



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

SB 25-121: MEDICAID REIMBURSEMENT FOR VAGUS NERVE STIMULATION

Prime Sponsors:

Sen. Jodeh; Mullica
Rep. Gilchrist

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Fiscal note status: This revised fiscal note reflects the reengrossed bill.

Summary Information

Overview. The bill requires the Department of Health Care Policy and Financing to reimburse health care facilities that provide vagus nerve stimulation therapy to certain members.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures

Appropriations. No appropriation is required.

**Table 1
State Fiscal Impacts**

Type of Impact ¹	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2029-30
State Revenue	\$0	\$0	\$0	\$0
State Expenditures	\$0	\$178,225	\$159,720	\$340,260
Transferred Funds	\$0	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE	0.0 FTE	0.0 FTE

¹ Fund sources for these impacts are shown in the tables below.

**Table 1A
 State Expenditures**

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2029-30
General Fund	\$0	\$36,430	\$53,187	\$113,307
Cash Funds	\$0	\$2,635	\$5,271	\$11,229
Federal Funds	\$0	\$139,160	\$101,262	\$215,725
Centrally Appropriated	\$0	\$0	\$0	\$0
Total Expenditures	\$0	\$178,225	\$159,720	\$340,260
Total FTE	0.0 FTE	0.0 FTE	0.0 FTE	0.0 FTE

Summary of Legislation

The bill requires the Department of Health Care Policy and Financing (HCPF) to reimburse providers that offer vagus nerve stimulation (VNS) therapy to Medicaid members diagnosed with drug-resistant epilepsy at a rate of 60 percent of the cost of acquiring the VNS device plus the cost of the procedure. Beginning January 1, 2029, the reimbursement rate increases to 75 percent. HCPF must seek federal authorization by January 1, 2026, to implement the new program.

Background

VNS devices are implanted under the skin and send electrical pulses through a wire to the vagus nerve in the neck and into the brainstem. Batteries in the device last, on average, 5 to 7 years, after which full system replacement is required.

Colorado’s Medicaid program, Health First Colorado, covers VNS therapy for patients with epilepsy whose seizures are not adequately controlled with medication or for whom surgery is not an option. The benefit requires prior authorization and applies to patients over 12 years old who have documented epileptic seizures, specifically partial-onset seizures that are resistant to at least three antiepileptic drugs for at least 12 months. In FY 2023-24, HCPF received 271 claims for VNS devices, 30 of which were coded for drug-resistant epilepsy.

Assumptions

The fiscal estimate is dependent on various assumptions regarding federal authorization, eligibility, and utilization, as described below.

Federal Authorization

The fiscal note assumes that federal authorization for VNS therapy coverage will be granted by January 1, 2027. However, federal Medicaid regulation [42 CFR 440.230](#) requires state agencies to provide services that are both sufficient and fairly applied across all medical conditions. Based

on this regulation, the Centers for Medicare and Medicaid Services (CMS) may not authorize reimbursement for only members diagnosed with drug-resistant epilepsy. If CMS does not grant authorization, HCPF will not implement the program and no costs will be incurred. Further, it is assumed that the negotiating and approval process for federal authorization will take 12 months to complete. Therefore, the note estimates that HCPF will begin reimbursing VNS devices at a 60 percent rate on January 1, 2027.

Eligibility

The fiscal note relies on claims data to estimate the number of members with drug-resistant epilepsy. However, claims submitted to HCPF do not always include comprehensive codes for all diagnoses. Therefore, this population could be higher than indicated. In FY 2023-24, HCPF received 271 total claims for VNS devices, 30 of which were coded for drug-resistant epilepsy.

Utilization

The fiscal note relies on current device utilization rates to estimate that higher reimbursements will be applied to 30 members annually. However, this is a low utilization rate since an estimated 3,630 members are currently eligible for the device. If low utilization rates result from limited providers offering VNS therapy, a higher reimbursement rate may increase provider incentive and supply. Because the cause of low utilization rates is unknown, the fiscal note assumes that the bill will not substantially impact utilization and that any increase will be accounted for through the annual budget process.

State Expenditures

The bill increases state expenditures in HCPF by about \$178,000 in FY 2026-27 and \$160,000 in FY 2027-28. Starting in FY 2029-30, upon full program implementation, expenditures will increase by about \$340,000. These costs, paid from the General Fund, the HAS Cash Fund, and federal funds, are summarized in Table 2 and discussed below.

Table 2
State Expenditures
Department of Health Care Policy & Financing

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2029-30
VNS Device Reimbursement	\$0	\$79,860	\$159,720	\$340,260
Information System Update	\$0	\$98,365	\$0	\$0
Total Costs¹	\$0	\$178,225	\$159,720	\$340,260
Total FTE	0.0 FTE	0.0 FTE	0.0 FTE	0.0 FTE

¹ See Table 1A for fund sources.

VNS Device Reimbursement

HCPF expenditures for VNS device reimbursement will increase by \$80,000 in FY 2026-27 and \$160,000 through FY 2027-28. Starting in FY 2028-29, costs will further increase to \$340,000 to reimburse providers for VNS devices at a rate of 75 percent. The amount of reimbursement for VNS devices under the bill depends on a variety of factors, including the number of claims eligible for reimbursement, the average cost of the device, and the current rate of Medicaid reimbursement.

This estimate assumes that:

- the benefit will begin January 1, 2027, once federal approval is received and computer programming is completed;
- HCPF will reimburse providers at a rate of 60 percent until January 1, 2029;
- about 30 members will receive a VNS device per year based on current utilization rates, except FY 2026-27 when the number of claims are prorated to a January 1, 2027, implementation date;
- the average provider cost to acquire a VNS device is approximately \$40,000; and
- Medicaid currently reimburses VNS devices at an average rate of 47 percent based on historical claims data.

Based on these assumptions, Medicaid must reimburse providers at a rate of about \$24,000 per VNS device, an increase of \$5,300 from current reimbursement averages, for an estimated 30 annual claims. If a higher reimbursement rate incentivizes an increase in VNS therapy, costs to HCPF will increase by more than estimated in the fiscal note.

Information System Update

In FY 2026-27 only, the bill increases HCPF expenditures by about \$98,000 to update the Medicaid Management Information System (MMIS) and enable manual pricing for grouped and individual claims. The fiscal note assumes that a contractor will perform 515 hours of work at a rate of \$191 per hour. Actual costs will be determined through the contracting process.

Legal Services

HCPF may require legal services, provided by the Department of Law, which can be accomplished within existing legal services appropriations. Legal counsel is related to rulemaking, implementation, and ongoing administration of the program.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Health Care Policy and Financing

Personnel

Law

Public Health and Environment