



## 2017 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.

This year, CCLP developed and supported successful efforts to address the shortcomings in client correspondence for Medicaid recipients. We mitigated punitive measures on low-income Coloradans in negotiations to establish an enterprise for the hospital provider fee. We also supported efforts to curb the rising cost of health care. On national issues, we took a leadership role in a coalition that communicated with Colorado's Congressional delegation and urged Coloradans to make their concerns known about proposed sweeping policy changes that could compromise the access and affordability of health care for hundreds of thousands of Coloradans.

Here's a brief recap of CCLP's health care work during the 2017 legislative session:

### Good news

**Medicaid correspondence package** -- CCLP worked with its partners, including the Colorado Cross Disability Coalition, to pass three bills intended to address shortcomings in client correspondence and notifications when Medicaid health care and essential services are about to be changed or terminated. The bills were developed by an interim committee led by then Rep. Dianne Primavera because notices sent to Medicaid clients are often incorrect and incomprehensible. Such deficiencies violate basic due process requirements. **House Bill 1126** strengthens the role of administrative law judges in safeguarding the rights of Medicaid clients by instructing the judges to automatically review the sufficiency of notices at the beginning of any appeal hearing. **HB 1143** directs the state to audit communications with Medicaid clients for legal sufficiency, clarity and accuracy to prevent Medicaid notification issues from reoccurring. Finally, **Senate Bill 121** makes notices more comprehensive and helpful by requiring plain-language statements, specific reasons for an adverse action and translations in a client's preferred language. All three bills passed through the legislature with bipartisan support and, to date, two have been signed by Gov. John Hickenlooper.

**Hospital provider fee enterprise** -- After three years of effort, legislators finally passed a bill authorizing the establishment of a hospital provider fee enterprise. **SB 267** establishes an enterprise to collect and administer the hospital provider fee and provide other services to Colorado hospitals. It was essential that this bill pass, given that hospitals faced a reduction of \$528 million in provider fee funding while the state faced the prospect of increasing reductions in available General Fund money because of the

provider fee. That being said, SB 267 is by no means perfect. In addition to establishing an enterprise, the bill reduces the amount of revenue the state can raise to fund services by \$200 million; requires the executive branch to work towards submitting a budget proposal for fiscal year 2018-19 that reduces state general fund expenditures by 2 percent across every department; and doubles Medicaid co-payments for pharmacy and out-patient hospital services. Ultimately, the bill will provide more funds for schools, transportation, and capital improvements and reduce personal property taxes on businesses. But, we are extremely disappointed that achieving that benefit could only be negotiated by imposing a cost on low-income Coloradans.

**PACE ombudsman** -- Programs of All-inclusive Care for the Elderly (PACE) provide a range of services to people over the age of 55 who qualify for nursing-home level care but wish to retain their independence in the community. **HB 1264** establishes a permanent PACE ombuds program. While the Disability Law Center and DRCOG took the lead, the bill is the culmination of work CCLP did in 2015 and 2016 on the conversion of InnovAge, Colorado's largest PACE provider. As part of that conversion, the Colorado Attorney General ordered the establishment of an ombuds position to serve PACE programs for a three-year period. In 2016, the legislature codified that requirement and directed the Department of Human Services to make recommendations to make the program permanent. Those recommendations led to the passage of SB 264.

**Codifying the Accountable Care Collaborative (ACC) program** -- In existence since 2011, the ACC program is Colorado's mechanism for realizing delivery system and payment reform in Medicaid. While many states have adopted traditional Medicaid managed care, Colorado has maintained a managed fee for service program and implementation is moving slowly, based on the results of pilot programs, towards payment reform. The ACC has shown positive results both in improving care coordination, health outcomes and reducing costs. By codifying the program, **HB 1353** ensures the stability of the ACC going forward.

**Addressing the opioid crisis** -- Several bills this session targeted the growing epidemic of opioid overuse and addiction. **SB 074** created a pilot program to increase access to treatment in certain areas of the state. **SB 193** established a center at the University of Colorado for research into prevention, treatment and recovery support. **HB 1351** appropriates funds to collect and analyze data to assess how to improve substance-use disorder treatment within the Medicaid program in Colorado. All three bills passed and are heading to the Governor's desk. To cap off the session, Rep. Brittany Pettersen's request for an interim committee on substance-use disorders in Colorado was approved.

### Disappointments

**Bills to reduce health care costs** – Prompted by the extraordinarily high cost of insurance along Colorado's I-70 corridor, Lt. Gov. Donna Lynne brought together a working group last fall to develop ideas to reduce the cost of health care. Unfortunately, all the bills proposed by the group were defeated -- almost all of them in the Senate State Veterans and Military Affairs Committee (known under the dome as "the kill committee"). Cost containment strategies ranged from increasing transparency by requiring hospitals to submit audited financial statements and Medicare cost reports to the Department of Health Care Policy and Financing (**HB 1236**) to establishing a program for temporary relief from the high cost of health insurance for people just above eligibility for premium tax credits through Colorado's health insurance exchange, Connect for Health Colorado (**HB 1235**). Among the others were: **HB 1286**, which would have required health plans contracted with the state to cover state employees to

participate in additional markets to increase competition and choice; and **HB 1318**, which would have established an annual report on pharmaceutical cost data to better understand the underlying costs of prescription drugs. In every instance, industry interests coupled with reluctance to use government to reduce health costs resulted in failure of these bills.

**Balance-billing bills** -- For the third year in a row, efforts to curb costs associated with free-standing emergency rooms failed (**SB 64**), as did yet another attempt to protect consumers from the practice of balance billing – charging consumers for the full cost of out-of-network services (**SB-206**). These efforts were strongly opposed by the Colorado Hospital Association and the Colorado Medical Society.

**Risk-pool reinsurance** – **SB 300** was a late effort to prepare Colorado for the potential availability of federal funds to establish a high-risk pool or reinsurance program. The bill would have given the Division of Insurance the authority to seek a waiver under Section 1332 of the Affordable Care Act. Such a waiver would create the opportunity for Colorado to establish a reinsurance program in order to reduce health insurance premiums in the individual and small-group market. Unfortunately, while the bill was approved by both chambers and sent to the Governor, it was turned into a study to be completed by Oct. 1.

### Challenges and opportunities ahead

The biggest unknown in health policy is what will happen in Congress with respect to the attempt to repeal and replace the Affordable Care Act. If approved by the U.S. Senate and President Trump in its current form, the American Health Care Act will dramatically change the health care landscape in Colorado -- undoing more than a decade of work that has substantially reduced the number of people who are uninsured and ensured high quality care is available to every Coloradan.

We also don't know, at this point, what Congress will do with the Children's Health Insurance Program (or CHIP). The program's funding expires in September 2017 and Colorado will run out of federal CHIP funds in February of 2018.

In addition to actions resulting from potential federal legislative changes, we note the following issues:

- Establishment of the provider fee enterprise may enable policymakers to begin to plug gaps in coverage, for example with respect to substance-use disorder treatment.
- The Colorado Commission on Affordable Health Care will deliver its final report to the General Assembly this summer. While a proposed interim committee to examine its recommendations was rejected, we anticipate the report will generate discussion among policy makers about cost containment.
- CCLP and its partners supported forming an interim committee to study the availability and accessibility of disability-support programs. While the request was denied by legislators, we are still exploring legislation that would achieve the results we would have through such an interim committee.