

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REREVISED

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

LLS NO. 10-0166.01 Christy Chase

SENATE BILL 10-020

SENATE SPONSORSHIP

Boyd, Foster, Schwartz

HOUSE SPONSORSHIP

Massey, Apuan

Senate Committees

Health and Human Services
Appropriations

House Committees

Health and Human Services

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO ADDRESS THE FINANCIAL VIABILITY OF**
102 **THE COVERCOLORADO PROGRAM.**

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://www.leg.state.co.us/billsummaries.>)

Health Care Task Force. The bill authorizes the board of directors (board) of the CoverColorado program to establish a schedule of fees for compensating health care providers that render covered health care services to CoverColorado participants. The bill also prohibits health care providers from billing participants for costs in excess of the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unam ended
April 14, 2010

HOUSE
Am ended 2nd Reading
April 13, 2010

SENATE
3rd Reading Unam ended
March 16, 2010

SENATE
Am ended 2nd Reading
March 15, 2010

applicable fee on the fee schedule for services covered by the program.
Additionally, the bill authorizes the board to maintain enrollment in the CoverColorado program consistent with the program's financial resources.

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

2 **SECTION 1.** 10-8-506 (1) (m), Colorado Revised Statutes, is
3 amended, and the said 10-8-506 (1) is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

5 **10-8-506. Board - powers and duties.** (1) The board shall be
6 the governing body of the program and shall have all powers necessary
7 to implement the provisions of this part 5. In addition, the board shall
8 have the specific authority to:

9 (m) Establish procedures for the reasonable advance notice to
10 interested parties of the agenda for meetings of the board; ~~and~~

11 (o) ESTABLISH ONE OR MORE FEE SCHEDULES, IN ACCORDANCE
12 WITH SECTION 10-8-512.5, SETTING THE AMOUNT THAT ALL MEDICAL,
13 SURGICAL, HOSPITAL, AND OTHER HEALTH CARE SERVICE PROVIDERS WILL
14 BE COMPENSATED BY THE PROGRAM FOR PROVIDING SERVICES COVERED
15 BY THE PROGRAM TO A COVERCOLORADO PARTICIPANT; AND

16 (p) (I) MAINTAIN ENROLLMENT CONSISTENT WITH AND WITHIN THE
17 AVAILABLE FINANCIAL RESOURCES OF THE PROGRAM, IN ACCORDANCE
18 WITH CRITERIA AND PROCEDURES ESTABLISHED BY THE BOARD AND
19 SUBJECT TO APPLICABLE FEDERAL LAW AND SUBPARAGRAPH (II) OF THIS
20 PARAGRAPH (p).

21 (II) PRIOR TO IMPLEMENTING A LIMITATION ON NEW ENROLLMENT
22 IN THE PROGRAM PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH
23 (p), THE BOARD SHALL NOTIFY THE JOINT BUDGET COMMITTEE:

1 (A) IN CONJUNCTION WITH ITS ANNUAL REPORT SUBMITTED
2 PURSUANT TO SECTION 10-8-530 (4) (c), OF THE NEED TO LIMIT NEW
3 ENROLLMENT IN THE PROGRAM BASED ON PROJECTIONS OF PROGRAM
4 ENROLLMENT AND AVAILABLE FINANCIAL RESOURCES FOR THE PROGRAM.
5 THE BOARD SHALL NOT IMPLEMENT A LIMITATION ON NEW ENROLLMENT
6 PRIOR TO THE END OF THE NEXT REGULAR SESSION OF THE GENERAL
7 ASSEMBLY FOLLOWING THE NOTICE SUBMITTED TO THE JOINT BUDGET
8 COMMITTEE PURSUANT TO THIS SUB-SUBPARAGRAPH (A), UNLESS THE
9 JOINT BUDGET COMMITTEE NOTIFIES THE BOARD, PRIOR TO THE END OF THE
10 NEXT REGULAR SESSION, THAT ADDITIONAL FUNDING FOR THE PROGRAM
11 IS UNAVAILABLE; OR

12 (B) IN THE CASE OF A FINANCIAL EMERGENCY OR THREAT OF
13 INSOLVENCY THAT ARISES AT ANY TIME DURING THE FISCAL YEAR, OF THE
14 IMMEDIATE NEED TO LIMIT NEW ENROLLMENT IN THE PROGRAM. THE
15 BOARD SHALL NOT IMPLEMENT A LIMITATION ON NEW ENROLLMENT
16 SOONER THAN SIXTY DAYS AFTER PROVIDING NOTICE TO THE JOINT
17 BUDGET COMMITTEE PURSUANT TO THIS SUB-SUBPARAGRAPH (B), DURING
18 WHICH TIME THE JOINT BUDGET COMMITTEE SHALL DETERMINE WHETHER
19 ADDITIONAL FUNDING WILL BE MADE AVAILABLE TO THE PROGRAM. THE
20 JOINT BUDGET COMMITTEE SHALL NOTIFY THE BOARD WITHIN SAID SIXTY
21 DAYS WHETHER ADDITIONAL FUNDING IS AVAILABLE, AND IF THE JOINT
22 BUDGET COMMITTEE NOTIFIES THE BOARD THAT NO ADDITIONAL FUNDING
23 IS AVAILABLE, THE BOARD MAY IMPLEMENT THE PROPOSED LIMITATION ON
24 NEW ENROLLMENT.

25 **SECTION 2.** Part 5 of article 8 of title 10, Colorado Revised
26 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
27 read:

1 **10-8-512.5. Fee schedule - compensation of health care**

2 **providers.** (1) (a) THE BOARD MAY ESTABLISH ONE OR MORE FEE
3 SCHEDULES SETTING THE AMOUNT THAT THE PROGRAM WILL COMPENSATE
4 ALL MEDICAL, SURGICAL, HOSPITAL, AND OTHER HEALTH CARE SERVICE
5 PROVIDERS WHO PROVIDE SERVICES COVERED BY THE PROGRAM TO A
6 COVERCOLORADO PARTICIPANT. A FEE SCHEDULE ESTABLISHED
7 PURSUANT TO THIS SECTION MAY BE BASED ON VARIOUS REIMBURSEMENT
8 METHODOLOGIES COMMONLY USED IN THE HEALTH INSURANCE INDUSTRY,
9 INCLUDING DISCOUNTED BILLED CHARGES, CASE RATES, THE FEE
10 SCHEDULE ESTABLISHED PURSUANT TO SECTION 8-42-101 (3) (a), C.R.S.,
11 FOR SERVICES PROVIDED BY PHYSICIANS TO INJURED WORKERS UNDER THE
12 "WORKERS' COMPENSATION ACT OF COLORADO", AND MULTIPLES OF
13 MEDICARE REIMBURSEMENT, BUT SHALL BE SET AT AMOUNTS THAT
14 EXCEED THE REIMBURSEMENT GENERALLY PAID TO ANY CATEGORY OF
15 PROVIDER BY MEDICARE. ADDITIONALLY, IN DEVELOPING A FEE SCHEDULE
16 PURSUANT TO THIS SECTION, THE BOARD SHALL CONSIDER AT LEAST THE
17 FOLLOWING FACTORS:

- 18 (I) THE COSTS SAVINGS TO THE PROGRAM;
- 19 (II) THE EQUITY OF THE FEE SCHEDULE FOR PROVIDERS;
- 20 (III) THE IMPACT A FEE SCHEDULE MAY HAVE ON THE COST SHIFT
21 TO OTHER PAYERS; AND
- 22 (IV) THE IMPACT A FEE SCHEDULE MAY HAVE ON ACCESS TO
23 PROVIDERS.

24 (b) (I) PRIOR TO ESTABLISHING A FEE SCHEDULE PURSUANT TO THIS
25 SECTION, THE BOARD SHALL CREATE ONE OR MORE MECHANISMS, SUCH AS
26 AN ADVISORY REIMBURSEMENT COMMITTEE, TO ASSIST AND MAKE
27 RECOMMENDATIONS TO THE BOARD IN ESTABLISHING THE FEE SCHEDULE.

1 THE BOARD SHALL TAKE SUCH RECOMMENDATIONS AND OTHER INPUT
2 FROM PROVIDERS INTO CONSIDERATION WHEN ESTABLISHING A FEE
3 SCHEDULE.

4 (II) IF THE BOARD ESTABLISHES A FEE SCHEDULE, THE BOARD
5 SHALL REVIEW THE FEE SCHEDULE ANNUALLY TO DETERMINE WHETHER
6 ANY MODIFICATIONS ARE NEEDED. PRIOR TO DETERMINING WHETHER TO
7 MODIFY OR ACTUALLY MODIFYING THE FEE SCHEDULE, THE BOARD SHALL
8 CONSULT WITH AND CONSIDER THE RECOMMENDATIONS OF ANY ADVISORY
9 REIMBURSEMENT COMMITTEE OR OTHER MECHANISM CREATED PURSUANT
10 TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) AND SHALL CONSIDER ANY
11 OTHER INPUT FROM PROVIDERS.

12 (III) ANY MECHANISMS FOR INPUT CREATED BY THE BOARD
13 PURSUANT TO THIS PARAGRAPH (b), INCLUDING AN ADVISORY
14 REIMBURSEMENT COMMITTEE, SHALL BE PUBLIC AND OPEN TO
15 PARTICIPATION BY HEALTH CARE PROVIDERS, HOSPITAL REPRESENTATIVES,
16 CONSUMERS, AND OTHER STAKEHOLDERS WHO POSSESS INFORMATION
17 THAT WILL CONTRIBUTE TO AND ASSIST IN THE ESTABLISHMENT OR
18 MODIFICATION OF A FEE SCHEDULE AS AUTHORIZED BY THIS SECTION.

19 (c) ANY FEE SCHEDULE ESTABLISHED PURSUANT TO THIS SECTION
20 SHALL TAKE EFFECT NO SOONER THAN JANUARY 1, 2011, OR ON SUCH
21 LATER DATE AS DETERMINED BY THE BOARD.

22 (d) IF THE ESTABLISHED FEE SCHEDULE RESULTS IN SAVINGS TO
23 THE PROGRAM, THE BOARD SHALL USE THE SAVINGS TO REDUCE THE
24 AMOUNTS NEEDED FROM PARTICIPANTS, INSURERS, AND THE UNCLAIMED
25 PROPERTY TRUST FUND PURSUANT TO SECTION 10-8-530 (1) FOR THE
26 TOTAL FUNDING FOR THE PROGRAM, AS DEFINED IN SECTION 10-8-530 (1)

27 (e) (I).

1 (2) (a) A HEALTH CARE PROVIDER, HEALTH CARE FACILITY,
2 EMERGENCY SERVICE PROVIDER, OR OTHER PERSON OR ENTITY PROVIDING
3 HEALTH CARE SERVICES TO A PARTICIPANT SHALL NOT CONTRACT WITH OR
4 OTHERWISE DEMAND PAYMENT FROM [REDACTED] A PARTICIPANT OR THE
5 PROGRAM FOR AMOUNTS FOR SERVICES COVERED BY THE PROGRAM THAT
6 ARE IN EXCESS OF THE APPLICABLE FEE ON A FEE SCHEDULE ESTABLISHED
7 PURSUANT TO THIS SECTION. ANY DEMAND FOR PAYMENT OF CHARGES
8 THAT EXCEEDS [REDACTED] THE APPLICABLE FEE ON THE FEE SCHEDULE SHALL BE
9 UNLAWFUL, VOID, AND UNENFORCEABLE AS A DEBT.

10 (b) NOTHING IN THIS SUBSECTION (2) PRECLUDES A HEALTH CARE
11 PROVIDER, HEALTH CARE FACILITY, EMERGENCY SERVICE PROVIDER, OR
12 OTHER PERSON OR ENTITY PROVIDING HEALTH CARE SERVICES TO A
13 PARTICIPANT FROM BILLING OR CHARGING A PARTICIPANT FOR APPLICABLE
14 COINSURANCE, DEDUCTIBLE, OR COPAYMENT AMOUNTS OR FOR SERVICES
15 NOT COVERED BY THE PROGRAM.

16
17 **SECTION 3.** 10-8-526, Colorado Revised Statutes, is amended
18 to read:

19 **10-8-526. Expenses covered.** Health benefit plans issued
20 pursuant to this part 5 shall cover expenses incurred for health care
21 services or articles or items related to such services or articles that are
22 medically necessary, subject to the cost containment controls authorized
23 by this part 5; except that such coverage shall not extend to costs for such
24 services or articles over and above ~~the reasonable and customary charge~~
25 ~~in the locality~~ ANY SCHEDULE OF FEES ESTABLISHED PURSUANT TO
26 SECTION 10-8-512.5 and shall not extend to services or articles that are
27 not prescribed by a physician who is licensed to practice in the state or

1 jurisdiction where such services or articles are provided. Such services
2 shall include but not be limited to care for acute illnesses and ongoing
3 care for the treatment of the insured's uninsurable condition. Coverage
4 under a health benefit plan shall be at least comparable to that issued on
5 a group basis in the market.

6 **SECTION 4.** 10-8-513.5 (3), Colorado Revised Statutes, is
7 amended to read:

8 **10-8-513.5. Federally eligible individuals.** (3) ~~The program~~
9 ~~may, but need not, offer the federally eligible individual the same health~~
10 ~~benefit plans offered to individuals eligible under section 10-8-513;~~
11 ~~except that any health benefit plan offered shall meet the requirements of~~
12 ~~this part 5 with respect to benefits and premiums.~~ THE REQUIREMENTS OF
13 THIS PART 5 REGARDING BENEFITS, PREMIUMS, AND LIFETIME OR ANNUAL
14 BENEFIT LIMITS, AND THE PREEXISTING CONDITION LIMITATION PERIODS
15 ALLOWED BY SECTION 10-8-516, APPLY TO FEDERALLY ELIGIBLE
16 INDIVIDUALS WHO PARTICIPATE IN THE PROGRAM, UNLESS OTHERWISE
17 PROVIDED IN THE FEDERAL LAW ESTABLISHING THE ELIGIBILITY FOR THE
18 INDIVIDUALS.

19 **SECTION 5.** 10-8-530 (1), Colorado Revised Statutes, is
20 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

21 **10-8-530. Funding of program - rules - repeal.**
22 (1) (b.5) NOTHING IN PARAGRAPH (b) OF THIS SUBSECTION (1) LIMITS THE
23 ABILITY OF THE PROGRAM TO APPLY FOR, ACCEPT, OR EXPEND FEDERAL
24 FUNDS, GRANTS, OR DONATIONS PROVIDED TO THE PROGRAM FOR THE
25 IMPLEMENTATION AND ADMINISTRATION OF A TEMPORARY HIGH RISK
26 HEALTH INSURANCE POOL PROGRAM AS REQUIRED BY SECTION 1101 OF
27 THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT", H.R.

1 3590, PUB.L. 111-148, OR FOR THE PAYMENT OF CLAIM EXPENSES OF THE
2 FEDERALLY ELIGIBLE INDIVIDUALS WHO PARTICIPATE IN THE PROGRAM
3 UNDER A TEMPORARY HIGH RISK HEALTH INSURANCE POOL PROGRAM
4 PURSUANT TO SAID FEDERAL ACT. ANY FEDERAL FUNDS, GRANTS, OR
5 DONATIONS PROVIDED TO THE PROGRAM FOR THE PURPOSES SPECIFIED IN
6 THIS PARAGRAPH (b.5) SHALL NOT BE COMMINGLED WITH MONEYS
7 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) AND SHALL NOT BE
8 INCLUDED AS A SOURCE OF FUNDING OR AS PART OF THE FUNDING
9 FORMULA FOR THE PROGRAM AS SET FORTH IN PARAGRAPH (b) OF THIS
10 SUBSECTION (1).

11 **SECTION 6. Effective date.** This act shall take effect July 1,
12 2010.

13 **SECTION 7. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.