



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

### SB 25-121: MEDICAID REIMBURSEMENT VAGUS NERVE STIMULATION

**Prime Sponsors:**

Sen. Jodeh; Mullica  
Rep. Gilchrist

**Fiscal Analyst:**

Brendan Fung, 303-866-4781  
brendan.fung@coleg.gov

**Published for:** Senate Health & Human Services  
**Drafting number:** LLS 25-0715

**Version:** Initial Fiscal Note  
**Date:** February 17, 2025

**Fiscal note status:** This fiscal note reflects the introduced bill. This analysis is preliminary and will be updated following further review and any additional information.

### Summary Information

**Overview.** The bill requires the Department of Health Care Policy and Financing to reimburse health care facilities that provide vagus nerve stimulation therapy to certain members.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures

**Appropriations.** No appropriation is required. See Technical Note.

**Table 1  
State Fiscal Impacts**

Type of Impact <sup>1</sup>	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	\$0	\$0
State Expenditures	\$0	\$4,006,905	\$3,908,540
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE	0.0 FTE

<sup>1</sup> Fund sources for these impacts are shown in the tables below.

**Table 1A  
State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
General Fund	\$0	\$1,311,380	\$1,301,544
Cash Funds	\$0	\$128,982	\$128,982
Federal Funds	\$0	\$2,566,543	\$2,478,014
Centrally Appropriated	\$0	\$0	\$0
<b>Total Expenditures</b>	<b>\$0</b>	<b>\$4,006,905</b>	<b>\$3,908,540</b>
<b>Total FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>

## Summary of Legislation

---

The bill requires the Department of Health Care Policy and Financing (HCPF) to reimburse providers that offer vagus nerve stimulation (VNS) therapy to Medicaid members diagnosed with drug-resistant epilepsy at a rate of 75 percent of the cost of acquiring the VNS device plus the cost of the procedure.

## Background

---

VNS devices are implanted under the skin and send electrical pulses through a wire to the vagus nerve in the neck and into the brainstem. Batteries in the device last, on average, 5 to 7 years, after which full system replacement is required.

Colorado’s Medicaid program, Health First Colorado, covers VNS therapy for patients with epilepsy whose seizures are not adequately controlled with medication or for whom surgery is not an option. The benefit requires prior authorization and applies to patients over 12 years old who have documented epileptic seizures, specifically partial-onset seizures that are resistant to at least three antiepileptic drugs for at least 12 months.

## Assumptions

---

Medicaid claims data indicates that 270 members received a VNS device in FY 2023-24. However, an estimated 3,630 members are diagnosed with drug-resistant epilepsy and are eligible for the device. This low utilization rate could result from a number of factors including an infrequency of replacing the device or limited supply. If low utilization rates result from limited providers offering VNS therapy, a higher reimbursement rate may increase provider incentive and supply. Because the cause of low utilization rates is unknown, the fiscal note assumes that the bill will not substantially impact utilization and that any increase will be accounted for through the annual budget process.

## State Expenditures

The bill increases state expenditures in HCPF by \$4.0 million in FY 2026-27 and \$3.9 million in future years. These costs, paid from the General Fund, the Health Care Affordability and Sustainability (HAS) Cash Fund, and federal funds, are summarized in Table 2 and discussed below.

**Table 2  
State Expenditures  
Department of Health Care Policy & Financing**

<b>Cost Component</b>	<b>Budget Year FY 2025-26</b>	<b>Out Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
VNS Device Reimbursement	\$0	\$3,908,540	\$3,908,540
Information System Update	\$0	\$98,365	\$0
<b>Total Costs<sup>1</sup></b>	<b>\$0</b>	<b>\$4,006,905</b>	<b>\$3,908,540</b>
<b>Total FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>	<b>0.0 FTE</b>

<sup>1</sup> See Table 1A for fund sources.

### VNS Device Reimbursement

Starting in FY 2026-27, HCPF expenditures for VNS device reimbursement will increase by \$3.9 million. The amount of reimbursement for VNS devices under the bill depends on a variety of factors, including the number of claims eligible for reimbursement, the average cost of the device, and the current rate of Medicaid reimbursement.

This estimate assumes that:

- 270 members will receive a VNS device per year based on current utilization rates (see Assumption Section);
- the average provider cost to acquire a VNS device is approximately \$40,000; and
- Medicaid currently reimburses VNS devices at an average rate of 39 percent based on historical claims data.

Based on these assumptions, Medicaid must reimburse providers at a rate of about \$30,000 per VNS device, an increase of \$14,300 from current reimbursement averages, for an estimated 270 annual claims.

### Information System Update

In FY 2026-27 only, the bill increases HCPF expenditures by about \$98,000 to update the Medicaid Management Information System (MMIS) and enable manual pricing for grouped and individual claims. The fiscal note assumes that a contractor will perform 515 hours of work at a rate of \$191 per hour. Actual costs will be determined through the contracting process.

## **Legal Services**

HCPF may require legal services, provided by the Department of Law, which can be accomplished within existing legal services appropriations. Legal counsel is related to rulemaking, implementation, and ongoing administration of the program.

## **Technical Note**

---

The bill requires HCPF to begin reimbursing providers for VNS devices at the 75 percent rate by July 1, 2025. However, in order to implement this policy, the department must submit a State Plan Amendment to the Centers for Medicare and Medicaid Services for review and approval. This negotiating and approval process is expected to take between 12 to 18 months. Additionally, the changes to MMIS to modify the pricing model are expected to take between 9 to 12 months to complete. Therefore, the department cannot begin reimbursing providers until July 1, 2026, at the earliest.

The fiscal note assumes that the bill will be amended to reflect a July 1, 2026 implementation date and begins costs in FY 2026-27, rather than FY 2025-26 as required under the bill.

## **Effective Date**

---

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## **State and Local Government Contacts**

---

Health Care Policy and Financing  
Law

Personnel  
Public Health and Environment