

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 22-0608.01 Chelsea Princell x4335

HOUSE BILL 22-1268

HOUSE SPONSORSHIP

Holtorf and Amabile, Bernett, Bird, Boesenecker, Kipp, Lontine, Michaelson Jenet, Titone, Weissman

SENATE SPONSORSHIP

Ginal and Simpson, Fenberg, Hinrichsen, Jaquez Lewis, Kirkmeyer, Kolker, Lee, Liston, Moreno, Rodriguez, Sonnenberg, Zenzinger

House Committees

Public & Behavioral Health & Human Services
Appropriations

Senate Committees

Health & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING A REPORTING OF MEDICAID REIMBURSEMENT RATES PAID**
102 **TO MENTAL HEALTH PROVIDERS.**

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 requires the department of health care policy and financing (department) to prepare a report of medicaid reimbursement rates for community mental health providers and independent mental health and substance use treatment providers. The department must hire an independent auditor to prepare the report and provide recommendations on the report to be presented to the house of

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.

SENATE
3rd Reading Unamended
April 26, 2022

SENATE
2nd Reading Unamended
April 25, 2022

HOUSE
3rd Reading Unamended
April 6, 2022

HOUSE
Amended 2nd Reading
April 5, 2022

representatives public and behavioral health and human services committee. The department is required to prepare recommendations based on the audit findings and recommendations to create equitable payment models between providers of community mental health centers and independent mental health and substance use treatment providers providing comparable behavioral health services.

The audit conducted must reflect data from state fiscal year 2020-21 and include a determination and recommendations on the adequacy of reimbursement rates paid to medicaid mental health providers. The department must present an action plan to implement changes to reimbursement rates based on the findings of the audit to the joint budget committee before November 15, 2022. The department must also prepare an annual report and provide an update at the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing annually through August 1, 2025.

The bill requires the department to publish an annual cost report on or before March 15 of each year. The department must establish a cost report template and cost reporting schedule to assist providers in relaying cost information to the state department. The bill requires the department to establish a transparency report that translates the cost report data into meaningful and actionable information to ensure equity in provider compensation and adequate access to care for medicaid members.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 finds and declares that it is imperative to determine whether a disparity
4 exists, and the reasons for such possible disparities, in medicaid
5 reimbursement rates among providers of mental health services in an
6 effort to ensure transparency and parity in reimbursement rates.

7 **SECTION 2.** In Colorado Revised Statutes, **add** 25.5-1-132 as
8 follows:

9 **25.5-1-132. Report of medicaid reimbursement rates paid to**
10 **community mental health center providers and independent**
11 **providers - definition.** (1) ON OR BEFORE AUGUST 15, 2022, THE STATE
12 DEPARTMENT SHALL PUBLISH A **BEHAVIORAL HEALTH RATES** REPORT OF
13 MEDICAID REIMBURSEMENT RATES FOR PROVIDERS OF COMMUNITY

1 MENTAL HEALTH CENTERS, AS DEFINED IN SECTION 27-66-101 (2), AND
2 INDEPENDENT MENTAL HEALTH AND SUBSTANCE ABUSE TREATMENT
3 PROVIDERS, AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION. THE STATE
4 DEPARTMENT SHALL CONTRACT WITH AN INDEPENDENT AUDITOR TO
5 PREPARE THE BEHAVIORAL HEALTH RATES REPORT, AS DESCRIBED IN THIS
6 SUBSECTION (1). THE STATE DEPARTMENT SHALL PREPARE, IN
7 COORDINATION WITH THE BEHAVIORAL HEALTH RATES REPORT, A SET OF
8 RECOMMENDATIONS ON CREATING EQUITABLE PAYMENT AND PAYMENT
9 MODELS THAT MINIMIZE INAPPROPRIATE PAYMENT VARIATION IN
10 COMPARABLE BEHAVIORAL HEALTH SERVICES BETWEEN THE PROVIDERS
11 OF COMMUNITY MENTAL HEALTH CENTERS AND INDEPENDENT MENTAL
12 HEALTH AND SUBSTANCE USE TREATMENT PROVIDERS. THE STATE
13 DEPARTMENT SHALL PRESENT THE BEHAVIORAL HEALTH RATES REPORT
14 AND RECOMMENDATIONS TO THE HOUSE OF REPRESENTATIVES PUBLIC AND
15 BEHAVIORAL HEALTH AND HUMAN SERVICES COMMITTEE, OR ANY
16 SUCCESSOR COMMITTEE.

17 (2) THE REPORT PREPARED PURSUANT TO SUBSECTION (1) OF THIS
18 SECTION MUST REFLECT DATA FROM STATE FISCAL YEAR 2020-21 AND
19 IDENTIFY DISCREPANCIES, IF ANY, AND THE REASONS FOR SUCH
20 DISCREPANCIES IN MEDICAID REIMBURSEMENT RATES PAID TO PROVIDERS
21 OF A COMMUNITY MENTAL HEALTH CENTER AND INDEPENDENT MENTAL
22 HEALTH AND SUBSTANCE ABUSE TREATMENT PROVIDERS FOR
23 COMPARABLE SERVICES. THE REPORT MUST INCLUDE A DETERMINATION
24 OF AND RECOMMENDATIONS ON WHETHER REIMBURSEMENT RATES PAID
25 TO COMMUNITY MENTAL HEALTH CENTER PROVIDERS AND INDEPENDENT
26 MENTAL HEALTH AND SUBSTANCE USE TREATMENT PROVIDERS ARE
27 ADEQUATE TO MEET OR EXCEED NETWORK ADEQUACY STANDARDS IN

1 EVERY REGION OF THE STATE. THE DATA MUST BE AGGREGATED TO
2 ENSURE INDIVIDUAL COMMUNITY MENTAL HEALTH CENTERS AND
3 INDEPENDENT PROVIDERS ARE NOT IDENTIFIABLE AND MUST COMPLY WITH
4 ANY OTHER STATE AND FEDERAL PRIVACY LAWS. ON OR BEFORE
5 NOVEMBER 15, 2022, THE STATE DEPARTMENT SHALL PRESENT AN ACTION
6 PLAN FOR IMPLEMENTATION TO THE JOINT BUDGET COMMITTEE. THE
7 STATE DEPARTMENT SHALL PRODUCE A PROGRESS REPORT ON THE STATE
8 DEPARTMENT'S PROGRESS MADE IN IMPLEMENTING THE ACTION PLAN
9 PRESENTED TO THE JOINT BUDGET COMMITTEE ON NOVEMBER 15, 2022,
10 ON OR BEFORE AUGUST 1, 2023, AND ANNUALLY THEREAFTER THROUGH
11 AUGUST 1, 2025, AND PROVIDE AN UPDATE DURING ITS "STATE
12 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
13 (SMART) GOVERNMENT ACT" HEARING PURSUANT TO SECTION 2-7-203
14 ON THE FINDINGS AND ADDITIONAL RECOMMENDATIONS. THE STATE
15 DEPARTMENT MUST FULLY IMPLEMENT THE ACTION PLAN NO LATER THAN
16 DECEMBER 31, 2025.

17 (3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
18 REQUIRES:

19 (a) "INDEPENDENT MENTAL HEALTH AND SUBSTANCE ABUSE
20 TREATMENT PROVIDERS" MEANS ANY OUTPATIENT BEHAVIORAL HEALTH
21 PROVIDER ENROLLED IN MEDICAID AND CONTRACTED WITH A MANAGED
22 CARE ENTITY, AS DEFINED IN SECTION 25.5-5-403 (4), THAT IS NOT
23 LICENSED OR DESIGNATED AS A COMMUNITY MENTAL HEALTH CENTER.

24 **SECTION 3.** In Colorado Revised Statutes, **add** 25.5-4-403.1 as
25 follows:

26 **25.5-4-403.1. Providers - community mental health centers**
27 **- cost reporting.** (1) FOR THE PURPOSES OF INCREASED PAYMENT

1 METHODOLOGY TRANSPARENCY, NO LATER THAN MARCH 15, 2023, AND
2 EACH MARCH 15 THEREAFTER, THE STATE DEPARTMENT SHALL:

3 (a) PUBLISH COST REPORTS FOR COMMUNITY MENTAL HEALTH
4 CENTERS;

5 (b) ESTABLISH A COST-REPORTING TEMPLATE AND
6 COST-REPORTING SCHEDULE TO ASSIST PROVIDERS IN PROVIDING COST
7 REPORTS;

8 (c) REDACT INFORMATION TO MAINTAIN COMPLIANCE WITH STATE
9 AND FEDERAL LAW INCLUDING, BUT NOT LIMITED TO, PERSONALLY
10 IDENTIFYING INFORMATION AND PROTECTED HEALTH INFORMATION AS
11 NECESSARY TO PROTECT THE PRIVACY OF PATIENTS;

12 (d) CREATE A PUBLICLY AVAILABLE WEBSITE THAT PROVIDES
13 INSIGHT TO MEDICAID MEMBERS, MEDICAID PROVIDERS, AND MEMBERS OF
14 THE PUBLIC REGARDING BEHAVIORAL HEALTH REIMBURSEMENT RATES.
15 THE WEBSITE MUST INCLUDE THE FOLLOWING:

16 (I) ALL COMPLETED COST REPORTS FOR EACH BEHAVIORAL HEALTH
17 SAFETY NET PROVIDER, AS DEFINED IN 27-50-101 (7);

18 (II) AN OVERVIEW OF THE PURPOSE OF THE COST REPORT
19 DESCRIBED IN THIS SUBSECTION (1);

20 (III) INFORMATION ON HOW TO INTERPRET THE COST REPORTS AND
21 WHERE TO FIND INFORMATION IN THE COST REPORTS;

22 (IV) AN OVERVIEW OF:

23 (A) HOW REIMBURSEMENT RATES ARE DETERMINED;

24 (B) WHAT CONSTITUTES A REASONABLE AND ALLOWABLE COST;

25 AND

26 (C) HOW VALUE-BASED PAYMENTS IMPACT REIMBURSEMENT
27 RATES; AND

1 (V) THE STATE DEPARTMENT'S PLAN TO IMPROVE BEHAVIORAL
2 HEALTH REIMBURSEMENT RATES AND ANNUAL UPDATES TO THE PLAN.

3 **SECTION 4. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, or safety.