

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0996.01 Jerry Barry x4341

SENATE BILL 15-228

SENATE SPONSORSHIP

Steadman, Grantham, Lambert

HOUSE SPONSORSHIP

Rankin, Hamner, Young

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING A PROCESS FOR THE PERIODIC REVIEW OF PROVIDER
102 RATES UNDER THE "COLORADO MEDICAL ASSISTANCE ACT",
103 AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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/bills summaries>.)

Joint Budget Committee. The bill establishes a process for the department of health care policy and financing (department) to review provider fee rates. It requires the department to establish a schedule of rates to be reviewed so that every rate is reviewed every 5 years. It authorizes out-of-cycle review of rates at the request of the joint budget

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.

committee (JBC) or the medicaid provider rate review advisory committee (committee) established pursuant to the bill.

In reviewing rates, the department first conducts an analysis of the access, services, quality, and utilization of the service and provides a report to the JBC and the committee. The department then conducts a review of the report, including public meetings, with stakeholders. The department works with the office of state planning and budgeting to develop recommendations within the overall state budget. Finally, the department submits a report to the JBC on the review and its recommendations on or before November 1 of each year.

The bill requires leadership in both houses to appoint members of the committee and establishes duties for the committee.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-4-401.5 as
3 follows:

4 **25.5-4-401.5. Review of provider rates - advisory committee**
5 **- recommendations - repeal.** (1) (a) ON OR BEFORE SEPTEMBER 1, 2015,
6 THE STATE DEPARTMENT SHALL ESTABLISH A SCHEDULE FOR AN ANNUAL
7 REVIEW OF PROVIDER RATES PAID UNDER THE "COLORADO MEDICAL
8 ASSISTANCE ACT" SO THAT EACH PROVIDER RATE IS REVIEWED AT LEAST
9 EVERY FIVE YEARS AND SHALL PROVIDE THE SCHEDULE TO THE JOINT
10 BUDGET COMMITTEE.

11 (b) THE STATE DEPARTMENT SHALL REVIEW EACH OF THE
12 PROVIDER RATES SCHEDULED FOR REVIEW PURSUANT TO THE PROCESS
13 DESCRIBED IN THIS SECTION. ADDITIONALLY, THE ADVISORY COMMITTEE
14 ESTABLISHED PURSUANT TO SUBSECTION (3) OF THIS SECTION, BY A
15 MAJORITY VOTE, OR THE JOINT BUDGET COMMITTEE, BY A MAJORITY VOTE,
16 MAY DIRECT THAT THE STATE DEPARTMENT CONDUCT A REVIEW OF A
17 PROVIDER RATE THAT IS NOT SCHEDULED FOR REVIEW DURING THAT YEAR.
18 THE ADVISORY COMMITTEE OR THE JOINT BUDGET COMMITTEE SHALL
19 NOTIFY THE STATE DEPARTMENT BY JANUARY 1 OF THE YEAR IN WHICH

1 THE OUT-OF-CYCLE REVIEW WILL TAKE PLACE OF THE REQUEST FOR AN
2 OUT-OF-CYCLE REVIEW.

3 (2) (a) IN THE FIRST PHASE OF THE REVIEW PROCESS, THE STATE
4 DEPARTMENT SHALL CONDUCT AN ANALYSIS OF THE ACCESS, SERVICE,
5 QUALITY, AND UTILIZATION OF EACH SERVICE SUBJECT TO A PROVIDER
6 RATE REVIEW. THE STATE DEPARTMENT SHALL COMPARE THE RATES PAID
7 WITH AVAILABLE BENCHMARKS, INCLUDING MEDICARE RATES AND USUAL
8 AND CUSTOMARY RATES PAID BY PRIVATE PAY PARTIES, AND USE
9 QUALITATIVE TOOLS TO ASSESS WHETHER RATES MAY CONTRIBUTE TO
10 POOR PERFORMANCE. ON OR BEFORE MAY 1 OF EACH YEAR, THE STATE
11 DEPARTMENT SHALL PROVIDE A REPORT ON THE ANALYSIS REQUIRED BY
12 THIS PARAGRAPH (a) TO THE ADVISORY COMMITTEE, THE JOINT BUDGET
13 COMMITTEE, AND ANY STAKEHOLDER GROUPS IDENTIFIED BY THE STATE
14 DEPARTMENT WHOSE RATES ARE REVIEWED.

15 (b) FOLLOWING THE REPORT REQUIRED BY PARAGRAPH (a) OF THIS
16 SUBSECTION (2), THE STATE DEPARTMENT SHALL WORK WITH THE
17 ADVISORY COMMITTEE AND ANY STAKEHOLDERS IDENTIFIED BY THE STATE
18 DEPARTMENT TO REVIEW THE REPORT AND DEVELOP STRATEGIES FOR
19 RESPONDING TO THE FINDINGS, INCLUDING ANY NONFISCAL APPROACHES
20 OR REBALANCING OF RATES. AS PART OF THIS REVIEW, THE STATE
21 DEPARTMENT AND THE ADVISORY COMMITTEE SHALL CONDUCT PUBLIC
22 MEETINGS TO ALLOW PROVIDERS, RECIPIENTS, AND OTHER INTERESTED
23 PARTIES AN OPPORTUNITY TO COMMENT ON THE REPORT.

24 (c) FOLLOWING THE REVIEW REQUIRED BY PARAGRAPH (b) OF THIS
25 SUBSECTION (2), THE STATE DEPARTMENT SHALL WORK WITH THE OFFICE
26 OF STATE PLANNING AND BUDGETING TO DETERMINE ACHIEVABLE GOALS
27 AND EXECUTIVE BRANCH PRIORITIES WITHIN THE STATEWIDE BUDGET.

1 (d) ON OR BEFORE NOVEMBER 1 OF EACH YEAR, THE STATE
2 DEPARTMENT SHALL SUBMIT A WRITTEN REPORT TO THE JOINT BUDGET
3 COMMITTEE AND THE ADVISORY COMMITTEE CONTAINING ITS
4 RECOMMENDATIONS ON ALL OF THE PROVIDER RATES REVIEWED
5 PURSUANT TO THE SECTION AND ALL OF THE DATA RELIED UPON BY THE
6 STATE DEPARTMENT IN MAKING ITS RECOMMENDATIONS. THE JOINT
7 BUDGET COMMITTEE SHALL CONSIDER THE RECOMMENDATIONS IN
8 FORMULATING THE BUDGET FOR THE STATE DEPARTMENT.

9 (3) (a) THERE IS CREATED IN THE STATE DEPARTMENT THE
10 MEDICAID PROVIDER RATE REVIEW ADVISORY COMMITTEE, REFERRED TO
11 IN THIS SECTION AS THE "ADVISORY COMMITTEE", TO ASSIST THE STATE
12 DEPARTMENT IN THE REVIEW OF THE PROVIDER RATE REIMBURSEMENTS
13 UNDER THE "COLORADO MEDICAL ASSISTANCE ACT". THE ADVISORY
14 COMMITTEE SHALL:

15 (I) REVIEW THE SCHEDULE FOR ANNUAL REVIEW OF PROVIDER
16 RATES ESTABLISHED BY THE STATE DEPARTMENT PURSUANT TO
17 PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND RECOMMEND
18 ANY CHANGES TO THE SCHEDULE;

19 (II) REVIEW THE REPORTS PREPARED BY THE STATE DEPARTMENT
20 ON ITS ANALYSIS OF PROVIDER RATES PURSUANT TO PARAGRAPH (a) OF
21 SUBSECTION (2) OF THIS SECTION AND PROVIDE COMMENTS AND FEEDBACK
22 TO THE STATE DEPARTMENT ON THE REPORTS;

23 (III) ASSIST THE STATE DEPARTMENT IN CONDUCTING PUBLIC
24 HEARINGS PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS
25 SECTION;

26 (IV) DETERMINE WHETHER ANY PROVIDER RATES NOT SCHEDULED
27 FOR REVIEW DURING THE NEXT CALENDAR YEAR SHOULD BE REVIEWED

1 DURING THAT CALENDAR YEAR;

2 (V) RECOMMEND ANY CHANGES TO THE PROCESS OF REVIEWING
3 PROVIDER RATES, INCLUDING MEASURES TO INCREASE ACCESS TO THE
4 PROCESS SUCH AS BY PROVIDING FOR ELECTRONIC COMMENTS BY
5 PROVIDERS AND THE PUBLIC; AND

6 (VI) PROVIDE OTHER ASSISTANCE TO THE STATE DEPARTMENT AS
7 REQUESTED BY THE STATE DEPARTMENT OR THE JOINT BUDGET
8 COMMITTEE.

9 (b) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING
10 TWENTY-FOUR MEMBERS:

11 (I) THE FOLLOWING MEMBERS APPOINTED BY THE PRESIDENT OF
12 THE SENATE:

13 (A) A RECIPIENT WITH A DISABILITY OR A REPRESENTATIVE OF
14 RECIPIENTS WITH A DISABILITY;

15 (B) A REPRESENTATIVE OF HOSPITALS PROVIDING SERVICES TO
16 RECIPIENTS;

17 (C) A REPRESENTATIVE OF PROVIDERS OF NONEMERGENCY
18 TRANSPORTATION;

19 (D) A REPRESENTATIVE OF RURAL HEALTH CENTERS;

20 (E) A REPRESENTATIVE OF HOME HEALTH PROVIDERS; AND

21 (F) A REPRESENTATIVE OF SINGLE ENTRY POINT AGENCIES;

22 (II) THE FOLLOWING MEMBERS APPOINTED BY THE MINORITY
23 LEADER OF THE SENATE:

24 (A) A RECIPIENT OR A REPRESENTATIVE OF RECIPIENTS;

25 (B) A REPRESENTATIVE OF PRIMARY CARE PHYSICIANS WHO SEE
26 RECIPIENTS;

27 (C) A REPRESENTATIVE OF DENTISTS PROVIDING SERVICES TO

1 RECIPIENTS;

2 (D) A REPRESENTATIVE OF FEDERALLY QUALIFIED HEALTH

3 CENTERS;

4 (E) A REPRESENTATIVE OF HOME- AND COMMUNITY-BASED

5 SERVICE PROVIDERS; AND

6 (F) A REPRESENTATIVE OF COMMUNITY-CENTERED BOARDS;

7 (III) THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF

8 THE HOUSE OF REPRESENTATIVES:

9 (A) A RECIPIENT WITH A DISABILITY OR A REPRESENTATIVE OF

10 RECIPIENTS WITH A DISABILITY;

11 (B) A REPRESENTATIVE OF SPECIALTY CARE PHYSICIANS WHO SEE

12 RECIPIENTS;

13 (C) A REPRESENTATIVE OF PROVIDERS OF ALTERNATIVE CARE

14 FACILITIES;

15 (D) A REPRESENTATIVE OF PROVIDERS OF DURABLE MEDICAL

16 EQUIPMENT;

17 (E) A REPRESENTATIVE OF A HEALTH MAINTENANCE

18 ORGANIZATION; AND

19 (F) A REPRESENTATIVE OF HOSPICE PROVIDERS; AND

20 (IV) THE FOLLOWING MEMBERS APPOINTED BY THE MINORITY

21 LEADER OF THE HOUSE OF REPRESENTATIVES:

22 (A) A RECIPIENT OR A REPRESENTATIVE OF RECIPIENTS;

23 (B) A REPRESENTATIVE OF PROVIDERS OF EMERGENCY

24 TRANSPORTATION;

25 (C) A REPRESENTATIVE OF PHARMACISTS PROVIDING SERVICES TO

26 RECIPIENTS;

27 (D) A REPRESENTATIVE OF PREPAID INPATIENT HEALTH PLANS;

1 (E) A REPRESENTATIVE OF NURSING FACILITIES; AND

2 (F) A REPRESENTATIVE OF BEHAVIORAL HEALTH ORGANIZATIONS.

3 (c) THE APPOINTING AUTHORITIES SHALL MAKE THEIR INITIAL
4 APPOINTMENTS TO THE ADVISORY COMMITTEE NO LATER THAN AUGUST
5 1, 2015. IN MAKING APPOINTMENTS TO THE ADVISORY COMMITTEE, THE
6 APPOINTING AUTHORITIES SHALL MAKE A CONCERTED EFFORT TO INCLUDE
7 MEMBERS OF DIVERSE POLITICAL, RACIAL, CULTURAL, INCOME, AND
8 ABILITY GROUPS AND MEMBERS FROM URBAN AND RURAL AREAS.

9 (d) EACH MEMBER OF THE ADVISORY COMMITTEE SERVES AT THE
10 PLEASURE OF THE OFFICIAL WHO APPOINTED THE MEMBER. EACH MEMBER
11 OF THE ADVISORY COMMITTEE SERVES A FOUR-YEAR TERM AND MAY BE
12 REAPPOINTED.

13 (e) THE MEMBERS OF THE ADVISORY COMMITTEE SERVE WITHOUT
14 COMPENSATION AND WITHOUT REIMBURSEMENT FOR EXPENSES.

15 (f) AT THE FIRST MEETING OF THE ADVISORY COMMITTEE, THE
16 MEMBERS SHALL ELECT A CHAIR FROM AMONG THE MEMBERS.

17 (g) THE ADVISORY COMMITTEE SHALL MEET AT LEAST ONCE EVERY
18 QUARTER. THE CHAIR MAY CALL SUCH ADDITIONAL MEETINGS AS MAY BE
19 NECESSARY FOR THE ADVISORY COMMITTEE TO COMPLETE ITS DUTIES.

20 (h) (I) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER
21 1, 2025.

22 (II) PRIOR TO REPEAL, THE DEPARTMENT OF REGULATORY
23 AGENCIES SHALL CONDUCT A SUNSET REVIEW OF THE ADVISORY
24 COMMITTEE PURSUANT TO THE PROVISIONS OF SECTION 2-3-1203, C.R.S.

25 **SECTION 2.** In Colorado Revised Statutes, 2-3-1203, **add** (3) (II)
26 as follows:

27 **2-3-1203. Sunset review of advisory committees.** (3) The

1 following dates are the dates on which the statutory authorization for the
2 designated advisory committee is scheduled for repeal:

3 (II) SEPTEMBER 1, 2025:

4 (I) THE MEDICAID PROVIDER RATE REVIEW ADVISORY COMMITTEE
5 CREATED IN SECTION 25.5-4-401.5, C.R.S.

6 **SECTION 3. Appropriation.** (1) For the 2015-16 state fiscal
7 year, \$258,588 is appropriated to the department of health care policy and
8 financing. This appropriation is from the general fund and is based on an
9 assumption that the department of health care policy and financing will
10 require an additional 3.6 FTE. To implement this act, the department of
11 health care policy and financing may use this appropriation to establish
12 an annual rate review process as follows:

13 (a) \$122,472 for personal services;

14 (b) \$11,116 for operating expenses; and

15 (c) \$125,000 for general professional services and special
16 projects.

17 (2) For the 2015-16 state fiscal year, the general assembly
18 anticipates that the department of health care policy and financing will
19 receive \$258,588 in federal funds for an annual rate review process. The
20 appropriation in subsection (1) of this section is based on the assumption
21 that the department will receive this amount of federal funds to be used
22 as follows:

23 (a) \$122,472 for personal services;

24 (b) \$11,116 for operating expenses; and

25 (c) \$125,000 for general professional services and special
26 projects.

27 **SECTION 4. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.