

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 26-0786.03 Brita Darling x2241

HOUSE BILL 26-1432

HOUSE SPONSORSHIP

Soper and Stewart K.,

SENATE SPONSORSHIP

Roberts and Pelton R.,

House Committees
Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING HEALTH-CARE PAYMENT PROGRAMS.**

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>.)

The bill requires the department of health care policy and financing (HCPF) to formally withdraw, rescind, amend, or suspend the implementation of state plan amendment 24-0043, and any substantially similar state plan amendment submitted to the federal centers for medicare and medicaid services, that authorizes performance-based reductions or redistributions of hospital supplemental medical assistance program payments under the hospital transformation program created through the Colorado healthcare affordability and sustainability

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.*

enterprise. HCPF is prohibited from implementing or adopting rules implementing any reduction, recoupment, or redistribution of hospital supplemental medical assistance program payments authorized pursuant to the hospital transformation program.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-4-402, **amend**
3 **(3)(a) and (3)(b) as follows:**

4 **25.5-4-402. Providers - hospital reimbursement - hospital**
5 **review program - rules.**

6 (3) (a) (I) In addition to the reimbursement rate process described
7 in subsection (1) of this section and subject to FEDERAL APPROVAL AND
8 adequate funding being made available pursuant to section 25.5-4-402.4,
9 the Colorado healthcare affordability and sustainability enterprise created
10 in section 25.5-4-402.4 (3) shall pay an additional amount based upon
11 performance IN THE HOSPITAL QUALITY INCENTIVE PROGRAM to those
12 hospitals that provide services that improve health-care outcomes for their
13 patients, including DELIVER SAFER, MORE EFFECTIVE CARE THAT
14 IMPROVES PATIENT OUTCOMES AND REDUCES PREVENTABLE UTILIZATION
15 TO REDUCE HEALTH-CARE COSTS. THE HOSPITAL QUALITY INCENTIVE
16 PROGRAM MUST INCLUDE a performance metric related to workplace
17 violence. The state department shall determine this amount based upon
18 nationally recognized performance measures established in rules adopted
19 by the state board. The state quality standards must be consistent with
20 federal quality standards published by an organization with expertise in
21 health-care quality, including, but not limited to, the federal centers for
22 medicare and medicaid services, the agency for healthcare research and
23 quality, or the national quality forum.

1 (II) (A) PRIOR TO IMPLEMENTATION OF THE PROGRAM, THE
2 COLORADO HEALTHCARE AFFORDABILITY AND SUSTAINABILITY
3 ENTERPRISE BOARD SHALL APPROVE THE PERCENTAGE OF HOSPITALS'
4 REIMBURSEMENT IN THE HOSPITAL QUALITY INCENTIVE PROGRAM,
5 PROGRAM STRUCTURE, PERFORMANCE MEASURES, AND SCORING
6 METHODOLOGY.

7 (B) WHEN APPROVING A PROGRAM PURSUANT TO THIS SUBSECTION
8 (3)(a), THE BOARD SHALL REQUIRE THAT NEW MEASURES REMAIN IN PLACE
9 FOR A DEFINED PERIOD OF TIME NOT TO EXCEED THREE YEARS PRIOR TO
10 MODIFICATION OR REPLACEMENT OF THE NEW MEASURES; EXCEPT THAT
11 THE BOARD MAY APPROVE MODIFICATIONS OR REPLACEMENTS PRIOR TO
12 THE END OF THE DEFINED PERIOD OF TIME IF THE BOARD IS PRESENTED
13 WITH EVIDENCE THAT THE APPROVED MEASURES ARE NOT MEETING THE
14 GOALS OF THE PROGRAM OR REQUIRE TECHNICAL ADJUSTMENTS. NOTHING
15 IN THIS SUBSECTION (3)(a) PRECLUDES THE BOARD FROM RENEWING
16 MEASURES THAT MEET THE GOALS OF THE PROGRAM AFTER THE DEFINED
17 PERIOD OF TIME NOT TO EXCEED THREE YEARS HAS EXPIRED.

18 (C) ANY MODIFICATIONS TO THE HOSPITAL QUALITY INCENTIVE
19 PROGRAM MUST BE APPROVED BY THE BOARD PRIOR TO IMPLEMENTATION;
20 EXCEPT THAT CHANGES NECESSARY TO COMPLY WITH FEDERAL LAW MAY
21 BE IMPLEMENTED IMMEDIATELY.

22 (III) PERFORMANCE MEASURES AND METHODOLOGIES MUST BE
23 BASED ON FACTORS THAT ARE REASONABLY WITHIN HOSPITALS' CONTROL,
24 ALIGNED WITH NATIONALLY RECOGNIZED STANDARDS TO THE MAXIMUM
25 EXTENT PRACTICABLE, AND DESIGNED TO MINIMIZE ADMINISTRATIVE
26 BURDEN, INCLUDING BY AVOIDING DUPLICATIVE REPORTING AND
27 LEVERAGING EXISTING DATA SOURCES WHEN POSSIBLE. THE HOSPITAL

1 QUALITY INCENTIVE PROGRAM SHOULD ALIGN WITH FEDERAL QUALITY
2 STANDARDS.

3 (b) (I) ~~The amount of the payments made pursuant to subsection~~
4 ~~(3)(a) of this section must be computed annually.~~ For each state fiscal
5 year, the total amount of the payments must be no more than seven
6 percent of the total reimbursements made to hospitals in the previous state
7 fiscal year.

8 (II) NOTWITHSTANDING SUBSECTION (3)(b)(I) OF THIS SECTION,
9 THE MAXIMUM PERCENTAGE OF PAYMENTS MUST NOT EXCEED SEVEN
10 PERCENT OF THE TOTAL REIMBURSEMENTS MADE TO HOSPITALS IN THE
11 PREVIOUS STATE FISCAL YEAR UNLESS AND UNTIL THE COLORADO
12 HEALTHCARE AFFORDABILITY AND SUSTAINABILITY ENTERPRISE BOARD
13 FORMALLY APPROVES A HOSPITAL QUALITY INCENTIVE PROGRAM
14 PURSUANT TO SUBSECTION (3)(a) OF THIS SECTION, DEVELOPED WITH
15 INPUT FROM HOSPITAL REPRESENTATIVES WITH CLINICAL EXPERTISE,
16 AFTER WHICH THE MAXIMUM PERCENTAGE OF PAYMENTS MUST NOT
17 EXCEED NINE PERCENT OF THE TOTAL REIMBURSEMENTS MADE TO
18 HOSPITALS.

19 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-402.4, **amend**
20 **(4)(a)(IV)(E), (4)(c)(I) introductory portion, (5)(b)(VIII), (7)(d)(V), and**
21 **(7)(e)(VI); and repeal (8) as follows:**

22 **25.5-4-402.4. Hospitals - healthcare affordability and**
23 **sustainability hospital provider fee - healthcare affordability and**
24 **sustainability nursing facility provider fee - healthcare affordability**
25 **and sustainability intermediate care facility fee - receipt of public**
26 **funds - Colorado healthcare affordability and sustainability**
27 **enterprise - federal waiver - funds created - reports - rules -**

1 **legislative declaration - definitions - repeal.**

2 **(4) Healthcare affordability and sustainability hospital**
3 **provider fee.**

4 (a) For the fiscal year commencing July 1, 2017, and for each
5 fiscal year thereafter, the enterprise is authorized to charge and collect a
6 healthcare affordability and sustainability hospital provider fee, as
7 described in 42 CFR 433.68 (b), or as otherwise in compliance with 42
8 CFR 433, on outpatient and inpatient services provided by all licensed or
9 certified hospitals, and receive public funds as described in 42 CFR
10 433.51, for the purpose of obtaining federal financial participation under
11 the state medical assistance program as described in this article 4 and
12 articles 5 and 6 of this title 25.5, including disproportionate share hospital
13 payments pursuant to 42 U.S.C. sec. 1396r-4. If the amount of hospital
14 provider fee revenue collected exceeds the federal net patient
15 revenue-based limit on the amount of such fee revenue that may be
16 collected, requiring repayment to the federal government of excess
17 federal matching money received, hospitals that received such excess
18 federal matching money are responsible for repaying the excess federal
19 money and any associated federal penalties to the federal government.

20 The enterprise shall use the hospital provider fee revenue to:

21 (IV) Provide or contract for or arrange the provision of additional
22 business services to hospitals by:

23 (E) Providing funding for, and in cooperation with the state
24 department and hospitals supporting the implementation of a health-care
25 ~~delivery system reform incentive payments program as described in~~
26 ~~subsection (8) of this section~~ THE HOSPITAL QUALITY INCENTIVE PROGRAM
27 CREATED IN SECTION 25.5-4-402 (3)(a).

1 (c) (I) In accordance with the redistributive method set forth in 42
2 CFR 433.68 (e)(1) and (e)(2), the enterprise, acting in concert with or
3 through an agreement with the state department if required by federal law,
4 may seek a waiver from the broad-based hospital provider fee
5 requirement or the uniform hospital provider fee requirement, or both. In
6 addition, the enterprise, acting in concert with or through an agreement
7 with the state department if required by federal law, shall seek any federal
8 waiver necessary to fund and, in cooperation with the state department
9 and hospitals, support the implementation of a health-care delivery system
10 reform incentive payments program as described in subsection (8) of this
11 section. Subject to federal approval and to minimize the financial impact
12 on certain hospitals, the enterprise may exempt from payment of the
13 hospital provider fee certain types of hospitals, including but not limited
14 to:

15 (5) **Healthcare affordability and sustainability hospital**
16 **provider fee cash fund.**

17 (b) All money in the hospital provider fee cash fund is subject to
18 federal matching as authorized under federal law and, subject to annual
19 appropriation by the general assembly, shall be expended by the
20 enterprise for the following purposes:

21 (VIII) ~~Subject to any necessary federal waivers being obtained, to~~
22 ~~provide funding for a health-care delivery system reform incentive~~
23 ~~payments program as described in subsection (8) of this section~~ SUBJECT
24 TO FEDERAL APPROVAL, FOR THE HOSPITAL QUALITY INCENTIVE PROGRAM
25 DESCRIBED IN SECTION 25.5-4-402 (3);

26 (7) **Colorado healthcare affordability and sustainability**
27 **enterprise board.**

1 (d) The enterprise board has, at a minimum, the following duties:

2 (V) To direct and oversee the enterprise in seeking, in concert
3 with or through an agreement with the state department if required by
4 federal law, any federal waiver necessary to fund and, in cooperation with
5 the state department and hospitals, support the implementation of a
6 ~~health-care delivery system reform incentive payments program as~~
7 ~~described in subsection (8) of this section~~ THE HOSPITAL QUALITY
8 INCENTIVE PROGRAM CREATED IN SECTION 25.5-4-402 (3)(a);

9 (e) On or before January 15, 2018, and on or before January 15
10 each year thereafter, the enterprise board shall submit a written report to
11 the health and human services committee of the senate and the health and
12 human services committee of the house of representatives, or any
13 successor committees, the joint budget committee of the general
14 assembly, the governor, and the state board. The report shall include, but
15 need not be limited to:

16 (VI) A summary of:

17 (A) The efforts made by the enterprise ~~acting in concert with or~~
18 ~~through an agreement with the state department if required by federal law,~~
19 ~~to seek any federal waiver necessary to fund and, in cooperation with the~~
20 ~~state department and hospitals, support the implementation of a~~
21 ~~health-care delivery system reform incentive payments program as~~
22 ~~described in subsection (8) of this section~~ TO IMPLEMENT THE HOSPITAL
23 QUALITY INCENTIVE PROGRAM REQUIRED PURSUANT TO SECTION
24 25.5-4-402 (3), INCLUDING INFORMATION ABOUT THE STRUCTURE OF THE
25 HOSPITAL QUALITY INCENTIVE PROGRAM AND ANY RESULTS ACHIEVED AS
26 A RESULT OF THE HOSPITAL QUALITY INCENTIVE PROGRAM; and

27 (B) The progress actually made by the enterprise, in cooperation

1 with the state department and hospitals, towards the goal of implementing
2 such a program AND THE ENTERPRISE BOARD'S LEGISLATIVE
3 RECOMMENDATIONS FOR CHANGES TO THE HOSPITAL QUALITY INCENTIVE
4 PROGRAM.

5 ~~(8) Health-care delivery system reform incentive payments~~
6 ~~program - funding and implementation.~~ The enterprise, acting in
7 concert with or through an agreement with the state department if
8 required by federal law, shall seek any federal waiver necessary to fund
9 and, in cooperation with the state department and hospitals, support the
10 implementation, no earlier than October 1, 2019, of a health-care delivery
11 system reform incentive payments program that will improve health-care
12 access and outcomes for individuals served by the state department while
13 efficiently utilizing available financial resources. Such a program must,
14 at a minimum:

15 (a) ~~Include an initial planning phase to:~~

16 (I) ~~Assess needs; and~~

17 (II) ~~Develop achievable outcome-based metrics to be used to~~
18 ~~measure progress towards program goals, including the goals of~~
19 ~~health-care delivery system integration, improved patient outcomes, and~~
20 ~~more efficient provision of care; and~~

21 (b) ~~Address the following focus areas:~~

22 (I) ~~Care coordination and care transition management;~~

23 (II) ~~Integration of physical and behavioral health-care services;~~

24 (III) ~~Chronic condition management;~~

25 (IV) ~~Targeted population health; and~~

26 (V) ~~Data-driven accountability and outcome measurement.~~

27 **SECTION 3. Safety clause.** The general assembly finds,

1 determines, and declares that this act is necessary for the immediate
2 preservation of the public peace, health, or safety or for appropriations for
3 the support and maintenance of the departments of the state and state
4 institutions.