

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 21, 2017  
Date

Committee on Public Health Care & Human Services.

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

HB17-1139 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. Legislative declaration.** (1) The general  
4 assembly finds and declares that:

5           (a) Colorado's medicaid program provides critical health care  
6 services to many of the state's residents;

7           (b) It is in the best interest of Colorado to do everything possible  
8 to minimize error, inefficiency, and fraud in the medicaid program to  
9 ensure the long-term viability of this safety-net program and to protect  
10 clients from prohibited billing practices that harm them financially and  
11 hurt their credit;

12           (c) The vast majority of providers enrolled in the medicaid  
13 program are in compliance with the department of health care policy and  
14 financing's (state department) rules, billing manuals, and provider  
15 bulletins, and serve medicaid clients well;

16           (d) For the small number of providers out of compliance with the  
17 state department's rules, billing manuals, and provider bulletins, the state  
18 department has limited options to help those providers come into  
19 compliance before terminating the provider from the national medicaid  
20 provider network; and

21           (e) The state department should have intermediate options to  
22 ensure that providers out of compliance can come into compliance and  
23 remained enrolled in the medicaid program.

1 (2) Now, therefore, it is the intent of the general assembly that the  
2 state department use the intermediate options outlined in this legislation  
3 judiciously and that the state department collaborate with providers and  
4 provider associations to improve compliance and understanding of the  
5 state department's rules and policies.

6 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-301, **amend**  
7 (1)(a)(II.5)(A); **repeal** (1)(a)(II.5)(B); and **add** (15) as follows:

8 **25.5-4-301. Recoveries - overpayments - penalties - interest -**  
9 **adjustments - liens - review or audit procedures.** (1) (a) (II.5) (A) A  
10 provider of medical services ~~shall be liable to a recipient or the estate of~~  
11 ~~a recipient if the provider knowingly receives or seeks collection through~~  
12 ~~a third party of an amount in violation of subparagraph (I) of this~~  
13 ~~paragraph (a). The provider shall be liable for the amount unlawfully~~  
14 ~~received, statutory interest on the amount received from the date of~~  
15 ~~receipt until the date of repayment, plus a civil monetary penalty equal to~~  
16 ~~one-half of the amount unlawfully received~~ WHO BILLS OR SEEKS  
17 COLLECTION THROUGH A THIRD PARTY FROM A RECIPIENT OR THE ESTATE  
18 OF A RECIPIENT FOR MEDICAL SERVICES AUTHORIZED BY TITLE XIX OF THE  
19 SOCIAL SECURITY ACT IN AN AMOUNT IN VIOLATION OF SUBSECTION  
20 (1)(a)(I) OF THIS SECTION IS SUBJECT TO A CIVIL MONETARY PENALTY OF  
21 UP TO THREE TIMES THE AMOUNT BILLED OR SENT TO COLLECTIONS. A  
22 PROVIDER OF MEDICAL SERVICES WHO, WITHIN THIRTY DAYS OF  
23 NOTIFICATION BY THE STATE DEPARTMENT, OR LONGER IF APPROVED BY  
24 THE STATE DEPARTMENT, VOIDS THE BILL, RETURNS ANY AMOUNT  
25 UNLAWFULLY RECEIVED, AND MAKES EVERY REASONABLE EFFORT TO  
26 RESOLVE ANY COLLECTION ACTIONS SO THAT THE RECIPIENT OR THE  
27 ESTATE OF THE RECIPIENT HAS NO ADVERSE FINANCIAL CONSEQUENCES IS  
28 NOT LIABLE FOR ANY CIVIL MONETARY PENALTY. When determining  
29 income or resources for purposes of determining eligibility or benefit  
30 amounts for any state-funded program under this ~~title~~ TITLE 25.5, the state  
31 department shall exclude from consideration any ~~moneys~~ MONEY received  
32 by a recipient pursuant to this ~~subparagraph (H.5)~~ SUBSECTION  
33 (1)(a)(II.5). THE IMPOSITION OF A CIVIL MONETARY PENALTY BY THE  
34 STATE DEPARTMENT MAY BE APPEALED ADMINISTRATIVELY.

35 (B) ~~In order to establish a claim for the penalty established by~~  
36 ~~sub-subparagraph (A) of this subparagraph (H.5), a recipient or the estate~~  
37 ~~of a recipient shall forward a notice of claim to the state department and~~  
38 ~~to the provider. The executive director of the state department shall~~  
39 ~~promulgate rules for an informal hearing process for determination of the~~  
40 ~~issue that shall allow a provider an opportunity to be heard.~~

41 (15) (a) THE STATE DEPARTMENT MAY REQUEST A WRITTEN

1 RESPONSE FROM ANY PROVIDER WHO FAILS TO COMPLY WITH THE RULES,  
2 MANUALS, OR BULLETINS ISSUED BY THE STATE DEPARTMENT, STATE  
3 BOARD, OR THE STATE DEPARTMENT'S FISCAL AGENT, OR FROM ANY  
4 PROVIDER WHOSE ACTIVITIES ENDANGER THE HEALTH, SAFETY, OR  
5 WELFARE OF MEDICAID RECIPIENTS. THE WRITTEN RESPONSE MUST  
6 DESCRIBE HOW THE PROVIDER WILL COME INTO AND ENSURE FUTURE  
7 COMPLIANCE. IF A WRITTEN RESPONSE IS REQUESTED, A PROVIDER HAS  
8 THIRTY DAYS, OR LONGER IF APPROVED BY THE STATE DEPARTMENT, TO  
9 SUBMIT THE WRITTEN RESPONSE.

10 (b) IF THE PROVIDER DOES NOT AGREE WITH THE STATE  
11 DEPARTMENT'S FINDINGS THAT RESULTED IN THE REQUEST ISSUED  
12 PURSUANT TO SUBSECTION (15)(a) OF THIS SECTION, THEN THE PROVIDER'S  
13 WRITTEN RESPONSE MUST INCLUDE AN EXPLANATION AND SPECIFIC  
14 REASONS FOR THE PROVIDER'S DISAGREEMENT.

15 **SECTION 3. Safety clause.** The general assembly hereby finds,  
16 determines, and declares that this act is necessary for the immediate  
17 preservation of the public peace, health, and safety."

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