

CHAPTER 206

HEALTH CARE POLICY AND FINANCING

HOUSE BILL 18-1329

BY REPRESENTATIVE(S) Rankin, Hamner, Young, Ginal, Lontine, Pettersen, Rosenthal, Buckner, Esgar, Exum, Garnett, Hansen, Herod, Hooton, Kraft-Tharp, Melton;
also SENATOR(S) Moreno, Lambert, Lundberg, Court, Crowder, Donovan, Fields, Garcia, Jones, Kefalas, Merrifield, Zenzinger.

AN ACT

CONCERNING A SUPPLEMENTAL STATE PAYMENT TO QUALIFIED PROVIDERS OF DURABLE MEDICAL EQUIPMENT WHO EXPERIENCED A DECREASE IN REIMBURSEMENT IN THE 2017-18 STATE FISCAL YEAR AS A RESULT OF THE IMPLEMENTATION OF THE FEDERAL "21ST CENTURY CURES ACT", 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** 25.5-4-421 as follows:

25.5-4-421. Supplemental state payment to qualified durable medical equipment providers - 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 JANUARY 1, 2018;

(b) PROVIDED DURABLE MEDICAL EQUIPMENT PURSUANT TO SECTION 25.5-4-416 BETWEEN JANUARY 1, 2018, AND MARCH 15, 2018;

(c) HAS EXPERIENCED A REDUCTION IN REIMBURSEMENT PAYMENTS FOR SERVICES PROVIDED FROM JANUARY 1, 2018, TO MARCH 15, 2018, AS A RESULT OF THE IMPLEMENTATION OF SECTION 1903 (i)(27) OF THE SOCIAL SECURITY ACT, EFFECTIVE JANUARY 1, 2018; AND

(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

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.

PAYMENTS TO QUALIFIED PROVIDERS.

(3)(a) THE STATE DEPARTMENT SHALL ALLOCATE THE MONEY APPROPRIATED FOR SUPPLEMENTAL PAYMENTS IN PROPORTION TO THE REDUCTION IN REIMBURSEMENT PAYMENTS RECEIVED BY THE QUALIFIED PROVIDERS AS A RESULT OF THE IMPLEMENTATION OF SECTION 1903 (i)(27) OF THE SOCIAL SECURITY ACT, EFFECTIVE JANUARY 1, 2018.

(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 DECEMBER 1, 2017, PRIOR TO THE IMPLEMENTATION OF SECTION 1903 (i)(27) OF THE SOCIAL SECURITY ACT, EFFECTIVE JANUARY 1, 2018, AND THE AMOUNT THE QUALIFIED PROVIDER RECEIVED UNDER THE COLORADO MEDICAID FEE SCHEDULE, EFFECTIVE JANUARY 1, 2018, FOR SERVICES PROVIDED FROM JANUARY 1, 2018, TO MARCH 15, 2018;

(II) THE SERVICES ACTUALLY PROVIDED BY EACH QUALIFIED PROVIDER UNDER THE MEDICAL ASSISTANCE PROGRAM FROM JANUARY 1, 2018, TO MARCH 15, 2018; 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, \$7,591,815 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 25.5-4-421, 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: May 4, 2018