

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING INCREASED EFFICIENCY IN THE ADMINISTRATION OF THE "COLORADO MEDICAL ASSISTANCE ACT", AND, IN CONNECTION THEREWITH, CREATING THE "COLORADO MEDICAID FALSE CLAIMS ACT".

Prime Sponsors: Senator Boyd
Representative Riesberg

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Summary of Amendments Made to the Bill After the 04/12/10 Legislative Council Staff Revised Fiscal Note Was Prepared (Amended by the Senate Appropriations Committee 04/16/10)

This bill was laid over amended in the Senate Appropriations Committee on April 16, 2010. The Senate Appropriations Committee adopted amendment **L.005** (which was later reconsidered and adopted again). Amendment **L.005** eliminated the provisions in the "Colorado Medicaid False Claims Act" that permitted a private person (relator) to bring civil action against persons making false Medicaid claims. By eliminating this provision, the "Colorado Medicaid False Claims Act" will not comply with the federal False Claims Act and therefore, Colorado will not qualify to receive an additional 10 percent of the recoveries made under the "Colorado Medicaid False Claims Act".

JBC Staff Concurrence with Legislative Council Staff Fiscal Note

Concurs Does Not Concur Updated Analysis

Reason for the Update

Staff has updated the fiscal analysis, including the impact of amendment **L.005**. The updated analysis is summarized in the table below.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue	\$0	\$0
State Expenditures		
Total	(\$1,062,209)	(\$2,157,664)
General Fund	(414,513)	(\$1,198,369)
Federal Funds	(647,696)	(\$959,295)
FTE Position Change	7.0 FTE	7.0 FTE

Differences between the updated JBC Staff Fiscal Analysis (including the impacts of L.005) and the Legislative Council Staff Revised Fiscal Note dated April 12, 2010 (Fiscal Note) include:

- (1) The JBC Staff Analysis eliminates all new revenue received from enacting the "Colorado Medicaid False Claims Act". The Fiscal Note assumed an increase of revenue of \$800,000. With amendment L.005, the "Colorado Medicaid False Claims Act" will no longer qualify to receive the additional 10 percent in recoveries that would result from conforming to the Federal False Claims Act.
- (2) The JBC Staff Analysis eliminates the \$800,000 reduction in expenditures from the "Colorado Medicaid False Claims Act". The Fiscal Note included this impact as both a revenue and expenditure impact. This double counted the General Fund impact for the bill.
- (3) The Fiscal Note indicates \$400,000 in cash fund expenditures (from the Health Care Policy and Financing Cash Fund) in the Medical Services Premiums line item, that are not explained by the provisions in the bill. The JBC Staff Analysis excludes these expenditure adjustments.
- (4) The 3.0 FTE and associated expenditures for the Department of Law have been eliminated due to the adoption of L.005. The Department of Law no longer anticipates an increase in cases without the provisions relating to private persons being able to bring a civil action.
- (5) The fiscal impact has been adjusted to reflect the enhanced federal match available pursuant to the American Recovery and Reinvestment Act available for certain Medicaid expenditures.

Amendments/Appropriation Status

The bill requires but does not contain an appropriation clause. Staff has prepared amendment **J.002** (attached) to decrease appropriations by \$1,062,209 total funds in FY 2010-11 as described in the table below.

FY 2010-11	FTE	General Fund	Federal Funds	Total Funds
<i>Department of Health Care Policy and Financing</i>				
Executive Director's Office	7.0	\$503,705	\$824,656	\$1,328,361
Medical Service Premiums	<u>0.0</u>	<u>(918,218)</u>	<u>(1,472,352)</u>	<u>(2,390,570)</u>
Total HCPF	7.0	(414,513)	(647,696)	(1,062,209)

Bill Sponsor Amendments

Sponsor amendment **L.006** (attached) adds a five-year accountability clause to the bill. The amendment also states that the legislative intent is for this bill to reduce General Fund expenditures. Amendment L.006 does **not** change the fiscal impact of the bill.

Whether or not L.006 is adopted, J.002 should be adopted to provide the appropriation.

Points to Consider

House Bill 10-1357, which is now being considered by the House, also adds a false-claims act to statute. Unlike this bill, which only covers Medicaid-related false claims, H.B. 10-1357 covers all false claims and currently conforms the "Colorado Medicaid False Claims Act" to the federal False Claims Act. If both bills become law it will be necessary to harmonize their differences, which could require subsequent legislation.