

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

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.

HOUSE
Am ended 2nd Reading
May 5, 2008

SENATE
3rd Reading Unamended
April 29, 2008

SENATE
Am ended 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) (I) 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 PROVIDED 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 (II) THE APPLICATION FOR THE AUTOMOBILE LIABILITY OR MOTOR
18 VEHICLE LIABILITY POLICY SHALL CONTAIN THE FOLLOWING STATEMENTS
19 REGARDING MEDICAL PAYMENTS COVERAGE, IN AT LEAST EIGHTEEN-POINT
20 BOLD-FACED TYPE, IN A CONSPICUOUS LOCATION ON THE APPLICATION
21 FORM:

22 **COLORADO LAW DOES NOT REQUIRE YOU TO**
23 **PURCHASE MEDICAL PAYMENTS COVERAGE;**

24 **MEDICAL PAYMENTS COVERAGE MAY DUPLICATE**
25 **COVERAGE THAT YOU HAVE UNDER A HEALTH INSURANCE**
26 **POLICY, PLAN, OR CONTRACT; AND**

27 **IF YOU CHOOSE TO PURCHASE MEDICAL PAYMENTS**

1 **COVERAGE, YOU AND THE PASSENGERS IN THE DESCRIBED**
2 **MOTOR VEHICLE WILL BE ENTITLED TO MEDICAL**
3 **PAYMENTS COVERAGE BENEFITS UP TO THE LIMITS YOU**
4 **SELECT TO PURCHASE.**

5 (b) A POLICY MAY BE ISSUED WITHOUT MEDICAL PAYMENTS
6 COVERAGE ONLY IF THE NAMED INSURED REJECTS MEDICAL PAYMENTS
7 COVERAGE IN WRITING OR IN THE SAME MEDIUM IN WHICH THE
8 APPLICATION FOR THE POLICY WAS TAKEN. THE INSURER SHALL MAINTAIN
9 PROOF THAT A NAMED INSURED REJECTED MEDICAL PAYMENTS COVERAGE
10 FOR AT LEAST THREE YEARS AFTER THE DATE OF THE REJECTION, AND
11 SUCH PROOF OF REJECTION SHALL BE PRESUMED VALID FOR ALL INSURED
12 UNDER THE POLICY, INCLUDING RESIDENT RELATIVES OF THE NAMED
13 INSURED AND PERMISSIVE USERS OF THE MOTOR VEHICLE. AN AGENT OR
14 INSURER THAT OBTAINS A REJECTION OF MEDICAL PAYMENTS COVERAGE
15 FROM THE NAMED INSURED OR APPLICANT PURSUANT TO THIS SECTION
16 SHALL NOT BE LIABLE TO THE INSURED OR ANY OTHER PERSON SEEKING
17 BENEFITS UNDER THE NAMED INSURED'S POLICY FOR CLAIMS ARISING OUT
18 OF OR RELATING TO THE REJECTION OF MEDICAL PAYMENTS COVERAGE.

19 (c) IF THE INSURER FAILS TO OFFER MEDICAL PAYMENTS COVERAGE
20 OR FAILS TO MAINTAIN OR PROVIDE PROOF THAT THE NAMED INSURED
21 REJECTED MEDICAL PAYMENTS COVERAGE IN THE MANNER REQUIRED BY
22 THIS SECTION, THE INSURED'S POLICY SHALL BE PRESUMED TO INCLUDE
23 MEDICAL PAYMENTS COVERAGE WITH BENEFITS OF FIVE THOUSAND

24 (d) IF AN INSURED SELECTS LIMITS FOR MEDICAL PAYMENTS
25 COVERAGE OR EXERCISES THE OPTION NOT TO PURCHASE THE COVERAGES
26 DESCRIBED IN THIS SECTION, AN INSURER OR AFFILIATED INSURER SHALL
27 NOT BE REQUIRED TO NOTIFY ANY POLICYHOLDER IN ANY RENEWAL OR

1 REPLACEMENT POLICY OF THE AVAILABILITY OF MEDICAL PAYMENTS
2 COVERAGE. HOWEVER, THE INSURED MAY MAKE A [REDACTED] REQUEST FOR
3 ADDITIONAL COVERAGE OR COVERAGE MORE EXTENSIVE THAN THAT
4 PROVIDED ON A PRIOR POLICY.

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

7 (2) (a) ~~Repeated.~~ IF A POLICY CONTAINS MEDICAL PAYMENTS
8 COVERAGE, MEDICAL PAYMENTS BENEFITS SHALL BE PAID [REDACTED] [REDACTED] TO
9 PERSONS PROVIDING MEDICALLY NECESSARY AND ACCIDENT-RELATED
10 TRAUMA CARE OR MEDICAL CARE. EXCEPT AS PROVIDED IN PARAGRAPHS
11 (b), (c), AND (d) OF THIS SUBSECTION (2), PAYMENTS OF CLAIMS FOR
12 MEDICAL PAYMENTS COVERAGE SHALL BE MADE IN ACCORDANCE WITH
13 SECTION 10-4-642. ___

14 (b) UPON RECEIVING NOTICE, EITHER FROM A [REDACTED] PROVIDER OR THE
15 INSURED, OF AN ACCIDENT FOR WHICH THE MEDICAL PAYMENTS COVERAGE
16 SPECIFIED IN THIS SECTION OR MEDICAL PAYMENTS COVERAGE IN A
17 GREATER AMOUNT MAY APPLY, THE INSURER SHALL RESERVE FIVE
18 THOUSAND DOLLARS OF THE MEDICAL PAYMENTS COVERAGE FOR THE
19 PAYMENT OF TRAUMA CARE PROVIDED BY A LICENSED AIR AMBULANCE,
20 LICENSED AMBULANCE, TRAUMA PHYSICIAN, OR TRAUMA [REDACTED] CENTER IN
21 THE FOLLOWING PRIORITY, AS APPLICABLE:

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

26 (II) AFTER PAYMENTS TO PROVIDERS DESCRIBED IN
27 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), BENEFITS SHALL BE PAID

1 NEXT TO TRAUMA PHYSICIANS THAT PROVIDE TRAUMA CARE TO STABILIZE
2 OR PROVIDE THE FIRST EPISODE OF CARE TO THE INJURED PERSON.

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

9 (IV) AFTER PAYMENTS TO PROVIDERS DESCRIBED IN
10 SUBPARAGRAPHS (I), (II), AND (III) OF THIS PARAGRAPH (b), BENEFITS
11 SHALL BE PAID NEXT TO TRAUMA CENTERS DESIGNATED AS LEVEL I, II, OR
12 III OR AS A REGIONAL PEDIATRIC TRAUMA CENTER PURSUANT TO SECTION
13 25-3.5-703 (4) THAT PROVIDE TRAUMA CARE TO STABILIZE OR PROVIDE
14 THE FIRST EPISODE OF CARE TO THE INJURED PERSON.

15 (c) THE RESERVE SHALL BE HELD AND USED TO PAY CLAIMS OF
16 TRAUMA CARE PROVIDERS DESCRIBED IN THIS SUBSECTION (2) FOR NO
17 MORE THAN THIRTY DAYS AFTER RECEIPT OF THE ACCIDENT NOTICE.
18 AFTER THE THIRTY-DAY PERIOD, ANY AMOUNT OF THE RESERVE FOR
19 WHICH THE INSURER HAS NOT RECEIVED A CLAIM FOR REIMBURSEMENT
20 FROM A TRAUMA CARE PROVIDER DESCRIBED IN THIS SUBSECTION (2) MAY
21 BE USED TO PAY ANY OTHER CLAIMS FOR REIMBURSEMENT SUBMITTED BY
22 OTHER PROVIDERS.

23 (d) THE PERIODS SPECIFIED IN SECTION 10-4-642 FOR THE PROMPT
24 PAYMENT OF MEDICAL PAYMENTS COVERAGE BENEFITS SHALL BE TOLLED
25 FOR THE PERIOD THAT AN INSURER IS REQUIRED UNDER THIS SUBSECTION
26 (2) TO HOLD PAYMENT OF A CLAIM FROM A PROVIDER THAT DID NOT
27 PROVIDE TRAUMA CARE, BUT ONLY TO THE EXTENT THE MEDICAL

1 PAYMENTS COVERAGE BENEFITS NOT HELD IN RESERVE ARE INSUFFICIENT
2 TO PAY THE CLAIM.

3 (3) (a) AN INSURER PROVIDING BENEFITS UNDER MEDICAL
4 PAYMENTS COVERAGE IN THE AMOUNT SPECIFIED IN THIS SECTION OR IN A
5 GREATER AMOUNT THAN THE AMOUNT SPECIFIED IN THIS SECTION SHALL
6 NOT HAVE A RIGHT TO RECOVER AGAINST AN OWNER, USER, OR OPERATOR
7 OF A MOTOR VEHICLE, OR AGAINST ANY PERSON OR ORGANIZATION
8 LEGALLY RESPONSIBLE FOR THE ACTS OR OMISSIONS OF SUCH PERSON, IN
9 ANY ACTION FOR DAMAGES FOR BENEFITS PAID UNDER SUCH MEDICAL
10 PAYMENTS COVERAGE. AN INSURER SHALL NOT HAVE A DIRECT CAUSE OF
11 ACTION AGAINST AN ALLEGED TORTFEASOR FOR BENEFITS PAID UNDER
12 MEDICAL PAYMENTS COVERAGE.

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

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

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

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

25 (4) THIS SECTION SHALL NOT APPLY TO:

26 (a) A PERSON OBTAINING AN AUTOMOBILE LIABILITY OR MOTOR
27 VEHICLE POLICY INSURING AGAINST LOSS RESULTING FROM THE

1 OWNERSHIP, MAINTENANCE, OR USE OF A MOTORCYCLE, MOTORSCOOTER,
2 MOTORBICYCLE, MOTORIZED BICYCLE, OR TOY VEHICLE, AS DEFINED IN
3 SECTION 42-1-102, C.R.S., A SNOWMOBILE, AS DEFINED IN SECTION
4 33-14-101, C.R.S., OR ANY VEHICLE DESIGNED PRIMARILY FOR USE OFF
5 THE ROAD OR ON RAILS.

6 (b) A PERSON THAT HAS OBTAINED A CERTIFICATE OF
7 SELF-INSURANCE FROM THE COMMISSIONER PURSUANT TO SECTION
8 10-4-624.

9 (5) AS USED IN THIS SECTION:

10 (a) "INJURED PERSON" MEANS THE INSURED, OR A PASSENGER WHO
11 IS AUTHORIZED BY THE INSURED TO OCCUPY THE INSURED'S MOTOR
12 VEHICLE, WHO SUSTAINS BODILY INJURY ARISING OUT OF THE USE OF THE
13 INSURED'S MOTOR VEHICLE.

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

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

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

25 (e) "MEDICAL CARE" MEANS ALL MEDICALLY NECESSARY AND
26 ACCIDENT-RELATED HEALTH CARE AND REHABILITATION SERVICES
27 PROVIDED BY A LICENSED HEALTH CARE PROVIDER TO A PERSON INJURED

1 IN AN AUTOMOBILE ACCIDENT FOR WHICH BENEFITS UNDER THE TERMS OF
2 THE MEDICAL PAYMENTS COVERAGE IN THE POLICY ARE PAYABLE.

3 (f) "PROVIDER" MEANS A LICENSED HEALTH CARE PROVIDER,
4 LICENSED AIR AMBULANCE, LICENSED AMBULANCE, TRAUMA PHYSICIAN,
5 OR TRAUMA CENTER.

6 (g) "STABILIZE" MEANS, WITH RESPECT TO A MEDICAL CONDITION
7 RESULTING FROM A TRAUMA, TO PROVIDE SUCH MEDICAL TREATMENT OF
8 THE CONDITION AS MAY BE NECESSARY TO ASSURE, WITHIN REASONABLE
9 MEDICAL PROBABILITY, THAT NO MATERIAL DETERIORATION OF THE
10 CONDITION IS LIKELY TO RESULT OR OCCUR DURING THE TRANSFER OF THE
11 INDIVIDUAL TO OR FROM A TRAUMA CENTER.

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

17 (i) "TRAUMA CARE" MEANS CARE PROVIDED BY A LICENSED
18 AMBULANCE OR AIR AMBULANCE, TRAUMA PHYSICIAN, OR TRAUMA
19 CENTER TO A PERSON INJURED IN A MOTOR VEHICLE ACCIDENT FROM THE
20 TIME THE ADMINISTRATION OF CARE BEGINS TO THE TIME THE PATIENT IS
21 FULLY STABILIZED OR THROUGH THE FIRST EPISODE OF CARE, NOT TO
22 EXCEED SEVENTY-TWO HOURS AFTER THE ADMINISTRATION OF CARE
23 BEGINS. THE TERM INCLUDES A TRAUMA CARE SYSTEM, TRAUMA
24 TRANSPORT PROTOCOLS, AND TRIAGE, AS DEFINED IN SECTION 25-3.5-703,
25 C.R.S.

26 (j) "TRAUMA CENTER" MEANS THE EMERGENCY DEPARTMENT IN
27 A LICENSED OR CERTIFIED HOSPITAL OR A HEALTH CARE FACILITY THAT IS

1 DESIGNATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
2 AS A LEVEL I, II, III, IV, OR V FACILITY OR AS A REGIONAL PEDIATRIC
3 TRAUMA CENTER.

4 (k) "TRAUMA PHYSICIAN" MEANS A TRAUMA SURGEON,
5 ORTHOPEDIC SURGEON, NEUROSURGEON, INTENSIVE CARE UNIT PHYSICIAN,
6 ANESTHESIOLOGIST, OR PHYSICIAN WHO PROVIDES CARE IN A TRAUMA
7 CENTER TO A TRAUMA PATIENT INJURED IN A MOTOR VEHICLE ACCIDENT.

8 **SECTION 2. Appropriation.** In addition to any other
9 appropriation, there is hereby appropriated, out of any moneys in the
10 division of insurance cash fund created in section 10-1-103 (3), Colorado
11 Revised Statutes, not otherwise appropriated, to the department of
12 regulatory agencies, for allocation to the division of insurance, for the
13 fiscal year beginning July 1, 2008, the sum of ten thousand eight hundred
14 forty-eight dollars (\$10,848) and 0.2 FTE, or so much thereof as may be
15 necessary, for the implementation of this act.

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

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

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