

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0546.01 Brita Darling x2241

HOUSE BILL 16-1277

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HOUSE SPONSORSHIP

Lontine and Landgraf,

SENATE SPONSORSHIP

Kefalas and Roberts,

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House Committees

Public Health Care & Human Services

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE APPEAL PROCESS FOR MEDICAL ASSISTANCE  
102 BENEFITS.

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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>.)*

The bill requires the department of health care policy and financing (state department) to give a medicaid recipient a 20-day advance notice if medical assistance benefits are being suspended, terminated, or modified, (intended action) unless certain conditions are met.

Under current law, the state department allows an applicant or

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.*

recipient to file an appeal within 30 days after the date of notice of the intended action. The bill extends the time for appeal to 60 days after the effective date of the intended action. If the recipient files an appeal prior to the effective date of the intended action, the recipient's medical assistance benefits will continue unchanged until the completion of the appeal process. If authorized under federal law, the state department may permit a recipient's medical benefits to continue even though the appeal is filed after the effective date of the intended action.

The bill permits an applicant or recipient to request the county dispute resolution process either prior to appeal to the state department or as part of the filing of the appeal.

The county's dispute resolution process must be completed within 30 days of the filing of a request to the county or no later than 10 days before the date of the hearing on the appeal to the state department, whichever is earlier. If the dispute is resolved, the county will assist the applicant or recipient in requesting the dismissal of the state-level appeal.

Except as provided in the bill, the bill requires the person or persons involved in making the decision relating to the intended action to be available for cross-examination if requested by the appellant.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-4-207, **amend**  
3 (1) as follows:

4 **25.5-4-207. Appeals.** (1) (a) (I) If an application for medical  
5 ~~benefits~~ ASSISTANCE is not acted upon ~~by the county department~~ within  
6 a reasonable time after filing of the same, or if an application is denied in  
7 whole or in part, or if medical ASSISTANCE benefits are suspended,  
8 terminated, or modified, the applicant or recipient, as the case may be,  
9 may appeal to the state department in the manner and form prescribed by  
10 the rules of the state department. STATE DEPARTMENT RULES MUST  
11 PROVIDE FOR A TWENTY-DAY ADVANCE NOTICE BEFORE THE EFFECTIVE  
12 DATE OF ANY SUSPENSION, TERMINATION, OR MODIFICATION OF MEDICAL  
13 ASSISTANCE, UNLESS THERE IS EVIDENCE THAT THE RECIPIENT HAS  
14 REQUESTED THE SUSPENSION, TERMINATION OR MODIFICATION; HAS

1 ABANDONED HIS OR HER COLORADO RESIDENCE; OR HAS DIED. THE  
2 COUNTY SHALL NOTIFY THE APPLICANT OR RECIPIENT IN WRITING OF THE  
3 BASIS FOR THE COUNTY'S DECISION OR ACTION AND SHALL INFORM THE  
4 APPLICANT OR RECIPIENT OF THE RIGHT TO A COUNTY CONFERENCE UNDER  
5 THE DISPUTE RESOLUTION PROCESS DESCRIBED IN PARAGRAPH (b) OF THIS  
6 SUBSECTION (1) AND OF THE RIGHT TO A STATE-LEVEL APPEAL AND THE  
7 PROCESS FOR APPEAL.

8 (II) THE APPLICANT OR RECIPIENT HAS SIXTY DAYS AFTER THE  
9 EFFECTIVE DATE OF THE DENIAL, SUSPENSION, TERMINATION, OR  
10 MODIFICATION TO FILE AN APPEAL WITH THE STATE DEPARTMENT. IF THE  
11 RECIPIENT FILES AN APPEAL PRIOR TO THE EFFECTIVE DATE OF THE  
12 INTENDED ACTION, EXISTING MEDICAL ASSISTANCE BENEFITS MUST  
13 AUTOMATICALLY CONTINUE UNCHANGED UNTIL THE APPEAL PROCESS IS  
14 COMPLETED, UNLESS THE RECIPIENT REQUESTS IN WRITING THAT MEDICAL  
15 ASSISTANCE BENEFITS NOT CONTINUE DURING THE APPEAL PROCESS;  
16 EXCEPT THAT, TO THE EXTENT AUTHORIZED BY FEDERAL LAW, THE STATE  
17 DEPARTMENT RULES MAY PERMIT EXISTING MEDICAL ASSISTANCE  
18 BENEFITS TO CONTINUE UNTIL THE APPEAL PROCESS IS COMPLETED EVEN  
19 IF THE RECIPIENT'S APPEAL IS FILED AFTER THE EFFECTIVE DATE OF THE  
20 INTENDED ACTION.

21 (III) EITHER PRIOR TO APPEAL TO THE STATE DEPARTMENT OR AS  
22 PART OF THE FILING OF AN APPEAL, THE APPLICANT OR RECIPIENT MAY  
23 REQUEST THE DISPUTE RESOLUTION PROCESS DESCRIBED IN PARAGRAPH  
24 (b) OF THIS SUBSECTION (1) THROUGH THE COUNTY DEPARTMENT OR  
25 SERVICE DELIVERY AGENCY.

26 (b) Every county department or service delivery agency shall  
27 adopt procedures for the resolution of disputes arising between the county

1 department or the service delivery agency and any applicant for or  
2 recipient of medical assistance. ~~prior to appeal to the state department.~~  
3 Such procedures are referred to in this section as the "dispute resolution  
4 process". Two or more counties may jointly establish the dispute  
5 resolution process. The dispute resolution process ~~shall~~ MUST be  
6 consistent with rules promulgated by the state board pursuant to article 4  
7 of title 24, C.R.S. The dispute resolution process shall include an  
8 opportunity for all clients to have a county conference, upon the client's  
9 request, and such requirement may be met through a telephonic  
10 conference upon the agreement of the client and the county department.  
11 The dispute resolution process need not conform to the requirements of  
12 section 24-4-105, C.R.S., as long as the rules adopted by the state board  
13 include provisions specifically setting forth expeditious time frames,  
14 notice, and an opportunity to be heard and to present information. ~~If the  
15 dispute is not resolved, the applicant or recipient may appeal to the state  
16 department in the manner and form prescribed by the rules of the state  
17 department. County notices to applicants or recipients shall inform them  
18 of the basis for the county's decision or action and shall inform them of  
19 their rights to a county conference under the dispute resolution process  
20 and of their rights to state level appeal and the process of making such  
21 appeal~~ THE DISPUTE RESOLUTION PROCESS MUST BE COMPLETED WITHIN  
22 THIRTY DAYS AFTER THE DATE THE APPLICANT OR RECIPIENT REQUESTS A  
23 COUNTY CONFERENCE OR NO LATER THAN TEN DAYS BEFORE THE DATE OF  
24 THE HEARING ON APPEAL TO THE STATE DEPARTMENT, WHICHEVER IS  
25 EARLIER. IF THE DISPUTE IS RESOLVED THROUGH THE COUNTY OR SERVICE  
26 DELIVERY AGENCY'S DISPUTE RESOLUTION PROCESS AND THE APPLICANT  
27 OR RECIPIENT HAS ALREADY FILED AN APPEAL TO THE STATE DEPARTMENT,

1 THE COUNTY SHALL INFORM THE APPLICANT OR RECIPIENT OF THE PROCESS  
2 FOR DISMISSING THE APPEAL.

3 (c) The state board shall adopt rules setting forth what other  
4 issues, if any, may be appealed by an applicant or recipient to the state  
5 department. A hearing need not be granted when either state or federal  
6 law requires or results in a reduction or deletion of a medical ASSISTANCE  
7 benefit unless the applicant or recipient is arguing that his or her case  
8 does not fit within the parameters set forth by the change in the law. In  
9 notifying the applicant or recipient that an appeal is being denied because  
10 of a change in state or federal law, the state's notice ~~shall~~ MUST inform the  
11 applicant or recipient that further appeal should be directed to the  
12 appropriate state or federal court.

13 ~~(b)~~ (d) Upon receipt of an appeal, the state department shall give  
14 the appellant at least ten days' notice OF THE HEARING DATE and an  
15 opportunity for a fair hearing in accordance with the rules of the state  
16 department. ~~Any such~~ THE fair hearing ~~shall~~ MUST comply with section  
17 24-4-105, C.R.S., and the state department's administrative law judge  
18 shall preside.

19 ~~(e)~~ (e) The appellant shall have an opportunity to examine all  
20 applications and pertinent records concerning ~~said~~ THE appellant that  
21 constitute a basis for the denial, suspension, termination, or modification  
22 of medical ASSISTANCE benefits. THE PERSON OR PERSONS INVOLVED IN  
23 THE DECISION DENYING, SUSPENDING, TERMINATING, OR MODIFYING  
24 MEDICAL ASSISTANCE BENEFITS OR, IF THE PERSON OR PERSONS ARE NOT  
25 REASONABLY AVAILABLE, A PERSON FAMILIAR WITH THE FACTS  
26 UNDERLYING THE BASIS FOR THE DECISION, SHALL BE AVAILABLE FOR  
27 CROSS-EXAMINATION IF REQUESTED BY THE APPELLANT.

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