# Second Regular Session Sixty-seventh General Assembly STATE OF COLORADO

# PREAMENDED

This Unofficial Version Includes Committee Amendments Not Yet Adopted on Second Reading SENATE BILL 10-002

LLS NO. 10-0388.01 Jerry Barry

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

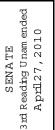
# A BILL FOR AN ACT

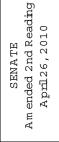
101	CONCERNING THE DENIAL OF BENEFITS BY HEALTH COVERAGE PLANS,
102	AND, IN CONNECTION THEREWITH, INCREASING RECOVERIES TO
103	THE MEDICAID PROGRAM, PROVIDING ADDITIONAL ASSISTANCE
104	TO FAMILIES ELIGIBLE FOR CERTAIN BENEFITS, AND MAKING AN
105	APPROPRIATION IN CONNECTION THEREWITH.

#### **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





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:

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**SECTION 1. Legislative declaration.** (1) The general assembly

- 3 hereby finds and declares that:
  - (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 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 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

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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 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 amended, and the said 25.5-4-209 (3) is further amended BY THE 24

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

ADDITION OF A NEW PARAGRAPH, to read:

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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:

9 (I) NOTIFY THE THIRD PARTY THAT THE STATE DEPARTMENT IS THE
10 DESIGNATED REPRESENTATIVE OF THE RECIPIENT PURSUANT TO SECTION
11 25.5-4-205 (4) (b); AND

12 (II) Review and, if necessary, appeal AT ANY LEVEL an adverse 13 coverage decision, except an adverse coverage decision relating to 14 medicare, Title XVIII of the federal "Social Security Act", as amended. 15 (e) (I) AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (e) AND 16 PRIOR TO THE STATE DEPARTMENT ENTERING INTO A NEW AGREEMENT OR 17 RENEWING AN AGREEMENT PURSUANT TO PARAGRAPH (b) OF THIS 18 SUBSECTION (3), THE STATE DEPARTMENT SHALL EXAMINE THE 19 FEASIBILITY OF REQUIRING THE INDEPENDENT CONTRACTOR TO DEVELOP 20 AN ADDITIONAL PROCESS TO IDENTIFY REASONS FOR DENIALS FOR WHICH 21 AN APPEAL SHOULD BE CONSIDERED AND TO PRIORITIZE APPEALS OF 22 DENIALS BASED UPON THE REASONS FOR THE DENIAL TO INCREASE AND 23 SPEED RECOVERIES FROM THIRD PARTIES. IF THE STATE DEPARTMENT 24 DETERMINES THAT IT IS IN THE STATE'S BEST INTEREST, THE STATE 25 DEPARTMENT IS AUTHORIZED TO ADD THIS PROCESS TO THE 26 REQUIREMENTS FOR AN AGREEMENT PURSUANT TO PARAGRAPH (b) OF THIS 27 SUBSECTION (3). IF THE STATE DEPARTMENT ADDS THIS PROCESS, THE

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1	LIMIT ON COMPENSATION PAID TO THE CONTRACTING AGENT PURSUANT TO
2	SECTION 25.5-4-301 (3) (b) (I) FOR AGREEMENTS INCLUDING THIS PROCESS
3	SHALL BE INCREASED TO TWENTY-FIVE PERCENT.
4	(II) (A) IN 2013, THE STATE DEPARTMENT SHALL INCLUDE IN ITS
5	ANNUAL REPORT TO THE HEALTH AND HUMAN SERVICES COMMITTEES OF
6	THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR
7	COMMITTEES, A REPORT ON THE EFFECTIVENESS OF THE ADDITIONAL
8	PROCESS DEVELOPED PURSUANT TO THIS PARAGRAPH (e).
9	(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1,
10	2013.
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12	(III) (A) THE STATE TREASURER SHALL TRANSFER FROM THE
13	GENERAL FUND TO THE CHILDREN'S WAITING LIST REDUCTION FUND,
14	WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS
15	SUBPARAGRAPH (III) AS THE "FUND", AN AMOUNT EQUAL TO THE MONEYS
16	RECOVERED PURSUANT TO SUBPARAGRAPH $(I)$ OF THIS PARAGRAPH $(e)$ .
17	THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION
18	BY THE GENERAL ASSEMBLY TO THE STATE DEPARTMENT OR THE
19	DEPARTMENT OF HUMAN SERVICES TO REDUCE THE NUMBER OF CHILDREN
20	ON WAITING LISTS FOR SERVICES UNDER ARTICLE 6 OF THIS TITLE.
21	(B) ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSES
22	STATED IN SUB-SUBPARAGRAPH $(A)$ OF THIS SUBPARAGRAPH $(III)$ MAY BE
23	INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST
24	AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS
25	IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND
26	UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A
27	FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR

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1	TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.
2	(IV) THIS PARAGRAPH (e) IS REPEALED, EFFECTIVE JULY 1, 2013.
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5	SECTION 5. Safety clause. The general assembly hereby finds,
6	determines, and declares that this act is necessary for the immediate
7	preservation of the public peace, health, and safety.