

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0896.02 Kate Meyer x4348

HOUSE BILL 16-1212

HOUSE SPONSORSHIP

Roupe,

SENATE SPONSORSHIP

(None),

House Committees

State, Veterans, & Military Affairs
Finance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A TEMPORARY TAX INCENTIVE FOR THE UNREIMBURSED
102 FEES CHARGED BY HEALTH CARE PROVIDERS FOR PROVIDING
103 SERVICES TO MEDICAID CLIENTS.

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>.)

Currently, health care providers that provide services to medicaid clients are often not reimbursed the full amount of the costs of such services. The bill creates an income tax credit to offset the financial impact of these unreimbursed costs. The tax credit is available for services provided in tax years 2016, 2017, and 2018.

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.

The amount of the tax credit that can be claimed is 50% of either:

- ! The difference in the cost of the services set forth in the medicaid and medicare fee schedules in effect at the time the services were rendered; or
- ! For any services without a medicare fee schedule equivalent, the difference between the amounts paid for the services under the medicaid fee schedule in effect at the time the services were rendered and the fee amounts published in the most recent Colorado-specific cost-of-care or compensation survey conducted by an entity identified by rule of the executive director of the department of revenue (department).

If the amount of the credit allowed exceeds the amount of the income tax otherwise due, the bill prohibits the balance from either being refunded or carried forward and applied against the income tax due in any succeeding income tax years.

The department is required to include information regarding the tax credit in its "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" presentation in the legislative interim immediately prior to the repeal of the credit.

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

SECTION 1. In Colorado Revised Statutes, **add** 39-22-538 as follows:

39-22-538. Tax credit for unreimbursed fees for services provided by health care providers to medicaid clients - eligibility - rules - report - legislative declaration - definitions - repeal.

(1) (a) THE GENERAL ASSEMBLY FINDS, DETERMINES, AND DECLARES THAT:

(I) MEDICAID IS A VALUABLE PROGRAM THAT ASSISTS PERSONS WHO HAVE A LOW INCOME OR LIMITED RESOURCES IN OBTAINING HEALTH CARE;

(II) COLORADO MEDICAID CLIENTS HAVE ACCESS TO VALUABLE PHYSICAL AND BEHAVIORAL HEALTH BENEFITS DELIVERED IN A VARIETY OF INPATIENT AND OUTPATIENT SETTINGS;

1 (III) WHILE THE NUMBER OF ENROLLEES IN MEDICAID HAS
2 INCREASED MARKEDLY IN RECENT YEARS, WITH THE TOTAL MEDICAID
3 EXPENDITURES IN COLORADO EXPECTED TO EXCEED SIX BILLION DOLLARS
4 FOR FISCAL YEAR 2016-17, THE RATES OF REIMBURSEMENT TO HEALTH
5 CARE PROVIDERS DO NOT ALWAYS COVER THE COSTS OF PROVIDING THE
6 SERVICES; AND

7 (IV) BECAUSE MEDICAID DOES NOT REIMBURSE THE FULL AMOUNT
8 IT COSTS TO DELIVER THESE TYPES OF CARE, PROVIDERS MUST MAKE UP
9 THE DIFFERENCE ELSEWHERE OR EVEN OPERATE AT A LOSS WITH RESPECT
10 TO SERVICES PROVIDED TO THEIR MEDICAID CLIENTS.

11 (b) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT THE
12 PURPOSE OF THIS SECTION IS TO CREATE AND IMPLEMENT AN INCENTIVE,
13 IN THE FORM OF A CREDIT AGAINST THE STATE INCOME TAX, THAT WILL
14 ENCOURAGE HEALTH CARE PROVIDERS TO CONTINUE TO ACCEPT MEDICAID
15 CLIENTS, OR INCREASE THE NUMBER OF MEDICAID CLIENTS THEY ACCEPT
16 AS PATIENTS, INCENTIVIZE CURRENT HEALTH CARE PROVIDERS TO KEEP
17 PRACTICING IN COLORADO, AND PROMOTE COLORADO AS AN ATTRACTIVE
18 STATE TO OTHER PROVIDERS LOOKING TO ESTABLISH, EXPAND, OR
19 RELOCATE THEIR BUSINESSES.

20 (2) AS USED IN THIS SECTION:

21 (a) "HEALTH CARE PROVIDER" MEANS A PERSON, CORPORATION,
22 FACILITY, OR INSTITUTION:

23 (I) THAT IS ENROLLED UNDER THE STATE MEDICAL ASSISTANCE
24 PROGRAM, ARTICLES 4, 5, AND 6 OF TITLE 25.5, C.R.S.; AND

25 (II) THAT PROVIDES CARE, SERVICES, OR GOODS, INCLUDING HOME
26 HEALTH CARE OR PERSONAL SERVICES, TO MEDICAID CLIENTS.

27 (b) "HOME HEALTH CARE OR PERSONAL CARE SERVICES" MEANS

1 THE MEDICAL OR NONMEDICAL SERVICES PROVIDED UNDER A PLAN OF
2 CARE DEVELOPED BY A LICENSED HOME CARE AGENCY AT A PRIVATE
3 RESIDENCE.

4 (c) "TAXPAYER" MEANS A HEALTH CARE PROVIDER THAT FILES AN
5 INCOME TAX RETURN UNDER THIS ARTICLE AND WHO PROVIDED SERVICES
6 TO MEDICAID CLIENTS DURING THE TAX YEAR FOR WHICH THE TAX CREDIT
7 ALLOWED UNDER THIS SECTION IS BEING CLAIMED.

8 (3) FOR ANY INCOME TAX YEAR COMMENCING ON OR AFTER
9 JANUARY 1, 2016, BUT PRIOR TO JANUARY 1, 2019, AN ELIGIBLE
10 TAXPAYER IS ALLOWED A CREDIT AGAINST THE INCOME TAXES IMPOSED BY
11 THIS ARTICLE IN AN AMOUNT EQUAL TO FIFTY PERCENT OF:

12 (a) THE DIFFERENCE BETWEEN THE REIMBURSED MEDICAID FEES
13 FOR SERVICES PROVIDED BY THE TAXPAYER TO MEDICAID CLIENTS IN THE
14 TAX YEAR FOR WHICH THE TAX CREDIT IS CLAIMED AND THE FEE FOR THE
15 SAME SERVICE CONTAINED IN THE MEDICARE FEE SCHEDULE SET BY THE
16 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES IN THE UNITED
17 STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES IN EFFECT AT THE
18 TIME THE SERVICES WERE RENDERED; OR

19 (b) FOR HOME HEALTH CARE OR PERSONAL CARE SERVICES FOR
20 WHICH THERE ARE NO EQUIVALENT MEDICARE SERVICE OR BILLING CODES,
21 THE DIFFERENCE BETWEEN THE AMOUNTS PAID FOR THE SERVICES UNDER
22 THE MEDICAID FEE SCHEDULE IN EFFECT AT THE TIME THE SERVICES WERE
23 RENDERED AND THE FEE AMOUNTS PUBLISHED IN THE MOST RECENT
24 COLORADO-SPECIFIC COST-OF-CARE OR COMPENSATION SURVEY
25 CONDUCTED BY A RESEARCH INSTITUTE OR CONSULTING ORGANIZATION
26 AND APPROVED BY THE EXECUTIVE DIRECTOR BY RULE.

27 (4) TO QUALIFY FOR THE CREDIT PROVIDED BY THIS SECTION, THE

1 TAXPAYER SHALL SUBMIT WITH HIS OR HER INCOME TAX RETURN FORM A
2 COPY OF THE TAXPAYER'S ENROLLMENT OR REVALIDATION APPROVAL
3 LETTER, ISSUED BY THE DEPARTMENT OF HEALTH CARE POLICY AND
4 FINANCING, THAT CONTAINS THE TAXPAYER'S COLORADO MEDICAID
5 PROVIDER NUMBER OR NATIONAL PROVIDER IDENTIFIER OR OTHER
6 SUFFICIENT VERIFIED EVIDENCE AS SET FORTH BY THE EXECUTIVE
7 DIRECTOR BY RULE THAT THE TAXPAYER WAS AN ACTIVE MEDICAID
8 HEALTH CARE PROVIDER IN COLORADO DURING THE TAX YEAR, OR
9 RELEVANT PORTION THEREIN, FOR WHICH THE CREDIT IS CLAIMED.

10 (5) IF THE CREDIT ALLOWED UNDER THIS SECTION EXCEEDS THE
11 INCOME TAXES OTHERWISE DUE ON THE TAXPAYER'S INCOME, THE
12 AMOUNT OF THE CREDIT NOT USED AS AN OFFSET AGAINST INCOME TAXES
13 IN THE INCOME TAX YEAR FOR WHICH THE CREDIT IS BEING CLAIMED IS NOT
14 ALLOWED AS A REFUND AND SHALL NOT BE CARRIED FORWARD TO BE
15 APPLIED AGAINST INCOME TAX DUE IN ANY SUBSEQUENT INCOME TAX
16 YEARS.

17 (6) THE EXECUTIVE DIRECTOR MAY PROMULGATE RULES, IN
18 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AS MAY BE NECESSARY
19 OR CONVENIENT TO ADMINISTER AND ENFORCE THIS SECTION.

20 (7) THE DEPARTMENT SHALL INCLUDE, IN THE PRESENTATION IT
21 MAKES PURSUANT TO SECTION 2-7-203, C.R.S., IN THE INTERIM
22 IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE FIRST REGULAR
23 SESSION OF THE SEVENTY-SECOND GENERAL ASSEMBLY, INFORMATION
24 REGARDING THE NUMBER OF TAXPAYERS WHO CLAIMED A TAX CREDIT
25 UNDER THIS SECTION, HOW MUCH MONEY IN TAX CREDITS WERE ALLOWED,
26 AND, IF ANY, THE AMOUNT OF CLAIMS DISALLOWED AND NUMBER OF
27 AUDITS PERFORMED TO ASSESS COMPLIANCE WITH THIS SECTION.

1 (8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2020.

2 **SECTION 2. Act subject to petition - effective date.** This act
3 takes effect at 12:01 a.m. on the day following the expiration of the
4 ninety-day period after final adjournment of the general assembly (August
5 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
6 referendum petition is filed pursuant to section 1 (3) of article V of the
7 state constitution against this act or an item, section, or part of this act
8 within such period, then the act, item, section, or part will not take effect
9 unless approved by the people at the general election to be held in
10 November 2016 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.