

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 21-0755.01 Alana Rosen x2606

HOUSE BILL 21-1206

HOUSE SPONSORSHIP

Larson and Valdez A., Bird, Exum, Froelich, Hooton, Jackson, McCluskie, McLachlan,
Michaelson Jenet, Mullica, Ortiz, Ricks, Snyder, Titone, Young

SENATE SPONSORSHIP

Moreno and Coram,

House Committees

Health & Insurance
Appropriations

Senate Committees

Health & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE PROTECTION OF CRITICAL SERVICES THROUGH THE**
102 **CREATION OF SUSTAINABLE MEDICAID TRANSPORTATION**
103 **SAFETY REQUIREMENTS, AND, IN CONNECTION THEREWITH,**
104 **MAKING AND REDUCING AN APPROPRIATION.**

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>.)

Current law requires the public utilities commission (commission) to oversee the safety and oversight of medicaid nonmedical and nonemergency medical transportation services (transportation services).

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

HOUSE
3rd Reading Unamended
April 26, 2021

HOUSE
Amended 2nd Reading
April 23, 2021

The bill eliminates the commission's responsibility to oversee the safety and oversight of the transportation services.

The bill requires the department of health care policy and financing (department) to oversee the safety and oversight of the transportation services. The bill also requires the department to collaborate with stakeholders to establish rules and processes for the transportation services.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** part 8 to article
3 1 of title 25.5 as follows:

4 PART 8

5 MEDICAID NONMEDICAL AND

6 NONEMERGENCY MEDICAL TRANSPORTATION

7 **25.5-1-801. Definitions.** AS USED IN THIS SECTION, UNLESS THE
8 CONTEXT OTHERWISE REQUIRES:

9 (1) "NONEMERGENCY MEDICAL TRANSPORTATION" MEANS
10 TRANSPORTATION TO OR FROM MEDICALLY NECESSARY NONEMERGENCY
11 TREATMENT.

12 (2) "NONMEDICAL TRANSPORTATION" MEANS TRANSPORTATION TO
13 ENABLE PASSENGERS WHO ARE RECIPIENTS OF MEDICAID TO GAIN ACCESS
14 TO WAIVER AND OTHER COMMUNITY SERVICES, ACTIVITIES, AND
15 RESOURCES.

16 (3) "TRANSPORTATION BROKER" MEANS AN ENTITY DESIGNATED
17 BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO
18 ADMINISTER NONEMERGENCY MEDICAL TRANSPORTATION.

19 (4) "TRANSPORTATION PROVIDER" MEANS AN INDIVIDUAL OR
20 BUSINESS ENTITY, OTHER THAN A TRANSPORTATION BROKER, THAT:

21 (a) PROVIDES TRANSPORTATION SERVICES; OR

22 (b) ARRANGES THE FACILITATION OF TRANSPORTATION SERVICES

1 BY AN INDIVIDUAL.

2 (5) "TRANSPORTATION SERVICES" MEANS NONEMERGENCY
3 MEDICAL TRANSPORTATION OR NONMEDICAL TRANSPORTATION SERVICES
4 PROVIDED TO MEDICAID RECIPIENTS.

5 **25.5-1-802. Medicaid transportation services - safety and
6 oversight - rules.** (1) THE STATE DEPARTMENT SHALL COLLABORATE

7 WITH STAKEHOLDERS, INCLUDING BUT NOT LIMITED TO DISABILITY AND
8 MEMBER ADVOCATES, PACE PROVIDERS OPERATING PURSUANT TO
9 SECTION 25.5-5-412, TRANSPORTATION BROKERS, AND TRANSPORTATION

10 PROVIDERS, TO ESTABLISH RULES AND PROCESSES FOR THE SAFETY AND
11 OVERSIGHT OF NONMEDICAL TRANSPORTATION SERVICES AND
12 NONEMERGENCY MEDICAL TRANSPORTATION SERVICES PROVIDED TO
13 MEDICAID RECIPIENTS PURSUANT TO ARTICLES 4 TO 6 OF THIS TITLE 25.5.

14 THE RULES AND PROCESSES MUST:

15 (a) ENSURE THE SAFETY OF PASSENGERS;

16 (b) PROTECT PASSENGER ACCESS TO TRANSPORTATION SERVICES;

17 AND

18 (c) ESTABLISH DRIVER AND VEHICLE REQUIREMENTS THAT
19 MINIMIZE FINANCIAL AND ADMINISTRATIVE BURDENS FOR
20 TRANSPORTATION PROVIDERS, DIRECT SUPPORT PROFESSIONALS AS
21 DEFINED IN SECTION 25.5-6-406, LONG-TERM CARE DIRECT CARE
22 WORKERS, INDEPENDENT CONTRACTORS, AND EMPLOYEES PROVIDING
23 TRANSPORTATION SERVICES.

24 (2) TO THE EXTENT POSSIBLE, THE STATE DEPARTMENT SHALL USE
25 EXISTING OVERSIGHT PROCEDURES TO ENSURE COMPLIANCE WITH THE
26 REQUIREMENTS AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

27 (3) IF A PROVIDER OF TRANSPORTATION SERVICES ALREADY

1 COMPLIES WITH TRANSPORTATION SAFETY STANDARDS ESTABLISHED BY
2 ANOTHER STATE DEPARTMENT WHICH MEET OR EXCEED THE RULES AND
3 PROCESSES ESTABLISHED PURSUANT TO SUBSECTION (1) OF THIS SECTION,
4 DEMONSTRATING SUCH COMPLIANCE TO THE STATE DEPARTMENT IS
5 SUFFICIENT TO VERIFY COMPLIANCE WITH THE REQUIREMENTS OF THIS
6 SECTION.

7 **SECTION 2.** In Colorado Revised Statutes, 40-10.1-105, **amend**
8 (1) introductory portion, (1)(j), and (1)(k); and **add** (1)(l) as follows:

9 **40-10.1-105. Transportation not subject to regulation.** (1) The
10 following types of transportation are not subject to regulation under this
11 ~~article~~ ARTICLE 10.1:

12 (j) Transportation performed by the federal government, a state,
13 or any agency or political subdivision of either, whether through an
14 intergovernmental agreement, contractual arrangement, or otherwise; ~~and~~

15 (k) Transportation of repossessed property by a secured creditor
16 or assignee, or by a reposessor on behalf of a secured creditor or
17 assignee, when repossessing pursuant to section 4-9-629; ~~C.R.S.~~ AND

18 (l) TRANSPORTATION BY MOTOR VEHICLES ~~WHEN THOSE MOTOR~~
19 ~~VEHICLES ARE BEING~~ USED FOR NONMEDICAL TRANSPORTATION AND
20 NONEMERGENCY MEDICAL TRANSPORTATION PROVIDED THROUGH
21 MEDICAID PURSUANT TO SECTION 25.5-1-802.

22 **SECTION 3.** In Colorado Revised Statutes, 40-10.1-110, **amend**
23 (1)(a) as follows:

24 **40-10.1-110. Criminal history record check - rules.** (1) (a) An
25 individual who wishes to drive: A taxicab for a motor carrier that is the
26 holder of a certificate to provide taxicab service issued under part 2 of
27 this article 10.1; a motor vehicle for a motor carrier that is the holder of

1 a permit to operate as a charter bus, children's activity bus, luxury
2 limousine, ~~medicaid client transport~~, or off-road scenic charter under part
3 3 of this article 10.1; or a motor vehicle for a motor carrier that is the
4 holder of a permit to operate as a large-market taxicab service under part
5 7 of this article 10.1 must have the individual's fingerprints taken by a
6 local law enforcement agency or any third party approved by the
7 Colorado bureau of investigation for the purpose of obtaining a
8 fingerprint-based criminal history record check.

9 **SECTION 4.** In Colorado Revised Statutes, 40-10.1-301, **repeal**
10 (9), (10), and (11) as follows:

11 **40-10.1-301. Definitions.** As used in this part 3, unless the
12 context otherwise requires:

13 (9) ~~"Medicaid client transport" means a motor vehicle that~~
14 ~~transports passengers who are recipients of medicaid pursuant to articles~~
15 ~~4 to 6 of title 25.5, C.R.S., and are being transported under a medicaid~~
16 ~~nonemergent medical transportation contract or a medicaid nonmedical~~
17 ~~transportation contract.~~

18 (10) ~~"Medicaid nonemergent medical transportation contract"~~
19 ~~means a contract or provider agreement with the department of health~~
20 ~~care policy and financing or its approved agent for the purpose of~~
21 ~~providing nonemergent medical transportation to approved recipients of~~
22 ~~medicaid.~~

23 (11) ~~"Medicaid nonmedical transportation contract" means a~~
24 ~~contract or provider agreement with the department of health care policy~~
25 ~~and financing or its approved agent for the purpose of providing~~
26 ~~nonmedical transportation to approved recipients of medicaid.~~

27 **SECTION 5.** In Colorado Revised Statutes, 40-10.1-302, **amend**

1 (1)(a); and **repeal** (2)(b) as follows:

2 **40-10.1-302. Permit requirements.** (1) (a) A person shall not
3 operate or offer to operate a charter bus, children's activity bus, fire crew
4 transport, luxury limousine, ~~medicaid client transport~~, or off-road scenic
5 charter in intrastate commerce without first having obtained a permit
6 therefor from the commission in accordance with this part 3.

7 (2) (b) ~~(I) In addition to the requirements of paragraph (a) of this~~
8 ~~subsection (2), a person applying for a medicaid client transport permit~~
9 ~~shall provide the commission proof of a medicaid client transport~~
10 ~~agreement with the department of health care policy and financing or its~~
11 ~~approved agent in such form and with such information as the~~
12 ~~commission may require.~~

13 ~~(II) The department of health care policy and financing may~~
14 ~~transfer medicaid money to the commission to assist the commission in~~
15 ~~its regulation of medicaid transport under this article. Any money that the~~
16 ~~commission receives from the department of health care policy and~~
17 ~~financing is continuously appropriated to the commission.~~

18 **SECTION 6. Appropriation - adjustments to 2021 long bill.**

19 (1) To implement this act, the general fund appropriation made in the
20 annual general appropriation act for the 2021-22 state fiscal year to the
21 department of health care policy and financing for transfer to department
22 of regulatory agencies for regulation of Medicaid transportation is
23 decreased by \$66,003.

24 (2) The decrease of the appropriations in subsection (1) of this
25 section is based on the assumption that the anticipated amount of federal
26 funds received for the 2021-22 state fiscal year by the department of
27 health care policy and financing for transfer to department of regulatory

1 agencies for regulation of Medicaid transportation will decrease by
2 \$37,500, which is subject to the "(I)" notation as defined in the annual
3 general appropriation act for the same fiscal year.

4 (3) For the 2021-22 state fiscal year, \$66,003 is appropriated to the
5 department of health care policy and financing. This appropriation is from
6 the general fund, which is subject to the "(M)" notation as defined in the
7 annual general appropriation act for the same fiscal year. To implement
8 this act, the department may use this appropriation for medical and
9 long-term care services for Medicaid eligible individuals.

10 (4) For the 2021-22 state fiscal year, the general assembly
11 anticipates that the department of health care policy and financing will
12 receive \$37,500 in federal funds for medical and long-term care services
13 for Medicaid eligible individuals to implement this act. The appropriation
14 in subsection (3) of this section is based on the assumption that the
15 department will receive this amount of federal funds.

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