



## Legislative Council Staff

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# Revised Fiscal Note

(replaces fiscal note dated March 9, 2023)

<b>Drafting Number:</b>	LLS 23-0404	<b>Date:</b>	April 11, 2023
<b>Prime Sponsors:</b>	Rep. Sirota; Boesenecker Sen. Mullica; Cutter	<b>Bill Status:</b>	House Appropriations
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**Bill Topic:**           **LIMITS ON HOSPITAL FACILITY FEES**

<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill places limitations on hospital facility fees and requires the Department of Health Care Policy and Financing to update information and restrictions and to report on facility fees. The bill increases state expenditures and impacts state revenue on an ongoing basis.

**Appropriation Summary:** For FY 2023-24, the bill requires a net appropriation of \$622,356 to the Department of Health Care Policy and Financing.

**Fiscal Note Status:** This revised fiscal note reflects the introduced bill, as amended by the House Health and Insurance Committee.

**Table 1**  
**State Fiscal Impacts Under HB 23-1215**

		Budget Year FY 2023-24	Out Year FY 2024-25
<b>Revenue</b>		-	-
<b>Expenditures</b>	General Fund	\$641,019	\$102,760
	Federal Funds	(\$18,663)	-
	<b>Total Expenditures</b>	<b>\$622,356</b>	<b>\$102,760</b>
<b>Transfers</b>		-	-
<b>Other Budget Impacts</b>	General Fund Reserve	\$96,153	\$15,414

## Summary of Legislation

The bill prohibits certain health care providers from charging a facility fee for services provided via telehealth or for preventative or primary care services provided in an outpatient setting. Providers are required to disclose information about facility fees to consumers and post this information in their facilities. Failure to comply with these provisions is a deceptive trade practice in the business of insurance. The Department of Health Care Policy and Financing (HCPF) must use data from the All-Payers Health Claims Database to produce an annual report on incurred facility fees beginning in FY 2024-25.

Additionally, HCPF must produce a separate, one-time report by December 1, 2023, that details the impact of facilities fees. In developing the report, HCPF must hire a contractor to conduct actuarial research and economic modeling. If necessary, the Attorney General may issue a civil investigative demand for information to produce the report.

## State Revenue

Beginning in FY 2023-24, the bill decreases state revenue from hospital fees, and may increase state revenue from civil penalties and filing fees.

**Healthcare Affordability and Sustainability (HAS) fee.** State revenue from the HAS fee will decrease by an indeterminate amount. The bill reduces the amount a hospital can charge for an outpatient procedure by limiting facility fees for certain services. HCPF collects the HAS fee from hospitals based on their outpatient hospital charges. The impact is indeterminate as HCPF does not have data on facility fee contribution to the HAS fee. In addition, there may be indirect impacts on rates and utilization, which will impact the hospital revenue subject to the fee. This revenue is not subject to TABOR. Impacts to HAS fee revenue will be adjusted for through the normal budget process.

**Civil penalties.** A person committing a deceptive trade practice in the business of insurance may be subject to a civil penalty of up to \$3,000 for each act, with potentially higher penalties for willful or repeat violations, up to a maximum annual penalty specified in statute. Given that insurers are assumed to comply with the requirements of the bill, and the wide range in potential penalty amounts in any cases that are pursued by the commissioner, the fiscal note cannot estimate the potential impact of these civil penalties. Penalty revenue is deposited into the General Fund and subject to TABOR.

**Filing fees.** The bill may increase revenue to the Judicial Department from an increase in civil case filings to appeal deceptive trade practice actions taken by the Division of Insurance in DORA. Revenue from filing fees is subject to TABOR.

## State Expenditures

The bill increases state expenditures in Department of Health Care Policy and Financing (HCPF) by \$622,000 in FY 2023-24 and \$103,000 in FY 2024-25, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2**  
**Expenditures Under HB 23-1215**

	FY 2023-	FY 2024-25
<b>Department of Health Care Policy and Financing</b>		
Personal Services / Operating Expenses (+0.5 FTE - GF Only)	\$37,327	-
Personal Services / Operating Expenses (-0.5 FTE - GF and FF)	(\$37,327)	-
Annual Report Contractor	\$183,876	\$102,760
One-Time Report Contractor	\$438,480	-
	<b><u>Total Cost</u></b>	<b><u>\$102,760</u></b>
	<i>General Fund</i>	\$102,760
	<i>Federal Funds</i>	\$0

**Department of Health Care Policy and Financing.** HCPF requires 0.5 FTE and contractor resources in FY 2023-24 only to produce the one-time report, and requires contractor resources on an ongoing basis to produce the annual report.

- **Staff.** 0.5 FTE is required in FY 2023-24 only to oversee the contractor and produce the final one-time report. This can be performed by existing staff who perform similar work, resulting in no net change in expenditures. However, because this work is not eligible for a federal match, HCPF requires \$18,663 in General Fund to cover a corresponding reduction in federal funds. It is assumed that using existing staff and foregoing the federal match is more cost-efficient than hiring new staff.
- **Annual reports.** Based on a contractor estimate, HCPF requires \$184,000 in FY 2023-24 and \$103,000 in subsequent years to update the All-Payer Health Claims Database to accommodate the required data on facility fees. Since this work does not exclusively apply to Medicaid clients, HCPF cannot claim its usual 90 percent federal match on system changes.
- **One-time report.** In addition to the staffing reallocation, based on a contractor estimate, HCPF requires \$438,000 to engage with stakeholders, collect data, and conduct the actuarial research and economic modeling. Since this work does not exclusively apply to Medicaid clients, HCPF cannot claim its usual federal match for any time spent on this work.

**Department of Law.** The bill minimally increases workload to the extent that civil investigative demands are issued.

**Judicial Department.** The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that online marketplaces will abide by the law and that any violations of the legislation will result in minimal number of new cases; no change in appropriations is required.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## State Appropriations

For FY 2023-24, the bill requires the following changes in appropriations:

- an increase of \$622,356 from the General Fund for contractor services;
- an increase of \$18,663 from the General Fund, including \$18,326 for personal services and \$337 for operating expenses, and a corresponding decrease in federal funds.

## State and Local Government Contacts

Health Care Policy and Financing  
Public Health and Environment

Information Technology  
Regulatory Agencies

Judicial  
Law