SB 25-314

Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

SB 25-314 RECOVERY AUDIT CONTRACTOR PROGRAM

Prime Sponsors:
Sen. Kirkmeyer; Bridges
Rep. Bird; Sirota

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Fiscal note status: The fiscal note reflects the introduced bill, which was recommended by the Joint Budget Committee.

Summary Information

Overview. The bill places several requirements on vendors hired by the Department of Health Care Policy and Financing to conduct recovery audits and the audits they conduct.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Revenue
- State Diversions
- State Expenditures

Appropriations. For FY 2025-26, the bill requires and includes a net zero change in appropriations to the Department of Health Care Policy and Financing.

Table 1
State Fiscal Impacts

Type of Impact[1]	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	$0	$0
State Expenditures	$0	$0
Diverted Funds	$20,900,588	Not Calculated
Change in TABOR Refunds	$0	$0
Change in State FTE	0.0 FTE	0.0 FTE

[1] Fund sources for these impacts are shown in the tables below.

Table 1A
State Diversions/Expenditures

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27
General Fund, Cash Funds, & Federal Funds	-$20,900,588	Not Calculated
Recovery Audit Contractor Recoveries Cash Fund	$20,900,588	Not Calculated
Net Diversion	**$0**	**$0**

Summary of Legislation

The bill places several requirements on vendors hired by the Department of Health Care Policy and Financing (HCPF) to conduct recovery audits (RAC vendors) and the audits they conduct including contracting requirements, disclosure requirements, audit limitations, and review requirements.

Contracting Requirements

The bill requires RAC vendor compensation to be contingent on the money they recover. For the next audit, this contingency fee must not exceed 16 percent of recoveries and for subsequent audits must be tiered based on required work, if allowed by federal regulations.

Disclosure Requirements

The bill requires HCPF to issue notices of adverse action within 60 days of the federal deadline (currently 60 days) or forfeit the state share of the recovery.

Audit Limitations

The bill imposes the following limits on audits, if allowed by federal regulations:

- audits are restricted to claims made in the last three years;
- providers may be audited no more than three times per calendar year;
- audits must be grouped across providers;
- the number medical records an RAC vendor can request is capped and tiered by provider size; and
- for providers with an audit denial rate of 40 percent or higher, audits are restricted to 25-percent of claims per audit type.

Review Requirements

The bill requires HCPF to:

- review all RAC vendor audit proposals and regularly review all vendor work; and

- establish a process for providers to request an exit conference, informal, and formal reconsideration process; providers must request an informal reconsideration before submitting a formal appeal.

Recoveries Cash Fund

Finally, the bill requires all recoveries to be credited to the newly created Recovery Audit Contractor Recoveries Cash Fund.

State Diversion

Currently, overpayment recoveries are credited to HCPF based on the funds that paid the initial provider claims. The bill diverts these funds—$20.9 million in FY 2025-26—into the newly created Recovery Audit Contractor Recoveries Cash Fund. Recoveries for future years have not been estimated. These funds will continue to offsets HCPF's need for General Funds, cash funds, and federal funds based on the funds that paid in the initial claims.

State Revenue and Expenditures

The bill impacts HCPF revenue and expenditures in several ways, which will be adjusted through the annual budget process.

Contingency Fees

The bill will decrease HCPF's expenditures for contractor contingency fees in FY 2026-27 only. The RAC vendor contingency fee is currently 18 percent of recoveries. The bill requires it to be lowered to 16 percent for the next audit only. If recoveries remain consistent, this may lower HCPF's contract costs by about $400,000, approximately one third of which would be state funds. However, recoveries are not historically consistent and the lowered rate may decrease recovery revenue if RAC vendors are less incentivized to identify overpayments. Thus, the fiscal note has not estimated savings.

Forfeited Recoveries

The bill's disclosure requirements may decrease HCPF revenue by requiring notices of adverse action to be issued within 60 days of the federal deadline (currently 60 days). The fiscal note assumes this means that all notices must be issued within 120 of identifying an overpayment, codifying current practice and resulting in a minimal impact; see Technical Note.

Audit Limitations

The bill's audit limitations may decrease HCPF revenue. Audits are currently being conducted within the audit limitations specified in the bill. If substantial evidence arises to indicate that overpayments were made on claims outside of these limitations, the fiscal note assumes that federal regulations will require HCPF to conduct audits to recover these funds and, per the bill, HCPF would not be bound by the limitations and no recoveries would be lost.

Workload Impacts

The bill may decrease workload for HCPF if the requirement that providers request an informal reconsideration before submitting a formal appeal results in fewer formal appeals.

The bill requires HCPF to review all RAC vendor audit proposals and regularly review all vendor work. This codifies current practice and therefore does not impact workload.

All other requirements of the bill minimally increase workload for HCPF to promulgate rules, conduct provider outreach, and prepare reports. This work can be accomplished within existing resources.

Technical Note

The bill requires HCPF to issues notices of adverse action within 60 days of the federal deadline, which is currently 60 days. Neither the bill nor the federal statute (42 CFR 455.508 (e)(4)) specifies what action triggers the deadline. The fiscal note assumes that the trigger is identification of an overpayment. Currently there is no federal consequence for missing the deadline, but, under the bill, HCPF will forfeit the state share of the recovery.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2025-26, the bill requires and includes a net zero change in appropriation to the Department of Health Care Policy and Financing that includes an increase in appropriations of $20,900,588 from the Recovery Audit Contractor Recoveries Cash Fund and a corresponding decrease in General Fund, cash funds, and federal funds appropriations from recoveries and recoupments.

State and Local Government Contacts

Health Care Policy and Financing

Joint Budget Committee Staff