

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 25-0717.01 Chelsea Princell x4335

SENATE BILL 25-314

SENATE SPONSORSHIP

Kirkmeyer and Bridges, Amabile

HOUSE SPONSORSHIP

Bird and Sirota, Taggart

Senate Committees

Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO THE RECOVERY AUDIT CONTRACTOR**
102 **PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AND**
103 **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. The bill allows the department of health care policy and financing (state department) to contract with a recovery audit contractor (RAC) vendor to conduct RAC audits of medicaid providers (providers) on behalf of the state department.

RAC audits may only review claims that are no more than 3 years

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

past the date of the expiration of the timely filing period. The bill allows the state department to review claims that fall outside of this 3-year time frame only if required by a federal audit.

The bill limits the number of audits a provider may undergo each year and limits the number of medical records that can be requested for a given audit.

If the state department identifies preliminary findings during the RAC audit, the state department must send the provider a report detailing the preliminary findings, the rationale for the preliminary findings, and the methodology for how any overpayments were calculated and determined.

The bill allows a provider that received preliminary findings following a complex audit to request an exit conference to discuss the preliminary findings with the state department in an effort to resolve the concerns detailed in the preliminary findings prior to undergoing an informal reconsideration of the preliminary findings.

The bill requires a provider to participate in an informal reconsideration before filing a formal appeal regarding the state department's findings during a RAC audit.

The bill, in the department of health care policy and financing for medical and long-term care services for medical-eligible individuals budget, decreases the cash funds appropriation from recoveries and recoupments by \$20,900,588 and the cash funds appropriation from the recovery audit contractor recoveries cash fund is increased by \$20,900,588.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-4-301, **amend**
3 (3.5)(c); **repeal** (3)(a)(IX); and **add** (3.3) as follows:

4 **25.5-4-301. Recoveries - overpayments - penalties - interest -**
5 **adjustments - liens - review or audit procedures - cash fund - rules -**
6 **definitions - repeal.** (3) (a) A review or audit of a provider is subject to
7 the following procedures:

8 (IX) ~~For audits conducted pursuant to 42 CFR 455.506, at least~~
9 ~~quarterly, the state department shall publish on its website an audit~~
10 ~~activity report detailing current and recently completed audits and reviews~~
11 ~~and summaries of the findings of such audits and reviews, including the~~

~~number and amounts of overpayments and underpayments found, the number and results of appeals, the amounts collected, and the error rates identified. At least quarterly, the state department shall conduct trainings for providers and hold stakeholder meetings regarding audits and reviews. In addition, when the state department enters into contracts pursuant to this subsection (3)(a), the state department shall publish on its website a copy of the contract, scope of work, and information regarding supervision of contractor deliverables.~~

(3.3) (a) AS USED IN THIS SUBSECTION (3.3), UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "AUTOMATED AUDIT" MEANS A RAC AUDIT THAT REVIEWS A PROVIDER'S APPLICATION OF CODING RULES AND DOES NOT REQUIRE A PROVIDER TO SUBMIT MEDICAL RECORDS TO BE AUDITED.

(II) "COMPLEX AUDIT" MEANS A RAC AUDIT THAT REQUIRES A PROVIDER TO SUBMIT MEDICAL RECORDS TO BE AUDITED, WHICH ARE INDIVIDUALLY REVIEWED BY A REPRESENTATIVE OF THE STATE DEPARTMENT OR THE STATE DEPARTMENT'S RAC VENDOR.

(III) "DENIAL RATE" MEANS THE PERCENTAGE OF REVIEWED CLAIMS ULTIMATELY DETERMINED TO INVOLVE IMPROPER PAYMENTS AFTER ALL ADMINISTRATIVE PROCESSES ARE COMPLETE, INCLUDING THE RESOLUTION OF AN APPEAL.

(IV) "RAC AUDIT" MEANS A RECOVERY AUDIT CONTRACTOR AUDIT CONDUCTED PURSUANT TO THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396a (a)(42)(B).

(V) "RAC VENDOR" MEANS A VENDOR WHO MEETS THE REQUIREMENTS OF 42 CFR 455.508 AND CONTRACTS WITH THE STATE DEPARTMENT TO PERFORM RECOVERY AUDIT CONTRACTOR AUDITS OF

1 PROVIDERS ON BEHALF OF THE STATE DEPARTMENT.

2 (b) THE STATE DEPARTMENT MAY SOLICIT THE SERVICES OF A RAC
3 VENDOR THROUGH A CONTRACT ISSUED PURSUANT TO THE
4 "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, AND PURSUANT
5 TO THE FEDERAL REQUIREMENTS DETAILED IN 42 CFR 455.508, FOR THE
6 PURPOSE OF CONDUCTING RAC AUDITS OF PROVIDERS TO IDENTIFY
7 POSSIBLE MEDICAID OVERPAYMENTS AND UNDERPAYMENTS.

8 (c) (I) THE CONTRACT DESCRIBED IN SUBSECTION (3.3)(b) OF THIS
9 SECTION MUST STATE THAT THE RAC VENDOR'S COMPENSATION IS
10 CONTINGENT UPON THE AMOUNT OF OVERPAYMENTS THE STATE RECOVERS
11 FROM A PROVIDER. AT THE EXPIRATION OF THE CURRENT CONTRACT
12 BETWEEN THE STATE DEPARTMENT AND THE RAC VENDOR, THE STATE
13 DEPARTMENT SHALL ESTABLISH CONTINGENCY FEE RATES BASED ON
14 MARKET RATES DETERMINED BY THE RESULTS OF A COMPETITIVE
15 PROCUREMENT PROCESS AND MAY NEGOTIATE LOWER RATES AS THE
16 MARKET PROVIDES, WITH CONTINGENCY RATES NOT TO EXCEED SIXTEEN
17 PERCENT OF RECOVERED PAYMENTS. THE STATE DEPARTMENT SHALL
18 ENSURE THAT THE CONTINGENCY FEE REQUIREMENTS ARE ADHERED TO
19 THROUGH EFFECTIVE MONITORING AND ENFORCEMENT OF THE RAC
20 VENDOR'S PERFORMANCE. FOR CONTRACTS ENTERED INTO AFTER THE
21 EXPIRATION OF THE CONTRACT THAT ESTABLISHED CONTINGENCY FEE
22 RATES FOR RAC VENDOR PAYMENTS, THE STATE DEPARTMENT SHALL
23 STRUCTURE THE RAC VENDOR COMPENSATION BASED ON A TIERED
24 PAYMENT SYSTEM THAT CORRESPONDS TO THE REQUIRED WORK UNLESS
25 DOING SO CONFLICTS WITH FEDERAL DIRECTIVES IN MEDICAID GUIDANCE
26 PURSUANT TO 42 CFR 455, SUBPART F, OR RESULTS IN AN UNFAVORABLE
27 IMPACT TO THE STATE'S GENERAL FUND.

1 (II) WHEN THE STATE DEPARTMENT ENTERS INTO A CONTRACT
2 PURSUANT TO SUBSECTION (3.3)(b) OF THIS SECTION, THE STATE
3 DEPARTMENT MUST PUBLISH ON ITS WEBSITE A COPY OF THE CONTRACT,
4 SCOPE OF THE WORK, AND INFORMATION REGARDING SUPERVISION OF
5 CONTRACTOR DELIVERABLES.

6 (III) THE CONTRACT DESCRIBED IN SUBSECTION (3.3)(b) OF THIS
7 SECTION MUST REQUIRE THE RAC VENDOR TO:

8 (A) CONDUCT INFORMAL CONFERENCES OR PHONE CALLS WITH
9 PROVIDERS OR PROVIDER ASSOCIATIONS TO DISCUSS THE RAC PROGRAM,
10 PROCESSES, AND FINDINGS;

11 (B) CONDUCT PROVIDER OUTREACH AND EDUCATION ACTIVITIES,
12 INCLUDING NOTIFYING PROVIDERS OF AUDIT POLICIES, PROTOCOLS, AND
13 COMMON BILLING ERRORS;

14 (C) RESPOND TO PROVIDER QUESTIONS AND REQUESTS FOR
15 INFORMATION WITHIN TWO BUSINESS DAYS AFTER RECEIVING THE
16 QUESTION OR REQUEST FOR INFORMATION;

17 (D) RETURN, WITHIN THIRTY DAYS, THE CONTINGENCY FEE
18 ASSOCIATED WITH INACCURATE AUDIT SCENARIOS THAT RESULTED IN
19 PROVIDER REFUNDS AS PRESCRIBED BY THE STATE DEPARTMENT; AND

20 (E) COMPLY WITH THE SIXTY-DAY DEADLINE SET FORTH IN 42 CFR
21 455.508 (e)(4) TO ISSUE AN ADVERSE ACTION AND THE FORTY-FIVE-DAY
22 DEADLINE TO ISSUE AN INFORMAL RECONSIDERATION DETERMINATION
23 RESPONSE REQUIRED PURSUANT TO SUBSECTION (3)(a)(VII) OF THIS
24 SECTION.

25 (d) THE RAC CONTRACT DESCRIBED IN SUBSECTION (3.3)(b) OF
26 THIS SECTION MAY INCLUDE AN OPTION TO PAY THE RAC VENDOR TO
27 IDENTIFY UNDERPAYMENTS FOR CONSIDERATION IN FUTURE STATE

1 DEPARTMENT BUDGET REQUESTS.

2 (e) (I) THE STATE DEPARTMENT SHALL IMPLEMENT A PROCESS TO
3 VERIFY THAT THE RAC VENDOR'S STAFF WHO MAKE CLINICAL RAC AUDIT
4 FINDINGS ARE APPROPRIATELY LICENSED PURSUANT TO INDUSTRY
5 STANDARDS AND FEDERAL REQUIREMENTS, INCLUDING THAT THE RAC
6 VENDOR HIRE QUALIFIED CODERS AND THAT THE RAC VENDOR'S STAFF
7 WHO MAKE BILLING RAC AUDIT FINDINGS HAVE KNOWLEDGE OF MEDICAID
8 BILLING AND CODING RULES AND GUIDANCE ADOPTED BY THE STATE
9 DEPARTMENT.

10 (II) THE STATE DEPARTMENT MUST ENSURE THAT QUALIFIED
11 CODERS HAVE RELEVANT CREDENTIALS FOR THE TYPE OF MEDICAL
12 SERVICES BEING REVIEWED, IN ACCORDANCE WITH INDUSTRY STANDARDS.

13 (III) ANY COMPLEX AUDIT THAT REQUIRES A REVIEW OF MEDICAL
14 RECORDS MUST BE CONDUCTED BY LICENSED CLINICAL STAFF WITH
15 TRAINING AND COMPETENCY IN THE SPECIFIC TYPE OF COMPLEX AUDIT
16 BEING CONDUCTED, IN ACCORDANCE WITH INDUSTRY STANDARDS.
17 PROVIDERS MUST MAKE ALL RELEVANT MEDICAL RECORDS AND
18 INFORMATION RELATED TO CLAIMS REVIEWED DURING THE COMPLEX
19 AUDIT AVAILABLE TO THE RAC VENDOR WITHIN THE TIME LIMITS
20 SPECIFIED IN THE INITIAL MEDICAL RECORDS REQUEST.

21 (IV) THE STATE DEPARTMENT SHALL FULLY INFORM THE RAC
22 VENDOR OF ANY CHANGES TO THE STATE BILLING STANDARDS AND ENSURE
23 THAT THE VENDOR ONLY APPLIES BILLING STANDARDS THAT WERE IN
24 EFFECT AT THE SPECIFIED DATE OF SERVICE. THE STATE DEPARTMENT IS
25 RESPONSIBLE FOR MONITORING COMPLIANCE WITH THIS REQUIREMENT
26 AND TAKING APPROPRIATE ACTION TO ENSURE THE RAC VENDOR'S
27 COMPLIANCE.

1 (V) THE STATE DEPARTMENT SHALL ENSURE THAT THE RAC
2 VENDOR COMPLIES WITH THE CONTRACT REQUIREMENTS DESCRIBED IN
3 SUBSECTION (3.3)(b) OF THIS SECTION AND CONDUCTS RAC AUDITS IN A
4 FAIR AND CONSISTENT MANNER.

5 (VI) THE STATE DEPARTMENT SHALL ENSURE THAT THE RAC
6 VENDOR INCORPORATES INTO EACH AUDIT SCENARIO, WHETHER AN
7 AUTOMATED AUDIT OR A COMPLEX AUDIT, THE FOLLOWING INFORMATION:

8 (A) FEDERAL STATUTES AND BILLING RULES AND STANDARDS
9 THAT ARE APPLICABLE TO THE SPECIFIC PROVIDER DURING THE SPECIFIED
10 DATES OF SERVICE FOR EACH AUDIT;

11 (B) STATE STATUTES, BILLING RULES AND STANDARDS, AND
12 POLICIES AS DOCUMENTED IN THE STATE DEPARTMENT'S PROVIDER BILLING
13 MANUALS AND PROVIDER BULLETINS, AS WELL AS IN PROGRAM GUIDANCE
14 AND DIRECTIVES EFFECTIVE FOR THE SPECIFIC PROVIDER DURING THE
15 SPECIFIED DATES OF SERVICE FOR EACH AUDIT; AND

16 (C) INPUT FROM THE STATE DEPARTMENT'S RAC STAFF AND
17 MEDICAL DIRECTOR, AS WELL AS ANY OTHER NECESSARY STATE
18 DEPARTMENT STAFF BASED ON THE STAFF'S OR MEDICAL DIRECTOR'S
19 REVIEW OF THE AUDIT SCENARIO.

20 (VII) WHEN AUDITING CLAIMS TO MAKE RAC AUDIT FINDINGS,
21 THE STATE DEPARTMENT MUST ENSURE THAT THE RAC VENDOR FOLLOWS
22 ALL RELEVANT AND APPROPRIATE FEDERAL BILLING GUIDELINES,
23 REQUIREMENTS SET BY THE MEDICAID BILLING MANUAL, STANDARD
24 CLINICAL GUIDELINES, AND ANY OTHER APPLICABLE STATE OR FEDERAL
25 RULES AND REGULATIONS.

26 (f) THE STATE DEPARTMENT SHALL COMPREHENSIVELY REVIEW
27 ALL AUDIT TYPES PROPOSED BY THE RAC VENDOR AND MUST APPROVE,

1 ADJUST, OR REJECT EACH AUDIT TYPE BEFORE THE RAC VENDOR
2 CONDUCTS THE RAC AUDIT. WITHIN EIGHTEEN MONTHS OF THE ROLLOUT
3 OF A NEW AUDIT, IF THE STATE DEPARTMENT, IN COLLABORATION WITH
4 PROVIDERS AND THE PROVIDER ADVISORY GROUP CREATED IN SUBSECTION
5 (3.5) OF THIS SECTION, DETERMINES THAT THE AUDIT IS INACCURATE, THE
6 STATE DEPARTMENT MUST REFUND PROVIDERS WHO SUBMITTED
7 REPAYMENTS BASED ON INACCURATE AUDIT FINDINGS AND REQUIRE THE
8 RAC VENDOR TO RETURN THE CONTINGENCY FEE ASSOCIATED WITH THE
9 PAYMENTS WITHIN THIRTY DAYS.

10 (g) THE STATE DEPARTMENT SHALL REGULARLY REVIEW ACTIVE
11 RAC AUDITS TO ENSURE COMPLIANCE WITH FEDERAL AND STATE
12 REGULATION CHANGES AND POLICY UPDATES AND DISCONTINUE A RAC
13 AUDIT IF AND WHEN APPROPRIATE DUE TO A CHANGE IN FEDERAL OR STATE
14 REGULATION OR POLICY UPDATES.

15 (h) CONSISTENT WITH 42 CFR 455.508 (f), RAC AUDITS AND
16 REVIEWS CONDUCTED PURSUANT TO THIS SECTION MUST NOT REVIEW
17 CLAIMS MORE THAN THREE YEARS AFTER THE EXPIRATION OF THE TIMELY
18 FILING PERIOD. THE STATE DEPARTMENT MAY CONDUCT A RAC AUDIT FOR
19 A CLAIM FILED MORE THAN THREE YEARS AFTER THE EXPIRATION OF THE
20 TIMELY FILING PERIOD IF REQUIRED BY A FEDERAL AUDIT THAT WOULD
21 OTHERWISE RESULT IN COSTS TO THE GENERAL FUND OR, IF DIRECTED BY
22 THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES, THE
23 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, OR ANY
24 OTHER FEDERAL AGENCY. IF A RAC AUDIT IS INITIATED IN RESPONSE TO
25 A FEDERAL DIRECTIVE, THE STATE DEPARTMENT MUST PROVIDE NOTICE TO
26 AN IMPACTED PROVIDER AND INCLUDE THE REASON FOR THE RAC AUDIT
27 AND ANY RELEVANT INFORMATION ABOUT THE FEDERAL REQUIREMENT IN

1 THE NOTICE.

2 (i) (I) THE RAC VENDOR SHALL NOT REQUIRE A PROVIDER TO
3 UNDERGO MORE THAN THREE COMPLEX AUDITS PER CALENDAR YEAR.
4 HOSPITALS MUST BE GROUPED FOR COMPLEX AUDITS BASED ON THEIR
5 TOTAL MEDICAID REIMBURSEMENT IN THE PREVIOUS FISCAL YEAR, AND
6 GROUPINGS MUST BE DETERMINED USING STATE DATA AND PUBLISHED
7 ANNUALLY BY THE STATE DEPARTMENT.

8 (II) THE MAXIMUM NUMBER OF MEDICAL RECORD REQUESTS A
9 PROVIDER MAY RECEIVE EACH MONTH MUST BE CLEARLY COMMUNICATED
10 TO PROVIDERS AND REVIEWED ANNUALLY BY THE STATE DEPARTMENT.
11 THE RAC VENDOR SHALL NOT REQUEST MORE THAN THE FOLLOWING
12 NUMBER OF MEDICAL RECORDS PER HOSPITAL PER MONTH:

13 (A) SIX HUNDRED FOR HOSPITALS WITH OVER TWO HUNDRED FIFTY
14 MILLION DOLLARS IN MEDICAID REVENUE;

15 (B) FOUR HUNDRED FOR HOSPITALS WITH BETWEEN SEVENTY
16 MILLION DOLLARS AND TWO HUNDRED FORTY-NINE MILLION NINE
17 HUNDRED NINETY-NINE THOUSAND NINE HUNDRED NINETY-NINE DOLLARS
18 IN MEDICAID REVENUE;

19 (C) TWO HUNDRED FOR HOSPITALS WITH BETWEEN FORTY MILLION
20 DOLLARS AND SIXTY-NINE MILLION NINE HUNDRED NINETY-NINE
21 THOUSAND NINE HUNDRED NINETY-NINE DOLLARS IN MEDICAID REVENUE;

22 (D) ONE HUNDRED FOR HOSPITALS WITH BETWEEN TWENTY
23 MILLION DOLLARS AND THIRTY-NINE MILLION NINE HUNDRED NINETY-NINE
24 THOUSAND NINE HUNDRED NINETY-NINE DOLLARS IN MEDICAID REVENUE;

25 (E) FIFTY FOR HOSPITALS WITH BETWEEN TEN MILLION DOLLARS
26 AND NINETEEN MILLION NINE HUNDRED NINETY-NINE THOUSAND NINE
27 HUNDRED NINETY-NINE DOLLARS IN MEDICAID REVENUE;

1 (F) TWENTY-FIVE FOR HOSPITALS WITH BETWEEN ONE MILLION
2 DOLLARS AND NINE MILLION NINE HUNDRED NINETY-NINE THOUSAND NINE
3 HUNDRED NINETY-NINE DOLLARS IN MEDICAID REVENUE;

4 (G) TWENTY FOR HOSPITALS WITH UNDER ONE MILLION DOLLARS
5 IN MEDICAID REVENUE; AND

6 (H) TEN FOR OUT-OF-STATE FACILITIES.

7 (III) THE REQUIREMENTS OF THIS SUBSECTION (3.3)(i) DO NOT
8 APPLY IF:

9 (A) FEDERAL MEDICAID DIRECTIVES REQUIRED PURSUANT TO 42
10 CFR 455, SUBPART F, REQUIRE A HIGHER LEVEL OF CLAIM AUDITS;

11 (B) AN AGENCY OF THE FEDERAL GOVERNMENT REQUIRES, IN
12 WRITING, THE STATE DEPARTMENT TO INITIATE ADDITIONAL AUDIT
13 ACTIVITY; OR

14 (C) A FEDERAL AUDIT IDENTIFIES ADDITIONAL PROVIDER FINDINGS
15 THAT IMPACT THE STATE GENERAL FUND AND THAT SHOULD BE
16 APPROPRIATELY RECOVERED FROM THAT PROVIDER THROUGH AN
17 ADDITIONAL RAC AUDIT AND ITS RECOUPMENTS.

18 (j) (I) THE RAC VENDOR SHALL NOT REQUIRE A PROVIDER TO
19 UNDERGO MORE THAN FOUR AUTOMATED AUDITS PER CALENDAR YEAR.
20 PROVIDERS MUST BE GROUPED FOR AUTOMATED AUDITS BASED ON THEIR
21 TOTAL MEDICAID REIMBURSEMENT IN THE PREVIOUS FISCAL YEAR, AND
22 GROUPINGS MUST BE DETERMINED USING STATE DATA AND PUBLISHED
23 ANNUALLY.

24 (II) THE MAXIMUM NUMBER OF PROVIDER CLAIMS ACROSS ALL OF
25 A PROVIDER'S LOCATIONS FOR A GIVEN CALENDAR YEAR THAT UNDERGO
26 AUTOMATED AUDITS MUST NOT EXCEED:

27 (A) 2.92 PERCENT FOR PROVIDERS WITH OVER TEN MILLION

1 DOLLARS IN MEDICAID REVENUE;

2 (B) 2.50 PERCENT FOR PROVIDERS WITH BETWEEN FOUR MILLION

3 DOLLARS AND TEN MILLION DOLLARS IN MEDICAID REVENUE;

4 (C) 2.08 PERCENT FOR PROVIDERS WITH BETWEEN ONE MILLION

5 DOLLARS AND THREE MILLION NINE HUNDRED NINETY-NINE THOUSAND

6 NINE HUNDRED NINETY-NINE DOLLARS IN MEDICAID REVENUE; AND

7 (D) 1.67 PERCENT FOR PROVIDERS WITH LESS THAN ONE MILLION

8 DOLLARS IN MEDICAID REVENUE.

9 (III) AFTER THE ADMINISTRATIVE PROCESS IS EXHAUSTED, IF THE

10 STATE DEPARTMENT IDENTIFIES A DENIAL RATE OF FORTY PERCENT OR

11 HIGHER FOR A SPECIFIC PROVIDER ON A SPECIFIC AUDIT TYPE, THE STATE

12 DEPARTMENT SHALL AUDIT NO MORE THAN AN ADDITIONAL TWENTY-FIVE

13 PERCENT OF THE CLAIM PERCENTAGES STATED IN SUBSECTION (3.3)(j)(II)

14 OF THIS SECTION ASSOCIATED WITH THAT AUDIT TYPE.

15 (IV) THE REQUIREMENTS OF THIS SUBSECTION (3.3)(j) DO NOT

16 APPLY IF:

17 (A) FEDERAL MEDICAID DIRECTIVES REQUIRED PURSUANT TO 42

18 CFR 455, SUBPART F, REQUIRE A HIGHER LEVEL OF CLAIM AUDITS;

19 (B) AN AGENCY OF THE FEDERAL GOVERNMENT REQUIRES, IN

20 WRITING, THE STATE DEPARTMENT TO INITIATE ADDITIONAL AUDIT

21 ACTIVITY; OR

22 (C) A FEDERAL AUDIT IDENTIFIES ADDITIONAL PROVIDER FINDINGS

23 THAT IMPACT THE STATE GENERAL FUND AND THAT SHOULD BE

24 APPROPRIATELY RECOVERED FROM THAT PROVIDER THROUGH AN

25 ADDITIONAL RAC AUDIT AND ITS RECOUPMENTS.

26 (k) WHEN CONDUCTING AUDITS, THE RAC VENDOR MUST:

27 (I) REQUEST PROVIDER RECORDS THAT ARE RELEVANT TO THE

1 CLAIMS BEING AUDITED AND THAT DO NOT DUPLICATE INFORMATION
2 ALREADY PROVIDED;

3 (II) NOT AUDIT THE VALIDITY OF A PROVIDER'S PRIOR
4 AUTHORIZATION RECEIVED FROM THE STATE DEPARTMENT; AND

5 (III) FOR A COMPLEX AUDIT, NOT AUDIT CLAIMS THAT ARE ON THE
6 FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES
7 INPATIENT-ONLY LIST AT THE DATE OF SERVICE FOR A LEVEL-OF-CARE
8 DETERMINATION.

9 (I) (I) IF THE RAC VENDOR IDENTIFIES PRELIMINARY FINDINGS
10 DURING THE RAC AUDIT, THE RAC VENDOR SHALL SEND THE PROVIDER
11 A REPORT DETAILING THE PRELIMINARY FINDINGS, THE RATIONALE FOR
12 THE PRELIMINARY FINDINGS, AND THE METHODOLOGY FOR HOW ANY
13 OVERPAYMENTS WERE CALCULATED AND DETERMINED.

14 (II) FOR A COMPLEX AUDIT, A PROVIDER MAY REQUEST AN EXIT
15 CONFERENCE MEETING TO DISCUSS THE PRELIMINARY FINDINGS WITH THE
16 RAC VENDOR AND THE STATE DEPARTMENT MEDICAL DIRECTOR, OR THE
17 STATE DEPARTMENT MEDICAL DIRECTOR'S DESIGNEE, PRIOR TO
18 PARTICIPATING IN AN INFORMAL RECONSIDERATION. THE PROVIDER MAY
19 PROVIDE ADDITIONAL INFORMATION SUPPORTING THE PROVIDER'S CLAIMS
20 AT THE EXIT CONFERENCE MEETING. A PROVIDER MUST REQUEST AN EXIT
21 CONFERENCE MEETING NO LATER THAN THIRTY DAYS AFTER THE RAC
22 VENDOR SENDS THE PRELIMINARY FINDINGS TO THE PROVIDER. IF THE
23 PROVIDER REQUESTS AN EXIT CONFERENCE MEETING, THE STATE
24 DEPARTMENT OR THE RAC VENDOR MUST SCHEDULE THE EXIT
25 CONFERENCE MEETING WITHIN SIXTY DAYS AFTER THE REQUEST IS MADE
26 AND ON A MUTUALLY AGREED UPON DATE AND TIME.

27 (III) IF, BASED ON THE RAC AUDIT, THE STATE DEPARTMENT

1 DETERMINES THAT AN OVERPAYMENT OCCURRED, THE NOTIFICATION TO
2 THE PROVIDER REGARDING THE PRELIMINARY FINDINGS MUST INCLUDE A
3 DEMAND FOR REPAYMENT AND A DESCRIPTION OF THE INFORMAL
4 RECONSIDERATION PROCESS.

5 (IV) IF A PROVIDER DOES NOT REQUEST AN EXIT CONFERENCE
6 MEETING OR IF A PROVIDER PARTICIPATES IN AN EXIT CONFERENCE
7 MEETING AND THE PRELIMINARY FINDINGS ARE NOT DISMISSED, THE
8 PROVIDER MUST UNDERGO AN INFORMAL RECONSIDERATION BEFORE THE
9 PROVIDER MAY FORMALLY APPEAL THE STATE DEPARTMENT'S
10 DETERMINATION.

11 (V) THE STATE DEPARTMENT MUST NOT RECOVER AN
12 OVERPAYMENT FROM A PROVIDER UNTIL THE INFORMAL
13 RECONSIDERATION AND SUBSEQUENT FORMAL APPEAL, IF FILED, ARE
14 COMPLETE.

15 (VI) TO PARTICIPATE IN AN INFORMAL RECONSIDERATION, THE
16 PROVIDER MUST:

17 (A) SUBMIT ALL MEDICAL RECORDS RELEVANT TO THE CLAIMS AND
18 THE REASONING FOR THE PROVIDER'S DISAGREEMENT CONCERNING THE
19 RAC AUDIT FINDINGS TO THE STATE DEPARTMENT WITHIN NINETY DAYS
20 AFTER THE REQUEST FOR INFORMAL RECONSIDERATION IS MADE. THE
21 RELEVANT MEDICAL RECORDS MUST ALLEGEDLY SUBSTANTIATE THE
22 PROVIDER'S ARGUMENT TO OVERTURN ANY DISPUTED AUDIT FINDINGS TO
23 ALLOW THE STATE DEPARTMENT AND THE RAC VENDOR TO RECONSIDER
24 THE FINDINGS.

25 (B) WORK WITH THE STATE DEPARTMENT TO DETERMINE THE
26 RELEVANT STAFF TO PARTICIPATE IN THE INFORMAL RECONSIDERATION.
27 THE STAFF WHO PARTICIPATE SHALL ATTEND AND PARTICIPATE IN GOOD

1 FAITH IN AN EFFORT TO RESOLVE THE DISPUTE.

2 (C) REQUEST AN EXTENSION OF NO MORE THAN SIXTY DAYS AFTER
3 THE DATE OF THE ORIGINALLY SCHEDULED INFORMAL RECONSIDERATION
4 IF ADDITIONAL TIME IS NECESSARY TO ADEQUATELY PREPARE FOR THE
5 INFORMAL RECONSIDERATION.

6 (VII) IF A PROVIDER PARTICIPATES IN AN INFORMAL
7 RECONSIDERATION, THE STATE DEPARTMENT MUST:

8 (A) SCHEDULE AN INFORMAL RECONSIDERATION MEETING AT A
9 MUTUALLY AGREED UPON DATE AND TIME AND TIMELY NOTIFY THE
10 PROVIDER OF THE DATE AND TIME;

11 (B) REVIEW ALL MEDICAL RECORDS SUBMITTED BY THE PROVIDER
12 PRIOR TO THE INFORMAL RECONSIDERATION MEETING;

13 (C) ATTEND AND PARTICIPATE IN THE INFORMAL
14 RECONSIDERATION MEETING IN GOOD FAITH IN AN EFFORT TO RESOLVE THE
15 DISPUTE;

16 (D) WORK WITH THE PROVIDER TO DETERMINE IF IT IS NECESSARY
17 FOR THE STATE DEPARTMENT MEDICAL DIRECTOR, OR THE STATE
18 DEPARTMENT MEDICAL DIRECTOR'S DESIGNEE, TO ATTEND THE INFORMAL
19 RECONSIDERATION MEETING IN ORDER TO ASSESS THE APPROPRIATENESS
20 OF THE DISPUTED FINDINGS INDEPENDENT OF THE RAC VENDOR; AND

21 (E) RESCHEDULE THE INFORMAL RECONSIDERATION MEETING ON
22 A MUTUALLY AGREED UPON DATE AND TIME THAT TAKES PLACE NO LATER
23 THAN NINETY DAYS AFTER THE ORIGINAL INFORMAL RECONSIDERATION
24 MEETING DATE IF EITHER THE PROVIDER REQUESTS AN EXTENSION
25 PURSUANT TO SUBSECTION (3.3)(1)(VI)(C) OF THIS SECTION OR THE STATE
26 DEPARTMENT NEEDS ADDITIONAL TIME TO REVIEW THE SUBMITTED
27 MEDICAL RECORDS.

1 (VIII) IF A PROVIDER REQUESTS A FORMAL APPEAL, THE PROVIDER
2 MUST INCLUDE IN THE REQUEST AN EXPLANATION OF THE BASIS OF THE
3 APPEAL IN ACCORDANCE WITH THE RULES ADOPTED BY THE STATE
4 DEPARTMENT.

5 (m) (I) IF THE RAC VENDOR IDENTIFIES AN ALLEGED
6 OVERPAYMENT DURING THE RAC AUDIT, THE RAC VENDOR MUST SEND
7 THE PROVIDER A NOTICE OF ADVERSE ACTION OR NOTICE OF INFORMAL
8 RECONSIDERATION DETAILING A DESCRIPTION OF THE BASIS OF THE
9 ALLEGED OVERPAYMENT, THE RATIONALE FOR THE ALLEGED
10 OVERPAYMENT, AND THE METHODOLOGY USED TO DETERMINE AND
11 CALCULATE THE ALLEGED OVERPAYMENT.

12 (II) THE STATE DEPARTMENT SHALL PROVIDE NINETY DAYS FOR
13 THE PROVIDER TO RESPOND TO THE NOTICE OF ADVERSE ACTION OR
14 INFORMAL RECONSIDERATION DETERMINATION REPORTED BY THE RAC
15 VENDOR.

16 (III) IF THE STATE DEPARTMENT OR THE RAC VENDOR FAILS TO
17 ISSUE A NOTICE OF ADVERSE ACTION WITHIN SIXTY DAYS AFTER THE
18 FEDERAL DEADLINE SET FORTH IN 42 CFR 455.508, THE STATE
19 DEPARTMENT WAIVES ITS RIGHT TO RECOVER THE STATE SHARE OF AN
20 OVERPAYMENT.

21 (n) PROVIDERS ARE SUBJECT TO ALL STATE AND FEDERAL
22 MEDICAID FRAUD, WASTE, AND ABUSE LAWS AND MUST COMPLY WITH ALL
23 APPLICABLE PROGRAM INTEGRITY REQUIREMENTS. FAILURE TO COMPLY
24 MAY RESULT IN REMOVAL FROM THE STATE MEDICAL ASSISTANCE
25 PROGRAM, FINANCIAL PENALTIES, CIVIL LAWSUITS, OR CRIMINAL
26 PROSECUTION PURSUANT TO 42 U.S.C. SEC. 1320a-7k(d), 42 U.S.C. SEC.
27 1320a-7, 31 U.S.C. SECS. 3729-3733, SECTIONS 24-31-808, 25.5-4-301,

1 25.5-4-303.5 TO 25.5-4-310, AND 10 CCR 2505-10, SEC. 8.076. BY
2 PARTICIPATING IN THE MEDICAL ASSISTANCE PROGRAM, PROVIDERS
3 ACKNOWLEDGE AND ACCEPT THEIR OBLIGATION TO ADHERE TO ALL STATE
4 AND FEDERAL LAWS GOVERNING MEDICAID FRAUD, WASTE, AND ABUSE,
5 AND PROGRAM INTEGRITY.

6 (o) (I) THE STATE DEPARTMENT SHALL PUBLISH AND MAINTAIN ON
7 ITS WEBSITE A RAC AUDIT ACTIVITY REPORT FOR EACH RAC AUDIT AND
8 REVIEW COMPLETED IN THE PRECEDING YEAR SUMMARIZING THE FINDINGS
9 OF THOSE RAC AUDITS AND REVIEWS. THE INFORMATION POSTED ON THE
10 STATE DEPARTMENT'S WEBSITE CONCERNING EACH RAC AUDIT MUST
11 INCLUDE THE FOLLOWING INFORMATION:

12 (A) A SUMMARY OF THE AUDIT SCENARIO, THE STATE
13 DEPARTMENT'S BILLING PRACTICES, AND POLICY GUIDELINES BEING
14 REVIEWED BY THE RAC VENDOR;

15 (B) THE ERROR RATES IDENTIFIED DURING THE RAC VENDOR'S
16 REVIEW;

17 (C) THE NUMBER AND AMOUNTS OF OVERPAYMENTS AND
18 UNDERPAYMENTS IDENTIFIED BY THE RAC VENDOR;

19 (D) THE RECOVERIES COLLECTED BY THE STATE DEPARTMENT ON
20 IDENTIFIED OVERPAYMENTS;

21 (E) THE NUMBER OF CLAIMS APPEALED AS A RESULT OF THE AUDIT;
22 AND

23 (F) DETAILS ON THE AUDIT SCENARIOS AND BILLING STANDARDS
24 USED BY THE RAC VENDOR AND POLICY GUIDANCE ON PROPER BILLING
25 PRACTICES.

26 (II) IN ADDITION TO THE INFORMATION REQUIRED BY SUBSECTION
27 (3.3)(o)(I) OF THIS SECTION, THE STATE DEPARTMENT SHALL PUBLISH AND

1 MAINTAIN ON ITS WEBSITE INFORMATION ON THE NUMBER OF INFORMAL
2 RECONSIDERATION MEETINGS THE STATE DEPARTMENT PARTICIPATED IN
3 AND THE ASSOCIATED PERCENTAGE OF FINDINGS THAT WERE UPHELD, THE
4 NUMBER OF APPEALS, AND CORRESPONDING DETERMINATIONS.

5 (p) ON OR BEFORE JANUARY 1, 2026, THE STATE DEPARTMENT
6 SHALL PUBLISH ON ITS WEBSITE PROVIDER EDUCATION INFORMATION;
7 RESOURCES TO ASSIST PROVIDERS IN UNDERSTANDING THE STATE
8 DEPARTMENT'S MEDICAID BILLING MANUAL AND RULES; AND PROCEDURES
9 RELATED TO RAC AUDITS, INCLUDING DOCUMENTATION REQUIREMENTS
10 AND THE PROCESS FOR RESOLVING DISPUTES.

11 (q) AT LEAST QUARTERLY, THE STATE DEPARTMENT SHALL:

12 (I) CONDUCT MEDICAID BILLING TRAINING FOR PROVIDERS AND
13 HOLD MEETINGS WITH PROVIDERS TO GATHER FEEDBACK ON THE RAC
14 AUDIT PROCESS. THE STATE DEPARTMENT SHALL PUBLISH MEETING DATES
15 AND TIMES ON THE STATE DEPARTMENT'S WEBSITE AT LEAST TWO WEEKS
16 PRIOR TO THE MEETINGS.

17 (II) CONDUCT TRAININGS FOR PROVIDERS AND HOLD
18 STAKEHOLDER MEETINGS REGARDING AUDITS AND REVIEWS, DURING
19 WHICH THE STATE DEPARTMENT AND RAC VENDOR MUST IDENTIFY
20 COMMON BILLING ERRORS IDENTIFIED BY THE RAC VENDOR IN THE
21 PREVIOUS QUARTER AND PROVIDE CLARIFICATION ON THE BILLING ERRORS.

22 (r) THE STATE DEPARTMENT SHALL WORK WITH SMALL OR RURAL
23 PROVIDERS IN ORDER TO IDENTIFY AND IMPLEMENT OPPORTUNITIES TO
24 REDUCE ADMINISTRATIVE BURDENS AND BETTER SUPPORT COMPLIANCE
25 WITH MEDICAID BILLING PRACTICES, AS ADOPTED IN THE STATE
26 DEPARTMENT'S MEDICAID BILLING MANUAL, AND EXPERIENCE WITH RAC
27 AUDITS.

1 (s) THE STATE DEPARTMENT MUST SUBMIT AN ANNUAL REPORT TO
2 THE JOINT BUDGET COMMITTEE THAT INCLUDES A DESCRIPTION OF THE
3 FOLLOWING:

4 (I) THE DIVISIONS OF THE STATE DEPARTMENT THAT ARE
5 INCLUDED IN THE REVIEW AND APPROVAL OF RAC AUDIT SCENARIOS AND
6 THE ROLES AND RESPONSIBILITIES OF EACH DIVISION;

7 (II) THE RAC VENDOR'S COMPLIANCE WITH THE RESPONSE
8 REQUIREMENT DESCRIBED IN SUBSECTION (3.3)(c)(III)(C) OF THIS
9 SECTION;

10 (III) THE STATE DEPARTMENT'S OVERSIGHT AND ENFORCEMENT OF
11 THE CONTRACTUAL REQUIREMENT THAT THE RAC VENDOR CONDUCT
12 INFORMAL CONFERENCES OR PHONE CALLS WITH PROVIDERS OR PROVIDER
13 ASSOCIATIONS TO DISCUSS THE RAC PROGRAM, APPEAL PROCESSES, AND
14 FINDINGS;

15 (IV) THE TRAINING MATERIALS PREPARED BY THE RAC VENDOR
16 AFTER EACH RAC AUDIT THAT IDENTIFY AND ADDRESS THE COMMON
17 ERRORS AND ISSUES IDENTIFIED DURING THE AUDIT AND THE CONTENT
18 AND MATERIALS THE RAC VENDOR USED TO EDUCATE PROVIDERS TO
19 PREVENT ERRORS IN THE FUTURE;

20 (V) A SUMMARY OF THE RAC VENDOR'S OUTREACH AND
21 EDUCATION ACTIVITIES;

22 (VI) A SUMMARY OF THE STATE DEPARTMENT'S WRITTEN POLICIES,
23 PROCEDURES, AND GUIDANCE THAT ESTABLISH PROCESSES FOR THE STATE
24 DEPARTMENT TO LOG PROVIDER COMMUNICATIONS, PROVIDE DIRECTION
25 ON HOW STATE DEPARTMENT STAFF MUST RESPOND TO COMMUNICATIONS
26 IN A TIMELY AND RELEVANT MANNER, AND HOW THE STATE DEPARTMENT
27 INSTITUTED ROUTINE ANALYSIS OF PROVIDER COMMUNICATIONS TO

1 INFORM DECISIONS ON PROGRAM IMPROVEMENTS; AND

2 (VII) THE TOTAL AMOUNT OF ALLEGED OVERPAYMENTS
3 IDENTIFIED BY THE RAC VENDOR, THE PROPORTION OF THOSE
4 OVERPAYMENTS THAT WERE RECOVERED, AND THE TOTAL AMOUNT PAID
5 TO THE RAC VENDOR.

6 (t) ALL RECOVERIES COLLECTED BY THE STATE DEPARTMENT ON
7 IDENTIFIED OVERPAYMENTS PURSUANT TO THIS SUBSECTION (3.3) MUST BE
8 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
9 TO THE RECOVERY AUDIT CONTRACTOR RECOVERIES CASH FUND, WHICH
10 FUND IS CREATED IN THE STATE TREASURY AND REFERRED TO IN THIS
11 SUBSECTION (3.3)(t) AS THE "CASH FUND". THE CASH FUND CONSISTS OF
12 MONEY CREDITED TO THE CASH FUND PURSUANT TO THIS SUBSECTION (3.3)
13 AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE
14 OR TRANSFER TO THE CASH FUND. THE STATE TREASURER SHALL CREDIT
15 ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT
16 OF MONEY IN THE RECOVERY AUDIT CONTRACTOR RECOVERIES CASH FUND
17 TO THE CASH FUND.

18 (u) THE STATE DEPARTMENT MAY ADOPT RULES, AS NECESSARY,
19 TO IMPLEMENT THE REQUIREMENTS OF THIS SUBSECTION (3.3).

20 (3.5) (c) (I) The state department shall create a provider advisory
21 group for recovery audits consisting of employees of the state department
22 and members from different provider groups TYPES, including physicians,
23 hospitals, and any other provider types directly impacted by audits
24 conducted pursuant to this section, appointed by the executive director.
25 The provider advisory group shall meet at least quarterly to review
26 quarterly activity reports required by ~~subsection (3)(a)(IX)~~ SUBSECTION
27 (3.3)(m) of this section and advise the state department on issues

1 providers experience with audits of the recovery audit contractors
2 program.

3 (II) THE STATE DEPARTMENT AND THE RAC VENDOR SHALL
4 PROVIDE THE PROVIDER ADVISORY GROUP WITH THE OPPORTUNITY TO
5 REVIEW RAC AUDIT SCENARIOS DURING THE PROVIDER ADVISORY GROUP'S
6 QUARTERLY MEETINGS.

7 (III) THE STATE DEPARTMENT SHALL GIVE PROVIDERS THE
8 OPPORTUNITY TO ANONYMOUSLY DESCRIBE RAC AUDIT SCENARIOS THEY
9 ARE EXPERIENCING AND ASK QUESTIONS ABOUT BILLING PRACTICES. THE
10 STATE DEPARTMENT SHALL INCLUDE RAC VENDOR STAFF AND THE
11 RELEVANT STATE DEPARTMENT DIVISION STAFF IN THESE DISCUSSIONS. IF
12 THE DISCUSSIONS LEAD THE STATE DEPARTMENT TO DETERMINE THAT AN
13 AUDIT SCENARIO WAS INACCURATE, THE STATE DEPARTMENT MUST WORK
14 WITH THE RAC VENDOR TO RESCIND THE RAC AUDIT.

15 **SECTION 2. Appropriation adjustments to 2025 long bill.**

16 (1) To implement this act, appropriations made in the annual general
17 appropriation act for the 2025-26 state fiscal year to the department of
18 health care policy and financing for medical and long-term care services
19 for medical-eligible individuals are adjusted as follows:

20 (a) The cash funds appropriation from recoveries and recoupments
21 is decreased by \$20,900,588;

22 (b) The cash funds appropriation from the recovery audit
23 contractor recoveries cash fund created in section 25.5-4-301 (3.3)(t),
24 C.R.S., is increased by \$20,900,588.

25 **SECTION 3. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly; except

1 that, if a referendum petition is filed pursuant to section 1 (3) of article V
2 of the state constitution against this act or an item, section, or part of this
3 act within such period, then the act, item, section, or part will not take
4 effect unless approved by the people at the general election to be held in
5 November 2026 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.