

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 17-1077.04 Brita Darling x2241

HOUSE BILL 17-1353

HOUSE SPONSORSHIP

Young, Hamner, Rankin

SENATE SPONSORSHIP

Lundberg, Lambert, Moreno

House Committees

Public Health Care & Human Services

Senate Committees

Appropriations

A BILL FOR AN ACT

101 CONCERNING IMPLEMENTING MEDICAID INITIATIVES THAT CREATE
102 HIGHER VALUE IN THE MEDICAID PROGRAM LEADING TO BETTER
103 HEALTH OUTCOMES FOR MEDICAID CLIENTS, AND, IN
104 CONNECTION THEREWITH, CONTINUING THE IMPLEMENTATION
105 OF THE ACCOUNTABLE CARE COLLABORATIVE AND
106 AUTHORIZING PERFORMANCE-BASED PROVIDER PAYMENTS.

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. The bill authorizes the department of

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.

SENATE
Amended 2nd Reading
May 8, 2017

HOUSE
3rd Reading Unamended
April 28, 2017

HOUSE
Amended 2nd Reading
April 27, 2017

health care policy and financing (department) to continue its implementation of the medicaid care delivery system, referred to as the accountable care collaborative (ACC). The bill defines the goals of the ACC and the department's implementation of the ACC, including, in part, establishing primary care medical homes for medicaid clients, providing regional coordination and accountability, and integrating physical and behavioral health care delivery. The medical services board is required to promulgate rules implementing the ACC.

The bill requires the department to submit an annual report concerning the implementation of the ACC to the joint budget committee and to the health care committees of the house of representatives and of the senate that oversee the medicaid program. Among other information listed in the bill, the report must include information on the number of medicaid clients participating in the ACC, performance results, and fiscal impacts of the ACC.

The bill authorizes the department of health care policy and financing (department) to implement performance-based payments for medicaid providers. Prior to implementing performance-based payments, the department shall report to the joint budget committee concerning the performance-based payments, including whether the payments require a budget request, the amount of the payments compared to total reimbursements for the affected service, and a description of the stakeholder process and the department's response to stakeholder feedback. After implementation of performance-based payments, the department shall report to the joint budget committee and the health care committees of the house of representatives and the senate that oversee the medicaid program concerning the design of the performance-based payments, the stakeholder engagement process with respect to the payments, and other information regarding the implementation of the performance-based payments described in the bill.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-4-103, **amend**
3 the introductory portion; and **add** (1.5) as follows:

4 **25.5-4-103. Definitions.** As used in this ~~article~~ ARTICLE 4 and
5 articles 5 and 6 of this ~~title~~ TITLE 25.5, unless the context otherwise
6 requires:

7 (1.5) "ACCOUNTABLE CARE COLLABORATIVE" MEANS A MEDICAID
8 CARE DELIVERY SYSTEM ESTABLISHED PURSUANT TO SECTION 25.5-5-419.

1 **SECTION 2.** In Colorado Revised Statutes, **add** 25.5-5-419 as
2 follows:

3 **25.5-5-419. Accountable care collaborative - reporting - rules.**

4 (1) IN 2011, THE STATE DEPARTMENT CREATED THE ACCOUNTABLE CARE
5 COLLABORATIVE, ALSO REFERRED TO IN THIS TITLE 25.5 AS THE MEDICAID
6 COORDINATED CARE SYSTEM. THE STATE DEPARTMENT SHALL CONTINUE
7 TO PROVIDE CARE DELIVERY THROUGH THE ACCOUNTABLE CARE
8 COLLABORATIVE. THE GOALS OF THE ACCOUNTABLE CARE
9 COLLABORATIVE ARE TO IMPROVE MEMBER HEALTH AND REDUCE COSTS
10 IN THE MEDICAID PROGRAM. TO ACHIEVE THESE GOALS, THE STATE
11 DEPARTMENT'S IMPLEMENTATION OF THE ACCOUNTABLE CARE
12 COLLABORATIVE MUST INCLUDE, BUT NEED NOT BE LIMITED TO:

13 (a) ESTABLISHING PRIMARY CARE MEDICAL HOMES FOR MEDICAID
14 CLIENTS WITHIN THE ACCOUNTABLE CARE COLLABORATIVE;

15 (b) PROVIDING REGIONAL CARE COORDINATION AND PROVIDER
16 NETWORK SUPPORT;

17 (c) PROVIDING DATA TO REGIONAL ENTITIES AND PROVIDERS TO
18 HELP MANAGE CLIENT CARE;

19 (d) INTEGRATING THE DELIVERY OF BEHAVIORAL HEALTH,
20 INCLUDING MENTAL HEATH AND SUBSTANCE USE DISORDERS, AND
21 PHYSICAL HEALTH SERVICES FOR CLIENTS;

22 (e) CONNECTING PRIMARY CARE WITH SPECIALTY CARE AND
23 NONHEALTH COMMUNITY SUPPORTS;

24 (f) PROMOTING MEMBER CHOICE AND ENGAGEMENT;

25 (g) PROMOTING TELEHEALTH AND TELEMEDICINE;

26 (h) UTILIZING INNOVATIVE CARE MODELS AND PROVIDER PAYMENT
27 MODELS AS PART OF THE CARE DELIVERY SYSTEM, INCLUDING CAPITATED

1 MANAGED CARE MODELS WITHIN THE BROADER ACCOUNTABLE CARE
2 COLLABORATIVE;

3 (i) RECEIVING FEEDBACK FROM AFFECTED STAKEHOLDER GROUPS;

4 (j) ESTABLISHING A FLEXIBLE STRUCTURE THAT WOULD ALLOW
5 FOR THE EFFICIENT OPERATION OF THE ACCOUNTABLE CARE
6 COLLABORATIVE TO FURTHER INCLUDE MEDICAID POPULATIONS AND
7 SERVICES, INCLUDING LONG-TERM CARE SERVICES AND SUPPORTS; AND

8 (k) ESTABLISHING A CARE DELIVERY SYSTEM AND PROVIDER
9 PAYMENT PLATFORM THAT CAN ADAPT TO CHANGING FEDERAL FINANCIAL
10 PARTICIPATION MODELS OR FUNDING LEVELS.

11 (2) THE STATE DEPARTMENT SHALL FACILITATE TRANSPARENCY
12 AND COLLABORATION IN THE DEVELOPMENT, PERFORMANCE
13 MANAGEMENT, AND EVALUATION OF THE ACCOUNTABLE CARE
14 COLLABORATIVE THROUGH THE CREATION OF STAKEHOLDER ADVISORY
15 COMMITTEES.

16 (3) ON OR BEFORE DECEMBER 1, 2017, AND ON OR BEFORE
17 DECEMBER 1 EACH YEAR THEREAFTER, THE STATE DEPARTMENT SHALL
18 PREPARE AND SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE, THE
19 PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
20 REPRESENTATIVES, AND THE HEALTH AND HUMAN SERVICES COMMITTEE
21 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, CONCERNING THE
22 IMPLEMENTATION OF THE ACCOUNTABLE CARE COLLABORATIVE.
23 NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I), THE
24 REPORT REQUIRED PURSUANT TO THIS SUBSECTION (3) CONTINUES
25 INDEFINITELY. AT A MINIMUM, THE STATE DEPARTMENT'S REPORT MUST
26 INCLUDE THE FOLLOWING INFORMATION CONCERNING THE ACCOUNTABLE
27 CARE COLLABORATIVE:

1 (a) THE NUMBER OF MEDICAID CLIENTS ENROLLED IN THE
2 PROGRAM;

3 (b) PERFORMANCE RESULTS WITH AN EMPHASIS ON MEMBER
4 HEALTH IMPACTS;

5 (c) CURRENT ADMINISTRATIVE FEES AND COSTS FOR THE
6 PROGRAM;

7 (d) FISCAL PERFORMANCE;

8 (e) A DESCRIPTION OF ACTIVITIES THAT PROMOTE ACCESS TO
9 SERVICES FOR MEDICAID MEMBERS IN RURAL AND FRONTIER COUNTIES;

10 (f) A DESCRIPTION OF THE STATE DEPARTMENT'S COORDINATION
11 WITH ENTITIES THAT AUTHORIZE LONG-TERM CARE SERVICES FOR
12 MEDICAID CLIENTS;

13 (g) INFORMATION ON ANY ADVISORY COMMITTEES CREATED,
14 INCLUDING THE PARTICIPANTS, FOCUS, STAKEHOLDER FEEDBACK, AND
15 OUTCOMES OF THE WORK OF THE ADVISORY COMMITTEES;

16 (h) FUTURE AREAS OF PROGRAM FOCUS AND DEVELOPMENT,
17 INCLUDING, AMONG OTHERS, A PLAN TO STUDY THE COSTS AND BENEFITS
18 OF FURTHER COVERAGE OF SUBSTANCE USE DISORDER TREATMENT; AND

19 (i) INFORMATION CONCERNING EFFORTS TO REDUCE MEDICAID
20 WASTE AND INEFFICIENCIES THROUGH THE ACCOUNTABLE CARE
21 COLLABORATIVE, INCLUDING:

22 (I) THE SPECIFIC EFFORTS WITHIN THE ACCOUNTABLE CARE
23 COLLABORATIVE, INCLUDING A SUMMARY OF TECHNOLOGY-BASED
24 EFFORTS, TO IDENTIFY AND IMPLEMENT BEST PRACTICES RELATING TO
25 COST CONTAINMENT; REDUCING AVOIDABLE, DUPLICATIVE, VARIABLE,
26 AND INAPPROPRIATE USES OF HEALTH CARE RESOURCES; AND THE
27 OUTCOME OF THOSE EFFORTS, INCLUDING COST SAVINGS, IF KNOWN;

1 (II) ANY STATUTES, POLICIES, OR PROCEDURES THAT PREVENT
2 REGIONAL ENTITIES FROM REALIZING EFFICIENCIES AND REDUCING WASTE
3 WITHIN THE MEDICAID SYSTEM; AND

4 (III) ANY OTHER EFFORTS BY REGIONAL ENTITIES OR THE STATE
5 DEPARTMENT TO ENSURE THAT THOSE WHO PROVIDE CARE FOR MEDICAID
6 CLIENTS ARE AWARE OF AND ACTIVELY PARTICIPATE IN REDUCING WASTE
7 WITHIN THE MEDICAID SYSTEM.

8 (4) ON OR BEFORE DECEMBER 1, 2017, THE STATE DEPARTMENT
9 SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE, THE PUBLIC
10 HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
11 REPRESENTATIVES, AND THE HEALTH AND HUMAN SERVICES COMMITTEE
12 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, OUTLINING THE
13 STATUTORY CHANGES NEEDED TO PART 4 OF THIS ARTICLE 5 RELATING TO
14 THE STATEWIDE MANAGED CARE SYSTEM, AS WELL AS ANY OTHER
15 SECTIONS OF THE COLORADO REVISED STATUTES, IN ORDER TO ALIGN
16 COLORADO LAW WITH THE FEDERAL "MEDICAID AND CHIP MANAGED
17 CARE FINAL RULE", CMS-2390-F.

18 (5) THE STATE BOARD SHALL PROMULGATE RULES IMPLEMENTING
19 THE ACCOUNTABLE CARE COLLABORATIVE.

20 (6) THE STATE DEPARTMENT SHALL CONSIDER NEW TECHNOLOGIES
21 AND BUSINESS PRACTICES FOR MEDICAL MANAGEMENT REFORM THAT
22 WOULD REDUCE MEDICAL COSTS DUE TO MISUSE, OVERUSE, WASTE,
23 FRAUD, AND ABUSE. BETTER DRUG MANAGEMENT, ESPECIALLY OF
24 AVOIDABLE PRESCRIPTIONS AND INEFFICIENT USE OF SPECIALTY DRUGS,
25 WOULD ALLOW THE ENTIRE PRESCRIPTION DRUG COST CONTINUUM TO BE
26 MANAGED MORE EFFECTIVELY TO CONTAIN COSTS AND ACHIEVE BETTER
27 PATIENT OUTCOMES. NEW TECHNOLOGIES AND BUSINESS PRACTICES FOR

1 MEDICAL MANAGEMENT REFORM MAY ALSO BENEFIT COLORADO BY
2 PROVIDING A MORE POWERFUL MEDICAID ENROLLMENT PLATFORM THAT
3 PROPERLY ENROLLS ONLY THOSE INDIVIDUALS WHO ARE TRULY ELIGIBLE
4 FOR MEDICAID BENEFITS.

5 **SECTION 3.** In Colorado Revised Statutes, **add** 25.5-4-401.2 as
6 follows:

7 **25.5-4-401.2. Performance-based payments - reporting.** (1) TO
8 IMPROVE HEALTH OUTCOMES AND LOWER HEALTH CARE COSTS, THE STATE
9 DEPARTMENT MAY DEVELOP PAYMENTS TO PROVIDERS THAT ARE BASED
10 ON QUANTIFIABLE PERFORMANCE OR MEASURES OF QUALITY OF CARE.
11 THESE PERFORMANCE-BASED PAYMENTS MAY INCLUDE, BUT ARE NOT
12 LIMITED TO, PAYMENTS TO:

- 13 (a) PRIMARY CARE PROVIDERS;
- 14 (b) FEDERALLY QUALIFIED HEALTH CENTERS;
- 15 (c) PROVIDERS OF LONG-TERM CARE SERVICES AND SUPPORTS; AND
- 16 (d) BEHAVIORAL HEALTH PROVIDERS, INCLUDING, BUT NOT
17 LIMITED TO:

18 (I) COMMUNITY MENTAL HEALTH CENTERS, AS DEFINED IN SECTION
19 27-66-101; AND

20 (II) ENTITIES CONTRACTED WITH THE DEPARTMENT TO
21 ADMINISTER THE MEDICAID COMMUNITY MENTAL HEALTH SERVICES
22 PROGRAM, ESTABLISHED IN SECTION 25.5-5-411.

23 (2) (a) PRIOR TO IMPLEMENTING PERFORMANCE-BASED PAYMENTS
24 IN THE MEDICAID PROGRAM PURSUANT TO THIS ARTICLE 4 AND ARTICLES
25 5 AND 6 OF THIS TITLE 25.5, INCLUDING PERFORMANCE-BASED PAYMENTS
26 SET FORTH IN THIS SECTION, THE STATE DEPARTMENT SHALL SUBMIT TO
27 THE JOINT BUDGET COMMITTEE:

1 (I) (A) EVIDENCE THAT THE PERFORMANCE-BASED PAYMENTS ARE
2 DESIGNED TO ACHIEVE BUDGET SAVINGS; OR

3 (B) A BUDGET REQUEST FOR COSTS ASSOCIATED WITH THE
4 PERFORMANCE-BASED PAYMENTS;

5 (II) THE ESTIMATED PERFORMANCE-BASED PAYMENTS COMPARED
6 TO TOTAL REIMBURSEMENTS FOR THE AFFECTED SERVICE; AND

7 (III) A DESCRIPTION OF THE STAKEHOLDER ENGAGEMENT PROCESS
8 FOR DEVELOPING THE PERFORMANCE-BASED PAYMENTS, INCLUDING THE
9 PARTICIPANTS IN THE PROCESS AND A SUMMARY OF THE STAKEHOLDER
10 FEEDBACK, AND THE STATE DEPARTMENT'S RESPONSE TO STAKEHOLDER
11 FEEDBACK.

12 (b) THE INFORMATION REQUIRED PURSUANT TO SUBSECTION (2)(a)
13 OF THIS SECTION MUST BE PROVIDED ON OR BEFORE NOVEMBER 1 FOR
14 PERFORMANCE-BASED PAYMENTS THAT WILL TAKE EFFECT IN THE
15 FOLLOWING FISCAL YEAR UNLESS THE STATE DEPARTMENT INCLUDES WITH
16 ITS SUBMISSION AN EXPLANATION OF THE NEED FOR FASTER
17 IMPLEMENTATION OF THE PAYMENT. IF FASTER IMPLEMENTATION IS
18 REQUESTED, THE STATE DEPARTMENT SHALL PROVIDE THE INFORMATION
19 AT LEAST THREE MONTHS PRIOR TO THE IMPLEMENTATION OF THE
20 PERFORMANCE-BASED PAYMENTS UNLESS COMPLIANCE WITH FEDERAL
21 LAW NECESSITATES SHORTER NOTICE.

22 (3) ON OR BEFORE NOVEMBER 1, 2017, AND ON OR BEFORE
23 NOVEMBER 1 EACH YEAR THEREAFTER, THE STATE DEPARTMENT SHALL
24 SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE, THE PUBLIC HEALTH
25 CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
26 REPRESENTATIVES, AND THE HEALTH AND HUMAN SERVICES COMMITTEE
27 OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, DESCRIBING RULES

1 ADOPTED BY THE STATE BOARD AND CONTRACT PROVISIONS APPROVED BY
2 THE CENTERS FOR MEDICARE AND MEDICAID SERVICES IN THE PRECEDING
3 CALENDAR YEAR THAT AUTHORIZE PAYMENTS TO PROVIDERS BASED ON
4 PERFORMANCE. NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136
5 (11)(a)(I), THE REPORT REQUIRED PURSUANT TO THIS SUBSECTION (3)
6 CONTINUES INDEFINITELY. THE REPORT MUST INCLUDE, AT A MINIMUM:

7 (a) A DESCRIPTION OF PERFORMANCE-BASED PAYMENTS INCLUDED
8 IN STATE BOARD RULES, INCLUDING WHICH PERFORMANCE STANDARDS
9 ARE TARGETED WITH EACH PERFORMANCE-BASED PAYMENT;

10 (b) A DESCRIPTION OF THE GOALS AND OBJECTIVES OF THE
11 PERFORMANCE-BASED PAYMENTS, AND HOW THOSE GOALS AND
12 OBJECTIVES ALIGN WITH OTHER QUALITY IMPROVEMENT INITIATIVES;

13 (c) A SUMMARY OF THE RESEARCH-BASED EVIDENCE FOR THE
14 PERFORMANCE-BASED PAYMENTS, TO THE EXTENT SUCH EVIDENCE IS
15 AVAILABLE;

16 (d) A SUMMARY OF THE ANTICIPATED IMPACT AND CLINICAL AND
17 NONCLINICAL OUTCOMES OF IMPLEMENTING THE PERFORMANCE-BASED
18 PAYMENTS;

19 (e) A DESCRIPTION OF HOW THE IMPACT OR OUTCOMES WILL BE
20 EVALUATED;

21 (f) AN EXPLANATION OF STEPS TAKEN BY THE STATE DEPARTMENT
22 TO LIMIT THE ADMINISTRATIVE BURDEN ON PROVIDERS;

23 (g) A SUMMARY OF THE STAKEHOLDER ENGAGEMENT PROCESS
24 WITH RESPECT TO EACH PERFORMANCE-BASED PAYMENT, INCLUDING
25 MAJOR CONCERNS RAISED THROUGH THE STAKEHOLDER PROCESS AND
26 HOW THOSE CONCERNS WERE REMEDIATED;

27 (h) WHEN AVAILABLE, EVALUATION RESULTS FOR

1 PERFORMANCE-BASED PAYMENTS THAT WERE IMPLEMENTED IN PRIOR
2 YEARS; AND

3 (i) A DESCRIPTION OF PROPOSED MODIFICATIONS TO CURRENT
4 PERFORMANCE-BASED PAYMENTS.

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