

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0546.01 Brita Darling x2241

HOUSE BILL 16-1277

HOUSE SPONSORSHIP

Lontine and Landgraf,

SENATE SPONSORSHIP

Kefalas and Roberts,

House Committees

Public Health Care & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE APPEAL PROCESS FOR MEDICAL ASSISTANCE**
102 **BENEFITS, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **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 <http://www.leg.state.co.us/bills summaries>.)

The bill requires the department of health care policy and financing (state department) to give a medicaid recipient a 20-day advance notice if medical assistance benefits are being suspended, terminated, or modified, (intended action) unless certain conditions are met.

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

Under current law, the state department allows an applicant or recipient to file an appeal within 30 days after the date of notice of the intended action. The bill extends the time for appeal to 60 days after the effective date of the intended action. If the recipient files an appeal prior to the effective date of the intended action, the recipient's medical assistance benefits will continue unchanged until the completion of the appeal process. If authorized under federal law, the state department may permit a recipient's medical benefits to continue even though the appeal is filed after the effective date of the intended action.

The bill permits an applicant or recipient to request the county dispute resolution process either prior to appeal to the state department or as part of the filing of the appeal.

The county's dispute resolution process must be completed within 30 days of the filing of a request to the county or no later than 10 days before the date of the hearing on the appeal to the state department, whichever is earlier. If the dispute is resolved, the county will assist the applicant or recipient in requesting the dismissal of the state-level appeal.

Except as provided in the bill, the bill requires the person or persons involved in making the decision relating to the intended action to be available for cross-examination if requested by the appellant.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-4-207, **amend**
3 (1) as follows:

4 **25.5-4-207. Appeals - rules.** (1) (a) (I) If an application for
5 medical ~~benefits~~ ASSISTANCE is not acted upon by the county department
6 within a reasonable time after filing of the same, or if an application is
7 denied in whole or in part, or if medical ASSISTANCE benefits are
8 suspended, terminated, or modified, the applicant or recipient, as the case
9 may be, may appeal to the state department in the manner and form
10 prescribed by the rules of the state department. **EXCEPT AS PERMITTED**
11 **UNDER FEDERAL LAW, STATE DEPARTMENT RULES MUST PROVIDE FOR AT**
12 **LEAST A TEN-DAY ADVANCE NOTICE BEFORE THE EFFECTIVE DATE OF ANY**
13 **SUSPENSION, TERMINATION, OR MODIFICATION OF MEDICAL ASSISTANCE.**
14 **THE COUNTY OR DESIGNATED SERVICE AGENCY SHALL NOTIFY THE**

1 APPLICANT OR RECIPIENT IN WRITING OF THE BASIS FOR THE COUNTY'S
2 DECISION OR ACTION AND SHALL INFORM THE APPLICANT OR RECIPIENT OF
3 THE RIGHT TO A COUNTY OR SERVICE AGENCY CONFERENCE UNDER THE
4 DISPUTE RESOLUTION PROCESS DESCRIBED IN PARAGRAPH (b) OF THIS
5 SUBSECTION (1) AND OF THE RIGHT TO A STATE-LEVEL APPEAL AND THE
6 PROCESS FOR APPEAL.

7 (II) THE APPLICANT OR RECIPIENT HAS SIXTY DAYS AFTER THE
8 DATE OF THE NOTICE TO FILE AN APPEAL WITH THE STATE DEPARTMENT.
9 IF THE RECIPIENT FILES AN APPEAL PRIOR TO THE EFFECTIVE DATE OF THE
10 INTENDED ACTION, EXISTING MEDICAL ASSISTANCE BENEFITS MUST
11 AUTOMATICALLY CONTINUE UNCHANGED UNTIL THE APPEAL PROCESS IS
12 COMPLETED, UNLESS THE RECIPIENT REQUESTS IN WRITING THAT MEDICAL
13 ASSISTANCE BENEFITS NOT CONTINUE DURING THE APPEAL PROCESS;
14 EXCEPT THAT, TO THE EXTENT AUTHORIZED BY FEDERAL LAW, THE STATE
15 DEPARTMENT RULES MAY PERMIT EXISTING MEDICAL ASSISTANCE
16 BENEFITS TO CONTINUE UNTIL THE APPEAL PROCESS IS COMPLETED EVEN
17 IF THE RECIPIENT'S APPEAL IS FILED AFTER THE EFFECTIVE DATE OF THE
18 INTENDED ACTION. THE STATE DEPARTMENT SHALL PROMULGATE RULES
19 CONSISTENT WITH FEDERAL LAW THAT PRESCRIBE THE CIRCUMSTANCES
20 UNDER WHICH THE COUNTY OR DESIGNATED SERVICE AGENCY MAY
21 CONTINUE BENEFITS IF AN APPEAL IS FILED AFTER THE EFFECTIVE DATE OF
22 THE INTENDED ACTION. AT A MINIMUM, THE RULES MUST ALLOW FOR
23 CONTINUING BENEFITS WHEN THE RECIPIENT'S HEALTH OR SAFETY IS
24 IMPACTED, THE RECIPIENT WAS NOT ABLE TO TIMELY RESPOND DUE TO THE
25 RECIPIENT'S DISABILITY OR EMPLOYMENT, THE RECIPIENT'S CAREGIVER
26 WAS UNAVAILABLE DUE TO THE CAREGIVER'S HEALTH OR EMPLOYMENT,
27 OR THE RECIPIENT DID NOT RECEIVE THE COUNTY'S OR DESIGNATED

1 SERVICE AGENCY'S NOTICE PRIOR TO THE EFFECTIVE DATE OF THE
2 INTENDED ACTION.

3 (III) EITHER PRIOR TO APPEAL TO THE STATE DEPARTMENT OR AS
4 PART OF THE FILING OF AN APPEAL, THE APPLICANT OR RECIPIENT MAY
5 REQUEST THE DISPUTE RESOLUTION PROCESS DESCRIBED IN PARAGRAPH
6 (b) OF THIS SUBSECTION (1) THROUGH THE COUNTY DEPARTMENT OR
7 SERVICE DELIVERY AGENCY.

8 (b) Every county department or service delivery agency shall
9 adopt procedures for the resolution of disputes arising between the county
10 department or the service delivery agency and any applicant for or
11 recipient of medical assistance. ~~prior to appeal to the state department.~~
12 Such procedures are referred to in this section as the "dispute resolution
13 process". Two or more counties may jointly establish the dispute
14 resolution process. The dispute resolution process ~~shall~~ MUST be
15 consistent with rules promulgated by the state board pursuant to article 4
16 of title 24, C.R.S. The dispute resolution process shall include an
17 opportunity for all clients to have a county conference, upon the client's
18 request, and such requirement may be met through a telephonic
19 conference upon the agreement of the client and the county department.
20 The dispute resolution process need not conform to the requirements of
21 section 24-4-105, C.R.S., as long as the rules adopted by the state board
22 include provisions specifically setting forth expeditious time frames,
23 notice, and an opportunity to be heard and to present information. ~~If the~~
24 ~~dispute is not resolved, the applicant or recipient may appeal to the state~~
25 ~~department in the manner and form prescribed by the rules of the state~~
26 ~~department. County notices to applicants or recipients shall inform them~~
27 ~~of the basis for the county's decision or action and shall inform them of~~

1 ~~their rights to a county conference under the dispute resolution process~~
2 ~~and of their rights to state level appeal and the process of making such~~
3 ~~appeal~~ IF THE DISPUTE IS RESOLVED THROUGH THE COUNTY OR SERVICE
4 DELIVERY AGENCY'S DISPUTE RESOLUTION PROCESS AND THE APPLICANT
5 OR RECIPIENT HAS ALREADY FILED AN APPEAL TO THE STATE DEPARTMENT,
6 THE COUNTY SHALL INFORM THE APPLICANT OR RECIPIENT OF THE PROCESS
7 FOR DISMISSING THE APPEAL.

8 (c) The state board shall adopt rules setting forth what other
9 issues, if any, may be appealed by an applicant or recipient to the state
10 department. A hearing need not be granted when either state or federal
11 law requires or results in a reduction or deletion of a medical ASSISTANCE
12 benefit unless the applicant or recipient is arguing that his or her case
13 does not fit within the parameters set forth by the change in the law. In
14 notifying the applicant or recipient that an appeal is being denied because
15 of a change in state or federal law, the state's notice ~~shall~~ MUST inform the
16 applicant or recipient that further appeal should be directed to the
17 appropriate state or federal court.

18 ~~(b)~~ (d) Upon receipt of an appeal, the ~~state department~~ OFFICE OF
19 ADMINISTRATIVE COURTS shall give the appellant at least ten days' notice
20 OF THE HEARING DATE and an opportunity for a fair hearing in accordance
21 with the rules of the state department. ~~Any such~~ THE fair hearing ~~shall~~
22 MUST comply with section 24-4-105, C.R.S., and the state department's
23 administrative law judge shall preside.

24 ~~(e)~~ (e) The appellant shall have an opportunity to examine all
25 applications and pertinent records concerning ~~said~~ THE appellant that
26 constitute a basis for the denial, suspension, termination, or modification
27 of medical ASSISTANCE benefits. THE PERSON OR PERSONS INVOLVED IN

1 THE DECISION DENYING, SUSPENDING, TERMINATING, OR MODIFYING
2 MEDICAL ASSISTANCE BENEFITS OR, IF THE PERSON OR PERSONS ARE NOT
3 REASONABLY AVAILABLE, A PERSON FAMILIAR WITH THE FACTS
4 UNDERLYING THE BASIS FOR THE DECISION, SHALL BE AVAILABLE FOR
5 CROSS-EXAMINATION IF REQUESTED BY THE APPELLANT.

6 **SECTION 2. Appropriation.** (1) For the 2016-17 state fiscal
7 year, \$5,446 is appropriated to the department of health care policy and
8 financing for use by the executive director's office. This appropriation is
9 from the general fund. To implement this act, the office may use this
10 appropriation as follows:

11 (a) \$2,500 for Medicaid management information system
12 maintenance and projects, which amount is subject to the "(M)" notation
13 as defined in the annual general appropriation act for the same fiscal year;
14 and

15 (b) \$2,946 for the Colorado benefits management systems,
16 operating and contract expenses.

17 (2) For the 2016-17 state fiscal year, the general assembly
18 anticipates that the department of health care policy and financing will
19 receive \$31,337 in federal funds to implement this act. The appropriation
20 in subsection (1) of this section is based on the assumption that the
21 department will receive this amount of federal funds to be used as
22 follows:

23 (a) \$22,500 for Medicaid management information system
24 maintenance and projects; and

25 (b) \$8,837 for the Colorado benefits management systems,
26 operating and contract expenses.

27 (3) For the 2016-17 state fiscal year, \$11,783 is appropriated to

1 the office of the governor for use by the office of information technology.
2 This appropriation is from reappropriated funds received from the
3 department of health care policy and financing under paragraph (b) of
4 subsection (1) and paragraph (b) of subsection (2) of this section. To
5 implement this act, the office may use this appropriation to provide
6 information technology services for the department of health care policy
7 and financing.

8 **SECTION 3. Act subject to petition - effective date.** This act
9 takes effect September 1, 2016; except that, if a referendum petition is
10 filed pursuant to section 1 (3) of article V of the state constitution against
11 this act or an item, section, or part of this act within the ninety-day period
12 after final adjournment of the general assembly, then the act, item,
13 section, or part will not take effect unless approved by the people at the
14 general election to be held in November 2016 and, in such case, will take
15 effect on the date of the official declaration of the vote thereon by the
16 governor.