

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0842.01 Brita Darling x2241

SENATE BILL 16-120

SENATE SPONSORSHIP

Roberts,

HOUSE SPONSORSHIP

Coram,

Senate Committees

Health & Human Services
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROVIDING AN EXPLANATION OF BENEFITS TO MEDICAID**
102 **RECIPIENTS FOR PURPOSES OF DISCOVERING POTENTIAL**
103 **MEDICAID FRAUD.**

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/bills summaries>.)

The bill requires the department of health care policy and financing (department), by a certain date, to develop and implement an explanation of benefits for medicaid recipients. The purpose of the explanation of benefits is to inform a medicaid client of a claim for reimbursement made for services provided to the client or on his or her

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.*

behalf, so that the client may discover and report administrative or provider errors or fraudulent claims for reimbursement. The bill specifies certain information that must be included in the explanation of benefits. Specifically, the explanation of benefits must include information regarding at least one method for a medicaid client to report errors in the explanation of benefits.

The department shall work with medicaid clients and medicaid advocates to develop an explanation of benefits and educational materials that are understandable to medicaid clients.

The explanation of benefits must be sent to clients not less than bimonthly, and the department shall determine the most cost-effective means for producing and distributing the explanation of benefits, which means may include e-mail or distribution with existing communications to clients.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-4-300.9 as
3 follows:

4 **25.5-4-300.9. Explanation of benefits - medicaid recipients -**
5 **legislative declaration.** (1) (a) THE GENERAL ASSEMBLY FINDS AND
6 DECLARES THAT:

7 (I) COLORADO'S MEDICAID PROGRAM PROVIDES CRITICAL MEDICAL
8 SERVICES TO THE STATE'S POOREST AND MOST VULNERABLE RESIDENTS;

9 (II) FUNDING FOR THESE SERVICES IS PROVIDED THROUGH A
10 FINANCIAL PARTNERSHIP BETWEEN COLORADO AND THE FEDERAL
11 GOVERNMENT;

12 (III) FOR THE 2015-16 STATE BUDGET YEAR, THE GENERAL
13 ASSEMBLY APPROPRIATED \$8,891,000,000 FOR COLORADO'S MEDICAID
14 PROGRAM, OF WHICH \$2,508,000,000 IS FROM THE GENERAL FUND AND
15 \$677,000,000 IS FROM THE HOSPITAL PROVIDER FEE, WITH THE REMAINDER
16 FROM FEDERAL MONEY;

17 (IV) IT IS IN THE BEST INTEREST OF COLORADO TO DO EVERYTHING

1 POSSIBLE TO MINIMIZE ERROR, INEFFICIENCY, AND FRAUD IN PROVIDING
2 MEDICAID SERVICES TO ENSURE THE LONG-TERM VIABILITY OF THIS
3 SAFETY NET PROGRAM;

4 (V) IN THE PRIVATE SECTOR, AS WELL AS THE MEDICARE PROGRAM,
5 INSURERS ROUTINELY PROVIDE AN EXPLANATION OF BENEFITS TO THEIR
6 CLIENTS, LISTING CLAIMS SUBMITTED BY PROVIDERS FOR SERVICES
7 RENDERED TO THE CLIENT EVEN WHEN THE INSURER IS NOT SEEKING A
8 CO-PAYMENT FOR THE SERVICE AND THE PROVIDER IS NOT CLAIMING AN
9 AMOUNT DUE FROM THE CLIENT;

10 (VI) WHILE CREATING AN EXPLANATION OF BENEFITS IS NOT
11 WITHOUT COST TO THE HEALTH CARE SYSTEM, ONLY THE CLIENT
12 RECEIVING MEDICAL SERVICES OR HIS OR HER AUTHORIZED
13 REPRESENTATIVE IS IN THE POSITION TO VERIFY WHETHER THE CLAIMED
14 MEDICAL SERVICES WERE ACTUALLY PROVIDED AND FOR WHOM THEY
15 WERE PROVIDED, WHICH IS A NECESSARY FIRST STEP IN CONTAINING
16 HEALTH CARE COSTS;

17 (VII) WHILE MEDICAID CLIENTS MAY NOT APPEAR TO BE AFFECTED
18 FINANCIALLY BY BILLING ERRORS OR FRAUDULENT CLAIMS, MEDICAID
19 CLIENTS WHO RELY ON THESE SERVICES FOR SURVIVAL AND
20 INDEPENDENCE ARE MOST SEVERELY AFFECTED BY THE INAPPROPRIATE
21 USE OF SCARCE RESOURCES; AND

22 (VIII) FURTHER, MEDICAID CLIENTS AND MEDICAID ADVOCATES
23 FOR LOW-INCOME AND VULNERABLE COLORADANS WANT THE
24 OPPORTUNITY TO PARTNER WITH THE STATE DEPARTMENT AND PROVIDERS
25 TO ENSURE A WELL-RUN AND FRAUD-FREE MEDICAID PROGRAM IN
26 COLORADO.

27 (b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT

1 CREATING AN EXPLANATION OF BENEFITS FOR RECIPIENTS OF
2 MEDICAID-FUNDED SERVICES IS A NECESSARY STEP IN MANAGING THE
3 STATE'S MEDICAID PROGRAM AND IN SAFEGUARDING THE SIGNIFICANT
4 PUBLIC INVESTMENT, BOTH STATE AND FEDERAL, IN MEETING THE HEALTH
5 CARE NEEDS OF LOW-INCOME AND VULNERABLE COLORADANS.

6 (2) BY OR BEFORE JULY 1, 2017, THE STATE DEPARTMENT SHALL
7 DEVELOP AND IMPLEMENT AN EXPLANATION OF BENEFITS FOR RECIPIENTS
8 OF MEDICAL SERVICES PURSUANT TO ARTICLES 4 TO 6 OF THIS TITLE. THE
9 PURPOSE OF THE EXPLANATION OF BENEFITS IS TO INFORM A MEDICAID
10 CLIENT OF A CLAIM FOR REIMBURSEMENT MADE FOR SERVICES PROVIDED
11 TO THE CLIENT OR ON HIS OR HER BEHALF, SO THAT THE CLIENT MAY
12 DISCOVER AND REPORT ADMINISTRATIVE OR PROVIDER ERRORS OR
13 FRAUDULENT CLAIMS FOR REIMBURSEMENT.

14 (3) THE EXPLANATION OF BENEFITS IS REQUIRED FOR ALL ACUTE
15 AND LONG-TERM CARE SERVICES FOR WHICH A PROVIDER IS SEEKING
16 REIMBURSEMENT UNDER A FEE-FOR-SERVICE MODEL.

17 (4) THE EXPLANATION OF BENEFITS MUST INCLUDE, AT A MINIMUM:

18 (a) THE NAME OF THE MEDICAID CLIENT RECEIVING THE SERVICE;

19 (b) THE NAME OF THE SERVICE PROVIDER;

20 (c) A DESCRIPTION OF THE SERVICE PROVIDED;

21 (d) THE BILLING CODE FOR THE SERVICE;

22 (e) THE DATE OF SERVICE, OR RANGE OF DATES FOR SERVICES, IF
23 MULTIPLE SERVICES ARE PROVIDED IN A SET PERIOD OF TIME, SUCH AS
24 PERSONAL CARE SERVICES;

25 (f) A CLEAR STATEMENT TO THE MEDICAID CLIENT THAT THE
26 EXPLANATION OF BENEFITS IS NOT A BILL, BUT IS ONLY PROVIDED FOR THE
27 CLIENT'S INFORMATION AND TO MAKE SURE THAT A PROVIDER IS BEING

1 REIMBURSED ONLY FOR SERVICES ACTUALLY PROVIDED;

2 (g) INFORMATION REGARDING AT LEAST ONE VERBAL AND ONE
3 WRITTEN METHOD FOR THE MEDICAID CLIENT TO REPORT ERRORS IN THE
4 EXPLANATION OF BENEFITS THAT ARE RELEVANT TO PROVIDER
5 REIMBURSEMENT; AND

6 (h) ANY OTHER INFORMATION THAT THE STATE DEPARTMENT
7 DETERMINES IS USEFUL TO THE MEDICAID CLIENT OR FOR PURPOSES OF
8 DISCOVERING ADMINISTRATIVE OR PROVIDER ERROR OR FRAUD.

9 (5) THE STATE DEPARTMENT SHALL DEVELOP THE FORM AND
10 CONTENT OF THE EXPLANATION OF BENEFITS IN CONJUNCTION WITH
11 MEDICAID CLIENTS AND MEDICAID ADVOCATES TO ENSURE THAT MEDICAID
12 CLIENTS UNDERSTAND THE INFORMATION PROVIDED AND THE PURPOSE OF
13 THE EXPLANATION OF BENEFITS. THE STATE DEPARTMENT SHALL ALSO
14 WORK WITH MEDICAID CLIENTS AND MEDICAID ADVOCATES TO DEVELOP
15 EDUCATIONAL MATERIALS FOR THE STATE DEPARTMENT'S WEBSITE AND
16 FOR DISTRIBUTION BY ADVOCACY AND NONPROFIT ORGANIZATIONS THAT
17 EXPLAIN THE PROCESS FOR REPORTING ERRORS AND ENCOURAGE CLIENTS
18 TO TAKE RESPONSIBILITY FOR REPORTING ERRORS.

19 (6) THE STATE DEPARTMENT SHALL PROVIDE THE EXPLANATION OF
20 BENEFITS TO A MEDICAID CLIENT NOT LESS FREQUENTLY THAN ONCE
21 EVERY TWO MONTHS, IF SERVICES HAVE BEEN PROVIDED TO OR ON BEHALF
22 OF THE CLIENT DURING THAT TIME PERIOD. THE STATE DEPARTMENT
23 SHALL DETERMINE THE MOST COST-EFFECTIVE MEANS FOR PRODUCING
24 AND DISTRIBUTING THE EXPLANATION OF BENEFITS TO MEDICAID CLIENTS,
25 WHICH MAY INCLUDE E-MAIL OR WEB-BASED DISTRIBUTION, WITH MAILED
26 COPIES BY REQUEST ONLY. FURTHER, THE STATE DEPARTMENT MAY
27 INCLUDE THE EXPLANATION OF BENEFITS WITH AN EXISTING MAILING OR

1 EXISTING ELECTRONIC OR WEB-BASED COMMUNICATION TO MEDICAID
2 CLIENTS.

3 (7) NOTHING IN THIS SECTION REQUIRES THE STATE DEPARTMENT
4 TO PRODUCE AN EXPLANATION OF BENEFITS FORM IF THE INFORMATION
5 REQUIRED TO BE INCLUDED IN THE EXPLANATION OF BENEFITS PURSUANT
6 TO SUBSECTION (4) OF THIS SECTION IS ALREADY INCLUDED IN ANOTHER
7 FORMAT THAT IS UNDERSTANDABLE TO THE MEDICAID CLIENT.

8 **SECTION 2. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2016 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.