



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-0358 Date: February 27, 2018
Prime Sponsors: Rep. Wist; Foote Bill Status: House Judiciary
Sen. Smallwood; Aguilar Fiscal Analyst: Ryan Long | 303-866-2066
RyanC.Long@state.co.us

Bill Topic: MEDICAID FRAUD CONTROL UNIT

- Summary of Fiscal Impact: State Revenue (minimal), State Expenditure (minimal), State Transfer, TABOR Refund, Local Government (minimal), Statutory Public Entity

This bill establishes the Medicaid Fraud Control Unit in statute, and defines Medicaid fraud as a crime. Beginning in FY 2019-20, it will minimally increase state revenue and state and local government expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

This bill establishes the Medicaid Fraud Control Unit (MFCU) in the Department of Law (DOL) in statute, and defines Medicaid fraud as a crime. It requires the Department of Health Care Policy and Financing (HCPF), the Department of Public Health and Environment, and managed care organizations and their contractors to report cases of suspected Medicaid fraud to the MFCU.

Under this bill, the MFCU has the authority to investigate and pursue civil and criminal actions and proceedings. The bill lists the activities that constitute Medicaid fraud and waste, and outlines the penalties associated with each activity.

Background

The MFCU was created through Executive Order 1787 in 1987, and is administered by the Office of the Attorney General in the Department of Law. The executive order required the Attorney General to investigate and prosecute Medicaid fraud and patient abuse cases.

Comparable Crime

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill creates the crime of Medicaid fraud. The penalty for Medicaid fraud varies depending on the amount of payments illegally claimed or received. Under current law, Medicaid fraud is prosecuted under theft and forgery statutes, which have similar penalties to the new crime created in this bill. It is unknown how many cases of theft and forgery were related to Medicaid fraud.

State Revenue

To the extent that the number of filings for Medicaid fraud increase, this bill may increase revenue from fines and filing fees to the Judicial department beginning in FY 2019-20. Medicaid fraud is currently charged as theft or fraud under current law, and any increase in the number of cases is expected to be minimal. Additionally, the new penalties for Medicaid fraud are similar to the penalties for theft, resulting in similar fine revenue.

To the extent that more state funds are recovered from people convicted of Medicaid fraud under this bill, state General Fund revenue may also increase. This revenue increase has not been estimated.

State Expenditures

Beginning in FY 2019-20, the bill codifies the existing MCFU into statute, which is not expected to affect workload or costs for the MCFU in the Department of Law. To the extent that formalizing the statutes of the MCFU or codifying Medicaid fraud as a unique crime increases civil or criminal cases involving Medicaid fraud, several agencies may have an increase in workload or costs, as described below

Department of Law. This bill defines Medicaid fraud as a crime, and workload in the DOL will increase to the extent that more people are charged for activities related to Medicaid fraud and waste. It is expected that any workload increases can be accomplished within the existing appropriations to the department.

Judicial Department. To the extent that more Medicaid fraud cases are heard, this bill may increase workload in the trial courts. It may also result in more cases being sentenced to probation. Any increase in cases is expected to be minimal, and can be accomplished within existing appropriations.

Agencies providing representation to indigent persons. General Fund costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel may increase under the bill if more Medicaid fraud cases are tried and the offender is deemed indigent. Any increase in costs for these agencies are expected to be minimal.

Departments of Health Care Policy and Financing and Public Health and Environment. These departments currently monitor for and report cases of suspected Medicaid Fraud to the Attorney General. As this is current practice, any increase in workload is expected to be minimal.

Local Impact

Under this bill, counties must refer any suspected provider fraud and patient abuse allegations to the Attorney General. As this is current practice, this bill codifies current law and any impact is expected to be minimal.

Effective Date

The bill takes effect January 1, 2019, if no referendum petition is filed.

State and Local Government Contacts

Counties
Human Services
Judicial
Public Health and Environment

Health Care Policy and Financing
Information Technology
Law