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2001



HOUSE BILL 01-1171

BY REPRESENTATIVE(S) Romanoff, Berry, Johnson, Stafford, Tochtrop, Witwer, Young, Bacon, Borodkin, Boyd, Coleman, Crane, Daniel, Garcia, Groff, Hodge, Hoppe, Jahn, Lee, Mace, Madden, Marshall, Miller, Plant, Ragsdale, Saliman, Sanchez, Snook, Tapia, Vigil, Williams S., and Decker; also SENATOR(S) Owen, Hernandez, Epps, Hagedorn, Hanna, Hillman, Lamborn, Linkhart, May, and Windels.

CONCERNING RECOVERIES BY THE MEDICAL ASSISTANCE PROGRAM FROM
THIRD PARTIES.

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

SECTION 1. 26-4-518, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-4-518. Payments by third parties - copayments by recipients - review - appeal. (3) (a) THE RIGHTS ASSIGNED BY A RECIPIENT OF MEDICAL ASSISTANCE TO THE STATE DEPARTMENT PURSUANT TO SECTION 26-4-106 (4) SHALL INCLUDE THE RIGHT TO APPEAL AN ADVERSE COVERAGE DECISION BY A THIRD PARTY FOR WHICH THE MEDICAL ASSISTANCE PROGRAM MAY BE RESPONSIBLE FOR PAYMENT, INCLUDING BUT NOT LIMITED TO, THE INTERNAL AND EXTERNAL REVIEWS PROVIDED FOR IN SECTIONS 10-16-113 AND 10-16-113.5, C.R.S. THE STATE DEPARTMENT OR THE INDEPENDENT

Capital letters indicate new material added to existing statute; dashes through the words indicate deletions from existing statutes and such material not part of act.

CONTRACTOR RETAINED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3) SHALL REVIEW AND, IF NECESSARY, APPEAL AN ADVERSE COVERAGE DECISION, EXCEPT AN ADVERSE COVERAGE DECISION RELATING TO MEDICARE, TITLE XVIII OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED.

(b) THE STATE DEPARTMENT SHALL ENTER INTO ONE OR MORE AGREEMENTS WITH AN INDEPENDENT CONTRACTOR TO PURSUE RECOVERIES FROM THIRD PARTIES PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (3). ANY SUCH AGREEMENT SHALL PROVIDE THAT THE INDEPENDENT CONTRACTOR'S ONLY COMPENSATION SHALL BE A PRUDENT AND REASONABLE PERCENTAGE OF THE AMOUNT RECOVERED ON BEHALF OF THE STATE DEPARTMENT AS DETERMINED BY THE STATE DEPARTMENT.

(c) (I) AN INDEPENDENT CONTRACTOR RETAINED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (3) SHALL MAINTAIN A CONTEMPORANEOUS RECORD OF THE HOURS OF SERVICES PROVIDED AND ANY COSTS INCURRED. WHEN THE MATTER IS RESOLVED, THE INDEPENDENT CONTRACTOR SHALL PROVIDE TO THE STATE DEPARTMENT A STATEMENT OF THE HOURS OF SERVICES PROVIDED, THE AMOUNT OF COSTS INCURRED, THE TOTAL AMOUNT OF THE CONTINGENT FEE, AND THE HOURLY RATE FOR THE SERVICES PROVIDED. THE HOURLY RATE FOR THE SERVICES PROVIDED SHALL BE DETERMINED BY DIVIDING THE AMOUNT OF THE CONTINGENT FEE, LESS THE AMOUNT OF COSTS INCURRED, BY THE NUMBER OF HOURS OF SERVICES PROVIDED BY THE INDEPENDENT CONTRACTOR. THE STATEMENT REQUIRED BY THIS SUBPARAGRAPH (I) SHALL BE AVAILABLE FOR INSPECTION AND COPYING AT REASONABLE TIMES AT THE STATE DEPARTMENT.

(II) COMPLIANCE WITH THIS PARAGRAPH (c) DOES NOT RELIEVE A CONTRACTING ATTORNEY OF ANY OBLIGATION OR LEGAL RESPONSIBILITY IMPOSED BY THE COLORADO RULES OF PROFESSIONAL CONDUCT OR ANY PROVISION OF LAW.

(d) NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO AUTHORIZE THE DENIAL OF OR DELAY OF PAYMENT TO A PROVIDER BY THE STATE DEPARTMENT OR THE DELAY OR INTERFERENCE WITH THE PROVISION OF SERVICES TO A MEDICAL ASSISTANCE RECIPIENT.

SECTION 2. Safety clause. The general assembly hereby finds,

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

Doug Dean
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Stan Matsunaka
PRESIDENT OF
THE SENATE

Judith Rodrigue
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO