

HB1139\_L.003

## HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Public Health Care & Human Services.HB17-1139 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. Legislative declaration. (1) The general  
4 assembly finds and declares that:

5 (a) Colorado's medicaid program provides critical health care  
6 services to many of the state's residents;

7 (b) It is in the best interest of Colorado to do everything possible  
8 to minimize error, inefficiency, and fraud in the medicaid program to  
9 ensure the long-term viability of this safety-net program and to protect  
10 clients from prohibited billing practices that harm them financially and  
11 hurt their credit;

12 (c) The vast majority of providers enrolled in the medicaid  
13 program are in compliance with the department of health care policy and  
14 financing's (state department) rules, billing manuals, and provider  
15 bulletins, and serve medicaid clients well;

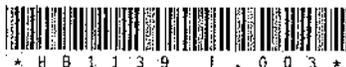
16 (d) For the small number of providers out of compliance with the  
17 state department's rules, billing manuals, and provider bulletins, the state  
18 department has limited options to help those providers come into  
19 compliance before terminating the provider from the national medicaid  
20 provider network; and

21 (e) The state department should have intermediate options to  
22 ensure that providers out of compliance can come into compliance and  
23 remained enrolled in the medicaid program.

24 (2) Now, therefore, it is the intent of the general assembly that the  
25 state department use the intermediate options outlined in this legislation  
26 judiciously and that the state department collaborate with providers and  
27 provider associations to improve compliance and understanding of the  
28 state department's rules and policies.

29 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-301, amend  
30 (1)(a)(II.5)(A); repeal (1)(a)(II.5)(B); and add (15) as follows:

31 **25.5-4-301. Recoveries - overpayments - penalties - interest -**  
32 **adjustments - liens - review or audit procedures.** (1) (a) (II.5) (A) A  
33 provider of medical services shall be liable to a recipient or the estate of  
34 a recipient if the provider knowingly receives or seeks collection through  
35 a third party of an amount in violation of subparagraph (I) of this  
36 paragraph (a). The provider shall be liable for the amount unlawfully  
37 received, statutory interest on the amount received from the date of



1 receipt until the date of repayment, plus a civil monetary penalty equal to  
2 one-half of the amount unlawfully received WHO BILLS OR SEEKS  
3 COLLECTION THROUGH A THIRD PARTY FROM A RECIPIENT OR THE ESTATE  
4 OF A RECIPIENT FOR MEDICAL SERVICES AUTHORIZED BY TITLE XIX OF THE  
5 SOCIAL SECURITY ACT IN AN AMOUNT IN VIOLATION OF SUBSECTION  
6 (1)(a)(I) OF THIS SECTION IS SUBJECT TO A CIVIL MONETARY PENALTY OF  
7 UP TO THREE TIMES THE AMOUNT BILLED OR SENT TO COLLECTIONS. A  
8 PROVIDER OF MEDICAL SERVICES WHO, WITHIN THIRTY DAYS OF  
9 NOTIFICATION BY THE STATE DEPARTMENT, OR LONGER IF APPROVED BY  
10 THE STATE DEPARTMENT, VOIDS THE BILL, RETURNS ANY AMOUNT  
11 UNLAWFULLY RECEIVED, AND MAKES EVERY REASONABLE EFFORT TO  
12 RESOLVE ANY COLLECTION ACTIONS SO THAT THE RECIPIENT OR THE  
13 ESTATE OF THE RECIPIENT HAS NO ADVERSE FINANCIAL CONSEQUENCES IS  
14 NOT LIABLE FOR ANY CIVIL MONETARY PENALTY. When determining  
15 income or resources for purposes of determining eligibility or benefit  
16 amounts for any state-funded program under this title TITLE 25.5, the state  
17 department shall exclude from consideration any moneys MONEY received  
18 by a recipient pursuant to this subparagraph ~~(H.5)~~ SUBSECTION  
19 (1)(a)(II.5). THE IMPOSITION OF A CIVIL MONETARY PENALTY BY THE  
20 STATE DEPARTMENT MAY BE APPEALED ADMINISTRATIVELY.

21 (B) ~~In order to establish a claim for the penalty established by~~  
22 ~~sub-subparagraph (A) of this subparagraph (H.5), a recipient or the estate~~  
23 ~~of a recipient shall forward a notice of claim to the state department and~~  
24 ~~to the provider. The executive director of the state department shall~~  
25 ~~promulgate rules for an informal hearing process for determination of the~~  
26 ~~issue that shall allow a provider an opportunity to be heard.~~

27 (15) (a) (I) THE STATE DEPARTMENT MAY REQUEST A WRITTEN  
28 RESPONSE FROM ANY PROVIDER WHO FAILS TO COMPLY WITH THE RULES,  
29 MANUALS, OR BULLETINS ISSUED BY THE STATE DEPARTMENT, STATE  
30 BOARD, OR THE STATE DEPARTMENT'S FISCAL AGENT, OR FROM ANY  
31 PROVIDER WHOSE ACTIVITIES ENDANGER THE HEALTH, SAFETY, OR  
32 WELFARE OF MEDICAID RECIPIENTS. THE WRITTEN RESPONSE MUST  
33 DESCRIBE HOW THE PROVIDER WILL COME INTO AND ENSURE FUTURE  
34 COMPLIANCE. IF A WRITTEN RESPONSE IS REQUESTED, A PROVIDER HAS  
35 THIRTY DAYS, OR LONGER IF APPROVED BY THE STATE DEPARTMENT, TO  
36 SUBMIT THE WRITTEN RESPONSE.

37 (II) IF THE PROVIDER DOES NOT AGREE WITH THE STATE  
38 DEPARTMENT'S FINDINGS THAT RESULTED IN THE REQUEST ISSUED  
39 PURSUANT TO SUBSECTION (15)(a)(I) OF THIS SECTION, THEN THE  
40 PROVIDER'S WRITTEN RESPONSE MUST INCLUDE AN EXPLANATION AND  
41 SPECIFIC REASONS FOR THE PROVIDER'S DISAGREEMENT.

42 (b) (I) BASED ON A GOOD CAUSE DETERMINATION THAT THE  
43 PROVIDER HAS NOT COMPLIED WITH SUBSECTION (15)(a) OF THIS SECTION,



1 OR WITH RULES, MANUALS, OR BULLETINS ISSUED BY THE STATE  
2 DEPARTMENT, STATE BOARD, OR THE STATE DEPARTMENT'S FISCAL AGENT,  
3 OR THAT THE PROVIDER IS ENGAGING IN ACTIVITIES THAT ENDANGER THE  
4 HEALTH, SAFETY, OR WELFARE OF MEDICAID RECIPIENTS, THE STATE  
5 DEPARTMENT MAY SUSPEND THE ENROLLMENT OF A PROVIDER FOR A  
6 PERIOD OF UP TO ONE YEAR OR UNTIL THOSE ACTIVITIES ARE CORRECTED.

7 (II) THE STATE DEPARTMENT SHALL PROVIDE NOTICE TO THE  
8 PROVIDER OF THE SUSPENSION OF ENROLLMENT THAT INCLUDES AN  
9 EXPLANATION OF THE GOOD CAUSE DETERMINATION SUPPORTING THE  
10 SUSPENSION AND OF THE PROVIDER'S RIGHT TO APPEAL THE SUSPENSION  
11 ADMINISTRATIVELY AS AN ADVERSE ACTION BY THE STATE DEPARTMENT.

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

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