



**Colorado  
Legislative  
Council  
Staff**

**HB17-1139**

**FINAL  
FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

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| <b>Drafting Number:</b> LLS 17-0719  | <b>Date:</b> August 14, 2017   |
| <b>Prime Sponsor(s):</b> Rep. Landgraf;<br>Michaelson Jenet<br>Sen. Martinez Humenik;<br>Kefalas | <b>Bill Status:</b> Signed into Law<br><b>Fiscal Analyst:</b> Ryan Long (303-866-2066) |

**BILL TOPIC:** MEDICAID PROVIDER COMPLIANCE BILLING SAFETY RULES

| <b>Fiscal Impact Summary</b>  | <b>FY 2017-2018</b>        | <b>FY 2018-2019</b> |
|---|----------------------------|---------------------|
| <b>State Revenue</b><br>Cash Funds  | Potential increase.        |                     |
| <b>State Expenditures</b>   | Minimal workload increase. |                     |
| <b>Appropriation Required:</b> None.  |                            |                     |
| <b>Future Year Impacts:</b> Ongoing minimal workload increase and potential revenue increase. |                            |                     |

**Summary of Legislation**

Under the bill, if a health care provider improperly bills or seeks collection from a Medicaid client or his or her estate, the provider:

- must refund any amount unlawfully received with interest;
- must pay a civil monetary penalty of \$100 for each violation; and
- is liable for all amounts submitted to a collection agency in the name of the Medicaid client.

A provider is not liable for the civil monetary penalty if they return the amount billed or take action to resolve collection actions within 30 days of being notified by the Department of Health Care Policy and Financing (HCPF). To establish a claim for the civil monetary penalty, a Medicaid client or person acting on behalf of the client must notify HCPF. This penalty does not apply if the individual misrepresents his or her Medicaid coverage status to the medical provider. Any civil monetary penalty imposed by HCPF may be appealed administratively.

HCPF may request a written response from any provider who endangers the health, safety, or welfare of Medicaid clients or fails to comply with the rules, manuals, or bulletins issued by HCPF, the Medical Services Board, or a fiscal agent of HCPF. The written response must describe how the provider will come into and ensure future compliance. If the provider disagrees with HCPF's findings that resulted in the request for a written response, the provider's response must include an explanation and reasons for the disagreement.

## **Background**

Under current law, Medicaid clients and their estates are not liable for the cost of medical services covered under Medicaid. Providers are prohibited from billing Medicaid clients for the cost of any services covered by Medicaid, regardless of whether there is a payment made by Medicaid.

## **State Revenue**

The bill potentially increases cash fund revenue to HCPF from civil penalties starting in FY 2017-18. This revenue will be deposited into the Health Care Policy and Financing Cash Fund. The fiscal note assumes that there will be a high level of compliance from health care providers, and the revenue from civil penalties is expected to be minimal.

## **State Expenditures**

The bill is expected to create a minimal workload increase for HCPF and other state agencies. It is assumed that this work can be accomplished within existing appropriations.

**Provider penalties.** This bill allows HCPF to assess a civil monetary penalty on providers for improper billing of Medicaid clients or violations of program rules. It is assumed that most providers will not go through the full penalty process, and it is anticipated that providers will abide by the law and will seek to return any amount of money wrongfully received. Under this bill, HCPF may request a written response from a provider in non-compliance. It is assumed that written responses will be prepared by the providers and reviewed by HCPF; workload for this duty can be accomplished within existing appropriations.

**Appeals.** The additional penalties against Medicaid providers may increase appeals to the Office of Administrative Courts (OAC) in the Department of Personnel and Administration and subsequently to the trial courts in the Judicial Department. Any increase in caseload due to this bill can be accomplished within existing appropriations to the Judicial Department and the OAC.

## **Effective Date**

The bill was signed into law by the Governor and took effect on June 6, 2017.

## **State and Local Government Contacts**

|                              |                                  |
|------------------------------|----------------------------------|
| Counties                     | Health Care Policy and Financing |
| Human Services               | Information Technology           |
| Judicial                     | Law                              |
| Personnel and Administration | Public Health and Environment    |
| Regulatory Agencies          |                                  |