

## Colorado Legislative Council Staff Fiscal Note


**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 15-0363  
**Prime Sponsor(s):** Sen. Aguilar  
Rep. Lontine

**Date:** July 21, 2015  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**BILL TOPIC:** OUT-OF-NETWORK HEALTH CARE PROVIDER CHARGES

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
<b>State Revenue</b>		
General Fund	Minimal increase.	
<b>State Expenditures</b>	Workload increase. See State Expenditures section.	
<b>TABOR Set-Aside</b>	Minimal increase.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None.		

\* This summary shows changes from current law under the bill for each fiscal year.

**Summary of Legislation**

The bill requires health care providers who provide emergency services or out-of-network covered services at an in-network facility to submit a claim for the entire cost of the services to the covered person's health insurance carrier. It also specifies that the provider shall not:

- collect payments from the covered person except for a deductible, copayment, or coinsurance; and
- bill covered persons for the difference between what the insurance company pays and provider charges (balance billing).

Instead of balance billing, the provider must submit a demand for the remaining amount of the bill to the health insurance carrier and attempt to negotiate a payment, if necessary. The bill requires health insurance carriers to provide written notice to covered persons of their out-of-network obligations. Health care facilities must inform covered persons about the legal protections against balance billing. Failure to follow these provisions by health care providers and facilities is classified as a deceptive trade practice.

**State Revenue**

To the extent health care providers and facilities do not follow the requirements of the bill and the Attorney General or district attorneys pursue actions related to this deceptive trade practice, fine revenue to the General Fund may increase. Initial fines for violations are up to \$2,000 per violation, up to a maximum \$500,000 for a related series of violations. Additional fines may be levied for violations of a court order or injunction related to the deceptive trade practice. The fiscal note generally assumes a high level of compliance and any fine revenue is assumed to be minimal.

### **TABOR Impact**

This bill may increase state revenue from fines, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

### **State Expenditures**

The bill will increase workload in several state agencies, as described below.

**Department of Law.** Given the large number of health care providers and transactions in the state, the Department of Law will likely receive complaints about health care providers violating the provisions of the bill. This will result in investigations, hearings, actions for injunctive relief, levying of fines, and other actions under the Colorado Consumer Protection Act. The fiscal note assumes that this work will be prioritized by the Attorney General and conducted within existing appropriations. To the extent a large number of complaints occur and additional resources are required, it is assumed this will be addressed through the annual budget process.

**Judicial Department.** Persons injured under this new deceptive trade practice are able to bring a civil action against the health care provider. This new cause of action will increase workload in the trial courts in the Judicial Department. At this time, it is assumed that the courts can accomplish this additional work within existing appropriations.

**Department of Regulatory Agencies.** The Division of Insurance and the Division of Professions and Occupations in the Department of Regulatory Agencies will have to update rules and procedures and notify insurers and health care providers, respectively, about the changes under the bill. Overall, this workload is estimated to be minimal and no changes in appropriations are required.

### **Local Government Impact**

Similar to the impact to the Department of Law discussed above, district attorneys may also be required to receive and investigate complaints concerning the deceptive trade practice created by this bill. It is assumed this work will be done within existing resources.

### **Effective Date**

The bill was postponed indefinitely by the Senate Business, Labor, and Technology Committee on April 20, 2015.

### **State and Local Government Contacts**

Regulatory Agencies  
Higher Education  
Law

Judicial  
Human Services  
Counties

Public Health and Environment  
Health Care Policy and Financing  
Personnel and Administration