



## Legislative Council Staff

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# Fiscal Note

<b>Drafting Number:</b>	LLS 21-0634	<b>Date:</b>	March 30, 2021
<b>Prime Sponsors:</b>	Rep. Jodeh Sen. Buckner; Kolker	<b>Bill Status:</b>	House Health and Insurance
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**Bill Topic:** HEALTHCARE BILLING REQUIREMENTS FOR INDIGENT PATIENTS

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill repeals, reenacts, relocates, and expands the discounted health-care program. The bill increases state and statutory public entity revenue and expenditures on an ongoing basis.

**Appropriation Summary:** The bill requires appropriation adjustments totaling \$181,182 to the Department of Health Care Policy and Financing and the Colorado Department of Public Health and Environment. See State Expenditures section.

**Fiscal Note Status:** This fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under HB 21-1198**

	Budget Year FY 2021-22	Out Year FY 2022-23
<b>Revenue</b>	-	-
<b>Expenditures</b>		
General Fund <sup>1</sup>	\$181,182	\$480,815
Centrally Appropriated	\$5,239	\$40,312
<b>Total Expenditures</b>	<b>\$186,421</b>	<b>\$521,127</b>
<b>Total FTE</b>	<b>0.3 FTE</b>	<b>2.4 FTE</b>
<b>Transfers</b>	-	-
<b>TABOR Refund</b>	-	-

<sup>1</sup> These costs may be eligible for 50 percent federal match; see State Expenditures section.

## **Summary of Legislation**

The bill repeals, reenacts, and expands hospital requirements around providing discount care to uninsured patients (discount program) and moves regulatory authority over the program from the Colorado Department of Public Health and Environment (CDPHE) to the Department of Health Care Policy and Financing (HCPF). Changes to the program include:

- applying regulations to health care facilities, instead of just hospitals;
- requiring HCPF to develop a standard application for health care facilities to screen uninsured patients for eligibility for public health insurance programs, the Colorado Indigent Care Program (CICP), or discounted care;
- creating an appeals process if a patient is found to be ineligible;
- limiting the amount a health care facility can charge for eligible patients for emergency and other non-CICP services to 80 percent of the Medicare rate, instead of the lowest negotiated rate from a private health plan;
- limiting collection amounts to monthly payments of no more than 5.0 percent of the patient's monthly household income;
- considering a patient's bill paid in full after 36 months of payments;
- requiring health care facilities to post information on patient's rights under the discount program, as developed by HCPF;
- requiring health care facilities to collect and report certain information to HCPF to determine compliance across demographics;
- requiring HCPF to periodically review health care facilities to ensure compliance; and
- requiring HCPF to promulgate rules prohibiting hospitals from considering assets when determining if a patient's income eligibility and to ensure the method used to determine eligibility is uniform across hospitals.

By April 1, 2022, the State Board of Health in the CDPHE must promulgate rules to implement the program and HCPF must develop information on patient's rights, establish a process for patients to appeal a determination of ineligibility, and begin to periodically review health-care facilities for compliance. By June 1, 2023, and each June 1 after, each health care facility must collect and report data to HCPF on compliance.

**Collection of medical debt.** The bill updates regulations around the collection of medical debt. Specifically, before a health care facility can assign or sell patient debt to a collection agency or before pursuing permissible extraordinary collection action the facility must: screen the patient for eligibility for programs listed above; provide discounted care or offer a payment plan that does not exceed 5.0 percent of the patient's monthly household income, and provide an explanation of the services and fees being billed. A health care facility that does not follow these steps is liable to the patient for damages, as specified in the bill. A medical creditor or medical debt collector cannot engage in any permissible extraordinary collection actions until 180 days after the first bill for a medical debt is sent. In addition, 30 days before taking an action, a creditor must provide the patient with a notice developed by HCPF. If a creditor fails to follow these steps, the creditor must reverse any collection actions.

## Background and Assumptions

Currently, there are 82 hospitals in Colorado and about 16,272 active physicians. The fiscal note assumes that 4,000 practitioners provide services in a hospital and would be required to offer discount services under the bill and be subject to periodic reviews from HCPF.

## State Revenue

To the extent the bill increases civil case filings, General Fund and cash fund revenue to the Judicial Department will increase from filing fees. In addition, any fines assessed on health care facilities for not being in compliance will increase General Fund revenue. This revenue is subject to the state's TABOR revenue limit.

## State Expenditures

The bill will increase net state expenditures by \$186,421 and 0.3 FTE in FY 2021-22 and \$521,127 and 2.4 FTE in FY 2022-23, as shown in Table 2 and described below.

**Table 2**  
**Expenditures Under HB 21-1198**

<b>Cost Components</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>
<b>Department of Health Care Policy and Financing</b>		
Personal Services	\$47,855	\$203,386
Operating Expenses	\$1,080	\$4,050
Capital Outlay Costs	\$6,200	\$12,400
Rulemaking Consultant	\$113,200	-
Compliance Management Contractor	\$50,960	\$257,152
Travel and Per Diem		\$41,940
Centrally Appropriated Costs <sup>1</sup>	\$11,330	\$46,403
FTE – Personal Services	0.7 FTE	2.8 FTE
<b>HCPF Subtotal</b>	<b>\$230,625</b>	<b>\$565,331</b>

**Table 2  
 Expenditures Under HB 21-1198 (Cont.)**

<b>Cost Components</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>
<b>Department of Public Health and Environment</b>		
Personal Services	(\$23,113)	(\$23,113)
Consultant	(\$5,000)	(\$5,000)
Investigations	(\$10,000)	(\$10,000)
Centrally Appropriated Costs <sup>1</sup>	(\$6,091)	(\$6,091)
FTE – Personal Services	(0.4 FTE)	(0.4 FTE)
<b>CDPHE Subtotal</b>	<b>(\$44,204)</b>	<b>(\$44,204)</b>
<b>Total</b>	<b>\$186,421</b>	<b>\$521,127</b>
<b>Total FTE</b>	<b>0.3 FTE</b>	<b>2.4 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Health Care Policy and Financing.** The bill will increase expenditures in HCPF by \$230,625 and 1.0 FTE in FY 2021-22 and \$565,331 and 3.0 FTE in FY 2022-23. Staff is needed in FY 2021-22 to assist in rulemaking, develop an official statement of patient rights, develop a uniform screening application, and to begin compliance reviews on April 1, 2022.

In FY 2022-23, the department will require an additional 2.0 FTE to ensure compliance including surveying billing patterns and collection practices, verifying appropriate screening and application processes, enforcing corrective action, monitoring complaints, levying fines, and confirming data submission requirements are met. The fiscal note assumes that 1.0 FTE can review 444 practitioners a year and that a practitioner will be reviewed every three years (resulting in 1,333 practitioners reviewed per year). Costs in FY 2021-22 are prorated for an October 1, 2021, start date and the General Fund pay date shift. Costs in FY 2022-23, are prorated for the General Fund pay date shift for the additional 2.0 FTE.

*Consultant.* In FY 2021-22 only, HCPF will require a contractor for stakeholder engagement and policy consultation during the rulemaking process. This fiscal note estimates that 400 hours of work will be required at a cost of around \$280 per hour.

*Compliance Manager Contractor.* HCPF will require a contractor to develop a reporting tool to manage the compliance process and to provide data collection and analysis. The fiscal note assumes that 260 hours of work is required in FY 2021-22 and 1,312 hours of work is required in FY 2022-23 and in future years at around \$200 per hour.

*Travel and per diem.* Starting in FY 2022-23, costs in HCPF will increase for travel reimbursement and per diem to conduct in-person reviews. The fiscal note assumes that each FTE will conduct 52 trips a year with an average of 300 miles. In addition, the fiscal note assume that 12 trips will be two night overnight stays requiring per diem payments of \$450 per trip.

*Federal match.* Costs identified in this fiscal note may be eligible for a 50 percent federal match, however, it is unknown if the federal government will approve the use of federal funds for the purposes of the bill. Therefore, the fiscal note shows costs as being from the General Fund. If HCPF receives federal match, the fiscal note assumes appropriation adjustments will be through the annual budget process.

**Colorado Department of Public Health and Environment.** The bill will decrease expenditures in the CDPHE by \$44,204 and 0.4 FTE beginning in FY 2021-22. In addition to a reduction in personal services, CDPHE will have a reduction of \$5,000 for a financial services consultant and \$10,000 to investigate hospital compliance.

**Department of Human Services.** Workload in the Department of Human Services will increase to send data to HCPF. Because the department's system already separates its data as required by the bill, workload can be accomplished within existing appropriations.

**Judicial Department.** To the extent more civil cases are filed with the trial courts, workload in the Judicial Department will increase. The fiscal note assumes that the bill will not increase the number of cases to require additional FTE; therefore, no change in appropriation is required.

**University of Colorado hospital system.** Expenditures in the University of Colorado may increase to comply with the bill. If additional FTE are needed, the fiscal note assumes the health system will adjust current revenue sources to cover any additional expenditures affected by the bill. The bill may also affect revenue to these facilities in two main ways. First, it may limit revenue and debt collections from certain patients. Second, additional screening for public health insurance or the indigent care program may increase reimbursement for care provided.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$5,239 in FY 2021-22 and \$40,312 in FY 2022-23.

**TABOR refunds.** The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

## **Statutory Public Entity**

Similar to the University of Colorado health system, expenditures in the Denver Health System may increase to comply with the bill. Denver Health will adjust current revenue sources to cover any additional expenditures affected by the bill. Additional screening for public programs and limitations on debt collection may also affect system revenue.

## Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## State Appropriations

For FY 2021-22, the bill requires the following adjustments in appropriations:

- an increase of \$219,295 from the General Fund and 0.7 FTE to the Department of Health Care Policy and Financing; and
- a decrease of \$38,113 from the General Fund and reduction of 0.4 FTE to the Colorado Department of Public Health and Environment.

## State and Local Government Contacts

Health Care Policy and Financing  
Human Services  
Judicial  
Public Health and Environment

Higher Education  
Information Technology  
Law