

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

Health & Human Services
Appropriations

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.

HOUSE
3rd Reading Unamended
April 18, 2016

HOUSE
Amended 2nd Reading
April 15, 2016

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

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

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

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

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

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

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

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

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

5 **SECTION 2. Appropriation.** (1) For the 2016-17 state fiscal
6 year, \$2,500 is appropriated to the department of health care policy and
7 financing for use by the executive director's office. This appropriation is
8 from the general fund, and is subject to the "(M)" notation as defined in
9 the annual general appropriation act for the same fiscal year. To
10 implement this act, the office may use this appropriation for Medicaid
11 management information system maintenance and projects.

12 (2) For the 2016-17 state fiscal year, the general assembly
13 anticipates that the department of health care policy and financing will
14 receive \$22,500 in federal funds for Medicaid management information
15 system maintenance and projects. The appropriation in subsection (1) of
16 this section is based on the assumption that the department will receive
17 this amount of federal funds. _____

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