

Second Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0330.01 Jerry Barry

HOUSE BILL 08-1032

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HOUSE SPONSORSHIP

Massey, Green, and Riesberg

SENATE SPONSORSHIP

Morse, and Boyd

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House Committees

Health and Human Services

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING A CHANGE IN PAYMENTS TO PHARMACIES FOR CERTAIN  
102 DRUGS UNDER MEDICAID.

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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.** Directs the department of health care policy and financing to:

- Within 30 days after the implementation of changes to the reimbursement rate, review the impact and calculate the anticipated reduction in the reimbursement rate to be paid to pharmacies due to the federal "Deficit Reduction Act of 2005"; and

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.*

- Within 45 days after the implementation of the changes, submit an amendment to the state plan to increase the dispensing fees paid to pharmacies for the remainder of the 2007-08 fiscal year for generic and nonpatented drugs to offset the reduction in the reimbursement rate.

Repeals the section, effective July 1, 2009.

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

2 **SECTION 1.** Part 5 of article 5 of title 25.5, Colorado Revised  
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
4 read:

5 **25.5-5-501.5. Generic drugs - dispensing fee - legislative**  
6 **declaration - repeal.** (1) THE GENERAL ASSEMBLY HEREBY FINDS AND  
7 DECLARES THAT:

8 (a) THE FEDERAL "DEFICIT REDUCTION ACT OF 2005", PUB.L.  
9 109-107, CHANGED THE CALCULATION OF THE FEDERAL UPPER PAYMENT  
10 LIMIT FOR GENERIC AND NONPATENTED DRUGS TO TWO HUNDRED FIFTY  
11 PERCENT OF THE LOWEST AVAILABLE AVERAGE MANUFACTURER PRICE.

12 (b) A DECEMBER 2006 GOVERNMENT ACCOUNTABILITY OFFICE  
13 REPORT FOUND THAT, ON AVERAGE, PHARMACIES WOULD BE PAID  
14 THIRTY-SIX PERCENT BELOW THEIR ACQUISITION COSTS USING THE NEW  
15 CALCULATION.

16 (c) THE TRUE COST OF DISPENSING GENERIC AND NONPATENTED  
17 DRUGS INCLUDES BUT IS NOT LIMITED TO RECIPIENT COUNSELING,  
18 PHYSICIAN COUNSELING, AND MEDICATION THERAPY COMPLIANCE, ALL OF  
19 WHICH REDUCES STATE MEDICAID COSTS THROUGH INCREASED GENERIC  
20 AND NONPATENTED UTILIZATION RATES AND REDUCES EXPENSIVE  
21 ALTERNATIVES SUCH AS EMERGENCY ROOM VISITS.

22 (d) IN ORDER TO ENSURE THAT ACCESS TO PHARMACY SERVICES BY

1 MEDICAID RECIPIENTS IS NOT IMPEDED BY A REIMBURSEMENT FOR GENERIC  
2 MEDICATIONS THAT IS SIGNIFICANTLY BELOW A PHARMACY'S COST, THE  
3 STATE DEPARTMENT SHOULD ADJUST MEDICAID PHARMACY DISPENSING  
4 FEES FOR GENERIC AND NONPATENTED DRUGS TO ENSURE THAT THOSE  
5 FEES COVER THE COST OF DISPENSING A MEDICATION IN COLORADO AND  
6 PROVIDE FOR A REASONABLE PHARMACY PROFIT.

7 (2) WITHIN THIRTY DAYS AFTER IMPLEMENTATION OF THE NEW  
8 FEDERAL UPPER PAYMENT LIMIT, THE STATE DEPARTMENT SHALL REVIEW  
9 THE IMPACT OF THE CHANGE IN THE CALCULATION OF THE FEDERAL UPPER  
10 PAYMENT LIMIT FOR GENERIC AND NONPATENTED DRUGS REQUIRED BY  
11 THE FEDERAL "DEFICIT REDUCTION ACT OF 2005" TO DETERMINE THE  
12 AMOUNT OF THE REDUCTION FOR REIMBURSEMENT THAT PHARMACIES  
13 SHALL INCUR BECAUSE OF THE CHANGE AND THE AMOUNT THAT THE  
14 DISPENSING FEE FOR GENERIC AND NONPATENTED DRUGS WOULD NEED TO  
15 BE INCREASED TO MAINTAIN RECIPIENT ACCESS TO MEDICAID PHARMACY  
16 SERVICES AT CURRENT LEVELS. WITHIN FORTY-FIVE DAYS AFTER  
17 IMPLEMENTATION OF THE NEW FEDERAL UPPER PAYMENT LIMIT, THE STATE  
18 DEPARTMENT SHALL SUBMIT TO THE FEDERAL GOVERNMENT AN  
19 AMENDMENT TO THE STATE PLAN FOR MEDICAL ASSISTANCE THAT SEEKS  
20 TO INCREASE THE DISPENSING FEE FOR GENERIC AND NONPATENTED DRUGS  
21 STARTING ON THE EFFECTIVE DATE OF ANY CHANGE IN THE  
22 REIMBURSEMENT RATE FOR THE REMAINDER OF THE STATE FISCAL YEAR  
23 BEGINNING JULY 1, 2007, IN ORDER TO MAINTAIN MEDICAID RECIPIENT  
24 ACCESS TO PHARMACY SERVICES AT CURRENT LEVELS. THE INCREASE IN  
25 THE DISPENSING FEE REQUIRED BY THIS SUBSECTION (2) SHALL TAKE  
26 EFFECT ONLY IF THE CHANGE IN THE CALCULATION OF THE FEDERAL UPPER  
27 PAYMENT LIMIT REQUIRED BY THE FEDERAL "DEFICIT REDUCTION ACT OF

1 2005" TAKES EFFECT.

2 (3) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2009.

3 **SECTION 2. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, and safety.