

## CHAPTER 210

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**HEALTH CARE POLICY AND FINANCING**

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HOUSE BILL 20-1386

BY REPRESENTATIVE(S) McCluskie, Esgar;  
also SENATOR(S) Moreno, Zenzinger, Rankin, Lee.**AN ACT**

**CONCERNING THE USE OF A SPECIFIED AMOUNT OF THE MONEY IN THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE CASH FUND TO OFFSET GENERAL FUND EXPENDITURES FOR THE STATE MEDICAL ASSISTANCE PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.**

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

**SECTION 1.** In Colorado Revised Statutes, 25.5-4-402.4, **amend** (4)(a) introductory portion, (5)(b)(VIII), and (6)(a)(I); and **add** (4)(a)(II.5), (5)(b)(VIII.7), and (6)(b)(I.7) as follows:

**25.5-4-402.4. Hospitals - healthcare affordability and sustainability fee - legislative declaration - Colorado healthcare affordability and sustainability enterprise - federal waiver - fund created - rules - reports - repeal.**  
**(4) Healthcare affordability and sustainability fee.** (a) For the fiscal year commencing July 1, 2017, and for each fiscal year thereafter, the enterprise is authorized to charge and collect a healthcare affordability and sustainability fee, as described in 42 CFR 433.68 (b), on outpatient and inpatient services provided by all licensed or certified hospitals, referred to in this section as "hospitals", for the purpose of obtaining federal financial participation under the state medical assistance program as described in this article 4 and articles 5 and 6 of this title 25.5, referred to in this section as the "state medical assistance program", and the Colorado indigent care program described in part 1 of article 3 of this title 25.5, referred to in this section as the "Colorado indigent care program". IF THE AMOUNT OF HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE REVENUE COLLECTED EXCEEDS THE FEDERAL NET PATIENT REVENUE-BASED LIMIT ON THE AMOUNT OF SUCH FEE REVENUE THAT MAY BE COLLECTED, REQUIRING REPAYMENT TO THE FEDERAL GOVERNMENT OF EXCESS FEDERAL MATCHING MONEY RECEIVED, HOSPITALS THAT RECEIVED SUCH EXCESS FEDERAL MATCHING MONEY SHALL BE

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

RESPONSIBLE FOR REPAYING THE EXCESS FEDERAL MONEY AND ANY ASSOCIATED FEDERAL PENALTIES TO THE FEDERAL GOVERNMENT. The enterprise shall use the healthcare affordability and sustainability fee revenue to:

(II.5) (A) FOR STATE FISCAL YEAR 2020-21 ONLY, OFFSET GENERAL FUND EXPENDITURES FOR THE STATE MEDICAL ASSISTANCE PROGRAM.

(B) THIS SUBSECTION (4)(a)(II.5) IS REPEALED, EFFECTIVE DECEMBER 31, 2021.

(5) **Healthcare affordability and sustainability fee cash fund.** (b) All money in the fund is subject to federal matching as authorized under federal law and, subject to annual appropriation by the general assembly, shall be expended by the enterprise for the following purposes:

(VIII) Subject to any necessary federal waivers being obtained, to provide funding for a health care delivery system reform incentive payments program as described in subsection (8) of this section; ~~and~~

(VIII.7) (A) FOR STATE FISCAL YEAR 2020-21 ONLY, ONE HUNDRED SIXTY-ONE MILLION DOLLARS SHALL BE APPROPRIATED TO OFFSET GENERAL FUND EXPENDITURES FOR THE STATE MEDICAL ASSISTANCE PROGRAM.

(B) THIS SUBSECTION (5)(b)(VIII.7) IS REPEALED, EFFECTIVE DECEMBER 31, 2021.

(6) **Appropriations.** (a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6)(b)(I.7) OF THIS SECTION, the healthcare affordability and sustainability fee is to supplement, not supplant, general fund appropriations to support hospital reimbursements. General fund appropriations for hospital reimbursements shall be maintained at the level of appropriations in the medical services premium line item made for the fiscal year commencing July 1, 2008; except that general fund appropriations for hospital reimbursements may be reduced if an index of appropriations to other providers shows that general fund appropriations are reduced for other providers. If the index shows that general fund appropriations are reduced for other providers, the general fund appropriations for hospital reimbursements shall not be reduced by a greater percentage than the reductions of appropriations for the other providers as shown by the index.

(b) If the revenue from the healthcare affordability and sustainability fee is insufficient to fully fund all of the purposes described in subsection (5)(b) of this section:

(I.7) (A) ONE HUNDRED SIXTY-ONE MILLION DOLLARS OF REVENUE FROM THE HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE SHALL BE USED FIRST TO OFFSET GENERAL FUND EXPENDITURES FOR THE STATE MEDICAL ASSISTANCE PROGRAM.

(B) THIS SUBSECTION (6)(b)(I.7) IS REPEALED, EFFECTIVE DECEMBER 31, 2021.

**SECTION 2. Appropriation - adjustments to 2020 long bill.** (1) To implement this act, the general fund appropriation made in the annual general

appropriation act for the 2020-21 state fiscal year to the department of health care policy and financing for medical services premiums is decreased by \$161,000,000.

(2) For the 2020-21 state fiscal year, \$161,000,000 is appropriated to the department of health care policy and financing. This appropriation is from the healthcare affordability and sustainability fee cash fund created in section 25.5-4-402.4 (5)(a), C.R.S. To implement this act, the department may use this appropriation for medical services premiums.

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

Approved: June 30, 2020