



COLORADO CENTER  
on LAW & POLICY

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### Legislative highlights

#### Health exchange/ACA

- CCLP supported a measure that gave the state auditor authority to conduct performance audits of Connect for Health Colorado.
- We opposed three other bills related to the exchange and the ACA - all of which failed.

#### Budgetary requests

- Grace period on CHP+ enrollment
- Continuous adult eligibility in Medicaid analysis
- Additional staff for HCPF
- Children with Autism Waiver

#### PACE conversion

- CCLP worked on an amendment to a bill that will let nonprofits that operate the federal Program for All-Inclusive Care for the Elderly convert to for-profit entities.

#### Unfinished business

- Out-of-network bill
- Provider-fee enterprise

# 2015 Legislative Wrap-up: CCLP's Health Care Program

The core work of CCLP's Health Program includes increasing access to health insurance; supporting and protecting Medicaid; ensuring that quality health care is affordable for families; and protecting the implementation of the Affordable Care Act (ACA) in Colorado.

Among other measures, CCLP supported efforts to instill more transparency and accountability around balance billing by health care providers. We fought attempts to repeal components of the Affordable Care Act (or ACA). On budgetary matters, we supported several proposals from the Colorado Department of Health Care Policy and Finance (or HCPF) designed to improve client services, streamline eligibility and provide increased access to Medicaid.

We also successfully worked to amend legislation that would let nonprofit Programs of All-Inclusive Care for the Elderly (or PACE) convert to for profit entities. Finally, we supported an effort to create a new enterprise for the hospital provider fee that fell short of passing but would have preserved flexibility in the General Fund for critical state programs and services.

Here's a brief recap of CCLP's health care work during the 2015 General Assembly:

#### Health benefits exchange and ACA bills

This session saw several bills aimed at the State's Health Benefits Exchange (doing business as Connect for Health Colorado) or other elements of health reform, including:

**Senate Bill 19** - This bill gives the state auditor continuing authority to conduct performance audits of the exchange whenever the state auditor or the legislative audit committee deems appropriate. With CCLP's support, the legislation was amended to require an end-to-end audit of the governance and performance of the new shared-eligibility system and any other related or corresponding state systems.

**House Bill 1066** – This bill would have required the dissolution of Colorado's Health Benefits Exchange. It was killed in a House committee.

**SB 52** – This bill would have required the legislative committee charged with overseeing implementation of the State's Health Benefits Exchange to review and approve any salary increase, bonus or other additional monetary benefits for each employee of Connect for Health Colorado, prior to the employee's receipt of the salary increase, bonus, or other monetary benefits. It was killed in a House committee.

**HB 1163** – This bill would have repealed state health insurance laws, including protections for individuals with preexisting conditions, contingent on the repeal of related federal law provisions. It was killed in a House committee.

**SB 256** – Introduced and passed at the end of the session, SB 256 changed the name and increased the duties of the legislative committee formed in 2010 to oversee the implementation of the State’s Health Benefits Exchange. CCLP will continue to monitor the effect of this legislation to ensure it does not adversely affect the health of the exchange.

### **Budgetary requests**

Regarding the state’s budget, CCLP supported proposals from HCPF designed to improve client services, streamline eligibility and provide increased access to Medicaid. Among them:

**CCLP supported HCPF’s request for funding to change the methodology for counting income in the determination of Medicaid eligibility** so that annual, rather than monthly income would be considered. Without this alignment, some individuals are unable to obtain health insurance because their monthly income is too high for Medicaid and their yearly income too low for tax credits. The proposal was funded in the final budget.

**We supported HCPF’s request for funding to implement a one-month grace period for CHP+ enrollment fees.** This proposal would have reduced gaps in coverage and improved access to benefits for families who have difficulty paying CHP+ enrollment fees. The proposal was not funded in the final budget.

**CCLP supported HCPF’s request for funding for a study to analyze the cost of implementing continuous eligibility for adults.** Continuous eligibility would ensure that adults who are determined eligible for and enroll in Medicaid can remain on the program continuously for 12 months regardless of changes in income. The proposal was not funded in the final budget.

**We supported HCPF’s request for funding to hire 25 full time staff and increase other resources for the department’s customer service call center.** CCLP supported the proposal because the call center is significantly understaffed with 10 full-time and seven part-time staff to serve over a million clients. As things are, clients are unable to access needed assistance because of significant wait times. This proposal was funded.

**CCLP supported HCPF’s request for funding to expand the Children with Autism Waiver (CAW).** The proposed funding increase eliminates the waiver’s enrollment cap, increases the age limit for participation in the waiver program from six to eight, and guarantees three years of participation on the program even where a child ages out of eligibility before they are in the program for three years. Sponsored by the Joint Budget Committee to enact the waiver expansion, **HB 1196** passed but was under-funded in the final budget, meaning that the expansion will be more limited than HCPF intended.

### **PACE conversion**

Upon federal approval, **SB 137** will allow certain nonprofit organizations that provide community-centered services to older and disabled Coloradans to operate instead as for-profit organizations. PACE, or the Program of All-inclusive Care for the Elderly, uses the Medicare and Medicaid dollars of dually eligible individuals to provide for virtually all their health and support while recipients live independently.

CCLP took a neutral position on SB 137, but worked closely with proponents and the Attorney General’s office on amendment language that would help ensure that the value of existing nonprofit Colorado PACE programs is directed to

the same or similar charitable purposes. The amendment requires public posting of the conversion plan, which must include an independent valuation of the value of the business, audited financials for the prior three years, an explanation of whether the value will go to a new or existing nonprofit and opportunity for public comment. Both the bill proponents and CCLP testified at the House Business Affairs Committee in support of the amendment, and the bill as amended passed unanimously.

### **Out-of-network bill**

Too often, Coloradans who have had surgery or other services at in-network facilities may find themselves on the hook for surprise bills from out-of-network providers. Those balance bills may go far beyond in-network costs and be in the tens of thousands of dollars. Sen. Irene Aguilar, D-Denver, was the prime sponsor of **SB 259**, a bill that aimed to both protect Coloradans from surprise medical bills and create a mechanism to rein in some of the most extreme charges.

While some Coloradans, specifically those who have purchased individual or small-group policies, are protected from having to pay those bills, many are not aware of the existing law, which requires that the carrier – rather than the patient – cover all charges that exceed the in-network level. Sen. Aguilar’s bill originally would have both extended these protections and set up an arbitration system for carriers and providers, but consumer groups raised the need for greater transparency.

Unfortunately, somewhat of a firestorm ensued, with carriers claiming that out-of-network bills were inflating costs for both carriers and consumers, and providers arguing that carriers were forcing them out-of-network. After several weeks of discussions with stakeholders, a bill amendment was introduced that narrowed the focus to transparency. Despite testimony from consumers, CCLP and CCHI, the bill failed in committee in the face of continued opposition from providers.

### **Hospital provider-fee enterprise**

Colorado lawmakers worked on legislation that would turn the state’s hospital provider fee into a state enterprise, with the intention of exempting the revenue from the fee (estimated to be \$689 million this year) from spending limits in the Taxpayers Bill of Rights (or TABOR). Exempting provider fee revenue from the TABOR limit allows the state to dedicate more funding to schools, medical services and roads and bridges. Though the idea behind **HB 1389** had been discussed for months, the bill was introduced at the very end of the session.

As one of many organizations that helped create the provider fee in 2009, CCLP supported HB 1389. Unfortunately, despite winning approval in the House and earning broad support among business and advocacy groups, HB 1389 stalled in a Senate committee. At some point, however, the Legislature will need to address this serious financial quandary that continues to take away money from other critical programs and services outside of health care.