

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0358.01 Conrad Imel x2313

HOUSE BILL 18-1211

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HOUSE SPONSORSHIP

Wist and Foote,

SENATE SPONSORSHIP

Smallwood and Aguilar,

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House Committees  
Judiciary

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING CONTROLLING MEDICAID FRAUD.

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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://leg.colorado.gov>.)*

The bill establishes the medicaid fraud control unit (unit) in the department of law. The unit is responsible for investigation and prosecution of medicaid fraud and waste, as well as patient abuse, neglect, and exploitation. The department of health care policy and financing is authorized to require medicaid providers to include information about reporting medicaid fraud to the unit in any explanation of benefits provided to a medicaid beneficiary.

The bill creates offenses related to making false statements on

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

applications, medicaid fraud, and credit and recovery of medicaid payments. The bill makes it unlawful to receive certain kickbacks, bribes, and rebates related to the administration of a medicaid service. Actions brought under the provisions of the bill must commence within 3 years after the discovery of the offense.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 hereby finds and declares that:

4 (a) The Colorado attorney general's office continues to prosecute  
5 medicaid provider fraud and waste, as well as patient abuse, neglect, and  
6 exploitation cases, both criminal and civil, pursuant to executive order  
7 D1787 signed by Governor Roy Romer in March 1987 and 42 U.S.C. sec.  
8 1396b (q); and

9 (b) The functions of the medicaid fraud control unit are important  
10 to protect the integrity of Colorado's medicaid program, including federal  
11 funding for that program, as well as to protect some of Colorado's most  
12 vulnerable citizens from abuse, neglect, and exploitation.

13 (2) The general assembly finds, therefore, that the medicaid fraud  
14 control unit should be recognized in statute and its authority to prosecute  
15 medicaid provider fraud and waste, as well as patient abuse, neglect, and  
16 exploitation cases, should be codified in order to provide clarity to  
17 providers and others regarding what constitutes medicaid fraud and waste  
18 under Colorado law, including that convictions for medicaid fraud and  
19 waste are limited to providers who knowingly and willfully violate the  
20 law.

21 **SECTION 2.** In Colorado Revised Statutes, **add** part 8 to article  
22 31 of title 24 as follows:

23 **PART 8**

1 MEDICAID FRAUD CONTROL

2 **24-31-801. Definitions.** AS USED IN THIS PART 8, UNLESS THE  
3 CONTEXT OTHERWISE REQUIRES:

4 (1) "BENEFICIARY" MEANS ANY INDIVIDUAL WHO RECEIVES GOODS  
5 OR SERVICES FROM A PROVIDER UNDER THE MEDICAID PROGRAM.

6 (2) "BENEFIT" MEANS ANY BENEFIT AUTHORIZED UNDER THE  
7 "COLORADO MEDICAL ASSISTANCE ACT".

8 (3) "CLAIM" MEANS ANY COMMUNICATION SUBMITTED TO THE  
9 MEDICAID PROGRAM OR TO A PERSON THAT HAS CONTRACTED WITH THE  
10 MEDICAID PROGRAM, WHETHER ORAL, WRITTEN, ELECTRONIC, OR  
11 MAGNETIC, THAT IDENTIFIES A GOOD, ITEM, OR SERVICE AS REIMBURSABLE  
12 UNDER THE MEDICAID PROGRAM; IS USED TO AUTHORIZE THE PROVISION  
13 OF SERVICES UNDER THE MEDICAID PROGRAM; SERVES AS AN INVOICE FOR  
14 SERVICES PROVIDED UNDER CONTRACT WITH THE MEDICAID PROGRAM; OR  
15 STATES INCOME OR EXPENSE AND IS OR MAY BE USED TO DETERMINE A  
16 RATE OF PAYMENT UNDER THE MEDICAID PROGRAM.

17 (4) "COLORADO MEDICAL ASSISTANCE ACT" MEANS ARTICLES 4  
18 TO 6 OF TITLE 25.5.

19 (5) "KNOWINGLY" AND "WILLFULLY" HAVE THE SAME MEANING AS  
20 SET FORTH IN SECTION 18-1-501 (6).

21 (6) "MEDICAID FRAUD AND WASTE" MEANS ANY ACT, BY  
22 COMMISSION OR OMISSION, AS DESCRIBED IN SECTION 24-31-808.

23 (7) "MEDICAID PROGRAM" MEANS THE MEDICAL ASSISTANCE  
24 PROGRAM AUTHORIZED BY TITLE XIX OF THE FEDERAL "SOCIAL SECURITY  
25 ACT" AND IMPLEMENTED BY THE "COLORADO MEDICAL ASSISTANCE  
26 ACT".

27 (8) "PERSON" MEANS AN INDIVIDUAL, PUBLIC OR PRIVATE

1 INSTITUTION, CORPORATION, PARTNERSHIP, ASSOCIATION, OR MANAGED  
2 CARE ENTITY.

3 (9) "PROVIDER" MEANS ANY PERSON, EMPLOYEE, AGENT,  
4 REPRESENTATIVE, CONTRACTOR, OR SUBCONTRACTOR OF A PERSON:

5 (a) WHO HAS ENTERED INTO A PROVIDER AGREEMENT WITH THE  
6 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO PROVIDE GOODS  
7 OR SERVICES PURSUANT TO THE MEDICAID PROGRAM;

8 (b) WHO HAS ENTERED INTO AN AGREEMENT WITH A PARTY TO  
9 SUCH A PROVIDER AGREEMENT UNDER WHICH THE PERSON AGREES TO  
10 PROVIDE GOODS OR SERVICES THAT ARE REIMBURSABLE UNDER THE  
11 MEDICAID PROGRAM;

12 (c) WHO IS REIMBURSED OR RECEIVES COMPENSATION FOR  
13 DELIVERING, PURPORTING TO DELIVER, OR ARRANGING FOR THE DELIVERY  
14 OF HEALTH CARE GOODS OR SERVICES FROM THE MEDICAID PROGRAM;

15 (d) WHO IS DEFINED AS SUCH IN SECTION 25.5-4-103 (19); OR

16 (e) WHO IS DEFINED AS SUCH IN SECTION 25.5-4-416 (1).

17 (10) "RECORDS" MEANS ANY MEDICAL, PROFESSIONAL, OR  
18 BUSINESS RECORDS RELATING TO THE TREATMENT OR CARE OF ANY  
19 BENEFICIARY, TO GOODS OR SERVICES PROVIDED TO ANY BENEFICIARY, OR  
20 TO RATES PAID FOR GOODS OR SERVICES PROVIDED TO ANY BENEFICIARY  
21 AND ANY RECORDS THAT ARE REQUIRED TO BE KEPT BY THE RULES OF THE  
22 MEDICAID PROGRAM.

23 (11) "STATEMENT OR REPRESENTATION" MEANS ANY ORAL,  
24 WRITTEN, OR ELECTRONIC COMMUNICATION THAT IS USED TO IDENTIFY AN  
25 ITEM OF GOODS OR A SERVICE FOR WHICH REIMBURSEMENT MAY BE MADE  
26 UNDER THE MEDICAID PROGRAM OR THAT STATES INCOME AND EXPENSE  
27 AND IS OR MAY BE USED TO DETERMINE A RATE OF REIMBURSEMENT

1 UNDER THE MEDICAID PROGRAM, THAT MAY SERVE AS THE BASIS FOR THE  
2 CALCULATION OF A PAYMENT TO A PROVIDER, OR THAT MAY SERVE AS A  
3 BASIS FOR RECEIVING PAYMENT.

4 (12) "UNIT" MEANS THE MEDICAID FRAUD CONTROL UNIT CREATED  
5 IN SECTION 24-31-802.

6 **24-31-802. Medicaid fraud control unit - creation - duties.**

7 THERE IS CREATED WITHIN THE DEPARTMENT OF LAW AND UNDER THE  
8 CONTROL OF THE OFFICE OF THE ATTORNEY GENERAL THE MEDICAID  
9 FRAUD CONTROL UNIT. THE UNIT SHALL INVESTIGATE AND PROSECUTE  
10 FRAUD, MISUSE, WASTE, AND ABUSE COMMITTED BY MEDICAID PROVIDERS  
11 AND INVESTIGATE AND PROSECUTE CASES OF PATIENT ABUSE, NEGLIGENCE,  
12 AND EXPLOITATION.

13 **24-31-803. Medicaid fraud reporting.** THE DEPARTMENT OF  
14 HEALTH CARE POLICY AND FINANCING; THE DEPARTMENT OF PUBLIC  
15 HEALTH AND ENVIRONMENT; MANAGED CARE ENTITIES; AND THEIR FISCAL  
16 AGENTS, CONTRACTORS, OR SUBCONTRACTORS, SHALL REFER ALL CASES  
17 OF SUSPECTED MEDICAID FRAUD AND WASTE AS WELL AS PATIENT ABUSE,  
18 NEGLIGENCE, AND EXPLOITATION TO THE UNIT FOR THE PURPOSE OF  
19 INVESTIGATION, CIVIL ACTION, OR CRIMINAL ACTION. NOTHING  
20 CONTAINED IN THIS PART 8 PROHIBITS THE ATTORNEY GENERAL FROM  
21 PURSUING CASES OF SUSPECTED MEDICAID FRAUD AND WASTE OR PATIENT  
22 ABUSE, NEGLIGENCE, AND EXPLOITATION CASES ABSENT SUCH A REFERRAL.

23 **24-31-804. Medicaid fraud control unit - displayed**

24 **information.** THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING  
25 MAY REQUIRE THAT A NOTIFICATION BE INCLUDED IN ANY EXPLANATION  
26 OF BENEFITS PROVIDED TO A BENEFICIARY THAT EXPLAINS THE PROCESS  
27 AND CONTACT INFORMATION FOR REPORTING TO THE UNIT SUSPECTED

1 MEDICAID FRAUD AND WASTE AS WELL AS PATIENT ABUSE, NEGLECT, AND  
2 EXPLOITATION. ANY NOTIFICATION REQUIRED PURSUANT TO THIS SECTION  
3 MUST BE PLACED IN A CONSPICUOUS LOCATION WITHIN THE EXPLANATION  
4 OF BENEFITS AND MUST INCLUDE A STATEMENT THAT ALL REPORTS TO THE  
5 UNIT MAY BE FILED ANONYMOUSLY BY PERSONS SUSPECTING FRAUDULENT  
6 ACTIVITY.

7 **24-31-805. Attorney general authority and responsibilities.**

8 (1) IN CARRYING OUT THE RESPONSIBILITIES OF THIS SECTION, THE  
9 ATTORNEY GENERAL HAS THE AUTHORITY TO:

10 (a) INVESTIGATE AND PROSECUTE ACTIONS AND PROCEEDINGS,  
11 BOTH CIVIL, PURSUANT TO SECTION 25.5-4-301 (2) OR SECTIONS  
12 25.5-4-303.5 TO 25.5-4-310, AND CRIMINAL, PURSUANT TO THIS PART 8 OR  
13 TITLE 18;

14 (b) CROSS-DESIGNATE ASSISTANT UNITED STATES ATTORNEYS AS  
15 ASSISTANT ATTORNEYS GENERAL;

16 (c) ISSUE OR CAUSE TO BE ISSUED CIVIL INVESTIGATIVE DEMANDS  
17 AND SUBPOENAS OR OTHER PROCESS IN AID OF INVESTIGATIONS AND  
18 PROSECUTIONS;

19 (d) ADMINISTER OATHS AND TAKE SWORN STATEMENTS UNDER  
20 PENALTY OF PERJURY; AND

21 (e) SERVE AND EXECUTE, IN ANY COUNTY, SEARCH WARRANTS  
22 THAT RELATE TO INVESTIGATIONS.

23 (2) THE ATTORNEY GENERAL MAY EXERCISE ALL INCIDENTAL  
24 POWERS NECESSARY TO COMPLY WITH FEDERAL LAWS AND REGULATIONS  
25 RELATING TO THE OPERATION OF THE UNIT.

26 **24-31-806. Civil investigative demands and subpoenas.**

27 (1) CIVIL INVESTIGATIVE DEMANDS ISSUED BY THE ATTORNEY GENERAL

1 PURSUANT TO THIS PART 8 ARE SUBJECT TO THE REQUIREMENTS OF  
2 SECTION 25.5-4-309.

3 (2) SUBPOENAS ISSUED BY THE ATTORNEY GENERAL PURSUANT TO  
4 THIS PART 8 MUST COMPLY WITH THE PROVISIONS OF ARTICLE 90 OF TITLE  
5 13 AND ANY COURT RULE.

6 (3) ANY TESTIMONY OBTAINED BY THE ATTORNEY GENERAL  
7 PURSUANT TO A CIVIL INVESTIGATIVE DEMAND ISSUED PURSUANT TO THIS  
8 SECTION IS NOT ADMISSIBLE IN EVIDENCE IN ANY CRIMINAL PROSECUTION  
9 AGAINST THE PERSON COMPELLED TO TESTIFY PURSUANT TO THE CIVIL  
10 INVESTIGATIVE DEMAND. THE PROVISIONS OF THIS SUBSECTION (3) DO NOT  
11 PREVENT THE ATTORNEY GENERAL FROM INDEPENDENTLY PRODUCING OR  
12 OBTAINING THE SAME OR SIMILAR FACTS, INFORMATION, OR EVIDENCE FOR  
13 USE IN ANY CRIMINAL PROSECUTION.

14 **24-31-807. Provider applications - false statements - penalties.**

15 (1) EACH APPLICATION TO PARTICIPATE AS A PROVIDER IN THE MEDICAID  
16 PROGRAM, INCLUDING AMENDMENTS, UPDATES, RENEWALS, OR  
17 REVALIDATIONS THEREOF; EACH REPORT STATING INCOME OR EXPENSE  
18 UPON WHICH RATES OF PAYMENT ARE OR MAY BE BASED; AND EACH  
19 INVOICE FOR PAYMENT FOR A GOOD OR SERVICE PROVIDED TO A  
20 BENEFICIARY MUST CONTAIN A STATEMENT THAT ALL MATTERS STATED  
21 THEREIN ARE TRUE AND ACCURATE, AND THE STATEMENT MUST BE SIGNED  
22 BY THE INDIVIDUAL AUTHORIZED BY THE PROVIDER.

23 (2) AN APPLICATION UNDER SUBSECTION (1) OF THIS SECTION IS A  
24 PUBLIC RECORD OR INSTRUMENT AS DESCRIBED IN SECTION 18-5-102  
25 (1)(d).

26 **24-31-808. Medicaid fraud and waste - penalties - definition.**

27 (1) A PERSON COMMITS MEDICAID FRAUD AND WASTE WHEN THAT PERSON

1 KNOWINGLY AND WILLFULLY:

2 (a) MAKES A CLAIM, OR CAUSES A CLAIM TO BE MADE, KNOWING  
3 THE CLAIM TO BE FALSE, IN WHOLE OR IN PART, BY COMMISSION OR  
4 OMISSION;

5 (b) MAKES A STATEMENT OR REPRESENTATION, OR CAUSES A  
6 STATEMENT OR REPRESENTATION TO BE MADE, FOR USE IN OBTAINING OR  
7 SEEKING TO OBTAIN AUTHORIZATION TO PROVIDE A GOOD OR A SERVICE,  
8 KNOWING THE STATEMENT OR REPRESENTATION TO BE FALSE, IN WHOLE  
9 OR IN PART, BY COMMISSION OR OMISSION;

10 (c) MAKES A STATEMENT OR REPRESENTATION, OR CAUSES A  
11 STATEMENT OR REPRESENTATION TO BE MADE, FOR USE BY ANOTHER IN  
12 OBTAINING A GOOD OR A SERVICE UNDER THE MEDICAID PROGRAM,  
13 KNOWING THE STATEMENT OR REPRESENTATION TO BE FALSE, IN WHOLE  
14 OR IN PART, BY COMMISSION OR OMISSION;

15 (d) MAKES A STATEMENT OR REPRESENTATION, OR CAUSES A  
16 STATEMENT OR REPRESENTATION TO BE MADE, FOR USE IN QUALIFYING AS  
17 A PROVIDER OF A GOOD OR SERVICE UNDER THE MEDICAID PROGRAM,  
18 KNOWING THE STATEMENT OR REPRESENTATION TO BE FALSE, IN WHOLE  
19 OR IN PART, BY COMMISSION OR OMISSION;

20 (e) SIGNS OR SUBMITS, OR CAUSES TO BE SIGNED OR SUBMITTED,  
21 A STATEMENT DESCRIBED IN SECTION 24-31-807 WITH THE KNOWLEDGE  
22 THAT THE APPLICATION, REPORT, CLAIM, OR INVOICE FOR SERVICES  
23 PROVIDED UNDER CONTRACT CONTAINS MATERIAL INFORMATION THAT IS  
24 FALSE, IN WHOLE OR IN PART, BY COMMISSION OR OMISSION;

25 (f) EXCEPT AS AUTHORIZED BY LAW, CHARGES ANY BENEFICIARY  
26 MONEY OR OTHER CONSIDERATION IN ADDITION TO OR IN EXCESS OF RATES  
27 OF REMUNERATION ESTABLISHED UNDER THE MEDICAID PROGRAM FOR THE



1 SERVICES PROVIDED TO THE BENEFICIARY;

2 (g) HAVING SUBMITTED A CLAIM FOR OR RECEIVED PAYMENT FOR  
3 A GOOD OR A SERVICE UNDER THE MEDICAID PROGRAM:

4 (I) ALTERS, FALSIFIES, DESTROYS, CONCEALS, OR REMOVES ANY  
5 RECORDS THAT ARE NECESSARY TO FULLY DISCLOSE THE NATURE OF ALL  
6 GOODS OR SERVICES FOR WHICH THE CLAIM WAS SUBMITTED, OR FOR  
7 WHICH REIMBURSEMENT WAS RECEIVED, OR FAILS TO MAINTAIN SUCH  
8 RECORDS AS REQUIRED BY LAW OR THE RULES OF THE DEPARTMENT OF  
9 HEALTH CARE POLICY AND FINANCING FOR A PERIOD OF AT LEAST SIX  
10 YEARS FOLLOWING THE DATE ON WHICH PAYMENT WAS RECEIVED; OR

11 (II) ALTERS, FALSIFIES, DESTROYS, CONCEALS, OR REMOVES ANY  
12 RECORDS THAT ARE NECESSARY TO DISCLOSE FULLY ALL INCOME AND  
13 EXPENDITURES UPON WHICH RATES OF REIMBURSEMENTS WERE BASED;

14 (h) MAKES OR CAUSES TO BE MADE A STATEMENT OR  
15 REPRESENTATION FOR USE IN QUALIFYING AS A PROVIDER OF A GOOD OR  
16 SERVICE UNDER THE MEDICAID PROGRAM STATING THAT HE OR SHE IS IN  
17 COMPLIANCE WITH ALL PROVISIONS OF SECTION 25.5-4-416, KNOWING  
18 THAT THE STATEMENT OR REPRESENTATION IS FALSE, IN WHOLE OR IN  
19 PART, THROUGH COMMISSION OR OMISSION; OR

20 (i) EXCEPT AS AUTHORIZED BY LAW, RECOVERS OR ATTEMPTS TO  
21 RECOVER PAYMENT FROM A BENEFICIARY UNDER THE MEDICAID PROGRAM  
22 OR FROM THE BENEFICIARY'S FAMILY OR FAILS TO CREDIT THE STATE FOR  
23 PAYMENTS RECEIVED FROM OTHER SOURCES.

24 (2) ABSENT KNOWING OR WILLFUL CONDUCT, A PROVIDER IS NOT  
25 LIABLE FOR MEDICAID FRAUD AND WASTE COMMITTED BY A THIRD PARTY.  
26 A PROVIDER DOES NOT KNOWINGLY AND WILLFULLY VIOLATE A  
27 REQUIREMENT, STANDARD, OR DIRECTIVE CONTAINED IN WRITTEN

1 MATERIALS ISSUED BY THE DEPARTMENT OF HEALTH CARE POLICY AND  
2 FINANCING THAT WAS NOT PROMULGATED IN ACCORDANCE WITH THE  
3 "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24,  
4 UNLESS THE PROVIDER HAS ACTUAL KNOWLEDGE OF SUCH REQUIREMENT,  
5 STANDARD, OR DIRECTIVE AT THE TIME OF THE VIOLATION.

6 (3) MEDICAID FRAUD IN VIOLATION OF SUBSECTIONS (1)(a) TO  
7 (1)(c) OR (1)(f) OF THIS SECTION IS:

8 (a) A CLASS 1 PETTY OFFENSE WHERE THE AGGREGATE AMOUNT OF  
9 PAYMENTS ILLEGALLY CLAIMED OR RECEIVED IS LESS THAN FIFTY  
10 DOLLARS;

11 (b) A CLASS 3 MISDEMEANOR WHERE THE AGGREGATE AMOUNT OF  
12 PAYMENTS ILLEGALLY CLAIMED OR RECEIVED IS FIFTY DOLLARS OR MORE  
13 BUT LESS THAN THREE HUNDRED DOLLARS;

14 (c) A CLASS 2 MISDEMEANOR WHERE THE AGGREGATE AMOUNT OF  
15 PAYMENTS ILLEGALLY CLAIMED OR RECEIVED IS THREE HUNDRED  
16 DOLLARS OR MORE BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS;

17 (d) A CLASS 1 MISDEMEANOR WHERE THE AGGREGATE AMOUNT OF  
18 PAYMENTS ILLEGALLY CLAIMED OR RECEIVED IS SEVEN HUNDRED FIFTY  
19 DOLLARS OR MORE BUT LESS THAN TWO THOUSAND DOLLARS;

20 (e) A CLASS 6 FELONY WHERE THE AGGREGATE AMOUNT OF  
21 PAYMENTS ILLEGALLY CLAIMED OR RECEIVED IS TWO THOUSAND DOLLARS  
22 OR MORE BUT LESS THAN FIVE THOUSAND DOLLARS;

23 (f) A CLASS 5 FELONY WHERE THE AGGREGATE AMOUNT OF  
24 PAYMENTS ILLEGALLY CLAIMED OR RECEIVED IS FIVE THOUSAND DOLLARS  
25 OR MORE BUT LESS THAN TWENTY THOUSAND DOLLARS;

26 (g) A CLASS 4 FELONY WHERE THE AGGREGATE AMOUNT OF  
27 PAYMENTS ILLEGALLY CLAIMED OR RECEIVED IS TWENTY THOUSAND

1 DOLLARS OR MORE BUT LESS THAN ONE HUNDRED THOUSAND DOLLARS;

2 (h) A CLASS 3 FELONY WHERE THE AGGREGATE AMOUNT OF  
3 PAYMENTS ILLEGALLY CLAIMED OR RECEIVED IS ONE HUNDRED THOUSAND  
4 DOLLARS OR MORE BUT LESS THAN ONE MILLION DOLLARS; AND

5 (i) A CLASS 2 FELONY WHERE THE AGGREGATE AMOUNT OF  
6 PAYMENTS ILLEGALLY CLAIMED OR RECEIVED IS ONE MILLION DOLLARS OR  
7 MORE.

8 (4) MEDICAID FRAUD AS A VIOLATION OF SUBSECTION (1)(d),  
9 (1)(e), (1)(g), (1)(h), OR (1)(i) OF THIS SECTION IS A CLASS 5 FELONY AND  
10 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-401.

11 (5) A PERSON MAY NOT BE CONVICTED OF MEDICAID FRAUD AND  
12 WASTE IN ADDITION TO THEFT OR FORGERY WITH RESPECT TO THE SAME  
13 TRANSACTION.

14 **24-31-809. Unlawful remuneration - penalties.** (1) EXCEPT AS  
15 PROVIDED IN SUBSECTION (2) OF THIS SECTION, IT IS UNLAWFUL FOR ANY  
16 PERSON TO KNOWINGLY OFFER, PAY, SOLICIT, OR RECEIVE ANY  
17 REMUNERATION INCLUDING, BUT NOT LIMITED TO, ANY KICKBACK, BRIBE,  
18 OR REBATE, DIRECTLY OR INDIRECTLY, OVERTLY OR COVERTLY, IN CASH  
19 OR IN KIND:

20 (a) IN RETURN FOR THE REFERRAL OF AN INDIVIDUAL TO A PERSON  
21 FOR THE FURNISHING OR ARRANGING OF ANY GOOD OR SERVICE FOR WHICH  
22 PAYMENT MAY BE MADE IN WHOLE OR IN PART PURSUANT TO THE  
23 "COLORADO MEDICAL ASSISTANCE ACT"; OR

24 (b) IN RETURN FOR PURCHASING, LEASING, ORDERING, OR  
25 ARRANGING FOR OR RECOMMENDING THE PURCHASE, LEASE, OR ORDERING  
26 OF ANY GOOD, FACILITY, SERVICE, OR ITEM FOR WHICH PAYMENT MAY BE  
27 MADE IN WHOLE OR IN PART PURSUANT TO THE "COLORADO MEDICAL

1 ASSISTANCE ACT".

2 (2) IT SHALL NOT BE UNLAWFUL UNDER SUBSECTION (1) OF THIS  
3 SECTION IF THE REMUNERATION OBTAINED BY THE PROVIDER OR OTHER  
4 ENTITY IS:

5 (a) PERMITTED PURSUANT TO SECTION 25.5-4-414 OR ANY  
6 STATUTORY EXCEPTIONS OR SAFE HARBOR REGULATIONS UNDER THE  
7 FEDERAL "ANTI-KICKBACK STATUTE", 42 U.S.C. SEC. 1320a-7b (b), AS  
8 AMENDED;

9 (b) PROPERLY DISCLOSED AND APPROPRIATELY REFLECTED IN THE  
10 CLAIMS OR COST DOCUMENTS SUBMITTED UNDER THE "COLORADO  
11 MEDICAL ASSISTANCE ACT";

12 (c) PAID BY AN EMPLOYER TO AN EMPLOYEE WHO HAS A BONA FIDE  
13 EMPLOYMENT RELATIONSHIP WITH SUCH EMPLOYER FOR EMPLOYMENT IN  
14 PROVIDING THE SERVICE; OR

15 (d) PAID BY A VENDOR OF GOODS OR SERVICES TO A PERSON  
16 AUTHORIZED TO ACT AS A PURCHASING AGENT FOR A GROUP OF  
17 PROVIDERS, AND:

18 (I) THE PERSON HAS A WRITTEN CONTRACT WITH THE PROVIDERS  
19 THAT SPECIFIES THE AMOUNT TO BE PAID TO THE PERSON, WHICH AMOUNT  
20 MAY BE A FIXED AMOUNT OR A FIXED PERCENTAGE OF THE VALUE OF THE  
21 PURCHASE MADE BY THE PERSON; OR

22 (II) IN THE CASE OF A PROVIDER OF SERVICES, THE PERSON  
23 DISCLOSES, IN SUCH FORM AND MANNER AS THE DEPARTMENT OF HEALTH  
24 CARE POLICY AND FINANCING REQUIRES, TO THE PROVIDER AND, UPON  
25 REQUEST, TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING  
26 THE AMOUNT RECEIVED FROM EACH SUCH VENDOR WITH RESPECT TO  
27 PURCHASES MADE BY OR ON BEHALF OF THE PROVIDER.

1 (3) A VIOLATION OF THIS SECTION IS A CLASS 1 MISDEMEANOR AND  
2 SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

3 **24-31-810. Other remedies available.** (1) THE PROVISIONS OF  
4 THIS PART 8 ARE NOT INTENDED TO BE EXCLUSIVE REMEDIES AND DO NOT  
5 PRECLUDE THE USE OF ANY OTHER CRIMINAL OR CIVIL REMEDY FOR ANY  
6 ACT THAT IS IN VIOLATION OF THIS PART 8.

7 (2) IN ADDITION TO ANY PENALTIES PROVIDED FOR IN THIS PART 8,  
8 A CLAIM UNDER THE "COLORADO MEDICAL ASSISTANCE ACT" THAT  
9 INCLUDES ITEMS OR SERVICES RESULTING FROM A VIOLATION OF THIS PART  
10 8 OR THE FEDERAL "ANTI-KICKBACK STATUTE", 42 U.S.C. 1320a-7b (b),  
11 AS AMENDED, CONSTITUTES A FALSE CLAIM FOR PURPOSES OF THE  
12 "COLORADO MEDICAID FALSE CLAIMS ACT", SECTIONS 25.5-4-303.5 TO  
13 25.5-4-310.

14 **24-31-811. Limitation of action - three years.** AN ACTION  
15 BROUGHT UNDER THIS PART 8 MUST BE COMMENCED WITHIN THREE YEARS  
16 AFTER THE DATE OF DISCOVERY OF THE COMMISSION OF THE OFFENSE.  
17 WHEN A VIOLATION OF THIS SECTION IS BASED ON A SERIES OF ACTS  
18 PERFORMED AT DIFFERENT TIMES, THE LIMITATION PERIOD STARTS AT THE  
19 TIME THE LAST ACT IN THE SERIES IS DISCOVERED.

20 **SECTION 3. Potential appropriation.** Pursuant to section  
21 2-2-703, C.R.S., any bill that results in a net increase in periods of  
22 imprisonment in state correctional facilities must include an appropriation  
23 of money that is sufficient to cover any increased capital construction, any  
24 operational costs, and increased parole costs that are the result of the bill  
25 for the department of corrections in each of the first five years following  
26 the effective date of the bill. Because this act may increase periods of  
27 imprisonment, this act may require a five-year appropriation.

1           **SECTION 4. Act subject to petition - effective date.** This act  
2 takes effect January 1, 2019; except that, if a referendum petition is filed  
3 pursuant to section 1 (3) of article V of the state constitution against this  
4 act or an item, section, or part of this act within the ninety-day period  
5 after final adjournment of the general assembly, then the act, item,  
6 section, or part will not take effect unless approved by the people at the  
7 general election to be held in November 2018 and, in such case, will take  
8 effect on January 1, 2019, or on the date of the official declaration of the  
9 vote thereon by the governor, whichever is later.