

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 26-0978.01 Shelby Ross x4510

HOUSE BILL 26-1412

HOUSE SPONSORSHIP

Sirota and Taggart, Brown, Woodrow

SENATE SPONSORSHIP

Bridges and Kirkmeyer, Amabile, Hinrichsen

House Committees
Appropriations

Senate Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZING THE DEPARTMENT OF HEALTH CARE**
102 **POLICY AND FINANCING TO USE STATISTICAL SAMPLING AND**
103 **EXTRAPOLATION TO RECOVER OVERPAYMENTS TO PROVIDERS**
104 **FOR CERTAIN MEDICAID SERVICES, AND, IN CONNECTION**
105 **THEREWITH, MAKING AND REDUCING 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://leg.colorado.gov/>.)

Joint Budget Committee. If an audit of a medicaid provider who provides nonemergency medical transportation services or pediatric

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

SENATE
3rd Reading Unamended
April 16, 2026

SENATE
Amended 2nd Reading
April 15, 2026

HOUSE
3rd Reading Unamended
April 11, 2026

HOUSE
Amended 2nd Reading
April 9, 2026

behavioral therapy is initiated after July 1, 2026, for services provided from January 1, 2022, through December 31, 2023, the department of health care policy and financing (state department) is authorized to determine and recover overpayments to a provider using statistical sampling and extrapolation. If an audit identifies a statistically significant pattern of alleged overpayments to a provider, the auditor is authorized to use the same statistical sampling and extrapolation methods to audit services provided by the provider from January 1, 2024, through December 31, 2025.

If the audit identifies an alleged overpayment, the state department is required to issue a notice of the alleged overpayment within 60 days after the alleged overpayment is identified. The notice of alleged overpayment must include the basis of the alleged overpayment, the rationale for the alleged overpayment, the methodology used to calculate the alleged overpayment, and information on how the state department identified the alleged overpayment.

If the state department enters into a contract for the purpose of conducting an audit, the contract must not be a contingency-based contract based on a percentage of the amount of recovery collected from the provider.

After the state department completes an audit of a provider, the state auditor's office is required to conduct an examination to determine that proper statistical sampling and extrapolation methods were used by the state department when determining whether overpayments were made to a provider. The state auditor shall annually present a report of the findings to the legislative audit committee and the joint budget committee.

The bill reduces a general fund appropriation and increases a cash fund appropriation to the state department.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) The federal centers for medicare and medicaid services, the
5 office of inspector general in the federal department of health and human
6 services, and other federal agencies regularly employ statistical sampling
7 and extrapolation methodologies to identify and recover improper
8 payments from the Colorado medicaid program administered by the

1 department of health care policy and financing, or HCPF;

2 (b) Certain medicaid service areas, including nonemergency
3 medical transportation and pediatric behavioral therapy, such as applied
4 behavior analysis services, have been identified as having elevated rates
5 of insufficient documentation, improper billing, or fraud, waste, and
6 abuse, characterized by rapid outsized spending growth not explained or
7 supported by a corresponding increase in the number of individuals
8 served;

9 (c) Requiring HCPF to individually audit each claim submitted for
10 payment by a provider to determine the appropriate error rate and
11 overpayment recovery imposes an unrealistic and unsustainable
12 administrative burden;

13 (d) The inability for HCPF to audit every claim submitted by a
14 provider results in under-represented recoupments, recovery delays, and
15 increased risk for federal disallowance, which the state is solely
16 financially responsible for;

17 (e) Statistical sampling and extrapolation methodologies, when
18 applied consistently with recognized federal standards, provide a reliable
19 and efficient basis for overpayment recovery; and

20 (f) Using statistical sampling and extrapolation across providers
21 treating medicaid members for services covered under the nonemergent
22 medical transportation benefit and the pediatric behavioral therapy
23 benefit, including applied behavioral analysis, will protect Colorado
24 medicaid funds and the state general fund; deter fraud, waste, and abuse
25 and related practices; and align state practices with established federal
26 methodologies and standards.

27 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-301, **add**

1 (3)(a)(VI.5) as follows:

2 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
3 **adjustments - liens - review or audit procedures - cash fund - rules -**
4 **definitions - repeal.**

5 (3) (a) A review or audit of a provider is subject to the following
6 procedures:

7 (VI.5) (A) IF AN AUDIT OF A PROVIDER WHO PROVIDES
8 NONEMERGENCY MEDICAL TRANSPORTATION SERVICES OR PEDIATRIC
9 BEHAVIORAL THERAPY, INCLUDING APPLIED BEHAVIORAL ANALYSIS, IS
10 INITIATED AFTER JULY 1, 2026, FOR SERVICES PROVIDED FROM JANUARY
11 1, 2022, THROUGH DECEMBER 31, 2023, THE STATE DEPARTMENT IS
12 AUTHORIZED TO DETERMINE AND RECOVER AN OVERPAYMENT TO A
13 PROVIDER USING A SAMPLING OF RECORDS AND EXTRAPOLATION OF THE
14 RECORDS SO LONG AS THE SAMPLING AND EXTRAPOLATION METHODS
15 EMPLOYED UTILIZE A STATISTICALLY VALID SAMPLE AND ARE DESIGNED
16 AND IMPLEMENTED IN ACCORDANCE WITH THE PRINCIPLES, STANDARDS,
17 AND METHODS APPROVED OR AUTHORIZED BY THE FEDERAL CENTERS FOR
18 MEDICARE AND MEDICAID SERVICES OR THE OFFICE OF INSPECTOR
19 GENERAL IN THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES
20 FOR THE USE OF STATISTICAL SAMPLING AND EXTRAPOLATION IN AUDITING
21 POTENTIAL OVERPAYMENT FOR HEALTH CARE SERVICES. THE STATE
22 DEPARTMENT AND STATE AUDITOR SHALL NOT USE STATISTICAL SAMPLING
23 OR EXTRAPOLATION TO DETERMINE OR RECOVER OVERPAYMENTS BASED
24 ON DOCUMENTATION DEFICIENCIES OR TECHNICAL NONCOMPLIANCE THAT
25 DO NOT DEMONSTRATE THAT SERVICES WERE NOT PROVIDED OR WERE NOT
26 BILLABLE.

27 (B) IF AN AUDIT CONDUCTED PURSUANT TO SUBSECTION

1 (3)(a)(VI.5)(A) OF THIS SECTION IDENTIFIES A STATISTICALLY SIGNIFICANT
2 PATTERN OF [REDACTED] ALLEGED OVERPAYMENTS TO A PROVIDER OF
3 NONEMERGENCY MEDICAL TRANSPORTATION SERVICES OR PEDIATRIC
4 BEHAVIORAL THERAPY, THE AUDITOR IS AUTHORIZED TO USE THE SAME
5 STATISTICAL SAMPLING AND EXTRAPOLATION METHODS TO AUDIT
6 SERVICES PROVIDED BY THE PROVIDER FROM JANUARY 1, 2024, THROUGH
7 DECEMBER 31, 2025. FOR THE PURPOSES OF THIS SUBSECTION
8 (3)(a)(VI.5)(B), "STATISTICALLY SIGNIFICANT PATTERN" MEANS A CLAIMS
9 ERROR RATE IDENTIFIED THROUGH THE AUDIT THAT EXCEEDS TEN
10 PERCENT.

11 (C) IF AN AUDIT IDENTIFIES AN [REDACTED] ALLEGED OVERPAYMENT, THE
12 STATE DEPARTMENT SHALL ISSUE A NOTICE TO THE PROVIDER OF THE [REDACTED]
13 ALLEGED OVERPAYMENT WITHIN SIXTY DAYS AFTER THE [REDACTED] ALLEGED
14 OVERPAYMENT IS IDENTIFIED. THE NOTICE OF THE [REDACTED] ALLEGED
15 OVERPAYMENT MUST INCLUDE THE BASIS OF THE [REDACTED] ALLEGED
16 OVERPAYMENT, THE RATIONALE FOR THE [REDACTED] ALLEGED OVERPAYMENT, THE
17 METHODOLOGY USED TO CALCULATE THE [REDACTED] ALLEGED OVERPAYMENT,
18 AND INFORMATION ON HOW THE STATE DEPARTMENT IDENTIFIED THE [REDACTED]
19 ALLEGED OVERPAYMENT, INCLUDING CLAIMS SAMPLES USED,
20 CLAIM-LEVEL FINDINGS, AND OTHER DOCUMENTATION TO ENABLE THE
21 PROVIDER TO FULLY EVALUATE AND REPLICATE THE AUDITOR'S ANALYSIS.
22 PRIOR TO THE STATE DEPARTMENT IMPLEMENTING RECOVERY OF AN
23 OVERPAYMENT, THE PROVIDER HAS THE RIGHT TO AN INFORMAL
24 RECONSIDERATION IN ACCORDANCE WITH SUBSECTION (3)(a)(VII) OF THIS
25 SECTION OR THE RIGHT TO A FORMAL APPEAL IN ACCORDANCE WITH
26 SUBSECTION (3)(a)(VIII) OF THIS SECTION.

27 (D) IF THE STATE DEPARTMENT ENTERS INTO A CONTRACT FOR THE

1 PURPOSE OF CONDUCTING AN AUDIT PURSUANT TO THIS SUBSECTION
2 (3)(a)(VI.5), THE CONTRACT MUST NOT BE A CONTINGENCY-BASED
3 CONTRACT BASED ON A PERCENTAGE OF THE AMOUNT OF RECOVERY
4 COLLECTED FROM THE PROVIDER.

5 (E) AFTER THE STATE DEPARTMENT COMPLETES AN AUDIT OF A
6 PROVIDER PURSUANT TO THIS SUBSECTION (3)(a)(VI.5), THE STATE
7 AUDITOR OR A PERSON AUTHORIZED BY THE STATE AUDITOR SHALL
8 CONDUCT AN EXAMINATION IN ACCORDANCE WITH SECTION 2-3-103 TO
9 DETERMINE WHETHER THE STATE DEPARTMENT USED PROPER STATISTICAL
10 SAMPLING AND EXTRAPOLATION METHODS WHEN DETERMINING WHETHER
11 OVERPAYMENTS WERE MADE TO A PROVIDER. THE STATE AUDITOR SHALL
12 ANNUALLY PRESENT A REPORT OF THE FINDINGS MADE PURSUANT TO THIS
13 SUBSECTION (3)(a)(VI.5)(E) TO THE LEGISLATIVE AUDIT COMMITTEE AND
14 THE JOINT BUDGET COMMITTEE UNTIL THE AUDITS ARE COMPLETE.

15 **SECTION 3. Appropriation - adjustments to 2026 long bill.**

16 (1) Except as provided in subsection (3) of this section, to implement this
17 act, the appropriation made in the annual general appropriation act for the
18 2026-27 state fiscal year to the department of health care policy and
19 financing for medical and long-term care services for Medicaid-eligible
20 individuals is adjusted as follows:

21 (a) The general fund appropriation is decreased by \$6,861,775,
22 which amount is subject to the "(M)" notation as defined in the annual
23 general appropriation act for the same fiscal year; and

24 (b) The cash funds appropriation from recoveries and
25 recoupments is increased by \$13,723,550.

26 (2) For the 2026-27 state fiscal year, the general assembly
27 anticipates that the federal funds received by the department of health

1 care policy and financing for medical and long-term care services for
2 Medicaid-eligible individuals will decrease by \$6,861,775. The
3 appropriation in subsection (1)(a) of this section is based on the
4 assumption that the department will not receive this amount of federal
5 funds.

6 (3) Subsection (1)(a) of this section does not require a reduction
7 of an appropriation in the annual general appropriation act for the
8 2026-27 state fiscal year if:

9 (a) The amount of the general fund appropriation made in the
10 annual general appropriation act for the 2026-27 state fiscal year to the
11 department of health care policy and financing for medical and long-term
12 care services for Medicaid-eligible individuals is less than the amount of
13 the adjustment required in subsection (1)(a) of this section; or

14 (b) The annual general appropriation act for the 2026-27 state
15 fiscal year does not include an appropriation to the department of health
16 care policy and financing for medical and long-term care services for
17 Medicaid-eligible individuals.

18 **SECTION 4. Effective date.** This act takes effect upon passage;
19 except that section 3 of this act takes effect only if the annual general
20 appropriation act for the 2026-27 state fiscal year becomes law, in which
21 case section 3 of this act takes effect upon the effective date of this act or
22 of the annual general appropriation act for state fiscal year 2026-27,
23 whichever is later.

24 **SECTION 5. Safety clause.** The general assembly finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety or for appropriations for

- 1 the support and maintenance of the departments of the state and state
- 2 institutions.