

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

April 28, 2023
Date

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

HB23-1295 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 25.5-4-301, add
4 (3)(a)(IX), (3.5)(c), and (3.7) as follows:

5 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
6 **adjustments - liens - review or audit procedures - repeal.** (3) (a) A
7 review or audit of a provider is subject to the following procedures:

8 (IX) FOR AUDITS CONDUCTED PURSUANT TO 42 CFR 455.508, AT
9 LEAST QUARTERLY, THE STATE DEPARTMENT SHALL PUBLISH ON ITS
10 WEBSITE AN AUDIT ACTIVITY REPORT DETAILING CURRENT AND RECENTLY
11 COMPLETED AUDITS AND REVIEWS AND SUMMARIES OF THE FINDINGS OF
12 SUCH AUDITS AND REVIEWS, INCLUDING THE NUMBER AND AMOUNTS OF
13 OVERPAYMENTS AND UNDERPAYMENTS FOUND, THE NUMBER AND
14 RESULTS OF APPEALS, THE AMOUNTS COLLECTED, AND THE ERROR RATES
15 IDENTIFIED. AT LEAST QUARTERLY, THE STATE DEPARTMENT SHALL
16 CONDUCT TRAININGS FOR PROVIDERS AND HOLD STAKEHOLDER MEETINGS
17 REGARDING AUDITS AND REVIEWS. IN ADDITION, WHEN THE STATE
18 DEPARTMENT ENTERS INTO CONTRACTS PURSUANT TO THIS SUBSECTION
19 (3)(a), THE STATE DEPARTMENT SHALL PUBLISH ON ITS WEBSITE A COPY OF
20 THE CONTRACT, SCOPE OF WORK, AND INFORMATION REGARDING
21 SUPERVISION OF CONTRACTOR DELIVERABLES.

22 (3.5) (c) THE STATE DEPARTMENT SHALL CREATE A PROVIDER
23 ADVISORY GROUP FOR RECOVERY AUDITS CONSISTING OF EMPLOYEES OF
24 THE STATE DEPARTMENT AND MEMBERS FROM DIFFERENT PROVIDER
25 GROUPS, INCLUDING PHYSICIANS, HOSPITALS, AND ANY OTHER PROVIDER
26 TYPES DIRECTLY IMPACTED BY AUDITS CONDUCTED PURSUANT TO THIS
27 SECTION, APPOINTED BY THE EXECUTIVE DIRECTOR. THE PROVIDER
28 ADVISORY GROUP SHALL MEET AT LEAST QUARTERLY TO REVIEW

1 QUARTERLY ACTIVITY REPORTS REQUIRED BY SUBSECTION (3)(a)(IX) OF
2 THIS SECTION AND ADVISE THE STATE DEPARTMENT ON ISSUES PROVIDERS
3 EXPERIENCE WITH THE AUDITS AND REVIEWS CONDUCTED PURSUANT TO
4 SUBSECTION (3) OF THIS SECTION.

5 (3.7) (a) DURING THE 2023-24 STATE FISCAL YEAR, THE OFFICE OF
6 THE STATE AUDITOR SHALL CONDUCT AN INDEPENDENT REVIEW OF THE
7 STATE DEPARTMENT'S RECOVERY AUDIT CONTRACTOR PROGRAM
8 PURSUANT TO 42 CAR 455.508 FOR COMPLIANCE WITH REQUIREMENTS OF
9 THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES MEDICAID
10 RECOVERY AUDIT PROGRAM, COMPLIANCE WITH CODING PRACTICE
11 STANDARDS, AND STATE LAW. TO THE EXTENT POSSIBLE, THE AUDIT SHALL
12 EXAMINE AND ISSUE POLICY RECOMMENDATIONS TO THE JOINT BUDGET
13 COMMITTEE OF THE GENERAL ASSEMBLY, THE HEALTH AND HUMAN
14 SERVICES COMMITTEE OF THE SENATE, AND THE PUBLIC AND BEHAVIORAL
15 HEALTH AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
16 REPRESENTATIVES, OR THEIR SUCCESSOR COMMITTEES, REGARDING:

17 (I) THE EFFECTIVENESS AND LEVEL OF THE PAYMENT MODEL USED
18 FOR THE STATE DEPARTMENT'S RECOVERY AUDIT CONTRACTOR,
19 INCLUDING THE LEVEL OF PAYMENTS SUFFICIENT TO MAINTAIN A
20 CONTRACTOR, THE SCOPE OF THE CONTRACT AND DELIVERABLES, AND
21 IMPACTS ON PROVIDERS RELATED TO A CONTINGENCY FEE-BASED SYSTEM
22 SIGNIFICANTLY ABOVE THE FEDERAL STANDARD;

23 (II) THE METHODS AND EFFECTIVENESS OF THE STATE
24 DEPARTMENT'S CURRENT APPROACH TO ADDRESSING PROVIDER CONCERNS
25 REGARDING THE MEDICAID RECOVERY AUDIT CONTRACTOR PROGRAM;

26 (III) THE DESIGN, EFFECTIVENESS, AND METHODS USED BY OTHER
27 STATES IN MEETING THE FEDERAL STANDARD, INCLUDING:

28 (A) AN ASSESSMENT OF REQUIREMENTS IMPOSED BY OTHER
29 STATES IN REGARD TO OVERALL RECOVERY AUDIT CONTRACTOR STAFFING
30 AND QUALIFICATIONS OF REVIEWERS TO ENSURE ALIGNMENT OF SPECIALTY
31 AND SUBSPECIALTY EXPERTISE FOR CONDUCTING INITIAL AUDITS AND
32 FINAL DETERMINATIONS;

33 (B) AN ASSESSMENT OF OTHER STATES' LOOKBACK PERIODS AND
34 THE STATES' RELATIVE FINANCING MECHANISMS;

35 (C) BEST PRACTICES EMPLOYED BY OTHER STATES OR
36 RECOMMENDED BY COLORADO PROVIDERS TO HELP IMPROVE BILLING
37 PRACTICES AND COMPLIANCE AND TO PROVIDE SUPPORT THROUGHOUT THE
38 RECOVERY AUDIT CONTRACTOR PROCESS; AND

39 (D) MODELS FROM OTHER STATES USED TO INCENTIVIZE
40 IDENTIFICATION OF UNDERPAYMENTS, ALONG WITH A FEASIBILITY
41 ASSESSMENT FOR THE USE OF SUCH MODELS IN COLORADO.

42 (IV) IMPLICATIONS FOR PROVIDERS AND THE STATE'S GENERAL
43 FUND OF ADJUSTING THE LOOKBACK PERIOD USED FOR THE RECOVERY

1 AUDIT CONTRACTOR AUDITS. THE OFFICE OF THE STATE AUDITOR SHALL
2 EXAMINE, COMPARE TO OTHER STATES, AND, TO THE EXTENT FEASIBLE,
3 DISAGGREGATED BY DATES OF SERVICE, AUDIT FINDING DATE, AND
4 PROVIDER TYPE:

5 (A) THE NUMBER, PROPORTION, AND VALUE OF CLAIMS REVIEWED,
6 RELATIVE TO TOTAL POTENTIAL CLAIMS SUBJECT TO THE RECOVERY AUDIT
7 CONTRACTOR PROGRAM;

8 (B) THE NUMBER AND PROPORTION OF PROVIDERS IMPACTED BY
9 CLAIM REVIEWS AND CONTESTED PAYMENTS;

10 (C) THE NUMBER, PROPORTION, AND VALUE OF CONTESTED
11 PAYMENTS, INCLUDING UNDERPAYMENTS, OVERPAYMENTS, AND
12 RECOUPMENTS; AND

13 (D) THE NUMBER, PROPORTION, VALUE, AND RESULT OF
14 CONTESTED PAYMENTS BY DISPOSITION STATUS, INCLUDING THOSE
15 RESOLVED THROUGH INTERVIEW REQUESTS PURSUANT TO SECTION
16 25.5-4-301(3)(a)(IV.5), INFORMAL RECONSIDERATIONS, AND APPEALS.

17 (V) PROVIDER ADMINISTRATIVE BURDENS ASSOCIATED WITH THE
18 RECOVERY AUDIT CONTRACTOR PROGRAM;

19 (VI) THE FEASIBILITY OF INCENTIVES FOR UNDERPAYMENT
20 IDENTIFICATION, INCLUDING MODELS FROM OTHER STATES AND METHODS
21 FOR IDENTIFYING UNDERPAYMENTS;

22 (VII) THE IMPACT OF AUDITS ON PROVIDER PARTICIPATION AND
23 ACCESS TO CARE, AND OPPORTUNITIES TO INCREASE MEANINGFUL
24 PROVIDER PARTICIPATION AND ACCESS TO CARE; AND

25 (VIII) AN ASSESSMENT OF THE DUPLICATION OF UTILIZATION
26 MANAGEMENT REVIEWS AND APPROVALS, SUCH AS PRIOR AUTHORIZATION,
27 WITH POST-PAYMENT AND AUDIT REVIEWS.

28 (b) THE OFFICE OF THE STATE AUDITOR SHALL CONTRACT WITH AN
29 ENTITY THAT REVIEWS STATE PLANS AND AMENDMENTS SUBMITTED TO
30 THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES ON
31 BEHALF OF STATES FOR THE ENTITY TO ASSESS FEDERAL FLEXIBILITIES
32 PURSUANT TO 42 CFR 455.516 THAT COLORADO CAN UTILIZE IN ORDER TO
33 IMPROVE THE RECOVERY AUDIT CONTRACTOR PROGRAM AND ASSIST IN
34 PURSUING THOSE FLEXIBILITIES, WHEN ALREADY AUTHORIZED. THE
35 CONTRACTED ENTITY MUST NOT BE A CONTRACTOR UNDER THE RECOVERY
36 AUDIT CONTRACTOR PROGRAM, NOR A COMPETITOR OF SUCH A
37 CONTRACTOR, NOR A PROVIDER OF SIMILAR PROGRAM INTEGRITY
38 PRODUCTS.

39 (c) THIS SUBSECTION (3.7) IS REPEALED, EFFECTIVE JULY 1, 2025.

40 **SECTION 2. Appropriation.** For the 2023-24 state fiscal year,
41 \$850,000 is appropriated to the legislative department for use by the
42 office of the state auditor. This appropriation is from the general fund. To
43 implement this act, the office may use this appropriation for an

1 independent review of the department of health care policy and
2 financing's recovery audit contractor program and contract services to
3 improve the recovery audit contractor program.

4 **SECTION 3. Appropriation.** (1) For the 2023-24 state fiscal
5 year, \$39,287 is appropriated to the department of health care policy and
6 financing for use by the executive director's office. This appropriation is
7 from the general fund. To implement this act, the office may use this
8 appropriation as follows:

9 (a) \$35,277 for personal services, which amount is based on an
10 assumption that the office will require an additional 0.9 FTE; and

11 (b) \$4,010 for operating expenses.

12 (2) For the 2023-24 state fiscal year, the general assembly
13 anticipates that the department of health care policy and financing will
14 receive \$39,286 in federal funds to implement this act, which amount is
15 subject to the "(I)" notation as defined in the annual general appropriation
16 act for the same fiscal year. The appropriation in subsection (1) of this
17 section is based on the assumption that the department will receive this
18 amount of federal funds to be used as follows:

19 (a) \$35,276 for personal services; and

20 (b) \$4,010 for operating expenses.

21 **SECTION 4. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, or safety."

24 Page 1 of the bill, line 102, strike "PROVIDERS." and substitute
25 "PROVIDERS, AND, IN CONNECTION THEREWITH, MAKING AN
26 APPROPRIATION."

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