

CHAPTER 363

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 22-1268

BY REPRESENTATIVE(S) Holtorf and Amabile, Bernett, Bird, Boesenecker, Kipp, Lontine, Michaelson Jenet, Titone, Weissman;
also SENATOR(S) Ginal and Simpson, Hinrichsen, Jaquez Lewis, Kirkmeyer, Kolker, Lee, Liston, Moreno, Rodriguez, Sonnenberg, Zenzinger, Fenberg.

AN ACT**CONCERNING A REPORTING OF MEDICAID REIMBURSEMENT RATES PAID TO MENTAL HEALTH PROVIDERS.**

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

SECTION 1. Legislative declaration. The general assembly finds and declares that it is imperative to determine whether a disparity exists, and the reasons for such possible disparities, in medicaid reimbursement rates among providers of mental health services in an effort to ensure transparency and parity in reimbursement rates.

SECTION 2. In Colorado Revised Statutes, **add** 25.5-1-132 as follows:

25.5-1-132. Report of medicaid reimbursement rates paid to community mental health center providers and independent providers - definition. (1) ON OR BEFORE AUGUST 15, 2022, THE STATE DEPARTMENT SHALL PUBLISH A BEHAVIORAL HEALTH RATES REPORT OF MEDICAID REIMBURSEMENT RATES FOR PROVIDERS OF COMMUNITY MENTAL HEALTH CENTERS, AS DEFINED IN SECTION 27-66-101 (2), AND INDEPENDENT MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT PROVIDERS, AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION. THE STATE DEPARTMENT SHALL CONTRACT WITH AN INDEPENDENT AUDITOR TO PREPARE THE BEHAVIORAL HEALTH RATES REPORT, AS DESCRIBED IN THIS SUBSECTION (1). THE STATE DEPARTMENT SHALL PREPARE, IN COORDINATION WITH THE BEHAVIORAL HEALTH RATES REPORT, A SET OF RECOMMENDATIONS ON CREATING EQUITABLE PAYMENT AND PAYMENT MODELS THAT MINIMIZE INAPPROPRIATE PAYMENT VARIATION IN COMPARABLE BEHAVIORAL HEALTH SERVICES BETWEEN THE PROVIDERS OF COMMUNITY MENTAL HEALTH CENTERS AND INDEPENDENT MENTAL HEALTH AND SUBSTANCE USE TREATMENT PROVIDERS. THE STATE DEPARTMENT

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.

SHALL PRESENT THE BEHAVIORAL HEALTH RATES REPORT AND RECOMMENDATIONS TO THE HOUSE OF REPRESENTATIVES PUBLIC AND BEHAVIORAL HEALTH AND HUMAN SERVICES COMMITTEE, OR ANY SUCCESSOR COMMITTEE.

(2) THE REPORT PREPARED PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST REFLECT DATA FROM STATE FISCAL YEAR 2020-21 AND IDENTIFY DISCREPANCIES, IF ANY, AND THE REASONS FOR SUCH DISCREPANCIES IN MEDICAID REIMBURSEMENT RATES PAID TO PROVIDERS OF A COMMUNITY MENTAL HEALTH CENTER AND INDEPENDENT MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT PROVIDERS FOR COMPARABLE SERVICES. THE REPORT MUST INCLUDE A DETERMINATION OF AND RECOMMENDATIONS ON WHETHER REIMBURSEMENT RATES PAID TO COMMUNITY MENTAL HEALTH CENTER PROVIDERS AND INDEPENDENT MENTAL HEALTH AND SUBSTANCE USE TREATMENT PROVIDERS ARE ADEQUATE TO MEET OR EXCEED NETWORK ADEQUACY STANDARDS IN EVERY REGION OF THE STATE. THE DATA MUST BE AGGREGATED TO ENSURE INDIVIDUAL COMMUNITY MENTAL HEALTH CENTERS AND INDEPENDENT PROVIDERS ARE NOT IDENTIFIABLE AND MUST COMPLY WITH ANY OTHER STATE AND FEDERAL PRIVACY LAWS. ON OR BEFORE NOVEMBER 15, 2022, THE STATE DEPARTMENT SHALL PRESENT AN ACTION PLAN FOR IMPLEMENTATION TO THE JOINT BUDGET COMMITTEE. THE STATE DEPARTMENT SHALL PRODUCE A PROGRESS REPORT ON THE STATE DEPARTMENT'S PROGRESS MADE IN IMPLEMENTING THE ACTION PLAN PRESENTED TO THE JOINT BUDGET COMMITTEE ON NOVEMBER 15, 2022, ON OR BEFORE AUGUST 1, 2023, AND ANNUALLY THEREAFTER THROUGH AUGUST 1, 2025, AND PROVIDE AN UPDATE DURING ITS "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT" HEARING PURSUANT TO SECTION 2-7-203 ON THE FINDINGS AND ADDITIONAL RECOMMENDATIONS. THE STATE DEPARTMENT MUST FULLY IMPLEMENT THE ACTION PLAN NO LATER THAN DECEMBER 31, 2025.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "INDEPENDENT MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT PROVIDERS" MEANS ANY OUTPATIENT BEHAVIORAL HEALTH PROVIDER ENROLLED IN MEDICAID AND CONTRACTED WITH A MANAGED CARE ENTITY, AS DEFINED IN SECTION 25.5-5-403 (4), THAT IS NOT LICENSED OR DESIGNATED AS A COMMUNITY MENTAL HEALTH CENTER.

SECTION 3. In Colorado Revised Statutes, **add** 25.5-4-403.1 as follows:

25.5-4-403.1. Providers - community mental health centers - cost reporting.

(1) FOR THE PURPOSES OF INCREASED PAYMENT METHODOLOGY TRANSPARENCY, NO LATER THAN MARCH 15, 2023, AND EACH MARCH 15 THEREAFTER, THE STATE DEPARTMENT SHALL:

(a) PUBLISH COST REPORTS FOR COMMUNITY MENTAL HEALTH CENTERS;

(b) ESTABLISH A COST-REPORTING TEMPLATE AND COST-REPORTING SCHEDULE TO ASSIST PROVIDERS IN PROVIDING COST REPORTS;

(c) REDACT INFORMATION TO MAINTAIN COMPLIANCE WITH STATE AND FEDERAL LAW INCLUDING, BUT NOT LIMITED TO, PERSONALLY IDENTIFYING INFORMATION AND PROTECTED HEALTH INFORMATION AS NECESSARY TO PROTECT THE PRIVACY OF PATIENTS;

(d) CREATE A PUBLICLY AVAILABLE WEBSITE THAT PROVIDES INSIGHT TO MEDICAID MEMBERS, MEDICAID PROVIDERS, AND MEMBERS OF THE PUBLIC REGARDING BEHAVIORAL HEALTH REIMBURSEMENT RATES. THE WEBSITE MUST INCLUDE THE FOLLOWING:

(I) ALL COMPLETED COST REPORTS FOR EACH BEHAVIORAL HEALTH SAFETY NET PROVIDER, AS DEFINED IN 27-50-101 (7);

(II) AN OVERVIEW OF THE PURPOSE OF THE COST REPORT DESCRIBED IN THIS SUBSECTION (1);

(III) INFORMATION ON HOW TO INTERPRET THE COST REPORTS AND WHERE TO FIND INFORMATION IN THE COST REPORTS;

(IV) AN OVERVIEW OF:

(A) HOW REIMBURSEMENT RATES ARE DETERMINED;

(B) WHAT CONSTITUTES A REASONABLE AND ALLOWABLE COST; AND

(C) HOW VALUE-BASED PAYMENTS IMPACT REIMBURSEMENT RATES; AND

(V) THE STATE DEPARTMENT'S PLAN TO IMPROVE BEHAVIORAL HEALTH REIMBURSEMENT RATES AND ANNUAL UPDATES TO THE PLAN.

SECTION 4. 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 3, 2022