

*Colorado Legislative Council Staff Fiscal Note*

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 12-0240  
**Prime Sponsor(s):** Sen. Roberts  
 Rep. Gerou

**Date:** June 28, 2012  
**Bill Status:** Signed into Law  
**Fiscal Analyst:** Kerry White (303-866-3469)

**TITLE:** CONCERNING IMPROVING MEDICAID FRAUD PROSECUTION, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

<b>Fiscal Impact Summary</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
<b>State Revenue</b>		
<b>State Expenditures</b>	<u>(\$48,940)*</u>	<u>(\$53,388)*</u>
Cash funds from recoveries and recoupments	(24,470)	(\$26,694)
Federal Funds	(24,470)	(26,694)
<b>FTE Position Change</b>	0.1 FTE	0.1 FTE
<b>Effective Date:</b> The bill was signed into law by the Governor on May 9, 2012, and takes effect August 8, 2012, assuming no referendum petition is filed.		
<b>Appropriation Summary for FY 2012-2013:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

*\* This represents the minimum amount of funds anticipated to be recovered. Depending on the actual recoveries and costs avoided, it is possible these amounts may fluctuate and include General Fund moneys.*

**Summary of Legislation**

This bill requires the Departments of Health Care Policy and Financing (DHCPF) and Law to prepare annual reports on Medicaid client and provider fraud, respectively, for certain legislative committees. Beginning on or before January 15, 2013, these reports are to detail the number of Medicaid client and provider fraud investigations, actions undertaken to make recoveries and prosecute fraud, amounts recovered, trends in methods used to commit Medicaid fraud, and policies adopted by the state and county to detect and prevent Medicaid fraud, among others.

The bill also specifies that recoveries of fraudulently obtained Medicaid benefits are to be deposited in the County Social Services Fund, and any amounts not required to be reimbursed to the federal government for a share proportional to the amount of federal funds initially paid may be retained by the county.

**Background**

In Colorado, investigations of fraud related to public assistance benefits are conducted at the county level. County offices investigate cases and, when appropriate, file claims directly with the applicable district attorney for recovery. An overpayment includes any medical assistance payments, including capitation payments, paid on behalf of a recipient who, through no fault of his or her own, was not lawfully entitled to receive the benefits for which the payments were made.

Currently, if overpayments are deemed recoverable due to fraud, the county receives an amount equal to the county funds paid plus half of the state funds paid. If the overpayment is found to be unintentional, the county receives an amount equal to the county funds paid plus one quarter of the state funds paid. In FY 2010-11, a total of \$428,946 in overpayments were recovered by counties. Between July 1, 2011, and November 30, 2011, a total of \$157,056 in overpayments have been recovered from nine counties, with one county representing over 50 percent of total recoveries.

**State Expenditures**

This bill will increase costs in some areas and result in cost avoidance in others. Overall, state expenditures will decrease by at least \$48,940 in FY 2012-13 and \$53,388 in FY 2013-14. Depending on actual Medicaid fraud recoveries and costs avoided, these amounts may fluctuate and include General Fund moneys. The costs and savings are described in Table 1 and the discussion that follows.

<b>Table 1. Expenditures Under SB12-060</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Personal Services	\$5,216	\$5,216
FTE	0.1	0.1
Medical Services Premiums	24,470	26,694
Assumed Cost Avoidance	at least (54,156)	at least (58,604)
<b>TOTAL</b>	<b>at least (\$48,940)</b>	<b>at least (\$53,388)</b>
<b>Cash funds</b>	<b>(24,470)</b>	<b>(26,694)</b>
<b>Federal funds</b>	<b>(24,470)</b>	<b>(26,694)</b>

*Personal services.* The DHCPF will require 0.1 FTE at a cost of \$5,216 per year to develop a format for receiving fraud data from counties and to prepare an annual report for the General Assembly. This cost will be shared equally between the General Fund and federal funds. This analysis assumes that counties will be asked to submit information on a monthly basis, which, depending on the content of those reports, may result in increased workload. Should this occur, the fiscal note assumes the DHCPF will request any changes in appropriations through the annual budget process.

***Medical services premiums.*** This bill reduces the amount of moneys the state receives from Medicaid fraud recoveries, which are used to offset General Fund medical services premiums for the program. Based on recoveries made in FY 2010-11, General Fund medical services premium costs are anticipated to increase by \$24,470 in FY 2012-13 and \$26,694 in FY 2013-14. These amounts are offset by a corresponding decrease in cash funds from recoveries and recoupments.

***Assumed cost avoidance.*** With regular reporting by the counties, this analysis assumes that Medicaid fraud will be identified earlier. As a result, additional recoveries will at least offset the increases in General Fund expenditures for personal services and medical services premiums identified above.

***Department of Law.*** The Department of Law will experience an increase in workload to prepare an annual report on provider fraud. This cost can be accommodated within existing appropriations.

***Judicial Branch.*** The Judicial Branch may experience an increase in workload as a result of more fraud investigations and charges. This amount is anticipated to be minimal and will not require an increase in appropriations.

### **Local Government Impact**

Based on the reduced recoveries payable to the state, the fiscal note assumes county revenue will increase by at least \$24,470 in FY 2012-13 and \$26,694 in FY 2013-14. Counties will also experience an increase in workload in order to comply with the reporting requirements under the bill. As of this writing, no estimate on the cost to county Medicaid offices was available. However, based on information provided by Adams County, it is assumed that because the information required to be reported is already tracked, any increase in county workload will be minimal.

### **State Appropriations**

For FY 2012-13, the DHCPF received the following adjustments in appropriations:

- An increase in appropriations of \$5,216, including \$2,608 General Fund and \$2,608 federal funds, and 0.1 FTE in the executive director's office; and
- A reduction in appropriations for medical services premiums of \$54,156 including \$2,608 General Fund, \$24,470 from cash funds from recoveries and recoupments, and \$27,078 federal funds.

### **Departments Contacted**

Health Care Policy and Financing

Judicial

Law