

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0388.01 Jerry Barry

**SENATE BILL 10-002**

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**SENATE SPONSORSHIP**

**Steadman and Keller,**

**HOUSE SPONSORSHIP**

**Looper and Primavera, Acree, Todd**

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**Senate Committees**

Health and Human Services  
Appropriations

**House Committees**

Health and Human Services  
Appropriations

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**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.**

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**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.*

SENATE  
3rd Reading Unamended  
April 27, 2010

SENATE  
Amended 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.

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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:

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

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

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.