



COLORADO

Department of Health Care
Policy & Financing

1570 Grant Street
Denver, CO 80203

2021 Legislative Session Wrap-Up

July 2021

The 2021 Legislative Session ended on June 8, 2021. The General Assembly recessed due to the COVID-19 pandemic in January 2021. The legislature reconvened on February 16, 2021, to continue the full 120 day session. In fact, adjournment sine die occurred with three legislative days remaining on the calendar. A brief overview of the Department agenda bills and other key healthcare legislation is below.

Department Agenda Bills

HB21-1256 Telemedicine Policy Refinements

During the pandemic, telemedicine grew as a delivery mode valued by members, providers, employers and payers. This new state law gives the Department specific rulemaking authority to create an accountability framework for entities that provide services predominantly or exclusively through telemedicine. These entities are new participants in the fee-for-service category. The Department wants to maximize the role these entities play in expanding access, while ensuring focus remains on the medical home model and appropriate utilization. This rulemaking authority will give the Department the flexibility needed to adapt to the "new normal" and begin to develop a comprehensive telemedicine policy. The Department is committed to developing comprehensive telemedicine policy with the goals of improving access to high-quality services, promoting health equity, and shepherding taxpayer resources.

HB21-1187 Case Management Redesign

This new state law allows the Department to build a high-performing conflict-free case management system to serve all populations. This new law helps the Department achieve two goals:

- (1) eliminate the requirement of a third-party broker to assist individuals in choosing a case management agency, and,
- (2) allow more flexibility for the Department to work with stakeholders to create and implement a high performing case management system by July 1, 2024.

This law allows the Department to streamline operations, maintain federal compliance, increase administrative efficiencies and utilize a case management system that is rooted in quality and accountability all to benefit our members.

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HB21-1227 Skilled Nursing Facilities: Establishing a Demonstration of Need and Technical Changes

For the first time in over 20 years, this new state law allows the Department to innovate new approaches for skilled nursing facilities, and only authorize expansion of skilled nursing Medicaid providers when localities can sustain expansion. The Department will develop a set of clear and predetermined criteria to use when reviewing certification applications from nursing facilities that seek to serve Medicaid members. The criteria will be based on an analysis of demographics at the county level and the needs of the surrounding community. The new approach will ensure stability, access to care and quality of care remain consistent for one of our most vulnerable populations.

Additionally, the Department will create an exemption from the rate methodology for facilities with fewer than six Medicaid beds to accommodate long term members who outlive their financial resources.

The Department is committed to placing people in home- and community-based services whenever possible. However, the nursing facility population is growing, and the state will need to expand the availability of long-term care for older adults at skilled nursing facilities in order to meet the needs of this population. This new law will help create a system to ensure stable growth with this demographic shift.

SB21-210 Add Remote Supports to Home and Community-Based Services (HCBS)

Remote Supports is an emerging service model that combines technology and direct care to support people with disabilities. When hands-on care is not required, Remote Supports makes it possible for direct care staff to provide supervision, prompting, or instruction from a remote location, reducing the need for residential or in-person services. These remote support options will help address workforce shortages by increasing provider efficiency, improve access to care in rural areas and help members stay safely in their homes and communities. However, remote support services will be optional, and provided to only those members who feel comfortable with this type of service delivery.

This new law will allow the Department to add a remote supports benefit to five of the Department's Home and Community-Based Services (HCBS) waivers. The changes in statute will allow for remote supports in the HCBS Elderly Blind and Disabled (EBD) waiver. While the remote supports benefit will be added to five HCBS waivers, only the EBD statute requires this change due to the current limiting nature of the electronic monitoring service.

SB21-123 Expand Canadian Prescription Drug Importation Program

This law authorizes the Department to expand the current drug importation program to include countries in addition to Canada, if federal policy allows such an expansion. Currently, federal statute permits drug importation from Canada. If federal policy changes to allow for importation from other countries, Colorado will be able to move forward quickly to expand saving opportunities for consumers.

This law ensures federal and state consumer safety standards are met. All imported drugs would have to be FDA-approved; sample tested for quality, authenticity, and degradation; tracked and traced according to federal supply chain law; and relabeled to meet U.S. labeling requirements.

SB21-286 Authorize Federal Stimulus to Transform Home and Community Based Services

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The federal American Rescue Plan provides Colorado with a temporary 10 percentage point increase in the federal medical assistance percentage (FMAP) for certain Medicaid expenditures for home- and community-based services (HCBS). The increased match is available for a period of one year beginning April 1, 2021. States must use the funds equivalent to increased FMAP to expand or strengthen HCBS. This law implements the increased FMAP spending on HCBS as follows:

- First, it transfers state funds equivalent to the increased federal match into two separate funds—one for General Fund and one for cash funds;
- Second, it directs the Department of Health Care Policy and Financing (HCPF) to develop a spending plan for these funds;
- Third, it appropriates the set aside General Fund money for HCBS strengthening purposes, though the department can only spend that money following approval of the spending plan by the Joint Budget Committee (JBC); and
- Fourth, it directs the JBC to introduce a supplemental appropriation bill in the 2022 legislative session—this bill will supersede the spending plan approval previously approved by the JBC.

The current budgets for FY 2020-21 and FY 2021-22 reflect the enhanced FMAP for most Medicaid programs. The bill makes a further adjustment to the Long Bills for these years to reflect an additional \$54.8 million in enhanced match for behavioral health capitation payments over the two years. HCPF is required to submit quarterly spending reports to the General Assembly.

Other Major Bills Impacting the Department

- [SB21-009](#) Reproductive Health Care Program allows for family planning services to be reimbursed by Medicaid for those who are not eligible for coverage because of their citizenship or immigration status
- [SB21-016](#) Protecting Preventive Health Care Coverage updates family planning and family planning related services rules and definitions and ensures that Member's are not subject to deductibles, copays or coinsurance for those services.
- [SB21-022](#) Notification Requirements for Health Care Policy and Financing Audit requires the Department to confirm a provider's contact information with the provider and after confirmation shall notify the provider of additional information concerning the audit. The Department shall deliver to the provider not less than ten business days prior to the commencement of the audit a written request through both email and certified mail describing the audit requests.
- [SB21-025](#) Family Planning Services for Eligible Individuals, expands family planning and family planning related services to eligible people who are not pregnant
- [SB21-038](#) Expansion of Complementary and Alternative Medicine expands this benefit to more people including those with a diagnoses of a spinal cord injury, MS, spina bifida, muscular dystrophy or cerebral palsy.



- [SB21-039](#) Elimination of Subminimum Wage Employment begins the process of the elimination of subminimum wage employment and requires the Department to seek federal approval to implement a buy-in program for adults who are eligible to receive HCBS pursuant to the supported living services waiver, the DD waiver, brain injury waiver and spinal cord injury waiver.
- [SB21-095](#) Sunset Employment First Advisory Partnership the Department shall continue to be an agency partner with CDLE and others to create a hiring preference pilot program for people with disabilities.
- [SB21-128](#) Modification to Administration of the Nursing Home Penalty Cash Fund transfers the administration of the Nursing Home Penalty Cash Fund from the Department to CDPHE.
- [SB21-131](#) Protect Personal Identifying Information Kept by State places limitations and responsibilities on all state agencies about Coloradoans PII.
- [SB21-137](#) Behavioral Health Recovery Act requires:
 - Collaboration with DHS, OBH & DOI on care coordination services,
 - Contract with an independent review organization to conduct external medical reviews when there is a denial or reduction for residential or inpatient SUD treatment,
 - Development of standardized utilization management processes to determine medical necessity for residential and inpatient SUD treatment and eventually require those standards through existing managed care entity contracts.
- [SB21-139](#) Coverage for Telehealth Dental Services allows for reimbursement for dental services delivered via telemedicine.
- [SB21-142](#) Health Care Access in Cases of Rape or Incest eliminates facility and provider type restrictions for coverage for abortions in cases of rape or incest.
- [SB21-146](#) Improve Prison Release Outcomes allows an inmate being released from confinement, but still under criminal justice supervision, who qualifies for Medicaid, to choose the provider of their choice without criminal justice supervision restrictions.
- [SB21-175](#) Establish Prescription Drug Affordability Board creates a prescription drug affordability board that will include the Executive Director of HCPF and use APCD data.
- [SB21-181](#) Create shared Inter-department Health Equity Plan creates a health equity commission which will include the Executive Director of HCPF.
- [SB21-194](#) Maternal Health Providers which expands Medicaid Member's postpartum care from 60 days to 12 months and reimburses providers at equitable levels for maternal services
- [HB21-1085](#) Secure Transportation Behavioral Health Crisis creates a benefit for secure and urgent transportation services within the non emergency medical transportation service.
- [HB21-1097](#) Establish Behavioral Health Administration begins the process to plan to appropriately implement and address initial start-up as well as ongoing operational costs for a Behavioral Health Administration in Colorado.
- [HB21-1119](#) Suicide Prevention, Intervention, and Postvention the Department shall provide input to the Colorado Suicide Prevention Plan Commission created within CDPHE.



- [HB21-1166](#) Behavioral Health Crisis Respons Training the Department shall provide a training to professional persons who work with persons with IDD and co-occurring behavioral health needs to be trained in the comprehensive care coordination and treatment model.
- [HB21-1198](#) Require Health Care Facilities to Screen Uninsured Patients for Public Program Coverage
- [HB21-1206](#) Medicaid Transportation Services transfers regulatory authority over non-medical transportation and non-emergency medical transportation providers to the Department. With stakeholder input the Department will establish rules and processes for the safety and oversight of these transportation services.
- [HB21-1232](#) Create an Affordable Colorado Option Insurance Plan creates a public option insurance plan in Colorado and places an Insurance ombudsman in HCPF.
- [HB21-1275](#) Medicaid Reimbursement for Services by Pharmacists increases reimbursements pharmacists receive under Medicaid, allows pharmacists to administer extended release injectable medications for the treatment of mental health or substance use disorders and allows clinical pharmacy services costs provided by clinical pharmacists in a FQHC setting to be a part of that facilities cost report.

For more information contact

Jo Donlin, Legislative Liaison, Jo.Donlin@state.co.us

Tim Bergman, Interim Legislative Analyst, timothy.bergman@state.co.us

