

*Colorado Legislative Council Staff Fiscal Note*  
  
**STATE**  
**FISCAL IMPACT**

**Drafting Number:** LLS 11-0883  
**Prime Sponsor(s):** Sen. Tochtrop  
 Rep. Miklosi

**Date:** April 4, 2011  
**Bill Status:** Senate Health and Human Services  
**Fiscal Analyst:** Clare Pramuk (303-866-2677)

**TITLE:** CONCERNING PARITY IN STATUS BETWEEN HEALTH CARE PROVIDERS UNDER HEALTH BENEFIT PLANS, AND, IN CONNECTION THEREWITH, SPECIFYING THE CONDITIONS UNDER WHICH HEALTH INSURANCE CARRIERS MUST GRANT PARTICIPATING PROVIDER STATUS TO ADVANCED PRACTICE NURSES UNDER THE CARRIERS' HEALTH BENEFIT PLANS.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
<b>State Revenue</b>	See State Revenue section.	
<b>State Expenditures</b>	See State Expenditures section.	
<b>FTE Position Change</b>		
<b>Effective Date:</b> January 1, 2012, unless a referendum petition is filed.		
<b>Appropriation Summary for FY 2011-2012:</b> None required.		
<b>Local Government Impact:</b> None.		

**Summary of Legislation**

This bill prevents health benefit plan carriers from discriminating between physicians and advance practice nurses (APN) when establishing or determining reimbursement rates for covered services or when evaluating applications for contracting as a participating provider. A carrier is required to make a determination on an APN's application for participating provider status within 90 days after receipt of the application. If the application is denied, the reason for the denial must be provided in writing. If requested by the APN, the carrier must also provide a written, clear and understandable explanation of the objective and reasonable criteria it used in making its determination. If the application is approved, the carrier shall not limit the scope of practice or require supervision of an APN in a manner more restrictive than required in the Nurse Practice Act.

To enforce these requirements, the bill affords an APN the same remedies as those available for health care providers who enter into a contract with a carrier, including a private right of action, equitable relief, reasonable attorney fees and costs if the APN prevails, and the ability to resolve the dispute through arbitration. In addition, a carrier that violates the provisions of the bill is subject to penalties for engaging in an unfair or deceptive act or practice in the business of insurance.

**State Revenue**

An increase in revenue to the General Fund from the payment of monetary penalties is possible, but not expected under this bill. A health benefit plan carrier found to have engaged in an unfair or deceptive act or practice in the business of insurance is subject to a penalty of not more than \$3,000 per violation up to an aggregate penalty of \$30,000. If the carrier knew or should have known that it was in violation, the penalty is increased to a maximum of \$30,000 per violation up to a total of \$750,000. The fiscal note assumes that carriers will comply with the law, so no increase in revenue is expected.

**State Expenditures**

The bill allows an APN to take a civil action against a health benefit plan carrier that refuses to treat the APN as a physician in terms of reimbursement for services and in granting participating provider status. The fiscal note assumes that the majority of carriers will comply with the law and that resulting civil actions will be limited. As such, this can be accomplished within the existing appropriations of the Judicial Branch.

**Departments Contacted**

Public Health and Environment

Regulatory Agencies

Law