

CHAPTER 339

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 07-1319

BY REPRESENTATIVE(S) White, Borodkin, Todd, and Stephens;
also SENATOR(S) Boyd.**AN ACT****CONCERNING PROCEDURES FOR THE REVIEW OF PROVIDERS UNDER THE MEDICAL ASSISTANCE PROGRAM.***Be it enacted by the General Assembly of the State of Colorado:*

SECTION 1. 25.5-4-301 (3) (a) (IV) and (3) (a) (VII), Colorado Revised Statutes, are amended, and the said 25.5-4-301 (3) (a) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25.5-4-301. Recoveries - overpayments - penalties - interest - adjustments - liens - review or audit procedures. (3) (a) A review or audit of a provider shall be subject to the following procedures:

(IV) The reviewer or auditor shall initiate each review or audit requiring an inspection of the provider's records by delivering to the provider NOT LESS THAN TEN BUSINESS DAYS PRIOR TO THE COMMENCEMENT OF THE AUDIT a written request describing in detail such records and offering the provider the option of providing either a reproduction of such records or inspection by the reviewer or auditor at the provider's site. THE REQUEST SHALL ALSO CLEARLY DEFINE MILESTONE DATES PERTAINING TO RECORDS REQUESTED DUE DATES, PERMISSIBLE EXTENSIONS OF DATES, THE TIMELINES FOR INFORMAL RECONSIDERATION, AND DEADLINES FOR REQUESTING A FORMAL APPEAL. THE RECORDS SUBJECT TO THE REQUEST SHALL BE LIMITED TO RECORDS DIRECTLY RELATED TO CLAIMS FOR REIMBURSEMENT SUBMITTED BY THE PROVIDER. In the event such records are available from a county department of social services or another agency, subdivision, or contractor of the state, the reviewer or auditor shall request such records from such other agencies as may be appropriate prior to making a request to the provider. The reviewer or auditor shall conduct on-site inspections at reasonable times during regular business hours, and the reviewer or auditor shall make arrangements necessary for the

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

reproduction of such records on site. If the provider chooses to provide a reproduction of the records requested by the reviewer or auditor instead of on-site inspection, the reviewer or auditor shall give the provider a reasonable period of time, THAT SHALL BE NOT LESS THAN FORTY-FIVE DAYS, to provide such records taking into account the scope of the request, the time frame covered, and the reproduction arrangements available to the provider.

(IV.5) AT THE REQUEST OF THE PROVIDER, THE REVIEWER OR AUDITOR SHALL CONDUCT AN IN-PERSON OR TELEPHONIC INTERVIEW WITH THE PROVIDER PRIOR TO THE PREPARATION OF A PRELIMINARY DRAFT OF THE REPORT OF THE REVIEWER OR AUDITOR AT WHICH THE REVIEWER OR AUDITOR AND THE PROVIDER SHALL DISCUSS:

(A) THE FINDINGS OF THE REVIEWER OR AUDITOR;

(B) ANY DOCUMENTATION USEFUL FOR THE PROVIDER TO REFUTE THE FINDINGS OF THE REVIEWER OR AUDITOR; AND

(C) THE NEXT STEPS IN THE REVIEW OR AUDIT PROCESS.

(VII) If a reviewer or auditor determines that there has been an overpayment to the provider, then, at the time demand for repayment is made, the state department shall offer the provider an informal reconsideration of the review or audit findings. THE STATE DEPARTMENT SHALL NOTIFY THE PROVIDER IN WRITING OF THE RIGHT TO AN INFORMAL RECONSIDERATION PRIOR TO IMPLEMENTING ANY RECOVERY OF AN OVERPAYMENT AND GIVE THE PROVIDER AN OPPORTUNITY TO REQUEST AN INFORMAL RECONSIDERATION. In the event informal reconsideration is requested OR A FORMAL APPEAL IS FILED PURSUANT TO SUBPARAGRAPH (VIII) OF THIS PARAGRAPH (a), the state department shall not implement recovery of the overpayment until such informal reconsideration OR FORMAL APPEAL has been completed. WITHIN FORTY-FIVE DAYS AFTER THE REQUEST FOR AN INFORMAL RECONSIDERATION, THE STATE DEPARTMENT SHALL RENDER A DECISION ON THE REQUEST AND NOTIFY THE PROVIDER OF THE DECISION. THE NOTIFICATION SHALL INCLUDE INFORMATION CONCERNING REQUESTING A FORMAL APPEAL, INCLUDING INFORMING THE PROVIDER THAT THE REQUEST MUST BE FILED WITHIN THIRTY DAYS AFTER THE DATE OF THE STATE DEPARTMENT'S DECISION ON THE REQUEST FOR AN INFORMAL RECONSIDERATION. IF THE STATE DEPARTMENT IS UNABLE TO RENDER A DECISION ON THE REQUEST FOR INFORMAL RECONSIDERATION WITHIN FORTY-FIVE DAYS AFTER THE REQUEST, WITHIN FORTY-FIVE DAYS AFTER THE REQUEST, STATE DEPARTMENT SHALL NOTIFY THE PROVIDER OF ITS INABILITY TO COMPLETE THE DECISION AND SHALL INCLUDE INFORMATION CONCERNING REQUESTING A FORMAL APPEAL, INCLUDING INFORMING THE PROVIDER THAT THE REQUEST MUST BE FILED WITHIN THIRTY DAYS AFTER THE RECEIPT OF THE NOTIFICATION THAT THE STATE DEPARTMENT IS UNABLE TO RENDER A DECISION. FOR PURPOSES OF THIS SUBPARAGRAPH (VII), AN INFORMAL RECONSIDERATION SHALL BE CONSIDERED FINAL THIRTY DAYS AFTER THE EARLIER OF THE DATE ON WHICH THE PROVIDER WITHDRAWS ITS REQUEST OR THE DATE ON WHICH THE STATE DEPARTMENT ISSUES A WRITTEN DECISION ON THE REQUEST.

SECTION 2. 25.5-4-301, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25.5-4-301. Recoveries - overpayments - penalties - interest - adjustments - liens - review or audit procedures. (3.5) (a) PRIOR TO THE START OF A CONTRACT TO REVIEW OR AUDIT PROVIDERS, THE STATE DEPARTMENT IS ENCOURAGED TO MEET WITH ORGANIZATIONS OR ASSOCIATIONS OF PROVIDERS TO EDUCATE PROVIDERS ON THE REVIEW OR AUDIT PROCESS AND THE RESPONSIBILITIES OF BOTH THE PROVIDERS AND THE STATE DEPARTMENT THROUGHOUT THE REVIEW OR AUDIT PROCESS. THE STATE DEPARTMENT IS ALSO ENCOURAGED TO PREPARE AN ANNUAL REPORT ON COMMON FINDINGS FOLLOWING A CONTRACT TO REVIEW OR AUDIT PROVIDERS AND DISTRIBUTE THE REPORT TO ORGANIZATIONS OR ASSOCIATIONS OF PROVIDERS. THE ANNUAL REPORT SHOULD INCLUDE INFORMATION TO PREVENT SIMILAR FINDINGS IN FUTURE REVIEWS OR AUDITS AND SHOULD DIRECT PROVIDERS TO RESOURCE INFORMATION.

(b) (I) ON JANUARY 1, 2009, JANUARY 1, 2010, AND JANUARY 1, 2011, THE STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES, REGARDING CONTINGENCY-BASED CONTRACTS FOR THE REVIEW OR AUDIT OF PROVIDERS DURING THE PRIOR FISCAL YEAR. THE REPORT SHALL INCLUDE BUT NOT BE LIMITED TO PROCESS IMPROVEMENTS RESULTING FROM COMMON REVIEW OR AUDIT FINDINGS, AN ANALYSIS OF DEMANDS FOR REPAYMENT THAT ARE LATER DISALLOWED, COMMENTS RECEIVED FROM PROVIDERS.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2011.

SECTION 3. 25.5-4-301 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25.5-4-301. Recoveries - overpayments - penalties - interest - adjustments - liens - review or audit procedures. (3) (a.5) ANY ADDITIONAL REVIEW OR AUDIT PROCEDURES SHALL BE ADOPTED BY RULE OF THE STATE BOARD AND SHALL BE SPECIFICALLY REFERENCED IN ANY CONTRACT WITH A PROVIDER.

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, and safety.

Approved: May 30, 2007