules, manuals, or bulletins issued by the department, the medical services board, or the department's fiscal agent or from a provider whose activities endanger the health, safety, or welfare of a medicaid recipient. Based on good cause, the department may suspend the enrollment of a medicaid provider for a period of time set forth in the bill. The provider has the right to appeal the suspension administratively.

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) Colorado's medicaid program provides critical health care
5 services to many of the state's residents;

6 (b) It is in the best interest of Colorado to do everything possible
7 to minimize error, inefficiency, and fraud in the medicaid program to
8 ensure the long-term viability of this safety-net program and to protect
9 clients from prohibited billing practices that harm them financially and
10 hurt their credit;

11 (c) The vast majority of providers enrolled in the medicaid
12 program are in compliance with the department of health care policy and
13 financing's (state department) rules, billing manuals, and provider
14 bulletins, and serve medicaid clients well;

15 (d) For the small number of providers out of compliance with the
16 state department's rules, billing manuals, and provider bulletins, the state
17 department has limited options to help those providers come into
18 compliance before terminating the provider from the national medicaid
19 provider network; and

20 (e) The state department should have intermediate options to
21 ensure that providers out of compliance can come into compliance and
22 remained enrolled in the medicaid program.

1 (2) Now, therefore, it is the intent of the general assembly that the
2 state department use the intermediate options outlined in this legislation
3 judiciously and that the state department collaborate with providers and
4 provider associations to improve compliance and understanding of the
5 state department's rules and policies.

6 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-301, **amend**
7 **(1)(a)(II.5)(A); repeal (1)(a)(II.5)(B); and add (15) as follows:**

8 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
9 **adjustments - liens - review or audit procedures.** (1) (a) (II.5) (A) A
10 provider of medical services shall be liable to a recipient or the estate of
11 a recipient if the provider knowingly receives or seeks collection through
12 a third party of an amount in violation of subparagraph (I) of this
13 paragraph (a). The provider shall be liable for the amount unlawfully
14 received, statutory interest on the amount received from the date of
15 receipt until the date of repayment, plus a civil monetary penalty equal to
16 one-half of the amount unlawfully received WHO BILLS OR SEEKS
17 COLLECTION THROUGH A THIRD PARTY FROM A RECIPIENT OR THE ESTATE
18 OF A RECIPIENT FOR MEDICAL SERVICES AUTHORIZED BY TITLE XIX OF THE
19 SOCIAL SECURITY ACT IN AN AMOUNT IN VIOLATION OF SUBSECTION
20 (1)(a)(I) OF THIS SECTION IS SUBJECT TO A CIVIL MONETARY PENALTY OF
21 UP TO THREE TIMES THE AMOUNT BILLED OR SENT TO COLLECTIONS. A
22 PROVIDER OF MEDICAL SERVICES WHO, WITHIN THIRTY DAYS OF
23 NOTIFICATION BY THE STATE DEPARTMENT, OR LONGER IF APPROVED BY
24 THE STATE DEPARTMENT, VOIDS THE BILL, RETURNS ANY AMOUNT
25 UNLAWFULLY RECEIVED, AND MAKES EVERY REASONABLE EFFORT TO
26 RESOLVE ANY COLLECTION ACTIONS SO THAT THE RECIPIENT OR THE
27 ESTATE OF THE RECIPIENT HAS NO ADVERSE FINANCIAL CONSEQUENCES IS

1 NOT LIABLE FOR ANY CIVIL MONETARY PENALTY. When determining
2 income or resources for purposes of determining eligibility or benefit
3 amounts for any state-funded program under this title TITLE 25.5, the state
4 department shall exclude from consideration any moneys MONEY received
5 by a recipient pursuant to this subparagraph ~~(H.5)~~ SUBSECTION
6 (1)(a)(II.5). THE IMPOSITION OF A CIVIL MONETARY PENALTY BY THE
7 STATE DEPARTMENT MAY BE APPEALED ADMINISTRATIVELY.

8 (B) ~~In order to establish a claim for the penalty established by~~
9 ~~sub-subparagraph (A) of this subparagraph (H.5), a recipient or the estate~~
10 ~~of a recipient shall forward a notice of claim to the state department and~~
11 ~~to the provider. The executive director of the state department shall~~
12 ~~promulgate rules for an informal hearing process for determination of the~~
13 ~~issue that shall allow a provider an opportunity to be heard.~~

14 (15) (a) THE STATE DEPARTMENT MAY REQUEST A WRITTEN
15 RESPONSE FROM ANY PROVIDER WHO FAILS TO COMPLY WITH THE RULES,
16 MANUALS, OR BULLETINS ISSUED BY THE STATE DEPARTMENT, STATE
17 BOARD, OR THE STATE DEPARTMENT'S FISCAL AGENT, OR FROM ANY
18 PROVIDER WHOSE ACTIVITIES ENDANGER THE HEALTH, SAFETY, OR
19 WELFARE OF MEDICAID RECIPIENTS. THE WRITTEN RESPONSE MUST
20 DESCRIBE HOW THE PROVIDER WILL COME INTO AND ENSURE FUTURE
21 COMPLIANCE. IF A WRITTEN RESPONSE IS REQUESTED, A PROVIDER HAS
22 THIRTY DAYS, OR LONGER IF APPROVED BY THE STATE DEPARTMENT, TO
23 SUBMIT THE WRITTEN RESPONSE.

24 (b) IF THE PROVIDER DOES NOT AGREE WITH THE STATE
25 DEPARTMENT'S FINDINGS THAT RESULTED IN THE REQUEST ISSUED
26 PURSUANT TO SUBSECTION (15)(a) OF THIS SECTION, THEN THE PROVIDER'S
27 WRITTEN RESPONSE MUST INCLUDE AN EXPLANATION AND SPECIFIC

1 REASONS FOR THE PROVIDER'S DISAGREEMENT.

2 **SECTION 3. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.