## First Regular Session Sixty-eighth General Assembly STATE OF COLORADO

### REREVISED

This Version Includes All Amendments Adopted in the Second House SENATE BILL 11-125

LLS NO. 11-0628.01 Debbie Haskins

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White, Guzman, Jahn, Tochtrop

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Senate Committees

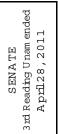
Health and Human Services Finance Appropriations House Committees Health and Environment Appropriations

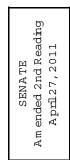
# A BILL FOR AN ACT

101	CONCERNING MEDICAID NURSING FACILITY PROVIDER FEES, AND, IN
102	CONNECTION THEREWITH, INCREASING THE CAP ON THE
103	MEDICAID NURSING FACILITY PROVIDER <u>FEE,</u> CHANGING THE
104	PRIORITY OF USES FOR SUPPLEMENTAL PAYMENTS FROM THE
105	MEDICAID NURSING FACILITY CASH <u>FUND, AND MAKING AN</u>
106	APPROPRIATION.

#### **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.) HOUSE 3rd Reading Unam ended M ay 9, 2011





Effective with fiscal year 2011-12, the bill increases the cap on the provider fee on health care items or services provided by nursing home facility providers for purposes of obtaining federal financial participation under medicaid from a maximum of \$7.50 to a maximum of \$12 per nonmedicare-resident day.

The bill reorders the priority in which the supplemental payments to the nursing home facility providers are made by adding acuity or case-mix of the residents as the second priority for supplemental payments and making the general fund cap payment the last priority. The bill also identifies more precisely the health care item or service for which each supplemental payment is made.

1 *Be it enacted by the General Assembly of the State of Colorado:* 2 **SECTION 1.** 25.5-6-203 (1) (a) (II) and (2), Colorado Revised 3 Statutes, are amended to read: 4 25.5-6-203. Nursing facilities - provider fees - federal waiver 5 - fund created - rules - repeal. (1) (a) (II) For the fiscal year YEARS 6 commencing July 1, 2009, the provider fee shall not exceed seven dollars 7 and fifty cents per nonmedicare-resident day. For the fiscal year 8 commencing AND July 1, 2010, and each fiscal year thereafter, the 9 provider fee shall not exceed seven dollars and fifty cents per 10 nonmedicare-resident day. FOR THE FISCAL YEAR COMMENCING JULY 1, 11 2011, AND EACH FISCAL YEAR THEREAFTER, THE PROVIDER FEE SHALL NOT 12 EXCEED TWELVE DOLLARS PER NONMEDICARE-RESIDENT DAY plus 13 inflation based on the national skilled nursing facility market basket index 14 as determined by the secretary of the department of health and human 15 services pursuant to 42 U.S.C. sec. 1395yy (e) (5) or any successor index. 16 (2) (a) All provider fees collected pursuant to this section by the 17 state department shall be transmitted to the state treasurer, who shall 18 credit the same to the medicaid nursing facility cash fund, which fund is 19 hereby created and referred to in this section as the "fund".

(b) (I) All moneys in the fund shall be subject to federal matching
as authorized under federal law and subject to annual appropriation by the
general assembly for the purpose of paying the administrative costs of
implementing section 25.5-6-202 and this section and to pay the
supplemental medicaid payments TO OFFSET PAYMENT OF THE PROVIDER
FEE established under section 25.5-6-202 (7).

(II) Following the payment of the amounts described in
subparagraph (I) of this paragraph (b), the moneys remaining in the fund
shall be subject to federal matching as authorized under federal law and
subject to annual appropriation by the general assembly for the purpose
of paying the supplemental medicaid payments FOR ACUITY OR CASE-MIX
OFRESIDENTS established under section 25.5-6-202 (9) (b) (II) 25.5-6-202
(2).

(H.3) (III) (A) Except as provided in sub-subparagraph (B) of this
subparagraph (H.3) (III), after the payment of the amounts described in
subparagraphs (I) and (II) of this paragraph (b), the moneys remaining in
the fund shall be subject to federal matching as authorized under federal
law and subject to annual appropriation by the general assembly for the
purpose of paying the supplemental medicaid payments FOR HIGHER
QUALITY PERFORMANCE established under section 25.5-6-202 (5).

(B) Notwithstanding any other provision of this paragraph (b), the
supplemental medicaid payments established pursuant to section
25.5-6-202 (5) shall not be less than ten percent of the supplemental
medicaid payments established under section 25.5-6-202 (7) in the prior
state fiscal year.

26 (II.5) (IV) Following the payment of the amounts described in
27 subparagraphs (I) to (II.3) (III) of this paragraph (b), the moneys

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remaining in the fund shall be subject to federal matching as authorized
 under federal law and subject to annual appropriation by the general
 assembly for the purpose of paying the supplemental medicaid payments
 FOR RESIDENTS WHO HAVE MODERATELY TO VERY SEVERE MENTAL
 HEALTH CONDITIONS, COGNITIVE DEMENTIA, OR ACQUIRED BRAIN INJURY
 established under section 25.5-6-202 (6).

(II.7) (A) Notwithstanding any other provision of law to the
contrary, for the 2009-10 state fiscal year only, money in the medicaid
nursing facility cash fund may be used to reimburse the general fund for
increased reimbursements due to House Bill 08-1114, enacted in 2008,
paid to nursing facilities for services provided to hospice patients during
the 2009-10 fiscal year for services provided during the 2008-09 fiscal
year.

14 (B) This subparagraph (II.7) is repealed, effective July 1, 2011. 15 (V) FOLLOWING THE PAYMENT OF THE AMOUNTS DESCRIBED IN 16 SUBPARAGRAPHS (I) TO (IV) OF THIS PARAGRAPH (b), THE MONEYS 17 REMAINING IN THE FUND SHALL BE SUBJECT TO FEDERAL MATCHING AS 18 AUTHORIZED UNDER FEDERAL LAW AND SUBJECT TO ANNUAL 19 APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE PURPOSE OF PAYING 20 THE SUPPLEMENTAL MEDICAID PAYMENTS FOR THE AMOUNT BY WHICH 21 THE AVERAGE STATEWIDE PER DIEM RATE EXCEEDS THE GENERAL FUND 22 SHARE ESTABLISHED UNDER SECTION 25.5-6-202 (9) (b) (II).

(HI) (VI) Any moneys in the fund not expended for these THE
purposes SPECIFIED IN THIS SECTION may be invested by the state treasurer
as provided by law. All interest and income derived from the investment
and deposit of moneys in the fund shall be credited to the fund. Any
unexpended and unencumbered moneys remaining in the fund at the end

of any fiscal year shall remain in the fund and shall not be credited or
 transferred to the general fund or any other fund but may be appropriated
 by the general assembly to pay nursing facility providers in future fiscal
 years.

5 <u>SECTION 2. Adjustments in 2011 long bill.</u> For the 6 <u>implementation of this act, appropriations made in the annual general</u> 7 <u>appropriation act for the fiscal year beginning July 1, 2011, to the</u> 8 <u>department of health care policy and financing, shall be adjusted as</u> 9 <u>follows:</u>

(1) The appropriation to the executive director's office, for general
 professional services and special projects, is increased by sixty thousand
 dollars (\$60,000). Of said sum, thirty thousand dollars (\$30,000) shall
 be from the general fund and thirty thousand dollars (\$30,000) shall be

14 <u>from federal funds.</u>

15 (2) The appropriation to the medical services premiums section is 16 increased by thirty million nine hundred ninety-four thousand four 17 hundred eleven dollars (\$30,994,411). Of said sum, fifteen million four 18 hundred ninety-seven thousand two hundred six dollars (\$15,497,206) 19 shall be cash funds from the medicaid nursing facility cash fund created 20 in section 25.5-6-203 (2) (a), Colorado Revised Statutes, and fifteen 21 million four hundred ninety-seven thousand two hundred five dollars 22 (\$15,497,205) shall be from federal funds.

SECTION <u>3.</u> Act subject to petition - effective date. This act
shall take effect at 12:01 a.m. on the day following the expiration of the
ninety-day period after final adjournment of the general assembly (August
10, 2011, if adjournment sine die is on May 11, 2011); except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the

state constitution against this act or an item, section, or part of this act
within such period, then the act, item, section, or part shall not take effect
unless approved by the people at the general election to be held in
November 2012 and shall take effect on the date of the official
declaration of the vote thereon by the governor.