

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

March 24, 2023
Date

Committee on Health & Insurance.

After consideration on the merits, the Committee recommends the following:

HB23-1215 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, page 3, after line 6 insert:
- 2 "(c) "CRITICAL ACCESS HOSPITAL" MEANS A HOSPITAL THAT IS
- 3 FEDERALLY CERTIFIED OR UNDERGOING FEDERAL CERTIFICATION AS A
- 4 CRITICAL ACCESS HOSPITAL PURSUANT TO 42 CFR 485, SUBPART F."
- 5 Reletter succeeding paragraphs accordingly.
- 6 Page 3, line 8, after "SERVICES" insert "THAT IS:".
- 7 Page 3, strike line 9.
- 8 Page 3, strike line 14 and substitute "SERVICES."
- 9 Page 4, strike lines 6 through 9.
- 10 Reletter succeeding paragraphs accordingly.
- 11 Page 4, after line 23 insert:
- 12 "(o) "SOLE COMMUNITY HOSPITAL" HAS THE MEANING SET FORTH
- 13 IN 42 CFR 412.92."
- 14 Reletter succeeding paragraph accordingly.
- 15 Page 4, strike lines 26 and 27 and substitute:
- 16 "(2) **Limitations on charges.** (a) ON AND AFTER JULY 1, 2024, A

1 HEALTH-CARE PROVIDER OR".

2 Page 5, line 1, after "FEE" insert "THAT IS NOT COVERED IN FULL BY A
3 PATIENT'S INSURANCE, REGARDLESS OF PAYER TYPE, FOR:

4 (I) PREVENTIVE HEALTH-CARE SERVICES, AS DESCRIBED IN
5 SECTION 10-16-104, THAT ARE PROVIDED IN AN OUTPATIENT SETTING;

6 (II) HEALTH-CARE SERVICES PROVIDED THROUGH TELEHEALTH; OR

7 (III) PRIMARY CARE SERVICES PROVIDED IN AN OUTPATIENT
8 SETTING, AS DESCRIBED IN 3 CCR 702-4, RULE 4-2-72.".

9 Page 5, strike lines 2 through 4 and substitute:

10 "(b) THIS".

11 Page 5, lines 7 and 8, strike "ON A HOSPITAL'S MAIN CAMPUS;" and
12 substitute "IN AN INPATIENT SETTING;".

13 Page 5, strike lines 13 through 27.

14 Page 6, strike lines 1 and 2.

15 Renumber succeeding subsection accordingly.

16 Page 6, line 8, strike "AND, TO THE EXTENT PRACTICABLE," and substitute
17 "AND REQUIRE THE HEALTH-CARE PROVIDER TO".

18 Page 6, line 9, strike "SCHEDULED;" and substitute "SCHEDULED AND
19 AGAIN AT THE TIME THE HEALTH-CARE SERVICES ARE RENDERED;".

20 Page 6, line 24, after "APPEAL" insert "WITH THE HEALTH-CARE
21 PROVIDER".

22 Page 7, after line 1 insert:

23 "(4) SUBSECTION (2) OF THIS SECTION DOES NOT APPLY TO A
24 CRITICAL ACCESS HOSPITAL, A SOLE COMMUNITY HOSPITAL IN A RURAL OR
25 FRONTIER AREA, OR A COMMUNITY CLINIC AFFILIATED WITH A SOLE
26 COMMUNITY HOSPITAL IN A RURAL OR FRONTIER AREA.

27 (5) SUBSECTION (2) OF THIS SECTION DOES NOT APPLY TO A
28 HOSPITAL ESTABLISHED PURSUANT TO ARTICLE 29 OF TITLE 25.".

29 Page 8, line 9, strike "(1)(c)." and substitute "(1)(d).".

1 Page 8, line 11, strike "(1)(i)." and substitute "(1)(j).".

2 Page 8, line 13, strike "(1)(n)." and substitute "(1)(m).".

3 Page 8, line 21, strike "(2), (3), OR (4)." and substitute "(2) OR (3).".

4 Page 8, after line 21 insert:

5 "SECTION 4. In Colorado Revised Statutes, add 25.5-4-216 as
6 follows:

7 **25.5-4-216. Report on impact of hospital facility fees in**
8 **Colorado - definitions.** (1) AS USED IN THIS SECTION:

9 (a) "AFFILIATED WITH" HAS THE MEANING SET FORTH IN SECTION
10 6-20-102 (1)(a).

11 (b) "CPT CODE" HAS THE MEANING SET FORTH IN SECTION
12 25.5-1-204.7 (1)(d).

13 (c) "FACILITY FEE" HAS THE MEANING SET FORTH IN SECTION
14 6-20-102 (1)(c).

15 (d) "HEALTH-CARE PROVIDER" HAS THE MEANING SET FORTH IN
16 SECTION 6-20-102 (1)(e).

17 (e) "HEALTH SYSTEM" HAS THE MEANING SET FORTH IN SECTION
18 10-16-1303 (9).

19 (f) "HOSPITAL" HAS THE MEANING SET FORTH IN SECTION 6-20-102
20 (1)(i).

21 (g) "OWNED BY" HAS THE MEANING SET FORTH IN SECTION
22 6-20-102 (1)(n).

23 (2) ON OR BEFORE DECEMBER 1, 2023, THE STATE DEPARTMENT
24 SHALL ISSUE A REPORT DETAILING THE IMPACT OF FACILITY FEES ON THE
25 COLORADO HEALTH-CARE SYSTEM, INCLUDING THE IMPACT ON
26 CONSUMERS, HEALTH-CARE PROVIDERS, AND HOSPITALS. IN DEVELOPING
27 THE REPORT, THE STATE DEPARTMENT SHALL CONTRACT WITH AN
28 INDEPENDENT THIRD PARTY TO CONDUCT ACTUARIAL RESEARCH OR
29 ECONOMIC MODELING TO IDENTIFY AND EVALUATE THE IMPACT OF
30 FACILITY FEES.

31 (3) THE REPORT SHALL INCLUDE:

32 (a) DATA FROM PLAN YEARS 2017 THROUGH 2022 FROM THE
33 COLORADO ALL-PAYER HEALTH CLAIMS DATABASE AND OTHER SOURCES
34 FOR ALL PAYERS THAT REIMBURSE FACILITY FEES, INCLUDING, BUT NOT
35 LIMITED TO:

36 (I) THE NUMBER OF PATIENT VISITS FOR WHICH FACILITY FEES
37 WERE CHARGED;

38 (II) THE TOTAL ALLOWED AMOUNTS COLLECTED IN FACILITY FEES;

39 (III) THE TOP TEN MOST FREQUENT CPT CODES AND THE TOP TEN

1 CPT CODES WITH THE HIGHEST TOTAL ALLOWED AMOUNTS FROM FACILITY
2 FEES; AND
3 (IV) MEDIAN ALLOWED AMOUNTS, TWENTY-FIFTH AND
4 SEVENTY-FIFTH PERCENTILE ALLOWED AMOUNTS, AND THE PERCENTAGE
5 OF CLAIMS AND VOLUME OF CLAIMS WITH NO ALLOWED AMOUNTS;
6 (b) AN ANALYSIS OF THE IMPACT OF FACILITY FEES ON:
7 (I) PATIENT COST SHARING AND ANY VARIATION BASED ON PAYER
8 TYPE;
9 (II) EMPLOYERS;
10 (III) THE COST OF HEALTH-CARE SERVICES RENDERED BY
11 INDEPENDENT HEALTH-CARE PROVIDERS;
12 (IV) THE COST OF HEALTH-CARE SERVICES RENDERED BY
13 HEALTH-CARE PROVIDERS AFFILIATED WITH OR OWNED BY A HOSPITAL OR
14 HEALTH SYSTEM, INCLUDING HEALTH-CARE PROVIDERS AFFILIATED WITH
15 OR OWNED BY AN ACADEMIC MEDICAL CENTER;
16 (V) HEALTH INSURANCE PREMIUMS; AND
17 (VI) VERTICAL INTEGRATION AND CONSOLIDATION BY HEALTH
18 SYSTEMS AND PRIVATE EQUITY FIRMS;
19 (c) A DESCRIPTION OF THE WAY IN WHICH HEALTH-CARE
20 PROVIDERS MAY BE PAID OR REIMBURSED BY MEDICARE AND COMMERCIAL
21 HEALTH INSURANCE CARRIERS FOR OUTPATIENT HEALTH-CARE SERVICES
22 WITH OR WITHOUT FACILITY FEES:
23 (I) AT ON-CAMPUS LOCATIONS;
24 (II) AT OFF-CAMPUS LOCATIONS BY HEALTH-CARE PROVIDERS
25 AFFILIATED WITH OR OWNED BY A HOSPITAL OR HEALTH SYSTEM; OR
26 (III) AT OFF-CAMPUS LOCATIONS BY INDEPENDENT HEALTH-CARE
27 PROVIDERS NOT AFFILIATED WITH OR OWNED BY A HOSPITAL SYSTEM; AND
28 (d) CONSIDERATIONS OF WHETHER ADDITIONAL MEASURES MAY
29 BE TAKEN TO ENSURE CONSUMER AFFORDABILITY, PROMOTE COMPETITION,
30 AND PREVENT ADVERSE IMPACTS OF HEALTH-CARE CONSOLIDATION ON
31 INDEPENDENT HEALTH-CARE PROVIDERS AND HEALTH-CARE CONSUMERS.
32 THE DEPARTMENT OF LAW MAY ALSO MAKE POLICY RECOMMENDATIONS
33 RELATED TO FACILITY FEES.
34 (4) IN DEVELOPING THE REPORT, THE STATE DEPARTMENT SHALL
35 CONSULT WITH, AT A MINIMUM, THE FOLLOWING STAKEHOLDERS:
36 (a) HEALTH-CARE CONSUMERS AND CONSUMER ADVOCATES;
37 (b) HOSPITALS AND HEALTH SYSTEMS;
38 (c) HEALTH-CARE PROVIDERS AFFILIATED WITH OR OWNED BY A
39 HOSPITAL OR HEALTH SYSTEM; AND
40 (d) INDEPENDENT HEALTH-CARE PROVIDERS NOT AFFILIATED WITH
41 OR OWNED BY A HOSPITAL OR HEALTH SYSTEM.
42 (5) THE STATE DEPARTMENT MAY INCLUDE IN THE REPORT
43 INFORMATION FROM THE STATE DEPARTMENT, THE DEPARTMENT OF LAW,

1 STAKEHOLDERS, PUBLICLY AVAILABLE DATA SOURCES, AND HOSPITALS
2 AND HEALTH SYSTEMS IN ACCORDANCE WITH SUBSECTION (3) OF THIS
3 SECTION; EXCEPT THAT ANY INFORMATION THE STATE DEPARTMENT
4 RECEIVES THAT IS PROPRIETARY OR CONTAINS TRADE SECRETS MAY NOT
5 BE MADE PUBLIC.

6 (4) (a) THE STATE DEPARTMENT SHALL WORK WITH THE
7 ALL-PAYER CLAIMS DATABASE TO IDENTIFY DATA, INCLUDING DATA FROM
8 THE HOSPITAL EXPENDITURE REPORT, AS DESCRIBED IN SECTION
9 25.5-4-402.8, THAT MAY BE USED TO UNDERSTAND FACILITY FEES.

10 (b) EACH HOSPITAL LICENSED PURSUANT TO PART 1 OF ARTICLE 3
11 OF TITLE 25, OR CERTIFIED PURSUANT TO SECTION 25-1.5-103 (1)(a)(II),
12 SHALL MAKE INFORMATION AVAILABLE TO THE STATE DEPARTMENT FOR
13 PURPOSES OF PREPARING THE REPORT; EXCEPT THAT THE STATE
14 DEPARTMENT SHALL NOT REQUIRE A HOSPITAL OR HEALTH SYSTEM TO
15 RESHARE INFORMATION ALREADY RECEIVED BY THE STATE DEPARTMENT.

16 (c) IF NECESSARY TO FULFILL THE REPORTING REQUIREMENTS OF
17 THIS SECTION, THE ATTORNEY GENERAL MAY ISSUE A CIVIL INVESTIGATIVE
18 DEMAND REQUIRING A STATE DEPARTMENT, CARRIER AS DEFINED IN
19 SECTION 10-16-102 (8), HOSPITAL, HEALTH SYSTEM, OR HEALTH-CARE
20 PROVIDER TO FURNISH MATERIALS, ANSWERS, DATA, OR OTHER RELEVANT
21 INFORMATION.

22 (d) A PERSON OR BUSINESS SHALL NOT BE COMPELLED TO PROVIDE
23 TRADE SECRETS, AS DEFINED IN SECTION 7-74-102(4).".

24 Renumber succeeding section accordingly.

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