

## CHAPTER 285

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**HEALTH CARE POLICY AND FINANCING**

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## SENATE BILL 13-137

BY SENATOR(S) Roberts, Crowder, Grantham, Heath, Jahn, Kefalas, Kerr, King, Todd;  
also REPRESENTATIVE(S) Navarro, Conti, Foote, Garcia, Gardner, Gerou, Ginal, Hamner, Labuda, Mitsch Bush, Rosenthal,  
Saine, Schafer, Scott, Szabo, Young.

**AN ACT**

**CONCERNING SYSTEM IMPROVEMENTS TO PREVENT FRAUD IN THE MEDICAID PROGRAM, AND, IN CONNECTION THEREWITH, EMPLOYING ADVANCED DATA ANALYTICS.**

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

**SECTION 1.** In Colorado Revised Statutes, **add** 25.5-1-114.5 as follows:

**25.5-1-114.5. Medicaid fraud detection - request for information.** (1) IN ENACTING THIS SECTION, THE GENERAL ASSEMBLY INTENDS TO:

(a) IMPLEMENT WASTE, FRAUD, AND ABUSE DETECTION, PREVENTION, AND RECOVERY SOLUTIONS TO IMPROVE PROGRAM INTEGRITY IN THE STATE'S MEDICAID PROGRAM AND CREATE EFFICIENCY AND COST SAVINGS THROUGH A SHIFT FROM A RETROSPECTIVE "PAY AND CHASE" MODEL TO A PROSPECTIVE PREPAYMENT MODEL; AND

(b) INVEST IN THE MOST COST-EFFECTIVE TECHNOLOGIES OR STRATEGIES THAT YIELD THE HIGHEST RETURN ON INVESTMENT.

(2) BY SEPTEMBER 30, 2013, THE STATE DEPARTMENT SHALL ISSUE A REQUEST FOR INFORMATION TO SEEK INPUT FROM POTENTIAL CONTRACTORS ON CAPABILITIES THAT THE STATE DEPARTMENT DOES NOT CURRENTLY POSSESS, FUNCTIONS THAT THE STATE DEPARTMENT IS NOT CURRENTLY PERFORMING, AND THE COST STRUCTURES ASSOCIATED WITH IMPLEMENTING:

(a) ADVANCED PREDICTIVE MODELING AND ANALYTICS TECHNOLOGIES TO PROVIDE A COMPREHENSIVE AND ACCURATE VIEW ACROSS ALL PROVIDERS, RECIPIENTS, AND GEOGRAPHIC LOCATIONS WITHIN THE MEDICAID PROGRAM IN

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

ORDER TO:

(I) IDENTIFY AND ANALYZE THOSE BILLING AND UTILIZATION PATTERNS THAT REPRESENT A HIGH RISK OF FRAUDULENT ACTIVITY;

(II) BE EASILY INTEGRATED INTO THE EXISTING MEDICAID PROGRAM CLAIMS OPERATIONS;

(III) UNDERTAKE AND AUTOMATE SUCH ANALYSIS BEFORE PAYMENT IS MADE TO MINIMIZE DISRUPTIONS TO STATE DEPARTMENT OPERATIONS AND SPEED CLAIM RESOLUTION;

(IV) PRIORITIZE THE IDENTIFIED TRANSACTIONS FOR ADDITIONAL REVIEW BEFORE PAYMENT IS MADE BASED UPON THE LIKELIHOOD OF POTENTIAL WASTE, FRAUD, OR ABUSE;

(V) OBTAIN OUTCOME INFORMATION FROM ADJUDICATED CLAIMS TO ALLOW FOR REFINEMENT AND ENHANCEMENT OF THE PREDICTIVE ANALYTICS TECHNOLOGIES BASED ON HISTORICAL DATA AND ALGORITHMS WITH THE SYSTEM; AND

(VI) PREVENT THE PAYMENT OF CLAIMS FOR REIMBURSEMENT THAT HAVE BEEN IDENTIFIED AS POTENTIALLY WASTEFUL, FRAUDULENT, OR ABUSIVE UNTIL THE CLAIMS HAVE BEEN AUTOMATICALLY VERIFIED AS VALID;

(b) PROVIDER AND RECIPIENT DATA VERIFICATION AND SCREENING TECHNOLOGY SOLUTIONS, WHICH MAY USE PUBLICLY AVAILABLE RECORDS, FOR THE PURPOSES OF AUTOMATING REVIEWS AND IDENTIFYING AND PREVENTING INAPPROPRIATE PAYMENTS BY:

(I) IDENTIFYING ASSOCIATIONS BETWEEN PROVIDERS, PRACTITIONERS, AND BENEFICIARIES THAT INDICATE RINGS OF COLLUSIVE FRAUDULENT ACTIVITY; AND

(II) DISCOVERING RECIPIENT ATTRIBUTES THAT INDICATE IMPROPER ELIGIBILITY, INCLUDING BUT NOT LIMITED TO DEATH, OUT-OF-STATE RESIDENCY, INAPPROPRIATE ASSET OWNERSHIP, OR INCARCERATION; AND

(c) FRAUD INVESTIGATION SERVICES THAT COMBINE RETROSPECTIVE CLAIMS ANALYSIS AND PROSPECTIVE WASTE, FRAUD, OR ABUSE DETECTION TECHNIQUES. THESE SERVICES MUST INCLUDE ANALYSIS OF HISTORICAL CLAIMS DATA, MEDICAL RECORDS, SUSPECT PROVIDER DATABASES, AND HIGH-RISK IDENTIFICATION LISTS, AS WELL AS DIRECT RECIPIENT AND PROVIDER INTERVIEWS. EMPHASIS MUST BE PLACED ON THE STATE DEPARTMENT PROVIDING EDUCATION TO PROVIDERS AND ALLOWING THEM THE OPPORTUNITY TO REVIEW AND CORRECT ANY PROBLEMS IDENTIFIED PRIOR TO ADMINISTRATIVE PROCEEDINGS.

(3) IN ADDITION TO THE INFORMATION PROVIDED PURSUANT TO SUBSECTION (2) OF THIS SECTION, A POTENTIAL CONTRACTOR RESPONDING TO THE REQUEST FOR INFORMATION SHALL INCLUDE INFORMATION CONCERNING:

(a) THE EXTENT TO WHICH THE POTENTIAL CONTRACTOR WILL SEEK CLINICAL AND TECHNICAL EXPERTISE FROM COLORADO PROVIDERS CONCERNING THE DESIGN AND

IMPLEMENTATION OF THE MEDICAID FRAUD DETECTION SYSTEM DESCRIBED IN THIS SECTION AND THE METHOD OR METHODS FOR SEEKING THAT EXPERTISE; AND

(b) THE POTENTIAL CONTRACTOR'S ABILITY TO CREATE AN EDUCATION AND OUTREACH PROGRAM THAT IS WIDELY AVAILABLE AND EASILY ACCESSIBLE TO COLORADO PROVIDERS FOR PURPOSES OF EDUCATING PROVIDERS ON ISSUES RELATING TO COVERAGE AND CODING.

(4) (a) THE STATE DEPARTMENT IS ENCOURAGED TO USE THE RESULTS OF THE REQUEST FOR INFORMATION TO CREATE FORMAL REQUESTS FOR PROPOSALS TO CARRY OUT THE WORK IDENTIFIED IN THIS SECTION IF THE FOLLOWING CONDITIONS ARE MET:

(I) THE STATE DEPARTMENT EXPECTS TO GENERATE STATE SAVINGS BY PREVENTING FRAUD, WASTE, AND ABUSE;

(II) THIS WORK CAN BE INTEGRATED INTO THE STATE DEPARTMENT'S CURRENT MEDICAID OPERATIONS WITHOUT CREATING ADDITIONAL COSTS TO THE STATE; AND

(III) THE REVIEWS OR AUDITS ARE NOT ANTICIPATED TO DELAY OR IMPROPERLY DENY THE PAYMENT OF LEGITIMATE CLAIMS TO PROVIDERS.

(b) PRIOR TO AWARDING ANY CONTRACT PURSUANT TO THIS SECTION, THE STATE DEPARTMENT SHALL ESTABLISH AN APPEAL PROCESS FOR PROVIDERS THAT MINIMIZES THE ADMINISTRATIVE BURDEN PLACED ON PROVIDERS, LIMITS THE NUMBER OF MEDICAL RECORDS REQUESTS, AND PROVIDES ADEQUATE TIME FOR PROVIDERS TO RESPOND TO INQUIRIES.

(5) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE SAVINGS ACHIEVED THROUGH THIS SECTION MUST MORE THAN COVER THE COST OF IMPLEMENTATION AND ADMINISTRATION. THEREFORE, TO THE EXTENT POSSIBLE, TECHNOLOGY SERVICES USED IN CARRYING OUT THIS SECTION MUST BE SECURED USING THE SAVINGS GENERATED BY THE PROGRAM, WITH THE STATE'S DIRECT COST FUNDED THROUGH THE ACTUAL SAVINGS ACHIEVED.

**SECTION 2. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 24, 2013