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Final Fiscal Note

Drafting Number: LLS 23-0404 Date: August 28, 2023
Prime Sponsors: Rep. Sirota; Boesenecker Bill Status: Signed into Law
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Bill Topic: LIMITS ON HOSPITAL FACILITY FEES

- Summary of Fiscal Impact:
[X] State Revenue [X] TABOR Refund
[X] State Expenditure [] Local Government
[] State Transfer [] Statutory Public Entity

The bill places limitations on hospital facility fees and requires the Department of Health Care Policy and Financing to update information and restrictions and to report on facility fees. The bill increases state expenditures and impacts state revenue on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires and includes a net appropriation of \$516,950 to the Department of Health Care Policy and Financing.

Fiscal Note Status: This revised fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 23-1215

Table with 4 columns: Category, Sub-category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Federal Funds, Total Expenditures), Transfers, and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

The bill prohibits certain health care providers from charging a facility fee that is not covered by a patient's insurance for preventative services provided in an outpatient setting. Providers are required to disclose information about facility fees to consumers and post this information in their facilities. Failure to comply with these provisions is a deceptive trade practice in the business of insurance.

Additionally, HCPF must form a steering committee to produce a separate, one-time report by October 1, 2024, that details the impact of facilities fees using data from the past 10 years.

State Revenue

Beginning in FY 2023-24, the bill decreases state revenue from hospital fees, and may increase state revenue from civil penalties and filing fees.

Healthcare Affordability and Sustainability (HAS) fee. State revenue from the HAS fee will decrease by an indeterminate amount. The bill reduces the amount a hospital can charge for an outpatient procedure by limiting facility fees for certain services. HCPF collects the HAS fee from hospitals based on their outpatient hospital charges. The impact is indeterminate as HCPF does not have data on facility fee contribution to the HAS fee. In addition, there may be indirect impacts on rates and utilization, which will impact the hospital revenue subject to the fee. This revenue is not subject to TABOR. Impacts to HAS fee revenue will be adjusted for through the normal budget process.

Civil penalties. A person committing a deceptive trade practice in the business of insurance may be subject to a civil penalty of up to \$3,000 for each act, with potentially higher penalties for willful or repeat violations, up to a maximum annual penalty specified in statute. Given that insurers are assumed to comply with the requirements of the bill, and the wide range in potential penalty amounts in any cases that are pursued by the commissioner, the fiscal note cannot estimate the potential impact of these civil penalties. Penalty revenue is deposited into the General Fund and subject to TABOR.

Filing fees. The bill may increase revenue to the Judicial Department from an increase in civil case filings to appeal deceptive trade practice actions taken by the Division of Insurance in DORA. Revenue from filing fees is subject to TABOR.

State Expenditures

On net, the bill increases state expenditures in Department of Health Care Policy and Financing (HCPF) by \$516,950 in FY 2023-24 only, paid from the General Fund and accounting for a decrease in federal fund expenditures. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under HB 23-1215**

	FY 2023-	FY 2024-25
Department of Health Care Policy and Financing		
Personal Services / Operating Expenses (+0.5 FTE - GF Only)	\$37,327	-
Personal Services / Operating Expenses (-0.5 FTE - GF and FF)	(\$37,327)	-
One-Time Report Contractor	\$516,950	-
	<u>Total Cost</u>	<u>\$516,950</u>
	<i>General Fund</i>	\$535,613
	<i>Federal Funds</i>	(\$18,663)

Department of Health Care Policy and Financing. HCPF requires 0.5 FTE and contractor resources in FY 2023-24 only to produce the one-time report, and requires contractor resources on an ongoing basis to produce the annual report.

- **Staff.** 0.5 FTE is required in FY 2023-24 only to oversee the contractor and produce the final one-time report. This can be performed by existing staff who perform similar work, resulting in no net change in expenditures. However, because this work is not eligible for a federal match, HCPF requires \$18,663 in General Fund to cover a corresponding reduction in federal funds. It is assumed that using existing staff and foregoing the federal match is more cost-efficient than hiring new staff.
- **One-time report.** In addition to the staffing reallocation, based on a contractor estimate, HCPF requires \$516,950 to engage with stakeholders, collect data, and conduct the actuarial research and economic modeling. Since this work does not exclusively apply to Medicaid clients, HCPF cannot claim its usual federal match for any time spent on this work.

Judicial Department. The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that online marketplaces will abide by the law and that any violations of the legislation will result in minimal number of new cases; no change in appropriations is required.

Effective Date

The bill was signed into law by the Governor and took effect on May 30, 2023.

State Appropriations

For FY 2023-24, the bill requires and includes the following changes in appropriations:

- an increase of \$516,950 from the General Fund for contractor services;
- an increase of \$18,663 from the General Fund, including \$18,326 for personal services and \$337 for operating expenses, and a corresponding decrease in federal funds.

State and Local Government Contacts

Health Care Policy and Financing
Public Health and Environment

Information Technology
Regulatory Agencies

Judicial
Law