

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 08-0332.01 Christy Chase

SENATE BILL 08-011

SENATE SPONSORSHIP

Morse, and Boyd

HOUSE SPONSORSHIP

Massey, and Green

Senate Committees

Health and Human Services
Appropriations

House Committees

Business Affairs and Labor
Appropriations

A BILL FOR AN ACT

101 **CONCERNING FUNDING FOR THE PROVISION OF UNCOMPENSATED**
102 **TRAUMA CARE TO PERSONS INJURED IN MOTOR VEHICLE**
103 **ACCIDENTS IN COLORADO, AND MAKING AN APPROPRIATION**
104 **THEREFOR.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Health Care Task Force. Establishes the emergency responders and trauma care reimbursement program in the department of public health and environment (department) to reimburse emergency and trauma care providers for uncompensated care provided to patients injured in a motor vehicle accident. Allows reimbursements for uncompensated

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
April 29, 2008

SENATE
Amended 2nd Reading
April 28, 2008

trauma care to licensed ambulances, licensed air ambulances, trauma physicians, and trauma centers that satisfy specified criteria, and prioritizes reimbursement payments first to the ambulances, second to the trauma physicians, third to level III, IV, and V trauma centers located in rural areas, and fourth to all other trauma centers.

Requires the executive director of the department to identify an entity to administer the program (program administrator). Outlines the duties of the program administrator, including:

- ! Starting the program by July 1, 2009;
- ! Reimbursing providers for uncompensated trauma care in a timely and efficient manner;
- ! Managing the administrative costs of the program;
- ! Seeking payment from other responsible parties to reimburse the emergency responders and trauma care reimbursement fund (program fund);
- ! Establishing criteria and qualifications that an applicant must meet to obtain reimbursement from the program fund, including a requirement that the applicant attempt to collect payment for trauma care from the trauma patient or other responsible party;
- ! Determining the types and amount of costs of uncompensated care for which reimbursement will be allowed and the maximum dollar amount of allowable reimbursement.

Establishes the program fund in the state treasury, consisting of moneys credited to the program fund from a \$16 fee on motor vehicle registrations and moneys recovered from responsible parties for the payment of trauma care that was reimbursed by the program fund. Caps the amount of moneys in the program fund that may be used to administer the program and requires the remainder of the program fund to be used to reimburse trauma care providers for uncompensated trauma care.

Requires the program administrator to submit an annual report to the health and human services committees of the senate and house of representatives and details the information to be included in the report.

Mandates all automobile insurance policies issued, delivered, or renewed in the state to contain emergency medical care coverage with benefits of at least \$15,000.

Increases the fee for registering a motor vehicle, other than a fleet vehicle, by \$16 and directs that the moneys from the increased fee be transferred to the program fund.

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

2 **SECTION 1. 10-4-635, Colorado Revised Statutes, is amended**

1 to read:

2 **10-4-635. Medical payments coverage - disclosure - definitions.**

3 (1) (a) If an insurer makes available medical payments coverage in
4 conjunction with the coverage required pursuant to section 10-4-620, such
5 medical payments coverage shall provide for benefits of five thousand
6 dollars, as well as any other benefit deemed appropriate by the insurer.
7 EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION (1), NO
8 AUTOMOBILE LIABILITY OR MOTOR VEHICLE LIABILITY POLICY INSURING
9 AGAINST LOSS RESULTING FROM LIABILITY IMPOSED BY LAW FOR BODILY
10 INJURY OR DEATH SUFFERED BY ANY PERSON ARISING OUT OF THE
11 OWNERSHIP, MAINTENANCE, OR USE OF A MOTOR VEHICLE SHALL BE
12 DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE UNLESS COVERAGE IS
13 OFFERED IN THE POLICY OR IN A SUPPLEMENTAL POLICY FOR MEDICAL
14 PAYMENTS WITH BENEFITS OF FIVE THOUSAND DOLLARS FOR BODILY
15 INJURY, SICKNESS, OR DISEASE RESULTING FROM THE OWNERSHIP,
16 MAINTENANCE, OR USE OF THE MOTOR VEHICLE.

17 (b) A POLICY MAY BE ISSUED WITHOUT MEDICAL PAYMENTS
18 COVERAGE ONLY IF THE NAMED INSURED REJECTS MEDICAL PAYMENTS
19 COVERAGE IN WRITING OR IN THE SAME MEDIUM IN WHICH THE
20 APPLICATION FOR THE POLICY WAS TAKEN. THE INSURER SHALL MAINTAIN
21 PROOF THAT A NAMED INSURED REJECTED MEDICAL PAYMENTS COVERAGE
22 FOR AT LEAST THREE YEARS AFTER THE DATE OF THE REJECTION, AND
23 SUCH PROOF OF REJECTION SHALL BE PRESUMED VALID FOR ALL INSUREDS
24 UNDER THE POLICY, INCLUDING RESIDENT RELATIVES OF THE NAMED
25 INSURED AND PERMISSIVE USERS OF THE MOTOR VEHICLE. AN AGENT OR
26 INSURER THAT OBTAINS A REJECTION OF MEDICAL PAYMENTS COVERAGE
27 FROM THE NAMED INSURED OR APPLICANT PURSUANT TO THIS SECTION

1 SHALL NOT BE LIABLE TO THE INSURED OR ANY OTHER PERSON SEEKING
2 BENEFITS UNDER THE NAMED INSURED'S POLICY FOR CLAIMS ARISING OUT
3 OF OR RELATING TO THE REJECTION OF MEDICAL PAYMENTS COVERAGE.

4 (c) IF THE INSURER FAILS TO OFFER MEDICAL PAYMENTS COVERAGE
5 OR FAILS TO MAINTAIN OR PROVIDE PROOF THAT THE NAMED INSURED
6 REJECTED MEDICAL PAYMENTS COVERAGE IN THE MANNER REQUIRED BY
7 THIS SECTION, THE INSURED'S POLICY SHALL BE PRESUMED TO INCLUDE
8 MEDICAL PAYMENTS COVERAGE WITH BENEFITS OF FIVE THOUSAND
9 DOLLARS AT NO ADDITIONAL COST TO THE INSURED.

10 (d) IF AN INSURED SELECTS LIMITS FOR MEDICAL PAYMENTS
11 COVERAGE OR EXERCISES THE OPTION NOT TO PURCHASE THE COVERAGES
12 DESCRIBED IN THIS SECTION, AN INSURER OR AFFILIATED INSURER SHALL
13 NOT BE REQUIRED TO NOTIFY ANY POLICYHOLDER IN ANY RENEWAL OR
14 REPLACEMENT POLICY OF THE AVAILABILITY OF MEDICAL PAYMENTS
15 COVERAGE. HOWEVER, THE INSURED MAY MAKE A [REDACTED] REQUEST FOR
16 ADDITIONAL COVERAGE OR COVERAGE MORE EXTENSIVE THAN THAT
17 PROVIDED ON A PRIOR POLICY.

18 (e) Nothing in this section shall be construed to limit any other
19 coverage amounts being made available by an insurer.

20 (2) (a) ~~Repealed.~~ IF A POLICY CONTAINS MEDICAL PAYMENTS
21 COVERAGE, BENEFITS SHALL BE PAID IN ACCORDANCE WITH THE
22 CONDITIONS OF THE POLICY TO PERSONS PROVIDING MEDICALLY
23 NECESSARY AND ACCIDENT-RELATED TRAUMA CARE OR MEDICAL CARE.
24 EXCEPT AS PROVIDED IN PARAGRAPHS (b), (c), AND (d) OF THIS
25 SUBSECTION (2), PAYMENTS OF CLAIMS FOR MEDICAL PAYMENTS
26 COVERAGE SHALL BE MADE IN ACCORDANCE WITH SECTION 10-4-642. _____

27

1 (b) UPON RECEIVING NOTICE, EITHER FROM A PROVIDER OR THE
2 INSURED, OF AN ACCIDENT FOR WHICH THE MEDICAL PAYMENTS COVERAGE
3 SPECIFIED IN THIS SECTION OR MEDICAL PAYMENTS COVERAGE IN A
4 GREATER AMOUNT MAY APPLY, THE INSURER SHALL RESERVE FIVE
5 THOUSAND DOLLARS OF THE MEDICAL PAYMENTS COVERAGE FOR THE
6 PAYMENT OF TRAUMA CARE PROVIDED BY A LICENSED AIR AMBULANCE,
7 LICENSED AMBULANCE, TRAUMA PHYSICIAN, OR TRAUMA CENTER IN
8 THE FOLLOWING PRIORITY, AS APPLICABLE:

9 (I) BENEFITS SHALL BE PAID FIRST TO LICENSED AMBULANCES OR
10 AIR AMBULANCES THAT PROVIDE TRAUMA CARE AT THE SCENE OF OR
11 IMMEDIATELY AFTER THE MOTOR VEHICLE ACCIDENT, INCLUDING
12 TRANSPORT TO OR FROM A TRAUMA CENTER.

13 (II) AFTER PAYMENTS TO PROVIDERS DESCRIBED IN
14 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), BENEFITS SHALL BE PAID
15 NEXT TO TRAUMA PHYSICIANS THAT PROVIDE TRAUMA CARE TO STABILIZE
16 OR PROVIDE THE FIRST EPISODE OF CARE TO THE INJURED PERSON.

17 (III) AFTER PAYMENTS TO PROVIDERS DESCRIBED IN
18 SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (b), BENEFITS SHALL BE
19 PAID NEXT TO TRAUMA CENTERS DESIGNATED AS LEVEL IV OR V
20 PURSUANT TO SECTION 25-3.5-703 (4) THAT PROVIDE TRAUMA CARE TO
21 STABILIZE OR PROVIDE THE FIRST EPISODE OF CARE TO THE INJURED
22 PERSON.

23 (IV) AFTER PAYMENTS TO PROVIDERS DESCRIBED IN
24 SUBPARAGRAPHS (I), (II), AND (III) OF THIS PARAGRAPH (b), BENEFITS
25 SHALL BE PAID NEXT TO TRAUMA CENTERS DESIGNATED AS LEVEL I, II, OR
26 III OR AS A REGIONAL PEDIATRIC TRAUMA CENTER PURSUANT TO SECTION
27 25-3.5-703 (4) THAT PROVIDE TRAUMA CARE TO STABILIZE OR PROVIDE

1 THE FIRST EPISODE OF CARE TO THE INJURED PERSON.

2 (c) THE RESERVE SHALL BE HELD AND USED TO PAY CLAIMS OF
3 TRAUMA CARE PROVIDERS DESCRIBED IN THIS SUBSECTION (2) FOR NO
4 MORE THAN THIRTY DAYS AFTER RECEIPT OF THE ACCIDENT NOTICE.
5 AFTER THE THIRTY-DAY PERIOD, ANY AMOUNT OF THE RESERVE FOR
6 WHICH THE INSURER HAS NOT RECEIVED A CLAIM FOR REIMBURSEMENT
7 FROM A TRAUMA CARE PROVIDER DESCRIBED IN THIS SUBSECTION (2) MAY
8 BE USED TO PAY ANY OTHER CLAIMS FOR REIMBURSEMENT SUBMITTED BY
9 OTHER PROVIDERS.

10 (d) THE PERIODS SPECIFIED IN SECTION 10-4-642 FOR THE PROMPT
11 PAYMENT OF MEDICAL PAYMENTS COVERAGE BENEFITS SHALL BE TOLLED
12 FOR THE PERIOD THAT AN INSURER IS REQUIRED UNDER THIS SUBSECTION
13 (2) TO HOLD PAYMENT OF A CLAIM FROM A PROVIDER THAT DID NOT
14 PROVIDE TRAUMA CARE, BUT ONLY TO THE EXTENT THE MEDICAL
15 PAYMENTS COVERAGE BENEFITS NOT HELD IN RESERVE ARE INSUFFICIENT
16 TO PAY THE CLAIM.

17 (3) (a) AN INSURER PROVIDING BENEFITS UNDER MEDICAL
18 PAYMENTS COVERAGE IN THE AMOUNT SPECIFIED IN THIS SECTION OR IN A
19 GREATER AMOUNT THAN THE AMOUNT SPECIFIED IN THIS SECTION SHALL
20 NOT HAVE A RIGHT TO RECOVER AGAINST AN OWNER, USER, OR OPERATOR
21 OF A MOTOR VEHICLE, OR AGAINST ANY PERSON OR ORGANIZATION
22 LEGALLY RESPONSIBLE FOR THE ACTS OR OMISSIONS OF SUCH PERSON, IN
23 ANY ACTION FOR DAMAGES FOR BENEFITS PAID UNDER SUCH MEDICAL
24 PAYMENTS COVERAGE. AN INSURER SHALL NOT HAVE A DIRECT CAUSE OF
25 ACTION AGAINST AN ALLEGED TORTFEASOR FOR BENEFITS PAID UNDER
26 MEDICAL PAYMENTS COVERAGE.

27 (b) NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO:

1 (I) MODIFY THE REQUIREMENTS OF SECTION 13-21-111.6, C.R.S.,
2 OR ANY REQUIREMENTS UNDER THE "WORKERS' COMPENSATION ACT OF
3 COLORADO", ARTICLES 40 TO 47 OF TITLE 8, C.R.S.;

4 (II) PREVENT A PERSON TO WHOM BENEFITS ARE PAID UNDER
5 MEDICAL PAYMENTS COVERAGE FROM OBTAINING RECOVERY OF BENEFITS
6 AVAILABLE UNDER UNINSURED MOTORIST COVERAGE PURSUANT TO
7 SECTION 10-4-609; OR

8 (III) AFFORD AN INSURER A CAUSE OF ACTION AGAINST A PERSON
9 TO WHOM OR FOR WHOM THE MEDICAL PAYMENTS COVERAGE BENEFITS
10 SPECIFIED IN THIS SECTION WERE PAID EXCEPT IN A CASE WHERE THE
11 BENEFITS WERE PAID BY REASON OF FRAUD.

12 (4) THIS SECTION SHALL NOT APPLY TO:

13 (a) A PERSON OBTAINING AN AUTOMOBILE LIABILITY OR MOTOR
14 VEHICLE POLICY INSURING AGAINST LOSS RESULTING FROM THE
15 OWNERSHIP, MAINTENANCE, OR USE OF A MOTORCYCLE, MOTORSCOOTER,
16 MOTORBICYCLE, MOTORIZED BICYCLE, OR TOY VEHICLE, AS DEFINED IN
17 SECTION 42-1-102, C.R.S., A SNOWMOBILE, AS DEFINED IN SECTION
18 33-14-101, C.R.S., OR ANY VEHICLE DESIGNED PRIMARILY FOR USE OFF
19 THE ROAD OR ON RAILS.

20 (b) A PERSON THAT HAS OBTAINED A CERTIFICATE OF
21 SELF-INSURANCE FROM THE COMMISSIONER PURSUANT TO SECTION
22 10-4-624.

23 (c) A PERSON THAT HAS OBTAINED A COMMERCIAL INSURANCE
24 POLICY. HOWEVER, NOTHING SHALL PRECLUDE SUCH PERSON FROM
25 PURCHASING MEDICAL PAYMENTS COVERAGE AS PART OF THE POLICY.

26 (5) AS USED IN THIS SECTION:

27 (a) "INJURED PERSON" MEANS THE INSURED, OR A PASSENGER WHO

1 IS AUTHORIZED BY THE INSURED TO OCCUPY THE INSURED'S MOTOR
2 VEHICLE, WHO SUSTAINS BODILY INJURY ARISING OUT OF THE USE OF THE
3 INSURED'S MOTOR VEHICLE.

4 (b) "LICENSED AIR AMBULANCE" MEANS AN AIR AMBULANCE, AS
5 DEFINED IN SECTION 25-3.5-103 (1), C.R.S., THAT IS LICENSED BY THE
6 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO
7 SECTION 25-3.5-307, C.R.S.

8 (c) "LICENSED AMBULANCE" MEANS AN AMBULANCE, AS DEFINED
9 IN SECTION 25-3.5-103 (1.5), C.R.S., THAT IS LICENSED PURSUANT TO
10 SECTION 25-3.5-301, C.R.S.

11 (d) "LICENSED HEALTH CARE PROVIDER" SHALL HAVE THE SAME
12 MEANING AS SET FORTH IN SECTION 10-4-902, AND ALSO INCLUDES AN
13 OCCUPATIONAL THERAPIST AS DESCRIBED IN SECTION 6-1-707 (1) (c),
14 C.R.S.

15 (e) "MEDICAL CARE" MEANS ALL MEDICALLY NECESSARY AND
16 ACCIDENT-RELATED HEALTH CARE AND REHABILITATION SERVICES
17 PROVIDED BY A LICENSED HEALTH CARE PROVIDER TO A PERSON INJURED
18 IN AN AUTOMOBILE ACCIDENT FOR WHICH BENEFITS UNDER THE TERMS OF
19 THE MEDICAL PAYMENTS COVERAGE IN THE POLICY ARE PAYABLE.

20 (f) "PROVIDER" MEANS A LICENSED HEALTH CARE PROVIDER,
21 LICENSED AIR AMBULANCE, LICENSED AMBULANCE, TRAUMA PHYSICIAN,
22 OR TRAUMA CENTER.

23 (g) "STABILIZE" MEANS, WITH RESPECT TO A MEDICAL CONDITION
24 RESULTING FROM A TRAUMA, TO PROVIDE SUCH MEDICAL TREATMENT OF
25 THE CONDITION AS MAY BE NECESSARY TO ASSURE, WITHIN REASONABLE
26 MEDICAL PROBABILITY, THAT NO MATERIAL DETERIORATION OF THE
27 CONDITION IS LIKELY TO RESULT OR OCCUR DURING THE TRANSFER OF THE

1 INDIVIDUAL TO OR FROM A TRAUMA CENTER.

2 (h) "TRAUMA" MEANS AN INJURY OR WOUND TO A LIVING PERSON
3 CAUSED BY THE APPLICATION OF AN EXTERNAL PHYSICAL FORCE. TRAUMA
4 INCLUDES ANY EVENT THAT THREATENS LIFE, LIMB, OR THE WELL-BEING
5 OF AN INDIVIDUAL IN SUCH A MANNER THAT A PRUDENT LAY PERSON
6 WOULD BELIEVE THAT IMMEDIATE MEDICAL CARE IS NEEDED.

7 (i) "TRAUMA CARE" MEANS CARE PROVIDED BY A LICENSED
8 AMBULANCE OR AIR AMBULANCE, TRAUMA PHYSICIAN, OR TRAUMA
9 CENTER TO A PERSON INJURED IN A MOTOR VEHICLE ACCIDENT FROM THE
10 TIME THE ADMINISTRATION OF CARE BEGINS TO THE TIME THE PATIENT IS
11 FULLY STABILIZED OR THROUGH THE FIRST EPISODE OF CARE, NOT TO
12 EXCEED SEVENTY-TWO HOURS AFTER THE ADMINISTRATION OF CARE
13 BEGINS. THE TERM INCLUDES A TRAUMA CARE SYSTEM, TRAUMA
14 TRANSPORT PROTOCOLS, AND TRIAGE, AS DEFINED IN SECTION 25-3.5-703,
15 C.R.S.

16 (j) "TRAUMA CENTER" MEANS THE EMERGENCY DEPARTMENT IN
17 A LICENSED OR CERTIFIED HOSPITAL OR A HEALTH CARE FACILITY THAT IS
18 DESIGNATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
19 AS A LEVEL I, II, III, IV, OR V FACILITY OR AS A REGIONAL PEDIATRIC
20 TRAUMA CENTER.

21 (k) "TRAUMA PHYSICIAN" MEANS A TRAUMA SURGEON,
22 ORTHOPEDIC SURGEON, NEUROSURGEON, INTENSIVE CARE UNIT PHYSICIAN,
23 ANESTHESIOLOGIST, OR PHYSICIAN WHO PROVIDES CARE IN A TRAUMA
24 CENTER TO A TRAUMA PATIENT INJURED IN A MOTOR VEHICLE ACCIDENT.

25 **SECTION 2. Appropriation.** In addition to any other
26 appropriation, there is hereby appropriated, out of any moneys in the
27 division of insurance cash fund created in section 10-1-103 (3), Colorado

1 Revised Statutes, not otherwise appropriated, to the department of
2 regulatory agencies, for allocation to the division of insurance, for the
3 fiscal year beginning July 1, 2008, the sum of ten thousand eight hundred
4 forty-eight dollars (\$10,848) and 0.2 FTE, or so much thereof as may be
5 necessary, for the implementation of this act.

6 **SECTION 3. Effective date - applicability.** (1) This act shall
7 take effect January 1, 2009.

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

17 (3) The provisions of this act shall apply to automobile insurance
18 policies issued, delivered, or renewed on or after the applicable effective
19 date of this act.