

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

DRAFT
3/30/26

DRAFT

LLS NO. 26-0978.01 Shelby Ross x4510

COMMITTEE BILL

Joint Budget Committee

BILL TOPIC: HCPF Statistical Sampling & Extrapolation
DEADLINES: File by: 3/31/2026

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZING THE DEPARTMENT OF HEALTH CARE**
102 **POLICY AND FINANCING TO USE STATISTICAL SAMPLING AND**
103 **EXTRAPOLATION TO RECOVER OVERPAYMENTS TO PROVIDERS**
104 **FOR CERTAIN MEDICAID SERVICES, AND, IN CONNECTION**
105 **THEREWITH, MAKING AND REDUCING AN 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://leg.colorado.gov/>.)

Joint Budget Committee. If the department of health care policy and financing (state department) initiates an audit of a medicaid provider

*Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words indicate deletions from existing law.*

after July 1, 2026, the state department is authorized to determine and recover an overpayment to a provider using statistical sampling and extrapolation if:

- A provider provides non-emergent medical transportation services;
- A provider provides pediatric behavioral therapy, including applied behavioral analysis; or
- The federal centers for medicare and medicaid services, the office of inspector general, the government accountability office, or another federal agency has completed an audit of Colorado's medicaid program and applied statistical sampling and extrapolation to determine an overpayment amount and provided notice to the state to return the federal share of the extrapolated overpayments.

The recovery audit contractor shall not use statistical sampling and extrapolation while conducting audits and reviews.

After the state department audits a provider, the state auditor's office is required to conduct an examination to determine that proper statistical sampling and extrapolation methods were used by the state department when determining whether an overpayment was made to a provider. The state auditor shall present a report of the findings to the legislative audit committee.

The bill reduces a general fund appropriation and increases a cash fund appropriation to the state department.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) The federal centers for medicare and medicaid services, the
5 office of inspector general, and other federal agencies regularly employ
6 statistical sampling and extrapolation methodologies to identify and
7 recover improper payments from the Colorado medicaid program
8 administered by the department of health care policy and financing, or
9 HCPF;

10 (b) Certain medicaid service areas, including nonemergency
11 medical transportation and pediatric behavioral therapy, such as applied

1 behavior analysis services, have been identified as having elevated rates
2 of improper billing, fraud, waste, and abuse, characterized by rapid
3 outsized spending growth not explained or supported by a corresponding
4 increase in the number of individuals served;

5 (c) Requiring HCPF to individually audit each claim submitted for
6 payment by a provider to determine the appropriate error rate and
7 overpayment recovery imposes an unrealistic and unsustainable
8 administrative burden;

9 (d) The inability for HCPF to audit every claim submitted by a
10 provider results in under-represented recoupments, recovery delays, and
11 increased risk for federal disallowance, which the state is solely
12 financially responsible for;

13 (e) Statistical sampling and extrapolation methodologies, when
14 applied consistently with recognized federal standards, provide a reliable
15 and efficient basis for overpayment recovery; and

16 (f) Granting HCPF the authority to use statistical sampling and
17 extrapolation across providers treating medicaid members for services
18 covered under the non-emergent medical transportation benefit and the
19 pediatric behavioral therapy benefit, including applied behavioral
20 analysis, will protect Colorado medicaid funds and the state general fund;
21 deter fraud, waste, and abuse and related practices; and align state
22 recovery practices with established federal methodologies and standards.

23 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-301, **amend**
24 (3)(a)(VI) as follows:

25 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
26 **adjustments - liens - review or audit procedures - cash fund - rules -**
27 **definitions.**

1 (3) (a) A review or audit of a provider is subject to the following
2 procedures:

3 (VI) (A) ~~Whenever possible, the reviewer or auditor shall base a~~
4 ~~determination of an overpayment to a provider upon a review of actual~~
5 ~~records of the department, its agents, or the provider. In the event~~
6 ~~sufficient records are not available to the reviewer or auditor, an~~
7 ~~overpayment determination may be based upon a sampling of records so~~
8 ~~long as the sampling and any extrapolation therefrom is reasonably valid~~
9 ~~from a statistical standpoint and is in accordance with generally accepted~~
10 ~~auditing standards.~~ IF THE STATE DEPARTMENT INITIATES AN AUDIT OF A
11 PROVIDER AFTER JULY 1, 2026, THE STATE DEPARTMENT IS AUTHORIZED
12 TO DETERMINE AND RECOVER AN OVERPAYMENT TO A PROVIDER USING
13 STATISTICAL SAMPLING AND EXTRAPOLATION IN ACCORDANCE WITH
14 SUBSECTION (3)(a)(VI)(B) OF THIS SECTION BY PARALLELING THE
15 METHODS USED BY FEDERAL AGENCIES, INCLUDING THE OFFICE OF
16 INSPECTOR GENERAL IN THE FEDERAL DEPARTMENT OF HEALTH AND
17 HUMAN SERVICES, THE GOVERNMENT ACCOUNTABILITY OFFICE, OR THE
18 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES.

19 (B) STATISTICAL SAMPLING AND EXTRAPOLATION MAY BE USED IF
20 A PROVIDER PROVIDES SERVICES COVERED UNDER THE NON-EMERGENT
21 MEDICAL TRANSPORTATION SERVICES BENEFIT PURSUANT TO SECTION
22 25.5-1-802; IF A PROVIDER PROVIDES SERVICES COVERED UNDER THE
23 PEDIATRIC BEHAVIORAL THERAPY BENEFIT, INCLUDING, BUT NOT LIMITED
24 TO, APPLIED BEHAVIORAL ANALYSIS; OR IF THE FEDERAL CENTERS FOR
25 MEDICARE AND MEDICAID SERVICES, THE OFFICE OF INSPECTOR GENERAL,
26 THE GOVERNMENT ACCOUNTABILITY OFFICE, OR ANOTHER FEDERAL
27 AGENCY HAS COMPLETED AN AUDIT OF THE STATE MEDICAL ASSISTANCE

1 PROGRAM AND APPLIED STATISTICAL SAMPLING AND EXTRAPOLATION TO
2 DETERMINE AN OVERPAYMENT AMOUNT AND PROVIDED NOTICE TO THE
3 STATE TO RETURN THE FEDERAL SHARE OF THE EXTRAPOLATED
4 OVERPAYMENTS.

5 (C) THE RECOVERY AUDIT CONTRACTOR SHALL NOT USE
6 STATISTICAL SAMPLING AND EXTRAPOLATION WHEN CONDUCTING AUDITS
7 AND REVIEWS.

8 (D) AFTER THE STATE DEPARTMENT AUDITS A PROVIDER
9 PURSUANT TO THIS SUBSECTION (3)(a)(VI), THE STATE AUDITOR OR ANY
10 PERSON AUTHORIZED BY THE STATE AUDITOR SHALL CONDUCT AN
11 EXAMINATION IN ACCORDANCE WITH SECTION 2-3-103 TO DETERMINE
12 THAT THE STATE DEPARTMENT USED PROPER STATISTICAL SAMPLING AND
13 EXTRAPOLATION METHODS WHEN DETERMINING WHETHER AN
14 OVERPAYMENT WAS MADE TO A PROVIDER. THE STATE AUDITOR SHALL
15 PRESENT A REPORT OF THE FINDINGS TO THE LEGISLATIVE AUDIT
16 COMMITTEE. <{***Do you want to include this requirement that the OSA***
17 ***present the report to the JBC as well as LAC?***>

18 **SECTION 3. Appropriation - adjustments to 2026 long bill.**

19 (1) Except as provided in subsection (3) of this section, to implement this
20 act, the appropriation made in the annual general appropriation act for the
21 2026-27 state fiscal year to the department of health care policy and
22 financing for medical and long-term care services for Medicaid-eligible
23 individuals is adjusted as follows:

24 (a) The general fund appropriation is decreased by \$6,861,775,
25 which amount is subject to the "(M)" notation as defined in the annual
26 general appropriation act for the same fiscal year; and

27 (b) The cash funds appropriation from recoveries and

1 recoupments is increased by \$13,723,550.

2 (2) For the 2026-27 state fiscal year, the general assembly
3 anticipates that the federal funds received by the department of health
4 care policy and financing for medical and long-term care services for
5 Medicaid-eligible individuals will decrease by \$6,861,775. The
6 appropriation in subsection (1) of this section is based on the assumption
7 that the department will not receive this amount of federal funds.

8 (3) Subsection (1) of this section does not require a reduction of
9 an appropriation in the annual general appropriation act for the 2026-27
10 state fiscal year if:

11 (a) The amount of the general fund appropriation made in the
12 annual general appropriation act for the 2026-27 state fiscal year to the
13 department of health care policy and financing for medical and long-term
14 care services for Medicaid-eligible individuals is less than the amount of
15 the adjustment required in subsection (1) of this section; or

16 (b) The annual general appropriation act for the 2026-27 state
17 fiscal year does not include an appropriation to the department of health
18 care policy and financing for medical and long-term care services for
19 Medicaid-eligible individuals.

20 **SECTION 4. Effective date.** This act takes effect upon passage;
21 except that section 3 of this act takes effect only if the annual general
22 appropriation act for the 2026-27 state fiscal year becomes law, in which
23 case section 3 of this act takes effect upon the effective date of this act or
24 of the annual general appropriation act for state fiscal year 2026-27,
25 whichever is later.

26 **SECTION 5. Safety clause.** The general assembly finds,
27 determines, and declares that this act is necessary for the immediate

1 preservation of the public peace, health, or safety or for appropriations for
2 the support and maintenance of the departments of the state and state
3 institutions.