SB10-002

Colorado Legislative Council Staff Fiscal Note

STATE FISCAL IMPACT

Drafting Number:	LLS 10-0388	**Date:**	February 8, 2010
Prime Sponsor(s):	Sen. Steadman; Keller Rep. Looper; Primavera	**Bill Status:** **Fiscal Analyst:**	Senate Health and Human Services Janis Baron (303-866-3523)

TITLE: CONCERNING THE DENIAL OF BENEFITS BY HEALTH COVERAGE PLANS, AND, IN CONNECTION THEREWITH, INCREASING RECOVERIES TO THE MEDICAID PROGRAM AND ESTABLISHING A LONG-TERM CARE OMBUDSMAN OFFICE.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue		
State Expenditures General Fund Federal Funds	 $118,965 118,965	 $146,501 146,502
FTE Position Change	2.8 FTE	3.0 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

This bill includes a number of provisions regarding the denial of benefits by health coverage plans and increased recoveries in the state's Medicaid program. Most notably, the bill requires the Department of Health Care Policy and Financing to do the following:

- provide clients in the Medicaid program with information concerning their right to appeal denial of benefits by third parties;
- act as the client's designated representative for purposes of appealing any denial of benefits by a health insurance company paid by Medicaid, by virtue of the client signing the application for Medicaid and thereby designating the department as such;
- appeal an adverse insurance coverage decision at any level;
- report specified information to the General Assembly annually; and
- establish an ombudsman office to assist families eligible for home- and community-based services for children in applying for benefits and in the appeals of denials of benefits by third parties.

The bill also states that third party recoveries due to the bill be used first to pay the expenses of the ombudsman office, and second to reduce the waiting list of persons with a developmental disability.

State Expenditures

Department of Health Care Policy and Financing — $237,930 in FY 2010-11 and $293,003 in FY 2011-12. Table 1 provides a summary of the bill's costs and new FTE requirements, followed by a discussion of those costs.

Table 1. Expenditures Under SB10-002

Cost Components	FY 2010-11	FY 2011-12
Personal Services	$172,194	$190,153
FTE	2.8	3.0
Operating Expenses and Capital Outlay	15,736	2,850
Ombudsman Services Contract	50,000	100,000
TOTAL	**$237,930**	**$293,003**

Personal Services and Associated Operating Expenses. The department will require new staff for two new tasks.

- *Appeals of Claims.* The bill states that by signing an application for Medicaid, the client designates the department as his or her designated representative for purposes of appealing a denial of benefits by a health coverage plan for treatment paid by Medicaid. Currently, the department contracts, on a contingency basis (6.3% of amounts recovered), to review post-service insurance claims denials and recover funds when warranted. Denied claims state the reason for the denial, and many are denied because the service is specifically excluded from reimbursement. As the designated representative, the bill requires the department to appeal a decision if directed by a client even if the claim was rightfully denied. The department will require a minimum of 1.0 FTE to review and pursue appeals for cases that appear to have been rightfully denied, as well as perform data match with clients. It is unlikely that a contractor would perform such duties because of the likelihood that recoveries and contingency payments would be low.

- *Employment Retirement Income Security Act (ERISA) Appeals.* Currently, only fully insured health plans are subject to regulations of the Division of Insurance in the Department of Regulatory Agencies; self-funded health plans are subject to federal ERISA regulations. This bill will cover appeals of claims subject to ERISA. The Division of Insurance indicates that 50 percent of individuals in Colorado have benefits through a self-funded plan. Once fully implemented, the department will require 2.0 FTE to pursue federal ERISA appeals; a much more cumbersome process than that which exists in the Division of Insurance.

Ombudsman Services Contract. The department is required to contract with an independent agency to provide ombudsman services to families eligible for home- and community-based services for children in applying for benefits and assisting in the appeal of benefits denied by third parties. The annual cost of this contract is estimated at $100,000. First year costs reflect only 6 months due to a contract start-up date of January 2011; the first 6 months of the fiscal year will involve research, planning, issuing a request for proposals, review, and contract award.

Recoveries. The bill states that moneys recovered on behalf of the department on claims originally denied by a third party but successfully appealed, be used first to pay the cost of ombudsman services and second to reduce the waiting list for home- and community-based services for children. However, increased recoveries under the bill are expected to be minimal for several reasons: (1) Colorado's Medicaid program currently ranks sixth in the nation in its rate of recovery from insurers on claims for its clients; (2) insurance companies have incentives to process claims properly and rates of wrongful denials are low; (3) only 3 percent of Colorado's Medicaid clients (17,000) have other insurance coverage; and (4) HB08-1407 provided incentives for third parties to process claims properly as well as incentives for clients to bring action against third parties in district court.

Department of Regulatory Agencies. Limited administrative tasks are required to implement the bill, and these can be completed within existing resources.

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 SB10-002*

Cost Components	FY 2010-11	FY 2011-12
Employee Insurance (Health, Life, Dental, and Short-term Disability)	$19,880	$21,300
Supplemental Employee Retirement Payments	7,146	9,603
TOTAL	**$27,026**	**$30,903**

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

State Appropriations

For FY 2010-11, the Department of Health Care Policy and Financing requires an appropriation for $237,930 and 2.8 FTE. Of the total amount, $118,965 is General Fund and $118,965 is federal funds.

Departments Contacted

Health Care Policy and Financing
Regulatory Agencies