

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 10-0388.01 Jerry Barry

SENATE BILL 10-002

SENATE SPONSORSHIP

Steadman and Keller,

HOUSE SPONSORSHIP

Looper and Primavera, Acree, Todd

Senate Committees

Health and Human Services
Appropriations

House Committees

Health and Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE DENIAL OF BENEFITS BY HEALTH COVERAGE PLANS,**
102 **AND, IN CONNECTION THEREWITH, INCREASING RECOVERIES TO**
103 **THE MEDICAID PROGRAM, PROVIDING ADDITIONAL ASSISTANCE**
104 **TO FAMILIES ELIGIBLE FOR CERTAIN BENEFITS, AND MAKING AN**
105 **APPROPRIATION IN CONNECTION THEREWITH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Interim Committee on the Developmental Disability Waiting

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
3rd Reading Unam ended
May 11, 2010

HOUSE
Am ended 2nd Reading
May 10, 2010

SENATE
3rd Reading Unam ended
April 27, 2010

SENATE
Am ended 2nd Reading
April 26, 2010

List. Section 1 makes legislative findings.

Sections 2 and 3 require a health insurance company to notify any known covered person's designated representative of any denial of a benefit and of the right to appeal the denial. The designated representative could exercise certain rights during the appeal processes.

Section 4 directs the department of health care policy and financing (department) to provide recipients of public medical benefits with information concerning the recipient's right to appeal denials of benefits by third parties.

Section 5 provides that, by signing the application for medicaid, the applicant is designating the department as the applicant's designated representative for purposes of appealing any denial of benefits by a health insurance company paid for by medicaid.

Section 6 requires the department or its independent contractor to notify an insurance carrier that the department is the designated representative of a medicaid recipient. The department or the department's independent contractor, if necessary, shall appeal an adverse insurance coverage decision at any level.

Any agreement with an independent contractor to review and appeal adverse coverage decisions by an insurance carrier shall require the contractor to report specified information to the department. The department will report annually the information from the independent contractor to specified committees of the general assembly, which reporting requirement is repealed July 1, 2017.

The bill expresses the intent of the general assembly that additional recoveries from third parties pursuant to the bill should be used to pay the expenses of a long-term care ombudsman office and to reduce the waiting list of persons with a developmental disability.

Section 7 directs the department to establish a long-term care ombudsman office to assist long-term care recipients.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) There is a long waiting list for home- and community-based
5 services for children;

6 (b) Many families receiving services under the home- and
7 community-based services for children waivers have third-party insurance
8 coverage, but some families have difficulty:

- 1 (I) Navigating through the waiver application process;
- 2 (II) Understanding the scope and role of any private insurance
- 3 coverage they may have; and
- 4 (III) Filing an appeal when a third-party insurance carrier denies
- 5 a claim for benefits;
- 6 (c) More successful appeals of denials of claims would result in
- 7 increased reimbursements to the medicaid program and the state; and
- 8 [REDACTED]
- 9 (d) The increased reimbursements and recovered moneys from
- 10 third-party insurance carriers should be used to reduce the waiting list for
- 11 home- and community-based services for children.

12 [REDACTED] [REDACTED] [REDACTED]

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

16 **25.5-1-126. Third-party benefit denials information.** THE
17 STATE DEPARTMENT SHALL PROVIDE INFORMATION TO RECIPIENTS OF
18 BENEFITS UNDER THIS TITLE CONCERNING THEIR RIGHT TO APPEAL A
19 DENIAL OF BENEFITS BY A THIRD PARTY AND SHALL POST INFORMATION ON
20 THE STATE DEPARTMENT'S WEB SITE CONCERNING RECIPIENTS' ABILITIES
21 TO APPEAL A THIRD PARTY'S DENIAL OF BENEFITS, INCLUDING BUT NOT
22 LIMITED TO PROVIDING A LINK TO INFORMATION ON THE INSURANCE
23 COMMISSIONER'S WEB SITE REGARDING SUCH APPEALS.

24 **SECTION 3.** 25.5-4-205 (4), Colorado Revised Statutes, is
25 amended to read:

26 **25.5-4-205. Application - verification of eligibility -**
27 **demonstration project - rules - repeal.** (4) (a) By signing an

1 application for medical assistance, a person assigns to the state
2 department, by operation of law, all rights the applicant may have to
3 medical support or payments for medical expenses from any other person
4 on ~~his~~ THE APPLICANT'S own behalf or on behalf of any other member of
5 ~~his~~ THE APPLICANT'S family for whom application is made. For purposes
6 of this subsection (4), an assignment takes effect upon the determination
7 that the applicant is eligible for medical assistance and up to three months
8 prior to the date of application if the applicant meets the requirements of
9 subsection (3) of this section and shall remain in effect so long as an
10 individual is eligible for and receives medical assistance benefits. The
11 application shall contain a statement explaining this assignment.

12 [REDACTED]

13 (b) AN APPLICANT FOR MEDICAL BENEFITS UPON INITIAL
14 APPLICATION AND EACH REDETERMINATION SHALL DISCLOSE ANY THIRD
15 PARTY WHO MAY BE RESPONSIBLE FOR THE PAYMENT OF MEDICAL
16 EXPENSES ON BEHALF OF THE APPLICANT OR ANY OTHER MEMBER OF THE
17 APPLICANT'S FAMILY FOR WHOM APPLICATION IS MADE. AS PART OF ITS
18 MEDICAID ELIGIBILITY MODERNIZATION, THE STATE DEPARTMENT SHALL
19 REQUIRE THE COUNTY DEPARTMENT OR OTHER ENTITY DESIGNATED TO
20 ACCEPT APPLICATIONS FOR MEDICAL BENEFITS TO ENTER THE
21 THIRD-PARTY INFORMATION INTO THE AUTOMATED SYSTEM DEVELOPED
22 PURSUANT TO SECTION 25.5-4-204.

23 **SECTION 4.** 25.5-4-209 (3) (a), Colorado Revised Statutes, is
24 amended, and the said 25.5-4-209 (3) is further amended BY THE
25 ADDITION OF A NEW PARAGRAPH, to read:

26 **25.5-4-209. Payments by third parties - copayments by**
27 **recipients - review - appeal - repeal.** (3) (a) The rights assigned by a

1 recipient of medical assistance to the state department pursuant to section
2 25.5-4-205 (4) shall include the right to appeal an adverse coverage
3 decision by a third party for which the medical assistance program may
4 be responsible for payment, including but not limited to the internal and
5 external reviews provided for in sections 10-16-113 and 10-16-113.5,
6 C.R.S., and a third party's reasonable appeal procedure under state and
7 federal law. The state department or the independent contractor retained
8 pursuant to paragraph (b) of this subsection (3) shall review and, if
9 necessary, MAY appeal AT ANY LEVEL an adverse coverage decision,
10 except an adverse coverage decision relating to medicare, Title XVIII of
11 the federal "Social Security Act", as amended.

12 (e) (I) AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (e) AND
13 PRIOR TO THE STATE DEPARTMENT ENTERING INTO A NEW AGREEMENT OR
14 RENEWING AN AGREEMENT PURSUANT TO PARAGRAPH (b) OF THIS
15 SUBSECTION (3), THE STATE DEPARTMENT SHALL EXAMINE THE
16 FEASIBILITY OF REQUIRING THE INDEPENDENT CONTRACTOR TO DEVELOP
17 AN ADDITIONAL PROCESS TO IDENTIFY REASONS FOR DENIALS FOR WHICH
18 AN APPEAL SHOULD BE CONSIDERED AND TO PRIORITIZE APPEALS OF
19 DENIALS BASED UPON THE REASONS FOR THE DENIAL TO INCREASE AND
20 SPEED RECOVERIES FROM THIRD PARTIES. IF THE STATE DEPARTMENT
21 DETERMINES THAT IT IS IN THE STATE'S BEST INTEREST, THE STATE
22 DEPARTMENT IS AUTHORIZED TO ADD THIS PROCESS TO THE
23 REQUIREMENTS FOR AN AGREEMENT PURSUANT TO PARAGRAPH (b) OF THIS
24 SUBSECTION (3). IF THE STATE DEPARTMENT ADDS THIS PROCESS, THE
25 LIMIT ON COMPENSATION PAID TO THE CONTRACTING AGENT PURSUANT TO
26 SECTION 25.5-4-301 (3) (b) (I) FOR AGREEMENTS INCLUDING THIS PROCESS
27 SHALL BE INCREASED TO TWENTY-FIVE PERCENT.

1 (II) (A) IN 2013, THE STATE DEPARTMENT SHALL INCLUDE IN ITS
2 ANNUAL REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF
3 THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR
4 COMMITTEES, A REPORT ON THE EFFECTIVENESS OF THE ADDITIONAL
5 PROCESS DEVELOPED PURSUANT TO THIS PARAGRAPH (e).

6 (B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1,
7 2013.

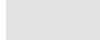
8
9 (III) (A) THE STATE TREASURER SHALL TRANSFER FROM THE
10 GENERAL FUND TO THE CHILDREN'S WAITING LIST REDUCTION FUND,
11 WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS
12 SUBPARAGRAPH (III) AS THE "FUND", AN AMOUNT EQUAL TO THE MONEYS
13 RECOVERED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (e).
14 THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION
15 BY THE GENERAL ASSEMBLY TO THE STATE DEPARTMENT OR THE
16 DEPARTMENT OF HUMAN SERVICES TO REDUCE THE NUMBER OF CHILDREN
17 ON WAITING LISTS FOR SERVICES UNDER ARTICLE 6 OF THIS TITLE.

18 (B) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSES
19 STATED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (III) MAY BE
20 INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST
21 AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS
22 IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND
23 UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A
24 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
25 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

26 (IV) THIS PARAGRAPH (e) IS REPEALED, EFFECTIVE JULY 1, 2013.

27 [REDACTED]

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SECTION 5. Safety clause. The general assembly hereby finds,

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determines, and declares that this act is necessary for the immediate

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preservation of the public peace, health, and safety.