



COLORADO

Department of Health Care
Policy & Financing

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Denver, CO 80203

2022 Legislative Session Wrap-Up

June 2022

The 2022 Legislative Session ended on May 11, 2022. After two years of non-traditional Legislative Sessions due to the pandemic, this year felt much more normal as the General Assembly convened on January 12, 2022, and continued, uninterrupted, for the full 120 days. A brief overview of the Department's agenda bills and other key healthcare legislation supported by the Department of Health Care Policy & Financing (Department) that passed this year is below.

Department Agenda Bills

SB 22-203 PACE Oversight and Accountability

PACE is an all-inclusive benefit for older adults who need long term services and supports. PACE provides a comprehensive medical and social service delivery system and uses an interdisciplinary team approach. This new state law authorizes the Department to work with stakeholders to develop a plan to establish formal oversight requirements and improve the state PACE oversight structure and process by June 30, 2023. The law requires the Department to conduct stakeholder engagement from PACE organizations, advocacy groups, ombudsman, the Department of Regulatory Agencies (DORA) and the Colorado Department of Public Health and Environment (CDPHE). In addition, the Department must establish, administer and enforce minimum regulatory standards and rules for the PACE program by March 1, 2024. Currently, oversight of PACE is conducted by the federal Centers for Medicare & Medicaid Services, the Department, and CDPHE. The bill, as passed, will create a more efficient, effective and transparent oversight structure at the state-level, while leveraging what is already in place.

SB 22-236 Redesign Medicaid Provider Rate Review Advisory Committee (MPRRAC)

Established in 2015, the MPRRAC provides input to the Department related to provider reimbursements, rate setting and rate review under the Medicaid program. This new state law will redesign the MPRRAC to increase its effectiveness and efficiency, while ensuring providers, consumers and stakeholders have an opportunity to provide input during the rate review process. The Department worked closely with the Joint Budget Committee on the

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law, which makes changes to the MPRRAC membership, reporting requirements and timing, review schedule and operations, and provide a better, more effective process for the state.

SB 22-052 Medicaid Adjusted Gross Income Compliance with Federal Requirements

In 2019, the Office of the Colorado State Auditor found that the Department's statutory Medicaid adjusted gross income eligibility requirements do not meet current federal requirements, despite the Department applying the federal requirements to its eligibility process and procedures. This new state law addresses the audit finding, brings Colorado into compliance with federal requirements, and mitigates future compliance issues.

HB 22-1247 Skilled Nursing Facility Enhanced Payments

This new state law provides \$27,001,000 in state fiscal year (SFY) 2021-22, including \$17,000,500 General Fund, to address staffing and other pandemic-driven issues in skilled nursing facilities. Nursing facilities have struggled to retain workforce under current Medicaid rate caps; this has resulted in lower resident census and decreased capacity to admit from hospitals. Medicaid receipts for nursing facilities have been under anticipated costs, and the Department will address these problems by re-investing a portion of the underspend. The payments authorized in this law will be used for: workforce and industry sustainability measures, including to hire and retain staff, and hospital complex need and correctional compassionate release admit incentives to address hospital discharge delays by incentivizing nursing facilities to admit these populations.

HB 22-1285 Hospital Transparency

Under federal law, hospitals are required to post standard charges on a publicly available website as of January 1, 2021. This new state law will help ensure federal compliance by prohibiting hospitals licensed and certified by the Department of Public Health and Environment (CDPHE) from pursuing collection against a patient owing debt, if the hospital was not in compliance with the federal hospital price transparency laws on the date that the items or services were provided to the patient. The state law also allows a patient to file suit to determine if the hospital was out of compliance with these laws. If a hospital is found to be out of compliance, the hospital will be required to:

- Refund any amount of the debt that has been paid and pay a penalty to the payer in an amount equal to the total amount of debt;
- Dismiss any court action and pay any attorney fees and costs incurred by the patient relating to the action; and
- Remove any report made to a consumer reporting agency relating to the debt from the patient's credit report.

This new law goes into effect on August 9, 2022, except for critical care hospitals, which must comply by February 15, 2023.

SB 22-200 Rural Hospital Stimulus Grant Program



This law creates a grant program that will give qualified hospitals serving rural communities in Colorado the resources to modernize their IT infrastructure and invest in projects to expand affordable access to health care. It creates a \$10,000,000 rural provider access and affordability fund in the state treasury to fund the program. HCPF is responsible for administering the fund, and the Medical Services Board will adopt guidelines to determine which providers will be eligible for funding. The types of rural providers eligible for grants from this program are rural hospitals that have a lower net patient revenue or reserves than other rural hospitals in the state. The law will improve access to critically needed services in rural communities including behavioral health care, telemedicine, remote patient monitoring, long-term and recovery care and skilled nursing care.

HB 22-1352 PPE Stockpile for Declared Disaster Emergencies

Part of the Governor's pandemic readiness bill package, this new law requires the Department of Public Safety (DPS) to secure and maintain a stockpile of essential materials that are available for distribution should the Governor declare a disaster emergency. The DPS must ensure a sufficient supply of materials to bridge the gap until the national supply chain can increase production to meet demand. Essential materials include personal protective equipment (PPE), ventilators and other items deemed essential during an emergency. DPS, in collaboration with CDPHE, will be responsible for distributing these essential materials to state agencies, local governments, hospitals and other healthcare providers.

SB 22-226 Programs to Support Health-care Workforce

This new state law, the second in the Governor's series of three pandemic readiness bills, creates a package of grant programs which will harness existing state initiatives and resources to ensure that Colorado's health-care workforce is adequately supported in order to meet the health-care demands of Coloradans. The grant programs include the Health Care Workforce Resilience and Retention Program, the Practice-Based Health Education Grant Program, the School Nurse Grant Program, the Reengagement Initiative and the In-Demand Short-Term Health Care Credentials Program. For FY 2022-23, the law provides \$61 million for programs supporting the education, training, recruitment and retention of health-care workers. All appropriations are from the Economic Recovery and Relief Cash Fund, which contains federal ARPA funds.

HB 22-1401 Hospital Nurse Staffing Standards

The third, and final, new law in the Governor's pandemic readiness bill package requires hospitals in the state to establish a nurse staffing committee pursuant to rules promulgated by the State Board of Health. Hospitals will submit the nurse staffing plan to CDPHE annually, post the plans publicly to their website and conduct quarterly reporting. On or before September 1, 2022 each hospital is required to report the baseline number of beds the hospital is able to staff and the hospital's current bed capacity. If the hospital's ability to



meet staffed-bed capacity falls below 80% of the required baseline in a specific period, CDPHE is authorized to fine a hospital up to \$10,000 per day for failing to meet the required staffed-bed capacity.

Other Major Bills Impacting the Department

- [HB 22-1031](#) Consumer Right to Repair Powered Wheelchairs compels powered wheelchair manufacturers to provide any necessary documentation and tools to ensure an individual or a wheelchair repair provider has the tools to make their own wheelchair repairs should the chose to
- [HB 22-1068](#) Medicaid Reimbursement for Therapy Using Equines makes reimbursement available for certain therapies using equine movement, contingent upon federal approval.
- [HB 22-1114](#) Transportation Services for Medicaid Waiver Recipients allows transportation network companies (TNCs) to provide non-medical transportation services to persons enrolled in certain Medicaid waiver programs beginning July 1, 2024. The bill requires HCPF to submit a report to the legislature by January 2024 identifying ways to incentivize and increase transportation provider participation and with a plan for operationalizing this service for members.
- [HB 22-1268](#) Medicaid Mental Health Reimbursement Rates Report requires an audit of Medicaid reimbursement rates for independent mental health and substance abuse treatment providers and the publication of a cost report for community mental health centers.
- [HB 22-1278](#) Behavioral Health Administration creates the Behavioral Health Administration in the Department of Human Services (CDHS) and charges it with creating a coordinated, cohesive, and effective behavioral health system in Colorado. The new law is the culmination of years of work on transforming the state's behavioral health care system.
- [HB 22-1289](#) Health Benefits for Colorado Children and Pregnant Persons expands Medicaid coverage to low-income pregnant people and children, regardless of immigration status in the state. The law also requires the Insurance Commissioner to improve the quality of health insurance coverage through the Health Insurance Affordability Enterprise and extends a survey of birthing parents indefinitely.
- [HB 22-1290](#) Changes to Medicaid for Wheelchair Repairs makes changes to the way Medicaid covers powered wheelchair repairs. It prohibits HCPF from requiring prior authorization for any repair of complex rehabilitation technology, while also requiring the Department to engage in a stakeholder process and promulgate rules establishing repair metrics for all complex rehabilitation technology suppliers. Three years after the repair metrics rules are established, HCPF may engage in a stakeholder process to determine the need for additional accountability measures including financial penalties, audits or other tools.
- [HB 22-1302](#) Health-care Practice Transformation creates the primary care and behavioral health statewide integration grant program in HCPF to provide grants to



primary care clinics for implementation of evidence-based clinical integration care models.

- [HB 22-1303](#) Increase Residential Behavioral Health Beds requires both CDHS and HCPF to partner to create at least 125 beds at mental health residential facilities throughout the state based on need. It also creates 16 additional in-patient beds at the mental health institute at Fort Logan.
- [HB 22-1370](#) Coverage Requirements for Health-care Products modifies prescription drug coverages, prohibits changes in a carrier's prescription drug coverage formulary during the plan year and requires reporting and analysis on prescription drug rebates.
- [SB 22-081](#) Health Exchange Education Campaign appropriates money to Connect for Health Colorado and HCPF to create and implement a public awareness and education campaign to inform consumers about health-care coverage options. The law will help HCPF serve members transitioning coverage as a result of the PHE unwind.
- [SB 22-156](#) Medicaid Prior Authorization and Recovery of Payment makes changes to the prior authorization and recoupment processes by prohibiting prepaid inpatient health plans from requiring prior authorizations for certain services and from certain payment recoveries.
- [SB 22-177](#) Investments in Care Coordination Infrastructure requires the Behavioral Health Administration to make certain investments including in training new and existing navigators on the behavioral health safety net system services, as it develops the statewide care coordination infrastructure and requires the infrastructure to include a cloud-based platform.
- [SB 22-196](#) Health Needs to Persons in Criminal Justice System provides funding for behavioral health needs and continuity of care for individuals in the criminal justice system.
- [SB 22-235](#) County Administration of Public Assistance Programs requires the development and implementation of a funding model for the administration of public medical assistance. Among its provisions, the new law compels HCPF to work in coordination with CDHS and county departments to develop a scope of work for the comprehensive assessment of best practices related to the administration of public and medical assistance programs and conduct that assessment to evaluate the existing infrastructure.

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