

CHAPTER 146

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 18-1330

BY REPRESENTATIVE(S) Young, Hamner, Rankin, Arndt, Buckner, Esgar, Exum, Ginal, Jackson, Kennedy, Michaelson Jenet, Pettersen, Rosenthal, Valdez, Duran;
 also SENATOR(S) Moreno, Lambert, Lundberg, Baumgardner, Cooke, Crowder, Jones, Kefalas, Martinez Humenik, Merrifield, Sonnenberg, Tate, Todd.

AN ACT

CONCERNING A SUPPLEMENTAL STATE PAYMENT RELATING TO CERTAIN OFFICE-ADMINISTERED ONCOLOGY-RELATED DRUGS FOR QUALIFIED PROVIDERS UNDER THE MEDICAL ASSISTANCE PROGRAM WHO EXPERIENCED A REDUCTION IN REIMBURSEMENT PAYMENTS IN THE 2017-18 STATE FISCAL YEAR AS A RESULT OF THE IMPLEMENTATION OF THE FEDERAL FINAL RULES FOR COVERED OUTPATIENT DRUGS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 25.5-4-419 as follows:

25.5-4-419. Supplemental state payment to qualified providers - office-administered drugs - no federal financial participation - definition - rules - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "QUALIFIED PROVIDER" MEANS AN ENTITY THAT:

- (a) WAS ENROLLED WITH THE STATE DEPARTMENT AS OF JULY 1, 2017;
- (b) PROVIDED OFFICE-ADMINISTERED DRUGS UNDER THE MEDICAL ASSISTANCE PROGRAM BETWEEN JULY 1, 2017, AND DECEMBER 31, 2017;
- (c) HAS EXPERIENCED A REDUCTION IN AGGREGATE REIMBURSEMENT PAYMENTS FOR CERTAIN OFFICE-ADMINISTERED ONCOLOGY-RELATED DRUGS, AS DETERMINED BY THE STATE DEPARTMENT, PROVIDED FROM JULY 1, 2017, TO DECEMBER 31, 2017, AS A RESULT OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES FINAL RULE FOR COVERED OUTPATIENT DRUGS, 81 FR 5169, PUBLISHED IN THE FEDERAL REGISTER ON FEBRUARY 1, 2016; AND

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) SATISFIES ANY OTHER CRITERIA SPECIFIED BY RULE OF THE STATE BOARD.

(2) PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE STATE DEPARTMENT SHALL DISTRIBUTE MONEY APPROPRIATED FOR SUPPLEMENTAL, STATE-ONLY PAYMENTS TO QUALIFIED PROVIDERS.

(3)(a) THE STATE DEPARTMENT SHALL ALLOCATE THE MONEY APPROPRIATED FOR SUPPLEMENTAL PAYMENTS IN AMOUNTS PROPORTIONATE TO THE REDUCTION IN REIMBURSEMENT PAYMENTS RECEIVED BY QUALIFIED PROVIDERS FOR OFFICE-ADMINISTERED DRUGS AS A RESULT OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES FINAL RULE FOR COVERED OUTPATIENT DRUGS, 81 FR 5169, PUBLISHED IN THE FEDERAL REGISTER ON FEBRUARY 1, 2016.

(b) SUBJECT TO SUBSECTION (1)(a) OF THIS SECTION, THE STATE DEPARTMENT SHALL DETERMINE THE SUPPLEMENTAL PAYMENT FOR EACH QUALIFIED PROVIDER BASED ON THE FOLLOWING FACTORS:

(I) THE DIFFERENCE BETWEEN THE AMOUNT THAT THE QUALIFIED PROVIDER WOULD HAVE RECEIVED UNDER THE COLORADO MEDICAID FEE SCHEDULE, EFFECTIVE JUNE 1, 2017, PRIOR TO THE IMPLEMENTATION OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES FINAL RULE FOR COVERED OUTPATIENT DRUGS, 81 FR 5169, PUBLISHED IN THE FEDERAL REGISTER ON FEBRUARY 1, 2016, AND THE AMOUNT THE QUALIFIED PROVIDER RECEIVED UNDER THE COLORADO MEDICAID FEE SCHEDULE, EFFECTIVE JULY 1, 2017, FOR OFFICE-ADMINISTERED DRUGS PROVIDED BETWEEN JULY 1, 2017, AND DECEMBER 31, 2017;

(II) THE SERVICES ACTUALLY PROVIDED BY EACH QUALIFIED PROVIDER UNDER THE MEDICAL ASSISTANCE PROGRAM FROM JULY 1, 2017, TO DECEMBER 31, 2017; AND

(III) AVAILABLE APPROPRIATIONS.

(4) (a) ONCE THE STATE DEPARTMENT HAS DETERMINED THE AMOUNT OF THE SUPPLEMENTAL PAYMENTS, THE STATE DEPARTMENT SHALL ALLOW QUALIFIED PROVIDERS TO EXAMINE THE CALCULATION OF THE PAYMENTS PRIOR TO FINALIZING THE DISTRIBUTION OF FUNDING AND SHALL CONSIDER FEEDBACK FROM QUALIFIED PROVIDERS PRIOR TO FINALIZING THE DISTRIBUTION. A QUALIFIED PROVIDER MAY REQUEST THAT THE STATE DEPARTMENT RECALCULATE THE SUPPLEMENTAL PAYMENT AMOUNT WITHIN THIRTY DAYS AFTER NOTIFICATION OF THE SUPPLEMENTAL PAYMENT AMOUNT.

(b) THE STATE DEPARTMENT SHALL DISTRIBUTE THE SUPPLEMENTAL PAYMENTS TO QUALIFIED PROVIDERS NO LATER THAN DECEMBER 31, 2018. ONCE PAYMENTS HAVE BEEN DISTRIBUTED, THE STATE DEPARTMENT SHALL NOT RECALCULATE OR RE-ESTIMATE THE PAYMENTS FOR THE PURPOSE OF CHANGING THE DISTRIBUTION. THE STATE DEPARTMENT MAY RECOVER PAYMENTS MADE TO A QUALIFIED PROVIDER PURSUANT TO THIS SECTION IF THE STATE DEPARTMENT DETERMINES THAT THE PAYMENTS WERE MATERIALLY AFFECTED BY FRAUDULENT CLAIMS SUBMISSIONS MADE BY THAT QUALIFIED PROVIDER UNDER THE MEDICAL ASSISTANCE PROGRAM.

(5) THE STATE BOARD SHALL ADOPT ANY RULES NECESSARY TO IMPLEMENT THIS SECTION.

(6) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

SECTION 2. Appropriation. For the 2017-18 state fiscal year, \$754,000 is appropriated to the department of health care policy and financing. This appropriation is from the general fund. To implement this act, the department may use this appropriation for supplemental payments to qualified providers pursuant to section 25.5-4-419, C.R.S. Any money appropriated in this section that is not expended prior to July 1, 2018, is further appropriated to the department for the 2018-19 state fiscal year for the same purpose.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 23, 2018