

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REVISED

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

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
Appropriations

House Committees

Health, Insurance, & Environment
Appropriations

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.

HOUSE
2nd Reading Unamended
May 1, 2015

SENATE
3rd Reading Unamended
April 16, 2015

SENATE
Amended 2nd Reading
April 15, 2015

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. IF THE STATE DEPARTMENT RECEIVES ANY PETITIONS
11 OR PROPOSALS FOR PROVIDER RATES TO BE REVIEWED OR ADJUSTED, THE
12 STATE DEPARTMENT MUST FORWARD A COPY OF THE PETITION OR
13 PROPOSAL TO THE ADVISORY COMMITTEE.

14 (b) THE STATE DEPARTMENT SHALL REVIEW EACH OF THE
15 PROVIDER RATES SCHEDULED FOR REVIEW PURSUANT TO THE PROCESS
16 DESCRIBED IN THIS SECTION. ADDITIONALLY, THE ADVISORY COMMITTEE
17 ESTABLISHED PURSUANT TO SUBSECTION (3) OF THIS SECTION, BY A
18 MAJORITY VOTE, OR THE JOINT BUDGET COMMITTEE, BY A MAJORITY VOTE,
19 MAY DIRECT THAT THE STATE DEPARTMENT CONDUCT A REVIEW OF A

1 PROVIDER RATE THAT IS NOT SCHEDULED FOR REVIEW DURING THAT YEAR.
2 THE ADVISORY COMMITTEE OR THE JOINT BUDGET COMMITTEE SHALL
3 NOTIFY THE STATE DEPARTMENT BY DECEMBER 1 OF THE YEAR PRIOR TO
4 THE YEAR IN WHICH THE OUT-OF-CYCLE REVIEW WILL TAKE PLACE OF THE
5 REQUEST FOR AN OUT-OF-CYCLE REVIEW.

6 (c) (I) THE STATE DEPARTMENT MAY PROPOSE TO EXCLUDE RATES
7 FROM THE SCHEDULE ESTABLISHED PURSUANT TO PARAGRAPH (a) OF THIS
8 SUBSECTION (1) IF THOSE RATES ARE ADJUSTED ON A PERIODIC BASIS AS A
9 RESULT OF OTHER STATE STATUTE OR FEDERAL LAW OR REGULATION. THE
10 STATE DEPARTMENT SHALL INCLUDE THE PROPOSED LIST OF EXCLUSIONS
11 WITH THE SCHEDULE ESTABLISHED PURSUANT TO PARAGRAPH (a) OF THIS
12 SUBSECTION (1).

13 (II) THE ADVISORY COMMITTEE OR THE JOINT BUDGET COMMITTEE
14 MAY BY A MAJORITY VOTE DIRECT THE STATE DEPARTMENT TO INCLUDE
15 ANY RATE THAT THE STATE DEPARTMENT HAS PROPOSED TO EXCLUDE
16 FROM THE SCHEDULE.

17 (2) (a) IN THE FIRST PHASE OF THE REVIEW PROCESS, THE STATE
18 DEPARTMENT SHALL CONDUCT AN ANALYSIS OF THE ACCESS, SERVICE,
19 QUALITY, AND UTILIZATION OF EACH SERVICE SUBJECT TO A PROVIDER
20 RATE REVIEW. THE STATE DEPARTMENT SHALL COMPARE THE RATES PAID
21 WITH AVAILABLE BENCHMARKS, INCLUDING MEDICARE RATES AND USUAL
22 AND CUSTOMARY RATES PAID BY PRIVATE PAY PARTIES, AND USE
23 QUALITATIVE TOOLS TO ASSESS WHETHER PAYMENTS ARE SUFFICIENT TO
24 ALLOW FOR PROVIDER RETENTION AND CLIENT ACCESS AND TO SUPPORT
25 APPROPRIATE REIMBURSEMENT OF HIGH-VALUE SERVICES. ON OR BEFORE
26 MAY 1, 2016, AND EACH MAY 1 THEREAFTER, THE STATE DEPARTMENT
27 SHALL PROVIDE A REPORT ON THE ANALYSIS REQUIRED BY THIS

1 PARAGRAPH (a) TO THE ADVISORY COMMITTEE, THE JOINT BUDGET
2 COMMITTEE, AND ANY STAKEHOLDER GROUPS IDENTIFIED BY THE STATE
3 DEPARTMENT WHOSE RATES ARE REVIEWED.

4 (b) FOLLOWING THE REPORT REQUIRED BY PARAGRAPH (a) OF THIS
5 SUBSECTION (2), THE STATE DEPARTMENT SHALL WORK WITH THE
6 ADVISORY COMMITTEE AND ANY STAKEHOLDERS IDENTIFIED BY THE STATE
7 DEPARTMENT TO REVIEW THE REPORT AND DEVELOP STRATEGIES FOR
8 RESPONDING TO THE FINDINGS, INCLUDING ANY NONFISCAL APPROACHES
9 OR REBALANCING OF RATES.

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

14 (d) ON OR BEFORE NOVEMBER 1, 2016, AND EACH NOVEMBER 1
15 THEREAFTER, THE STATE DEPARTMENT SHALL SUBMIT A WRITTEN REPORT
16 TO THE JOINT BUDGET COMMITTEE AND THE ADVISORY COMMITTEE
17 CONTAINING ITS RECOMMENDATIONS ON ALL OF THE PROVIDER RATES
18 REVIEWED PURSUANT TO THE SECTION AND ALL OF THE DATA RELIED UPON
19 BY THE STATE DEPARTMENT IN MAKING ITS RECOMMENDATIONS. THE
20 JOINT BUDGET COMMITTEE SHALL CONSIDER THE RECOMMENDATIONS IN
21 FORMULATING THE BUDGET FOR THE STATE DEPARTMENT.

22 (3) (a) THERE IS CREATED IN THE STATE DEPARTMENT THE
23 MEDICAID PROVIDER RATE REVIEW ADVISORY COMMITTEE, REFERRED TO
24 IN THIS SECTION AS THE "ADVISORY COMMITTEE", TO ASSIST THE STATE
25 DEPARTMENT IN THE REVIEW OF THE PROVIDER RATE REIMBURSEMENTS
26 UNDER THE "COLORADO MEDICAL ASSISTANCE ACT". THE ADVISORY
27 COMMITTEE SHALL:

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

5 (II) REVIEW THE REPORTS PREPARED BY THE STATE DEPARTMENT
6 ON ITS ANALYSIS OF PROVIDER RATES PURSUANT TO PARAGRAPH (a) OF
7 SUBSECTION (2) OF THIS SECTION AND PROVIDE COMMENTS AND FEEDBACK
8 TO THE STATE DEPARTMENT ON THE REPORTS;

9 (III) WITH THE STATE DEPARTMENT, CONDUCT PUBLIC MEETINGS
10 TO ALLOW PROVIDERS, RECIPIENTS, AND OTHER INTERESTED PARTIES AN
11 OPPORTUNITY TO COMMENT ON THE REPORT REQUIRED BY PARAGRAPH (a)
12 OF SUBSECTION (2) OF THIS SECTION;

13 (IV) REVIEW PROPOSALS OR PETITIONS FOR PROVIDER RATES TO BE
14 REVIEWED OR ADJUSTED RECEIVED BY THE ADVISORY COMMITTEE;

15 (V) DETERMINE WHETHER ANY PROVIDER RATES NOT SCHEDULED
16 FOR REVIEW DURING THE NEXT CALENDAR YEAR SHOULD BE REVIEWED
17 DURING THAT CALENDAR YEAR;

18 (VI) RECOMMEND TO THE STATE DEPARTMENT AND TO THE JOINT
19 BUDGET COMMITTEE ANY CHANGES TO THE PROCESS OF REVIEWING
20 PROVIDER RATES, INCLUDING MEASURES TO INCREASE ACCESS TO THE
21 PROCESS SUCH AS BY PROVIDING FOR ELECTRONIC COMMENTS BY
22 PROVIDERS AND THE PUBLIC; AND

23 (VII) PROVIDE OTHER ASSISTANCE TO THE STATE DEPARTMENT AS
24 REQUESTED BY THE STATE DEPARTMENT OR THE JOINT BUDGET
25 COMMITTEE.

26 (b) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING
27 TWENTY-FOUR MEMBERS:

1 (I) THE FOLLOWING MEMBERS APPOINTED BY THE PRESIDENT OF
2 THE SENATE:

3 (A) A RECIPIENT WITH A DISABILITY OR A REPRESENTATIVE OF
4 RECIPIENTS WITH A DISABILITY;

5 (B) A REPRESENTATIVE OF HOSPITALS PROVIDING SERVICES TO
6 RECIPIENTS RECOMMENDED BY A STATEWIDE ASSOCIATION OF HOSPITALS;

7 (C) A REPRESENTATIVE OF PROVIDERS OF TRANSPORTATION;

8 (D) A REPRESENTATIVE OF RURAL HEALTH CENTERS;

9 (E) A REPRESENTATIVE OF HOME HEALTH PROVIDERS
10 RECOMMENDED BY A STATEWIDE ORGANIZATION OF HOME HEALTH
11 PROVIDERS; AND

12 (F) A REPRESENTATIVE OF PROVIDERS OF DURABLE MEDICAL
13 EQUIPMENT RECOMMENDED BY A STATEWIDE ASSOCIATION OF DURABLE
14 MEDICAL EQUIPMENT PROVIDERS;

15 (II) THE FOLLOWING MEMBERS APPOINTED BY THE MINORITY
16 LEADER OF THE SENATE:

17 (A) A REPRESENTATIVE OF PROVIDERS OF BEHAVIORAL HEALTH
18 CARE SERVICES;

19 (B) A REPRESENTATIVE OF PRIMARY CARE PHYSICIANS WHO SEE
20 RECIPIENTS RECOMMENDED BY A STATEWIDE ASSOCIATION OF PRIMARY
21 CARE PHYSICIANS;

22 (C) A REPRESENTATIVE OF DENTISTS PROVIDING SERVICES TO
23 RECIPIENTS RECOMMENDED BY A STATEWIDE ASSOCIATION OF DENTISTS;

24 (D) A REPRESENTATIVE OF FEDERALLY QUALIFIED HEALTH
25 CENTERS;

26 (E) A REPRESENTATIVE OF NONMEDICAL HOME- AND
27 COMMUNITY-BASED SERVICE PROVIDERS; AND

1 (F) A REPRESENTATIVE OF PROVIDERS SERVING RECIPIENTS WITH
2 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES;

3 (III) THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF
4 THE HOUSE OF REPRESENTATIVES:

5 (A) A _____ REPRESENTATIVE OF CHILD RECIPIENTS WITH A
6 DISABILITY;

7 (B) A REPRESENTATIVE OF SPECIALTY CARE PHYSICIANS NOT
8 EMPLOYED BY A HOSPITAL WHO SEE RECIPIENTS RECOMMENDED BY A
9 STATEWIDE ASSOCIATION WHOSE MEMBERS INCLUDE AT LEAST ONE-THIRD
10 OF THE DOCTORS OF MEDICINE OR OSTEOPATHY LICENSED BY THE STATE;

11 (C) A REPRESENTATIVE OF PROVIDERS OF ALTERNATIVE CARE
12 FACILITIES RECOMMENDED BY A STATEWIDE ASSOCIATION OF
13 ALTERNATIVE CARE FACILITIES;

14 (D) A REPRESENTATIVE OF SINGLE ENTRY POINT AGENCIES;

15 (E) A REPRESENTATIVE OF AMBULATORY SURGICAL CENTERS;

16 (F) A REPRESENTATIVE OF HOSPICE PROVIDERS RECOMMENDED BY
17 A STATEWIDE ASSOCIATION OF HOSPICE AND PALLIATIVE CARE PROVIDERS;

18 AND

19 (IV) THE FOLLOWING MEMBERS APPOINTED BY THE MINORITY
20 LEADER OF THE HOUSE OF REPRESENTATIVES:

21 (A) A _____ REPRESENTATIVE OF SUBSTANCE USE DISORDER
22 PROVIDERS RECOMMENDED BY A STATEWIDE ASSOCIATION OF SUBSTANCE
23 USE DISORDER PROVIDERS;

24 (B) A REPRESENTATIVE OF FACILITY-BASED PHYSICIANS WHO SEE
25 RECIPIENTS. FOR PURPOSES OF THIS SUB-SUBPARAGRAPH (B),
26 "FACILITY-BASED PHYSICIANS" INCLUDE ANESTHESIOLOGISTS, EMERGENCY
27 ROOM PHYSICIANS, NEONATOLOGISTS, PATHOLOGISTS, AND RADIOLOGISTS.

1 (C) A REPRESENTATIVE OF PHARMACISTS PROVIDING SERVICES TO
2 RECIPIENTS;

3 (D) A REPRESENTATIVE OF MANAGED CARE HEALTH PLANS;

4 (E) A REPRESENTATIVE OF ADVANCED PRACTICE NURSES
5 RECOMMENDED BY A STATEWIDE ASSOCIATION OF ___ NURSES; AND

6 (F) A REPRESENTATIVE OF PHYSICAL THERAPISTS OR
7 OCCUPATIONAL THERAPISTS RECOMMENDED BY A STATEWIDE
8 ASSOCIATION REPRESENTING OCCUPATIONAL OR PHYSICAL THERAPISTS.

9 (c) THE APPOINTING AUTHORITIES SHALL MAKE THEIR INITIAL
10 APPOINTMENTS TO THE ADVISORY COMMITTEE NO LATER THAN AUGUST
11 1, 2015. IN MAKING APPOINTMENTS TO THE ADVISORY COMMITTEE, THE
12 APPOINTING AUTHORITIES SHALL MAKE A CONCERTED EFFORT TO INCLUDE
13 MEMBERS OF DIVERSE POLITICAL, RACIAL, CULTURAL, INCOME, AND
14 ABILITY GROUPS AND MEMBERS FROM URBAN AND RURAL AREAS.

15 (d) EACH MEMBER OF THE ADVISORY COMMITTEE SERVES AT THE
16 PLEASURE OF THE OFFICIAL WHO APPOINTED THE MEMBER. EACH MEMBER
17 OF THE ADVISORY COMMITTEE SERVES A FOUR-YEAR TERM AND MAY BE
18 REAPPOINTED.

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

21 (f) AT THE FIRST MEETING OF THE ADVISORY COMMITTEE, TO BE
22 HELD ON OR AFTER SEPTEMBER 1, 2015, THE MEMBERS SHALL ELECT A
23 CHAIR AND VICE-CHAIR FROM AMONG THE MEMBERS.

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

27 (h) THE ADVISORY COMMITTEE SHALL DEVELOP BYLAWS AND

1 PROCEDURES TO GOVERN ITS OPERATIONS.

2 (i) (I) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER
3 1, 2025.

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

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

9 **2-3-1203. Sunset review of advisory committees.** (3) The
10 following dates are the dates on which the statutory authorization for the
11 designated advisory committee is scheduled for repeal:

12 (II) SEPTEMBER 1, 2025:

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

15 **SECTION 3. Appropriation.** (1) For the 2015-16 state fiscal
16 year, \$269,912 is appropriated to the department of health care policy and
17 financing. This appropriation is from the general fund and is based on an
18 assumption that the department of health care policy and financing will
19 require an additional 4.0 FTE. To implement this act, the department of
20 health care policy and financing may use this appropriation to establish
21 an annual rate review process as follows:

22 (a) \$133,606 for personal services;

23 (b) \$11,306 for operating expenses; and

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

26 (2) For the 2015-16 state fiscal year, the general assembly
27 anticipates that the department of health care policy and financing will

1 receive \$269,911 in federal funds for an annual rate review process. The
2 appropriation in subsection (1) of this section is based on the assumption
3 that the department will receive this amount of federal funds to be used
4 as follows:

- 5 (a) \$133,605 for personal services;
- 6 (b) \$11,306 for operating expenses; and
- 7 (c) \$125,000 for general professional services and special
8 projects.

9 **SECTION 4. Safety clause.** The general assembly hereby finds,
10 determines, and declares that this act is necessary for the immediate
11 preservation of the public peace, health, and safety.