

CHAPTER 35

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 06-1079

BY REPRESENTATIVE(S) Frangas, Coleman, Green, Penry, Borodkin, Boyd, Madden, Marshall, McFadyen, Paccione, and Todd;
also SENATOR(S) Johnson, and Tupa.

AN ACT**CONCERNING PENALTIES AGAINST MEDICAL PROVIDERS FOR THE UNLAWFUL RECEIPT OF PAYMENT FROM MEDICAID RECIPIENTS.**

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

SECTION 1. 26-4-403 (1) (a), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

26-4-403. Recoveries - overpayments - penalties - interest - adjustments - liens - review or audit procedures. (1) (a) (II.5) (A) A PROVIDER OF MEDICAL SERVICES SHALL BE LIABLE TO A RECIPIENT OR THE ESTATE OF A RECIPIENT IF THE PROVIDER KNOWINGLY RECEIVES OR SEEKS COLLECTION THROUGH A THIRD PARTY OF AN AMOUNT IN VIOLATION OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a). THE PROVIDER SHALL BE LIABLE FOR THE AMOUNT UNLAWFULLY RECEIVED, STATUTORY INTEREST ON THE AMOUNT RECEIVED FROM THE DATE OF RECEIPT UNTIL THE DATE OF REPAYMENT, PLUS A CIVIL MONETARY PENALTY EQUAL TO ONE HALF OF THE AMOUNT UNLAWFULLY RECEIVED. WHEN DETERMINING INCOME OR RESOURCES FOR PURPOSES OF DETERMINING ELIGIBILITY OR BENEFIT AMOUNTS FOR ANY STATE-FUNDED PROGRAM UNDER THIS TITLE, THE STATE DEPARTMENT SHALL EXCLUDE FROM CONSIDERATION ANY MONEYS RECEIVED BY A RECIPIENT PURSUANT TO THIS SUBPARAGRAPH (II.5).

(B) IN ORDER TO ESTABLISH A CLAIM FOR THE PENALTY ESTABLISHED BY SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II.5), A RECIPIENT OR THE ESTATE OF A RECIPIENT SHALL FORWARD A NOTICE OF CLAIM TO THE STATE DEPARTMENT AND TO THE PROVIDER. THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL PROMULGATE RULES FOR AN INFORMAL HEARING PROCESS FOR DETERMINATION OF THE ISSUE THAT SHALL ALLOW A PROVIDER AN OPPORTUNITY TO

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

BE HEARD.

(C) THE PROVISIONS OF THIS SUBPARAGRAPH (II.5) SHALL NOT APPLY TO A LONG-TERM CARE FACILITY LICENSED PURSUANT TO SECTION 25-3-101, C.R.S.

SECTION 2. Effective date - applicability. (1) This act shall take effect January 1, 2007.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to payments made on or after the applicable effective date of this act.

Approved: March 27, 2006