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Final Fiscal Note

Drafting Number: LLS 21-0008
Prime Sponsors: Rep. Lontine, Sen. Fields

Date: July 27, 2021
Bill Status: Postponed Indefinitely
Fiscal Analyst: Max Nardo | 303-866-4776, Max.Nardo@state.co.us

Bill Topic: HEALTH-CARE COST-SHARING CONSUMER PROTECTIONS

- Summary of Fiscal Impact:
- [x] State Revenue, [x] State Expenditure, [x] State Diversion
- [] TABOR Refund, [] Local Government, [] Statutory Public Entity

The bill would have established regulatory authority over health care cost-sharing arrangements in the Division of Insurance. It would have increased state expenditures and created a General Fund diversion on an ongoing basis.

Appropriation Summary: For FY 2021-22, the bill would have required an appropriation of \$26,707 to the Department of Regulatory Agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill. The bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 21-1135

Table with 4 columns: Category, Sub-category, Budget Year FY 2021-22, and Out Year FY 2022-23. Rows include Revenue, Expenditures (Cash Funds, Centrally Appropriated, Total, Total FTE), Diversions (General Fund, Cash Funds, Total), and TABOR Refund.

Summary of Legislation

The bill requires operators of health care cost-sharing arrangements (CSAs) to report specified information to the Commissioner of Insurance in the Department of Regulatory Agencies (DORA), provide disclosures to consumers, and respond to requests for payment within a specified time period.

CSA Operations. The bill establishes the following requirements regarding the operation of a CSA:

- by January 1, 2022, a CSA must provide disclosures, the content of which is detailed in the bill and in rule, to current and prospective members concerning the obligations of the member and the CSA, and post this information on its website and marketing materials;
- by January 1, 2022, a CSA must provide certain disclosures on cards issued to members, provide monthly statements to members regarding claim status, and provide quarterly financial statements for the CSA;
- upon receiving a bill from a member or provider, a CSA must respond within a period of time specified in rule—failure to pay the expense or respond within the time allowed constitutes a denial of the request; and
- a CSA must allow its members to continue participation in the arrangement after developing a medical condition.

The commissioner may issue an emergency cease-and-desist order or assess penalties for failure to comply with the requirements of the bill, with penalties starting at \$500 per offense and increasing up to \$5,000 for repeat violations.

Reporting. Operators of CSAs must submit annual filings to the commissioner by March 1 of each year. Among other things, the filings must include the following information:

- financial statements;
- fees paid to third parties for marketing or operations;
- member benefits, limitations, and exclusions;
- providers with whom the CSA contracts;
- the number of members, households, and employer groups participating in the CSA;
- the number of applications to participate in the CSA submitted, accepted, and denied;
- the number of bills submitted, paid, denied, and appealed; and
- any other information required by the commissioner in rule.

Rulemaking. The commissioner must adopt rules concerning disclosures, reporting, and timing of bill payment by CSAs. Additionally, rules may be adopted to establish greater penalties for noncompliance based on the frequency or severity of violations.

State Revenue

To the extent that the commissioner assesses penalties against CSAs for violations, state revenue will increase. Penalty revenue is deposited into the General Fund and is subject to state spending limits under TABOR. The fiscal note assumes a high level of compliance with the law, and that any new revenue will be minimal.

State Diversion

The bill diverts \$35,660 from the General Fund in FY 2021-22 and \$26,744 in FY 2022-23. This revenue diversion occurs because the bill increases costs in the Division of Insurance in DORA, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill increases expenditures in DORA by \$35,660 and 0.4 FTE in FY 2021-22 and \$26,744 and 0.3 FTE in FY 2022-23. These costs, paid from the Division of Insurance Cash Fund, are summarized in Table 2 and described below.

Table 2
Expenditures Under HB 21-1135

	FY 2021-22	FY 2022-23
Department of Regulatory Agencies		
Personal Services	\$26,707	\$20,029
Centrally Appropriated Costs ¹	\$8,953	\$6,715
Total Cost	\$35,660	\$26,744
Total FTE	0.4 FTE	0.3 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

The Division of Insurance in DORA is estimated to need 0.3 FTE to review annual filings, respond to complaints, and generally facilitate the division's oversight of health care CSAs. In FY 2021-22 only, the division requires an additional 0.1 FTE for initial rulemaking. These costs are based on an assumption of 10 health care CSAs filing with the division.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$8,953 in FY 2021-22 and in \$6,715 FY 2022-23.

Effective Date

The bill was postponed indefinitely by the House Health and Insurance Committee on March 23, 2021.

State Appropriations

For FY 2021-22, the bill requires an appropriation of \$26,707 to the Department of Regulatory Agencies from the Division of Insurance Cash Fund, and 0.4 FTE.

State and Local Government Contacts

Regulatory Agencies
Health Care Policy and Financing

Information Technology
Judicial

Law