

CHAPTER 231

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 17-1353

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AN ACT

CONCERNING IMPLEMENTING MEDICAID INITIATIVES THAT CREATE HIGHER VALUE IN THE MEDICAID PROGRAM LEADING TO BETTER HEALTH OUTCOMES FOR MEDICAID CLIENTS, AND, IN CONNECTION THEREWITH, CONTINUING THE IMPLEMENTATION OF THE ACCOUNTABLE CARE COLLABORATIVE AND AUTHORIZING PERFORMANCE-BASED PROVIDER PAYMENTS.

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

SECTION 1. In Colorado Revised Statutes, 25.5-4-103, **amend** the introductory portion; and **add** (1.5) as follows:

25.5-4-103. Definitions. As used in this ~~article~~ ARTICLE 4 and articles 5 and 6 of this ~~title~~ TITLE 25.5, unless the context otherwise requires:

(1.5) "ACCOUNTABLE CARE COLLABORATIVE" MEANS A MEDICAID CARE DELIVERY SYSTEM ESTABLISHED PURSUANT TO SECTION 25.5-5-419.

SECTION 2. In Colorado Revised Statutes, **add** 25.5-5-419 as follows:

25.5-5-419. Accountable care collaborative - reporting - rules. (1) IN 2011, THE STATE DEPARTMENT CREATED THE ACCOUNTABLE CARE COLLABORATIVE, ALSO REFERRED TO IN THIS TITLE 25.5 AS THE MEDICAID COORDINATED CARE SYSTEM. THE STATE DEPARTMENT SHALL CONTINUE TO PROVIDE CARE DELIVERY THROUGH THE ACCOUNTABLE CARE COLLABORATIVE. THE GOALS OF THE ACCOUNTABLE CARE COLLABORATIVE ARE TO IMPROVE MEMBER HEALTH AND REDUCE COSTS IN THE MEDICAID PROGRAM. TO ACHIEVE THESE GOALS, THE STATE DEPARTMENT'S IMPLEMENTATION OF THE ACCOUNTABLE CARE COLLABORATIVE MUST INCLUDE, BUT NEED NOT BE LIMITED TO:

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

(a) ESTABLISHING PRIMARY CARE MEDICAL HOMES FOR MEDICAID CLIENTS WITHIN THE ACCOUNTABLE CARE COLLABORATIVE;

(b) PROVIDING REGIONAL CARE COORDINATION AND PROVIDER NETWORK SUPPORT;

(c) PROVIDING DATA TO REGIONAL ENTITIES AND PROVIDERS TO HELP MANAGE CLIENT CARE;

(d) INTEGRATING THE DELIVERY OF BEHAVIORAL HEALTH, INCLUDING MENTAL HEALTH AND SUBSTANCE USE DISORDERS, AND PHYSICAL HEALTH SERVICES FOR CLIENTS;

(e) CONNECTING PRIMARY CARE WITH SPECIALTY CARE AND NONHEALTH COMMUNITY SUPPORTS;

(f) PROMOTING MEMBER CHOICE AND ENGAGEMENT;

(g) PROMOTING TELEHEALTH AND TELEMEDICINE;

(h) UTILIZING INNOVATIVE CARE MODELS AND PROVIDER PAYMENT MODELS AS PART OF THE CARE DELIVERY SYSTEM, INCLUDING CAPITATED MANAGED CARE MODELS WITHIN THE BROADER ACCOUNTABLE CARE COLLABORATIVE;

(i) RECEIVING FEEDBACK FROM AFFECTED STAKEHOLDER GROUPS;

(j) ESTABLISHING A FLEXIBLE STRUCTURE THAT WOULD ALLOW FOR THE EFFICIENT OPERATION OF THE ACCOUNTABLE CARE COLLABORATIVE TO FURTHER INCLUDE MEDICAID POPULATIONS AND SERVICES, INCLUDING LONG-TERM CARE SERVICES AND SUPPORTS; AND

(k) ESTABLISHING A CARE DELIVERY SYSTEM AND PROVIDER PAYMENT PLATFORM THAT CAN ADAPT TO CHANGING FEDERAL FINANCIAL PARTICIPATION MODELS OR FUNDING LEVELS.

(2) THE STATE DEPARTMENT SHALL FACILITATE TRANSPARENCY AND COLLABORATION IN THE DEVELOPMENT, PERFORMANCE MANAGEMENT, AND EVALUATION OF THE ACCOUNTABLE CARE COLLABORATIVE THROUGH THE CREATION OF STAKEHOLDER ADVISORY COMMITTEES.

(3) ON OR BEFORE DECEMBER 1, 2017, AND ON OR BEFORE DECEMBER 1 EACH YEAR THEREAFTER, THE STATE DEPARTMENT SHALL PREPARE AND SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE, THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, CONCERNING THE IMPLEMENTATION OF THE ACCOUNTABLE CARE COLLABORATIVE. NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I), THE REPORT REQUIRED PURSUANT TO THIS SUBSECTION (3) CONTINUES INDEFINITELY. AT A MINIMUM, THE STATE DEPARTMENT'S REPORT MUST INCLUDE THE FOLLOWING INFORMATION CONCERNING THE ACCOUNTABLE CARE COLLABORATIVE:

- (a) THE NUMBER OF MEDICAID CLIENTS ENROLLED IN THE PROGRAM;
- (b) PERFORMANCE RESULTS WITH AN EMPHASIS ON MEMBER HEALTH IMPACTS;
- (c) CURRENT ADMINISTRATIVE FEES AND COSTS FOR THE PROGRAM;
- (d) FISCAL PERFORMANCE;
- (e) A DESCRIPTION OF ACTIVITIES THAT PROMOTE ACCESS TO SERVICES FOR MEDICAID MEMBERS IN RURAL AND FRONTIER COUNTIES;
- (f) A DESCRIPTION OF THE STATE DEPARTMENT'S COORDINATION WITH ENTITIES THAT AUTHORIZE LONG-TERM CARE SERVICES FOR MEDICAID CLIENTS;
- (g) INFORMATION ON ANY ADVISORY COMMITTEES CREATED, INCLUDING THE PARTICIPANTS, FOCUS, STAKEHOLDER FEEDBACK, AND OUTCOMES OF THE WORK OF THE ADVISORY COMMITTEES;
- (h) FUTURE AREAS OF PROGRAM FOCUS AND DEVELOPMENT, INCLUDING, AMONG OTHERS, A PLAN TO STUDY THE COSTS AND BENEFITS OF FURTHER COVERAGE OF SUBSTANCE USE DISORDER TREATMENT; AND
- (i) INFORMATION CONCERNING EFFORTS TO REDUCE MEDICAID WASTE AND INEFFICIENCIES THROUGH THE ACCOUNTABLE CARE COLLABORATIVE, INCLUDING:
 - (I) THE SPECIFIC EFFORTS WITHIN THE ACCOUNTABLE CARE COLLABORATIVE, INCLUDING A SUMMARY OF TECHNOLOGY-BASED EFFORTS, TO IDENTIFY AND IMPLEMENT BEST PRACTICES RELATING TO COST CONTAINMENT; REDUCING AVOIDABLE, DUPLICATIVE, VARIABLE, AND INAPPROPRIATE USES OF HEALTH CARE RESOURCES; AND THE OUTCOME OF THOSE EFFORTS, INCLUDING COST SAVINGS, IF KNOWN;
 - (II) ANY STATUTES, POLICIES, OR PROCEDURES THAT PREVENT REGIONAL ENTITIES FROM REALIZING EFFICIENCIES AND REDUCING WASTE WITHIN THE MEDICAID SYSTEM; AND
 - (III) ANY OTHER EFFORTS BY REGIONAL ENTITIES OR THE STATE DEPARTMENT TO ENSURE THAT THOSE WHO PROVIDE CARE FOR MEDICAID CLIENTS ARE AWARE OF AND ACTIVELY PARTICIPATE IN REDUCING WASTE WITHIN THE MEDICAID SYSTEM.
- (4) ON OR BEFORE DECEMBER 1, 2017, THE STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE, THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, OUTLINING THE STATUTORY CHANGES NEEDED TO PART 4 OF THIS ARTICLE 5 RELATING TO THE STATEWIDE MANAGED CARE SYSTEM, AS WELL AS ANY OTHER SECTIONS OF THE COLORADO REVISED STATUTES, IN ORDER TO ALIGN COLORADO LAW WITH THE FEDERAL "MEDICAID AND CHIP MANAGED CARE FINAL RULE", CMS-2390-F.
- (5) THE STATE BOARD SHALL PROMULGATE RULES IMPLEMENTING THE

ACCOUNTABLE CARE COLLABORATIVE.

(6) THE STATE DEPARTMENT SHALL CONSIDER NEW TECHNOLOGIES AND BUSINESS PRACTICES FOR MEDICAL MANAGEMENT REFORM THAT WOULD REDUCE MEDICAL COSTS DUE TO MISUSE, OVERUSE, WASTE, FRAUD, AND ABUSE. BETTER DRUG MANAGEMENT, ESPECIALLY OF AVOIDABLE PRESCRIPTIONS AND INEFFICIENT USE OF SPECIALTY DRUGS, WOULD ALLOW THE ENTIRE PRESCRIPTION DRUG COST CONTINUUM TO BE MANAGED MORE EFFECTIVELY TO CONTAIN COSTS AND ACHIEVE BETTER PATIENT OUTCOMES. NEW TECHNOLOGIES AND BUSINESS PRACTICES FOR MEDICAL MANAGEMENT REFORM MAY ALSO BENEFIT COLORADO BY PROVIDING A MORE POWERFUL MEDICAID ENROLLMENT PLATFORM THAT PROPERLY ENROLLS ONLY THOSE INDIVIDUALS WHO ARE TRULY ELIGIBLE FOR MEDICAID BENEFITS.

SECTION 3. In Colorado Revised Statutes, **add 25.5-4-401.2** as follows:

25.5-4-401.2. Performance-based payments - reporting. (1) TO IMPROVE HEALTH OUTCOMES AND LOWER HEALTH CARE COSTS, THE STATE DEPARTMENT MAY DEVELOP PAYMENTS TO PROVIDERS THAT ARE BASED ON QUANTIFIABLE PERFORMANCE OR MEASURES OF QUALITY OF CARE. THESE PERFORMANCE-BASED PAYMENTS MAY INCLUDE, BUT ARE NOT LIMITED TO, PAYMENTS TO:

- (a) PRIMARY CARE PROVIDERS;
- (b) FEDERALLY QUALIFIED HEALTH CENTERS;
- (c) PROVIDERS OF LONG-TERM CARE SERVICES AND SUPPORTS; AND
- (d) BEHAVIORAL HEALTH PROVIDERS, INCLUDING, BUT NOT LIMITED TO:

(I) COMMUNITY MENTAL HEALTH CENTERS, AS DEFINED IN SECTION 27-66-101; AND

(II) ENTITIES CONTRACTED WITH THE DEPARTMENT TO ADMINISTER THE MEDICAID COMMUNITY MENTAL HEALTH SERVICES PROGRAM, ESTABLISHED IN SECTION 25.5-5-411.

(2) (a) PRIOR TO IMPLEMENTING PERFORMANCE-BASED PAYMENTS IN THE MEDICAID PROGRAM PURSUANT TO THIS ARTICLE 4 AND ARTICLES 5 AND 6 OF THIS TITLE 25.5, INCLUDING PERFORMANCE-BASED PAYMENTS SET FORTH IN THIS SECTION, THE STATE DEPARTMENT SHALL SUBMIT TO THE JOINT BUDGET COMMITTEE:

(I) (A) EVIDENCE THAT THE PERFORMANCE-BASED PAYMENTS ARE DESIGNED TO ACHIEVE BUDGET SAVINGS; OR

(B) A BUDGET REQUEST FOR COSTS ASSOCIATED WITH THE PERFORMANCE-BASED PAYMENTS;

(II) THE ESTIMATED PERFORMANCE-BASED PAYMENTS COMPARED TO TOTAL REIMBURSEMENTS FOR THE AFFECTED SERVICE; AND

(III) A DESCRIPTION OF THE STAKEHOLDER ENGAGEMENT PROCESS FOR

DEVELOPING THE PERFORMANCE-BASED PAYMENTS, INCLUDING THE PARTICIPANTS IN THE PROCESS AND A SUMMARY OF THE STAKEHOLDER FEEDBACK, AND THE STATE DEPARTMENT'S RESPONSE TO STAKEHOLDER FEEDBACK.

(b) THE INFORMATION REQUIRED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION MUST BE PROVIDED ON OR BEFORE NOVEMBER 1 FOR PERFORMANCE-BASED PAYMENTS THAT WILL TAKE EFFECT IN THE FOLLOWING FISCAL YEAR UNLESS THE STATE DEPARTMENT INCLUDES WITH ITS SUBMISSION AN EXPLANATION OF THE NEED FOR FASTER IMPLEMENTATION OF THE PAYMENT. IF FASTER IMPLEMENTATION IS REQUESTED, THE STATE DEPARTMENT SHALL PROVIDE THE INFORMATION AT LEAST THREE MONTHS PRIOR TO THE IMPLEMENTATION OF THE PERFORMANCE-BASED PAYMENTS UNLESS COMPLIANCE WITH FEDERAL LAW NECESSITATES SHORTER NOTICE.

(3) ON OR BEFORE NOVEMBER 1, 2017, AND ON OR BEFORE NOVEMBER 1 EACH YEAR THEREAFTER, THE STATE DEPARTMENT SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE, THE PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, DESCRIBING RULES ADOPTED BY THE STATE BOARD AND CONTRACT PROVISIONS APPROVED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES IN THE PRECEDING CALENDAR YEAR THAT AUTHORIZE PAYMENTS TO PROVIDERS BASED ON PERFORMANCE. NOTWITHSTANDING THE PROVISIONS OF SECTION 24-1-136 (11)(a)(I), THE REPORT REQUIRED PURSUANT TO THIS SUBSECTION (3) CONTINUES INDEFINITELY. THE REPORT MUST INCLUDE, AT A MINIMUM:

(a) A DESCRIPTION OF PERFORMANCE-BASED PAYMENTS INCLUDED IN STATE BOARD RULES, INCLUDING WHICH PERFORMANCE STANDARDS ARE TARGETED WITH EACH PERFORMANCE-BASED PAYMENT;

(b) A DESCRIPTION OF THE GOALS AND OBJECTIVES OF THE PERFORMANCE-BASED PAYMENTS, AND HOW THOSE GOALS AND OBJECTIVES ALIGN WITH OTHER QUALITY IMPROVEMENT INITIATIVES;

(c) A SUMMARY OF THE RESEARCH-BASED EVIDENCE FOR THE PERFORMANCE-BASED PAYMENTS, TO THE EXTENT SUCH EVIDENCE IS AVAILABLE;

(d) A SUMMARY OF THE ANTICIPATED IMPACT AND CLINICAL AND NONCLINICAL OUTCOMES OF IMPLEMENTING THE PERFORMANCE-BASED PAYMENTS;

(e) A DESCRIPTION OF HOW THE IMPACT OR OUTCOMES WILL BE EVALUATED;

(f) AN EXPLANATION OF STEPS TAKEN BY THE STATE DEPARTMENT TO LIMIT THE ADMINISTRATIVE BURDEN ON PROVIDERS;

(g) A SUMMARY OF THE STAKEHOLDER ENGAGEMENT PROCESS WITH RESPECT TO EACH PERFORMANCE-BASED PAYMENT, INCLUDING MAJOR CONCERNS RAISED THROUGH THE STAKEHOLDER PROCESS AND HOW THOSE CONCERNS WERE REMEDIATED;

(h) WHEN AVAILABLE, EVALUATION RESULTS FOR PERFORMANCE-BASED

PAYMENTS THAT WERE IMPLEMENTED IN PRIOR YEARS; AND

(i) A DESCRIPTION OF PROPOSED MODIFICATIONS TO CURRENT PERFORMANCE-BASED PAYMENTS.

SECTION 4. 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.

Approved: May 23, 2017