

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-1181.01 Brita Darling x2241

HOUSE BILL 18-1330

HOUSE SPONSORSHIP

Young, Hamner, Rankin

SENATE SPONSORSHIP

Moreno, Lambert, Lundberg

House Committees
Appropriations

Senate Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING A SUPPLEMENTAL STATE PAYMENT RELATING TO**
102 **CERTAIN OFFICE-ADMINISTERED ONCOLOGY-RELATED DRUGS**
103 **FOR QUALIFIED PROVIDERS UNDER THE MEDICAL ASSISTANCE**
104 **PROGRAM WHO EXPERIENCED A REDUCTION IN REIMBURSEMENT**
105 **PAYMENTS IN THE 2017-18 STATE FISCAL YEAR AS A RESULT OF**
106 **THE IMPLEMENTATION OF THE FEDERAL FINAL RULES FOR**
107 **COVERED OUTPATIENT DRUGS, AND, IN CONNECTION**
108 **THEREWITH, MAKING AN APPROPRIATION.**

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

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
3rd Reading Unamended
April 5, 2018

SENATE
2nd Reading Unamended
April 4, 2018

HOUSE
3rd Reading Unamended
March 29, 2018

HOUSE
2nd Reading Unamended
March 28, 2018

[http://leg.colorado.gov/.](http://leg.colorado.gov/))

Joint Budget Committee. The bill authorizes a supplemental payment of state-only money to providers under the medicaid program of certain office-administered drugs relating to oncology who experienced a decrease in aggregate reimbursements in the 2017-18 fiscal year as a result of the implementation of the federal department of health and human services final rule for covered outpatient drugs, 81 FR 5169, published in the federal register on February 1, 2016.

The bill directs the department of health care policy and financing (department) to distribute a supplemental payment to qualified providers, as defined in the bill, and includes provisions for determining the amount of each qualified provider's supplemental payment. The bill authorizes the medical services board to adopt rules as necessary.

The bill appropriates general fund money to the department for the supplemental payment to qualified providers.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-4-419 as
3 follows:

4 **25.5-4-419. Supplemental state payment to qualified providers**

5 **- office-administered drugs - no federal financial participation -**

6 **definition - rules - repeal.** (1) AS USED IN THIS SECTION, UNLESS THE

7 CONTEXT OTHERWISE REQUIRES, "QUALIFIED PROVIDER" MEANS AN ENTITY

8 THAT:

9 (a) WAS ENROLLED WITH THE STATE DEPARTMENT AS OF JULY 1,
10 2017;

11 (b) PROVIDED OFFICE-ADMINISTERED DRUGS UNDER THE MEDICAL
12 ASSISTANCE PROGRAM BETWEEN JULY 1, 2017, AND DECEMBER 31, 2017;

13 (c) HAS EXPERIENCED A REDUCTION IN AGGREGATE
14 REIMBURSEMENT PAYMENTS FOR CERTAIN OFFICE-ADMINISTERED
15 ONCOLOGY-RELATED DRUGS, AS DETERMINED BY THE STATE DEPARTMENT,
16 PROVIDED FROM JULY 1, 2017, TO DECEMBER 31, 2017, AS A RESULT OF

1 THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES FINAL RULE
2 FOR COVERED OUTPATIENT DRUGS, 81 FR 5169, PUBLISHED IN THE
3 FEDERAL REGISTER ON FEBRUARY 1, 2016; AND

4 (d) SATISFIES ANY OTHER CRITERIA SPECIFIED BY RULE OF THE
5 STATE BOARD.

6 (2) PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE STATE
7 DEPARTMENT SHALL DISTRIBUTE MONEY APPROPRIATED FOR
8 SUPPLEMENTAL, STATE-ONLY PAYMENTS TO QUALIFIED PROVIDERS.

9 (3) (a) THE STATE DEPARTMENT SHALL ALLOCATE THE MONEY
10 APPROPRIATED FOR SUPPLEMENTAL PAYMENTS IN AMOUNTS
11 PROPORTIONATE TO THE REDUCTION IN REIMBURSEMENT PAYMENTS
12 RECEIVED BY QUALIFIED PROVIDERS FOR OFFICE-ADMINISTERED DRUGS AS
13 A RESULT OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN
14 SERVICES FINAL RULE FOR COVERED OUTPATIENT DRUGS, 81 FR 5169,
15 PUBLISHED IN THE FEDERAL REGISTER ON FEBRUARY 1, 2016.

16 (b) SUBJECT TO SUBSECTION (1)(a) OF THIS SECTION, THE STATE
17 DEPARTMENT SHALL DETERMINE THE SUPPLEMENTAL PAYMENT FOR EACH
18 QUALIFIED PROVIDER BASED ON THE FOLLOWING FACTORS:

19 (I) THE DIFFERENCE BETWEEN THE AMOUNT THAT THE QUALIFIED
20 PROVIDER WOULD HAVE RECEIVED UNDER THE COLORADO MEDICAID FEE
21 SCHEDULE, EFFECTIVE JUNE 1, 2017, PRIOR TO THE IMPLEMENTATION OF
22 THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES FINAL RULE
23 FOR COVERED OUTPATIENT DRUGS, 81 FR 5169, PUBLISHED IN THE
24 FEDERAL REGISTER ON FEBRUARY 1, 2016, AND THE AMOUNT THE
25 QUALIFIED PROVIDER RECEIVED UNDER THE COLORADO MEDICAID FEE
26 SCHEDULE, EFFECTIVE JULY 1, 2017, FOR OFFICE-ADMINISTERED DRUGS
27 PROVIDED BETWEEN JULY 1, 2017, AND DECEMBER 31, 2017;

1 (II) THE SERVICES ACTUALLY PROVIDED BY EACH QUALIFIED
2 PROVIDER UNDER THE MEDICAL ASSISTANCE PROGRAM FROM JULY 1, 2017,
3 TO DECEMBER 31, 2017; AND

4 (III) AVAILABLE APPROPRIATIONS.

5 (4) (a) ONCE THE STATE DEPARTMENT HAS DETERMINED THE
6 AMOUNT OF THE SUPPLEMENTAL PAYMENTS, THE STATE DEPARTMENT
7 SHALL ALLOW QUALIFIED PROVIDERS TO EXAMINE THE CALCULATION OF
8 THE PAYMENTS PRIOR TO FINALIZING THE DISTRIBUTION OF FUNDING AND
9 SHALL CONSIDER FEEDBACK FROM QUALIFIED PROVIDERS PRIOR TO
10 FINALIZING THE DISTRIBUTION. A QUALIFIED PROVIDER MAY REQUEST
11 THAT THE STATE DEPARTMENT RECALCULATE THE SUPPLEMENTAL
12 PAYMENT AMOUNT WITHIN THIRTY DAYS AFTER NOTIFICATION OF THE
13 SUPPLEMENTAL PAYMENT AMOUNT.

14 (b) THE STATE DEPARTMENT SHALL DISTRIBUTE THE
15 SUPPLEMENTAL PAYMENTS TO QUALIFIED PROVIDERS NO LATER THAN
16 DECEMBER 31, 2018. ONCE PAYMENTS HAVE BEEN DISTRIBUTED, THE
17 STATE DEPARTMENT SHALL NOT RECALCULATE OR RE-ESTIMATE THE
18 PAYMENTS FOR THE PURPOSE OF CHANGING THE DISTRIBUTION. THE STATE
19 DEPARTMENT MAY RECOVER PAYMENTS MADE TO A QUALIFIED PROVIDER
20 PURSUANT TO THIS SECTION IF THE STATE DEPARTMENT DETERMINES THAT
21 THE PAYMENTS WERE MATERIALLY AFFECTED BY FRAUDULENT CLAIMS
22 SUBMISSIONS MADE BY THAT QUALIFIED PROVIDER UNDER THE MEDICAL
23 ASSISTANCE PROGRAM.

24 (5) THE STATE BOARD SHALL ADOPT ANY RULES NECESSARY TO
25 IMPLEMENT THIS SECTION.

26 (6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

27 **SECTION 2. Appropriation.** For the 2017-18 state fiscal year,

1 \$754,000 is appropriated to the department of health care policy and
2 financing. This appropriation is from the general fund. To implement this
3 act, the department may use this appropriation for supplemental payments
4 to qualified providers pursuant to section 25.5-4-419, C.R.S. Any money
5 appropriated in this section that is not expended prior to July 1, 2018, is
6 further appropriated to the department for the 2018-19 state fiscal year for
7 the same purpose.

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