

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 16-1029.01 Brita Darling x2241

SENATE BILL 16-162

SENATE SPONSORSHIP

Tate, Jahn

HOUSE SPONSORSHIP

Melton and Sias, Lawrence, Priola, Singer, Thurlow

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING ACCESS BY MEDICAID RECIPIENTS TO NONENROLLED**
102 **MEDICAL 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://www.leg.state.co.us/billsummaries>.)

Under current law, recipients of services under the medical assistance program (medicaid) are not responsible for the cost of services by a medical provider or the cost remaining after payment by medicaid or another private insurer, regardless of whether the medical provider is enrolled in the medicaid program, unless the medical services provided are nonreimbursable by medicaid. The bill amends the statute so that 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.

prohibition on charging medicaid recipients for medical services applies only if the medical provider is enrolled in the medicaid program.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-4-301, **amend**
3 (1) (a) (I) and (1) (a) (II); and **add** (1) (a) (II.2) and (1) (a) (II.3) as
4 follows:

5 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
6 **adjustments - liens - review or audit procedures.** (1) (a) (I) Except as
7 provided in section 25.5-4-302 and subparagraph (III) of this paragraph
8 (a), no recipient or estate of the recipient ~~shall be~~ IS liable for the cost or
9 the cost remaining after payment by medicaid, medicare, or a private
10 insurer of medical benefits authorized by Title XIX of the social security
11 act, by this title, or by rules promulgated by the state board, which
12 benefits are rendered to the recipient by a provider of medical services
13 THAT IS ENROLLED IN THE COLORADO MEDICAL ASSISTANCE PROGRAM
14 AND authorized to render such service in the state of Colorado, except
15 those contributions required pursuant to section 25.5-4-209 (1). However,
16 a recipient may enter into a documented agreement with a provider THAT
17 IS ENROLLED IN THE MEDICAL ASSISTANCE PROGRAM under which the
18 recipient agrees to pay for items or services that are nonreimbursable
19 under the medical assistance program. Under these circumstances, a
20 recipient is liable for the cost of such services and items.

21 (II) The provisions of subparagraph (I) of this paragraph (a) ~~shall~~
22 apply regardless of whether medicaid has actually reimbursed the
23 provider. ~~and regardless of whether the provider is enrolled in the~~
24 ~~Colorado medical assistance program.~~

25 (II.2) A PROVIDER OF MEDICAL SERVICES THAT IS NOT ENROLLED

1 IN THE COLORADO MEDICAL ASSISTANCE PROGRAM THAT PROVIDES
2 MEDICAL SERVICES TO A RECIPIENT, REGARDLESS OF WHETHER THE
3 SERVICES ARE REIMBURSABLE OR NONREIMBURSABLE UNDER THE
4 MEDICAL ASSISTANCE PROGRAM, SHALL NOT CHARGE THE RECIPIENT MORE
5 THAN THE USUAL AND CUSTOMARY RATE FOR THE MEDICAL SERVICES.

6 (II.3) IF A PROVIDER OF MEDICAL SERVICES THAT IS NOT ENROLLED
7 IN THE COLORADO MEDICAL ASSISTANCE PROGRAM PROVIDES MEDICAL
8 SERVICES TO A RECIPIENT THAT WOULD BE REIMBURSABLE UNDER THE
9 MEDICAL ASSISTANCE PROGRAM IF THE PROVIDER WERE AN ENROLLED
10 PROVIDER OR THAT WOULD NOT BE NONREIMBURSABLE UNDER THE
11 MEDICAL ASSISTANCE PROGRAM, PRIOR TO PROVIDING MEDICAL SERVICES,
12 THE PROVIDER SHALL ENTER INTO A DOCUMENTED AGREEMENT WITH THE
13 RECIPIENT. THE AGREEMENT MUST SET FORTH THE SPECIFIC MEDICAL
14 SERVICES PROVIDED, THE USUAL AND CUSTOMARY COST FOR THE
15 SERVICES, THE COST TO THE RECIPIENT FOR THE SERVICES PROVIDED, AND
16 THE METHOD OF PAYMENT BY THE CLIENT. THE AGREEMENT MUST ALSO
17 INCLUDE THE STATEMENT THAT THE RECIPIENT UNDERSTANDS THAT HE OR
18 SHE WOULD NOT BE LIABLE FOR THE COST OF REIMBURSABLE MEDICAL
19 SERVICES IF THE RECIPIENT OBTAINED THE SERVICES FROM AN ENROLLED
20 PROVIDER. THE AGREEMENT MUST BE SIGNED AND DATED BY BOTH THE
21 RECIPIENT AND THE PROVIDER. UNDER THESE CIRCUMSTANCES, THE
22 RECIPIENT IS LIABLE FOR THE COST OF THE MEDICAL SERVICES.

23 **SECTION 2. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2016 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.