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## CHAPTER 173

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**HEALTH CARE POLICY AND FINANCING**

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## HOUSE BILL 20-1385

BY REPRESENTATIVE(S) Esgar and McCluskie, Snyder, Valdez D.;  
also SENATOR(S) Moreno and Zenzinger, Rankin.

**AN ACT**

**CONCERNING THE INCREASED MONEY RECEIVED DUE TO THE FEDERAL "FAMILIES FIRST CORONAVIRUS RESPONSE ACT", AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.**

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

**SECTION 1.** In Colorado Revised Statutes, 25.5-3-108, **add** (19) as follows:

**25.5-3-108. Responsibility of the department of health care policy and financing - provider reimbursement - repeal.** (19) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, FOR THE STATE FISCAL YEARS COMMENCING JULY 1, 2019, AND JULY 1, 2020, IF A PROVIDER SUBMITS A CERTIFICATION OF PUBLIC EXPENDITURES PURSUANT TO 42 CFR 433.51 (b), THE STATE DEPARTMENT SHALL RETAIN ANY FEDERAL MONEY PAYABLE AS REIMBURSEMENT FOR THE EXPENDITURE IN EXCESS OF FIFTY PERCENT OF THE EXPENDITURE AMOUNT. THE STATE TREASURER SHALL TRANSFER SUCH MONEY TO THE GENERAL FUND CREATED IN SECTION 24-75-201 FOR APPROPRIATION FOR THE STATE MEDICAL ASSISTANCE PROGRAM.

(b) THIS SUBSECTION (19) IS REPEALED, EFFECTIVE DECEMBER 31, 2021.

**SECTION 2.** In Colorado Revised Statutes, 25.5-4-402.4, **amend** (5)(b)(VIII) and (6)(a)(I); and **add** (4)(a)(II.3), (5)(b)(VIII.3), and (6)(b)(I.5) as follows:

**25.5-4-402.4. Hospitals - healthcare affordability and sustainability fee - legislative declaration - Colorado healthcare affordability and sustainability enterprise - federal waiver - fund created - rules - reports - repeal.** (4) **Healthcare affordability and sustainability 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 fee, as

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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.*

described in 42 CFR 433.68 (b), on outpatient and inpatient services provided by all licensed or certified hospitals, referred to in this section as "hospitals", 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, referred to in this section as the "state medical assistance program", and the Colorado indigent care program described in part 1 of article 3 of this title 25.5, referred to in this section as the "Colorado indigent care program". The enterprise shall use the healthcare affordability and sustainability fee revenue to:

(II.3)(A) FOR STATE FISCAL YEARS 2019-20 AND 2020-21 ONLY, OFFSET GENERAL FUND EXPENDITURES FOR THE STATE MEDICAL ASSISTANCE PROGRAM.

(B) THIS SUBSECTION (4)(a)(II.3) IS REPEALED, EFFECTIVE DECEMBER 31, 2021.

(5) **Healthcare affordability and sustainability fee cash fund.** (b) All money in the 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; ~~and~~

(VIII.3) (A) FOR STATE FISCAL YEARS 2019-20 AND 2020-21 ONLY, AND REGARDLESS OF WHEN THIS FEDERAL MONEY IS MADE AVAILABLE, THE AMOUNT IN EXCESS OF THE FIFTY PERCENT FEDERAL FINANCIAL PARTICIPATION GENERATED BY INCREASED REIMBURSEMENTS AND PAYMENTS APPROPRIATED FOR USE IN SUBSECTIONS (5)(b)(I) TO (5)(b)(III) OF THIS SECTION PURSUANT TO THE FEDERAL "FAMILIES FIRST CORONAVIRUS RESPONSE ACT", PUB.L. 116-127, OR ANY AMENDMENT THERETO, TO OFFSET GENERAL FUND EXPENDITURES FOR THE STATE MEDICAL ASSISTANCE PROGRAM.

(B) THIS SUBSECTION (5)(b)(VIII.3) IS REPEALED, EFFECTIVE DECEMBER 31, 2021.

(6) **Appropriations.** (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6)(b)(I.5) OF THIS SECTION, the healthcare affordability and sustainability fee is to supplement, not supplant, general fund appropriations to support hospital reimbursements. General fund appropriations for hospital reimbursements shall be maintained at the level of appropriations in the medical services premium line item made for the fiscal year commencing July 1, 2008; except that general fund appropriations for hospital reimbursements may be reduced if an index of appropriations to other providers shows that general fund appropriations are reduced for other providers. If the index shows that general fund appropriations are reduced for other providers, the general fund appropriations for hospital reimbursements shall not be reduced by a greater percentage than the reductions of appropriations for the other providers as shown by the index.

(b) If the revenue from the healthcare affordability and sustainability fee is insufficient to fully fund all of the purposes described in subsection (5)(b) of this section:

(1.5) (A) THE AMOUNT IN EXCESS OF THE FIFTY PERCENT FEDERAL FINANCIAL PARTICIPATION GENERATED BY INCREASED REIMBURSEMENTS AND PAYMENTS APPROPRIATED FOR USE IN SUBSECTIONS (5)(b)(I) TO (5)(b)(III) OF THIS SECTION PURSUANT TO THE FEDERAL "FAMILIES FIRST CORONAVIRUS RESPONSE ACT", PUB.L. 116-127, OR ANY AMENDMENT THERETO, SHALL BE APPROPRIATED TO OFFSET GENERAL FUND EXPENDITURES FOR THE STATE MEDICAL ASSISTANCE PROGRAM.

(B) THIS SUBSECTION (6)(b)(1.5) IS REPEALED, EFFECTIVE DECEMBER 31, 2021.

**SECTION 3.** In Colorado Revised Statutes, 25.5-6-203, **add** (2)(b)(VII) as follows:

**25.5-6-203. Nursing facilities - provider fees - federal waiver - fund created - rules - repeal.** (2) (b) (VII) (A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION (2)(b), FOR STATE MEDICAID EXPENDITURES FOR STATE FISCAL YEARS 2019-20 AND 2020-21 ONLY, AND REGARDLESS OF WHEN THIS FEDERAL MONEY IS MADE AVAILABLE, MONEY IN THE FUND MAY BE USED TO OFFSET GENERAL FUND EXPENDITURES IN THE MEDICAID PROGRAM IN AN EQUIVALENT AMOUNT THAT WOULD HAVE BEEN IN EXCESS OF THE FIFTY PERCENT FEDERAL FINANCIAL PARTICIPATION GENERATED BY INCREASED REIMBURSEMENTS AND PAYMENTS APPROPRIATED FOR USE IN SUBSECTIONS (2)(b)(I) TO (2)(b)(V) OF THIS SECTION PURSUANT TO THE FEDERAL "FAMILIES FIRST CORONAVIRUS RESPONSE ACT", PUB.L. 116-127, OR ANY AMENDMENT THERETO, OR ANY OTHER FEDERAL LAW THAT INCREASES FEDERAL FINANCIAL PARTICIPATION ABOVE THE FEDERAL FINANCIAL PARTICIPATION PERCENTAGE IN EFFECT PRIOR TO THE INCREASE IN FEDERAL FINANCIAL PARTICIPATION PROVIDED THROUGH THE FEDERAL "FAMILIES FIRST CORONAVIRUS RESPONSE ACT". THE STATE TREASURER SHALL TRANSFER SUCH AMOUNT TO THE GENERAL FUND FOR THE STATE MEDICAID PROGRAM.

(B) THIS SUBSECTION (2)(b)(VII) IS REPEALED, EFFECTIVE DECEMBER 31, 2021.

**SECTION 4.** In Colorado Revised Statutes, 23-18-304, **amend** (1)(c) as follows:

**23-18-304. Funding for specialty education programs - area technical colleges - local district colleges - repeal.** (1) (c) (I) Specialty education services provided by the health sciences center campus at the university of Colorado as authorized by ~~paragraph (a) of this subsection (1)~~ SUBSECTION (1)(a) OF THIS SECTION include care provided by the faculty of the health sciences center campus at the university of Colorado that are eligible for payment pursuant to section 25.5-4-401. ~~C.R.S.~~

(II) (A) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1)(a)(I) OF THIS SECTION FOR THE 2019-20 AND 2020-21 STATE FISCAL YEARS, THE APPROPRIATIONS TO THE UNIVERSITY OF COLORADO FOR FEE-FOR-SERVICE CONTRACTS FOR THE SERVICES PROVIDED PURSUANT TO SUBSECTION (1)(c)(I) OF THIS SECTION ARE REDUCED BY THE AMOUNT OF THE FEDERAL PARTICIPATION RECEIVED THAT EXCEEDS FIFTY PERCENT PURSUANT TO THE FEDERAL "FAMILIES FIRST CORONAVIRUS RESPONSE ACT", PUB.L. 116-127, OR ANY AMENDMENT THERETO.

(B) THIS SUBSECTION (1)(c)(II) IS REPEALED, EFFECTIVE DECEMBER 31, 2021.

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		GENERAL FUND	GENERAL FUND EXEMPT	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

**SECTION 5. Appropriation to the department of health care policy and financing for the fiscal year beginning July 1, 2019.** In Session Laws of Colorado 2019, section 2 of chapter 454, (SB 19-207), **amend** Part V (2) and the affected totals, as Part V (2) and the affected totals are amended by section 1 of HB20-1246, as follows:

Section 2. **Appropriation.**

**PART V  
DEPARTMENT OF HEALTH CARE POLICY AND FINANCING**

**(2) MEDICAL SERVICES PREMIUMS**

Medical and Long-Term

Care Services for

Medicaid Eligible

Individuals<sup>15, 15c</sup>

7,938,925,336	<del>1,414,399,130(M)</del>	897,710,833 <sup>a</sup>	<del>1,025,976,104<sup>b</sup></del>	88,876,290 <sup>c</sup>	4,511,962,979
	1,389,665,185(M)		1,050,710,049 <sup>b</sup>		

<sup>a</sup> This amount shall be from the General Fund Exempt Account created in Section 24-77-103.6 (2), C.R.S.

<sup>b</sup> Of this amount, ~~\$765,860,621~~ \$786,993,436 shall be from the Healthcare Affordability and Sustainability Fee Cash Fund created in Section 25.5-4-402.4 (5)(a), C.R.S., \$62,514,460 shall be from the Health Care Expansion Fund created in Section 24-22-117 (2)(a)(I), C.R.S., \$70,773,939 shall be from recoveries and recoupments, ~~\$58,082,714~~ \$61,683,844 shall be from the Medicaid Nursing Facility Cash Fund created in Section 25.5-6-203 (2)(a), C.R.S., \$26,174,181 shall be from the Adult Dental Fund created in Section 25.5-5-207 (4)(a), C.R.S., \$22,951,185 represents public funds certified as expenditures incurred by public hospitals and agencies that are eligible for federal financial participation under the Medicaid program, \$9,547,069 represents public funds certified as expenditures incurred by public emergency medical transportation providers, \$4,612,286 shall be from the Medicaid Buy-In Cash Fund created in Section 25.5-6-1404 (3)(b), C.R.S., \$2,038,515 shall be from the Tobacco

Tax Cash Fund created in section 24-22-117 (1)(a), C.R.S., and meets the requirement to appropriate a portion of the revenues collected from the imposition of additional state cigarette and tobacco taxes to the Old Age Pension program for health related purposes pursuant to Section 21 of Article X of the State Constitution, \$1,663,523 shall be from the Colorado Autism Treatment Fund created in Section 25.5-6-805 (1), C.R.S., \$857,151 shall be from the Tobacco Education Programs Fund created in Section 24-22-117 (2)(c)(I), C.R.S., \$700,000 shall be from an intergovernmental transfer from Denver Health, and \$200,460 shall be from the Service Fee Fund created in Section 25.5-6-204 (1)(c)(II), C.R.S.

<sup>c</sup> Of this amount, \$77,998,160 shall be transferred from the Department of Higher Education from the Fee-for-service Contracts with State Institutions for Speciality Education Programs line item, \$9,769,438 shall be transferred from the Old Age Pension State Medical Program line item appropriation in the Other Medical Services division of this department, and \$1,108,692 shall be transferred from Public School Health Services line item in the Other Medical Services division of this department.

**TOTALS PART V  
(HEALTH CARE  
POLICY AND  
FINANCING)<sup>22</sup>**

\$10,716,549,200	<del>\$2,281,552,243</del>	\$898,118,536 <sup>a</sup>	<del>\$1,426,817,710<sup>b</sup></del>	\$93,615,672	\$6,016,445,039 <sup>c</sup>
	<u>\$2,256,818,298</u>		<u>\$1,451,551,655<sup>b</sup></u>		

<sup>a</sup> Of this amount, \$897,710,833 shall be from the General Fund Exempt Account created in Section 24-77-103.6 (2), C.R.S., and \$407,703 shall be General Fund Exempt pursuant to Section 24-22-117 (1)(c)(I)(B), C.R.S. Said \$407,703 is not subject to the statutory limitation on General Fund appropriations imposed by Section 24-75-201.1, C.R.S.

<sup>b</sup> Of this amount, \$16,315,459 contains an (I) notation.

<sup>c</sup> Of this amount, \$276,904,852 contains an (I) notation.

**SECTION 6. Appropriation - adjustments to 2020 long bill.** (1) To implement this act, appropriations made in the annual general appropriation act for the 2020-21 state fiscal year to the department of health care policy and financing are adjusted as follows:

(a) The general fund appropriation, which is subject to the "(M)" notation as defined in the annual general appropriation act for the same fiscal year, for medical services premiums is decreased by \$24,733,945;

(b) The appropriation for medical services premiums is reduced by \$2,021,766. This appropriation is from reappropriated funds received from the department of higher education under subsection (2)(b) of this section;

(c) The appropriation for medical services premiums is increased by \$24,733,945, which consists of \$21,132,815 from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S., and \$3,601,130 from the medicaid nursing facility cash fund created in section 25.5-6-203 (2)(a), C.R.S.; and

(d) The decrease of the appropriation in subsection (1)(b) of this section is based on the assumption that the anticipated amount of federal funds received for the 2020-21 state fiscal year by the department of health care policy and financing for medical services premiums will decrease by \$2,289,036.

(2) To implement this act, appropriations made in the annual general appropriation act for the 2020-21 state fiscal year to the department of higher education are adjusted as follows:

(a) The general fund appropriation for fee-for-service contracts with state institutions for specialty education programs is decreased by \$2,021,766; and

(b) The appropriation for the regents of the university of Colorado is reduced by \$2,021,766. This appropriation is from reappropriated funds received from the department of higher education under subsection (2)(a) of this section.

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

Approved: June 29, 2020