


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

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Prime Sponsor(s): Sen. Boyd
Rep. Riesberg

Bill Status: Senate Health and Human Services
Fiscal Analyst: Kerry White (303 866-3469)

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

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue Multiple Funds	Increase not quantified	
State Expenditures <u>Total</u>	(\$1,040,841)	(\$2,117,537)
General Fund	(\$1,093,206)	(\$1,588,338)
Cash Funds		
Department of Health Care Policy and Financing	\$200,000	\$200,000
Cash Fund for Program Integrity		
Federal Funds	(\$147,635)	(\$729,199)
FTE Position Change	10.0 FTE	10.0 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2010-2011: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

Among its many provisions, this bill creates efficiencies in the Department of Health Care Policy and Financing (DHCPF) by creating the Colorado Medicaid False Claims Act, as described below, and requiring the department to:

- ▶ appoint an internal auditor and to ensure that duplicate benefits are not being paid by other states to clients enrolled in DHCPF programs;
- ▶ implement an automated, pre-payment review system to reduce medical services coding errors in Medicaid claims, report annually on its implementation and identified errors; and
- ▶ purchase private health insurance coverage through the Health Insurance Buy-In Program for up to 2,000 eligible clients to create cost savings for the state.

Colorado Medicaid False Claims Act. Anyone who knowingly submits a false claim or intends to defraud the state or a political subdivision is liable for up to three times the amount of damages, the costs of civil action, and a civil penalty of between \$5,000 and \$10,000. Persons ineligible to receive state funds and who report to the Attorney General within 30 days of receiving such funds may be liable for two times the amount of damages and no civil penalty, provided certain conditions are met.

The bill specifies certain investigative, notification, and court procedures. It requires the Attorney General to determine whether to bring civil actions within 3 years of learning of the violation, but no more than 6 years from the date of the violation. In addition, private persons may bring a civil action on behalf of the state and share in the proceeds from the action or settlement of a claim. Protections and relief are provided for private persons who bring civil actions on behalf of the state.

State Revenue

State revenue is expected to increase as a result of recovery claims, treble damages, and civil penalties. Proceeds from false claims actions and settlements are to reimburse program funds and, where applicable, must be shared with persons who bring actions (15 to 30 percent, plus reasonable costs and attorney fees). At this time, the amount of potential revenue to the state cannot be estimated because it is unknown how many cases will be reported, investigated and ultimately prosecuted.

Deficit Reduction Act. By establishing a false claims act in Colorado that aligns with federal law, the state can increase its share of Medicaid fraud awards by 10 percent if certain conditions are met. Based on global settlements over the previous 18 months, Colorado could increase its fraud awards by \$400,000 per year. These funds would be split equally between the General Fund and the DHCPF Cash Fund for Program Integrity, and credited to the medical services premiums in the DHCPF.

State Expenditures

The bill results in a net expenditure decrease of \$1.0 million in FY 2010-11 and \$2.1 million in FY 2011-12. This impact is a combination of both new costs and costs avoided as noted below and identified in Table 1.

New Costs — \$1.6 million and 10.0 FTE for the first fiscal year, and \$1.4 million and 10.0 FTE for the second and subsequent fiscal years.

Costs Avoided — \$2.6 million in the first fiscal year, and \$3.5 million in the second and subsequent fiscal years in medical services premiums paid out in the state's Medicaid program. In the current fiscal year, medical services premiums total \$2.6 billion, including \$1.2 billion in General Fund.

Table 1. Total Expenditures Under SB10-167		
Cost Components	FY 2010-11	FY 2011-12
Personal Services	\$419,250	\$457,364
FTE	10.0	10.0
Operating Expenses and Capital Outlay	39,340	6,650
Legal Services	249,236	240,127
Information Technology Contracts	841,903	678,149
Medical Services Premiums	(2,590,570)	(3,499,827)
TOTAL	(\$1,040,841)	(\$2,117,537)
General Fund	(\$1,093,206)	(\$1,588,338)
DHCPF Cash Fund for Program Integrity	\$200,000	\$200,000
Federal Funds	(\$147,635)	(\$729,199)

Department of Health Care Policy and Financing. The DHCPF will implement 3 major initiatives, the costs for which will be offset by decreases in medical services premiums as follows:

- ▶ **Health Insurance Buy-In.** The DHCPF will purchase private health insurance for 1,500 clients through this program. Personal services and operating costs for 1.0 FTE are needed to conduct outreach, determine eligibility, process applications, and provide ongoing program administration. The fiscal note assumes a savings of 35 percent in medical services premiums for these individuals and that a private contractor will be paid a 12 percent contingency fee. After adjusting for medical services premiums, this initiative will avoid costs of \$642,561 in FY 2010-11, and \$1,551,744 in FY 2011-12.
- ▶ **Automated, Pre-payment Review of Claims.** By implementing the National Correct Coding Initiative, the DHCPF will be able to automatically identify coding errors prior to making Medicaid claims payments. Software and programming of the Medicaid Management Information System (MMIS), as well as personal services and operating costs for 2.0 FTE are required. After adjusting for medical services premiums, this initiative will avoid costs of \$130,117 in FY 2010-11 and \$293,723 in FY 2011-12.
- ▶ **Program Auditing.** SB10-167 requires the DHCPF to appoint an internal auditor and ensure that duplicate benefits are not being paid by other states to clients enrolled in DHCPF programs. The MMIS will be further modified to implement a pharmacy coordination of benefits program and to allow for connectivity with the Public Assistance Reporting Information System (PARIS), at both the state and the county levels. Access to the PARIS will enable the DHCPF to eliminate medical services premiums for clients that are receiving benefits in another state. Personal services and operating costs for 4.0 FTE are required to conduct audits and coordinate the use of the PARIS. After adjusting for medical services premiums, this initiative will avoid costs of \$68,156 in FY 2010-11, and \$72,063 in FY 2011-12.

Department of Law. SB10-167 requires the Attorney General to investigate false claims against the DHCPF and bring civil action when appropriate. The Department of Law requires 2.0 FTE investigators and 1.0 FTE Assistant Attorney General to investigate and prosecute false claims. Each case is expected to require a minimum of 4 months time, and up to 3 years for investigation and prosecution because hundreds of documents pertaining each case are expected. The fiscal note assumes that there will be approximately 5 cases per year.

Judicial Branch. The impact of this bill is conditional upon the number of claims investigated, and of those claims, the number that are prosecuted by the state and private persons. At this time, the estimated caseload is unknown and expected to be absorbed within existing resources. This fiscal note assumes that should the department experience a significant growth in caseload, additional staffing needs can be addressed through the annual budget process.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Expenditures Not Included Under SB10-167*		
Cost Components	FY 2010-11	FY 2011-12
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$71,000	\$71,000
Supplemental Employee Retirement Payments	25,842	31,445
TOTAL	\$96,842	\$102,445

*More information is available at: <http://www.colorado.gov/cs/Satellite/CGA-LegislativeCouncil/CLC/1200536133924>

State Appropriations

The Department of Health Care Policy and Financing requires an appropriation that reduces funding by \$1,040,841, but also authorizes 7.0 FTE in FY 2010-11. This includes a reduction of \$1,093,206 General Fund and \$147,635 in federal funds, and an increase of \$200,000 in cash funds from the DHCPF Cash Fund for Program Integrity.

The Department of Law requires an appropriation of \$249,236 in reappropriated funds and 3.0 FTE.

Departments Contacted

Health Care Policy and Financing
Law

Human Services
Regulatory Agencies

Judicial
Treasury