



**Colorado
Legislative
Council
Staff**

**Initiative # 122
INITIAL FISCAL
IMPACT STATEMENT**

Date: February 6, 2018

Fiscal Analyst: Bill Zepernick (303-866-4777)

LCS TITLE: TRANSPARENCY IN BILLING BY HEALTH CARE PROVIDERS

Fiscal Impact Summary	FY 2018-19	FY 2021-2022
State Revenue		
State Expenditures	\$605,920	\$467,624
General Fund	605,920	467,624

Note: This *initial* fiscal impact estimate has been prepared for the Title Board. If the initiative is placed on the ballot, Legislative Council Staff may revise this estimate for the Blue Book Voter Guide if new information becomes available.

Summary of Measure

Initiative #122 requires health care providers licensed and certified by the Department of Regulatory Agencies (DORA) and health care facilities licensed by the Colorado Department of Public Health and Environment (CDPHE) that bill consumers to make their fee schedules or chargemasters available to the public at their physical locations and on their websites. In addition, the measure specifies that health care providers and facilities must itemize billing statements and disclose information to patients about their participation in the patient's health insurance plan and provider network, as well as whether services will be provided by out-of-network providers at an in-network facility. The measure specifies that if a health care provider or facility has not published its fees as required, then it cannot bill the patient or third-party payer for services rendered, and the patient or third-party payer is not required to pay the charges.

The measure outlines information that must be disclosed, including billing codes, service descriptions, and price, among other things. The measure requires the CDPHE to issue rules for the implementation and administration of health care provider disclosures by April 30, 2019. Health care providers and facilities must update their fee schedules at least annually and maintain a record of changes to the published fee schedules. In addition, the measure repeals, and in effect replaces, the provisions of House Bill 17-065, which took effect on January 1, 2018, and requires certain health care providers and facilities to disclose direct pay prices for their most common procedures performed.

Lastly, the measure specifies that contracts between insurance carriers and health care providers and facilities cannot contain any provision that restricts the ability of the health insurance plan, third-party payer, or health care provider to furnish patients any information required to be published under the measure. Any such provision in a contract is void and unenforceable.

State Expenditures

Initiative #122 increases costs in the CDPHE by \$605,920 and 1.4 FTE in FY 2018-19 and \$467,624 and 4.0 FTE in FY 2019-20. These costs are paid from the General Fund. In order to promote compliance with the measure, the CDPHE will have costs for staff, legal services, and provider outreach as shown in Table 1 and discussed below.

Table 1. Expenditures Under Initiative #121		
Cost Components	FY 2018-19	FY 2019-20
Personal Services	\$81,558	\$244,672
FTE	1.4 FTE	4.0 FTE
Operating Expenses and Capital Outlay Costs	20,142	3,800
Legal Services	15,984	5,328
Printing and Postage	330,000	60,000
Website Training Module	15,000	5,000
Travel	5,280	10,560
Indirect Cost Recoveries	119,331	83,987
Employee Benefits and Insurance	18,625	54,277
TOTAL	\$605,920	\$467,624

Staff expenses. While the CDPHE currently regulates licensed health care facilities such as hospitals and surgical centers, it does not presently have oversight over many of the entities required to disclose cost data to consumers such as physician offices, dentists, medical groups, and urgent care centers, among others. The CDPHE will require 1.4 FTE in FY 2018-19 and 4.0 FTE in FY 2019-20 to conduct outreach and provide technical assistance to health care providers, and to respond to consumer inquiries and complaints. Salary, operating, and capital outlay costs for these personnel are shown in Table 1 above.

It is assumed that staff will be hired by February 1, 2019, and costs have been prorated to reflect this start date. In the first year, staff will be responsible for establishing program rules and procedures. Staffing costs are primarily associated with outreach and inquiries concerning health care providers and facilities who are not currently regulated by the CDPHE; it is assumed that assistance and oversight can be provided for currently licensed health care facilities within the existing health facility licensure program.

Legal services. In the first year, the CDPHE will have costs of \$15,984 for 150 hours of legal services for rulemaking and general counsel concerning the requirements of the measure. In future years, costs of \$5,328 are expected for 50 hours per year of ongoing legal services.

Provider outreach. To ensure that health care providers and facilities comply with the law, it is assumed that the CDPHE will conduct a multi-pronged outreach effort. After rulemaking is complete, the CDPHE will have costs to mail notices to health care providers and facilities on the disclosure requirements established pursuant to the measure. This cost is estimated based on 220,000 current licensed healthcare professionals in the first year and 20,000 new professionals in future years, and printing and postage costs of \$1.50 per mailing. It is assumed this work will be conducted by the integrated document solutions unit in the Department of Personnel and

Administration. The CDPHE will also have costs to establish an online training module where providers can access more detailed information on disclosure requirements. The CDPHE will have travel costs to provide in-person training and assistance to providers and facilities, both at the request of providers and facilities and in response to consumer complaints.

Indirect costs and employee benefits. The CDPHE will also have costs for indirect cost recoveries and employee benefits and insurance. These costs are shown in Table 1 above.

Potential costs. The estimate above is based on the CDPHE establishing program rules and providing technical assistance and outreach to ensure provider compliance. The measure does not list a specific *enforcement* role for CDPHE. For example, it does not give the CDPHE the authority to impose a fine for noncompliance, and since most health care providers are not licensed by the CDPHE (other than licensed health care facilities), the CDPHE would not have the ability to suspend or revoke a professional license. The only enforcement remedy specified in measure is that consumers are not required to pay a bill if the provider has not published their fees as required by the measure. The measure also does not appear to require the CDPHE to monitor all health care providers and facilities to proactively and regularly ensure that they have posted their fees. To the extent that the rules established by the CDPHE are based on different assumptions and differ from the interpretation in this analysis about the role of the CDPHE in enforcing compliance, costs could increase beyond this estimate.

Department of Regulatory Agencies. DORA will have increased workload to provide assistance to the CDPHE in conducting outreach to licensed health care professionals. This work can be accomplished within existing appropriations.

State employee health insurance. To the extent that this measure increases administrative costs for health care providers that are passed on to consumers through higher prices, costs for state employee health insurance may increase. Because state employee health insurance contributions are based upon prevailing market rates, with costs shared between the employer and employee, this measure is not expected to affect the state's share of employee health insurance premiums until FY 2019-20. Because insurance rates are influenced by a number of variables, the exact effect of this measure cannot be determined. Any increase caused by the measure will be addressed through the total compensation analysis included in the annual budget process.

Trial courts. Prohibiting health care providers from charging a patient if their fees or chargemaster are not published could result in litigation and increased workload for the trial courts in the Judicial Department. It is unknown how frequently such cases will arise and it is assumed that they can be accomplished by existing judicial staff. If additional appropriations are required, they will be requested through the annual budget process.

Local Government Impact

Similar to the state employee insurance impact discussed above, local governments offering health insurance coverage to their employees may experience an increase in costs. To the extent that the requirements of the measure lead to higher insurance premiums, local government costs for employee health insurance may increase. Health insurance premiums depend on a variety of factors and an exact estimate of any potential increase cannot be determined.

Economic Impact

By promoting greater transparency about prices charged by health care providers and facilities, Initiative #122 may help consumers more effectively spend their health care dollars and could promote greater price competition among health care providers, which over the long term could lead to lower health care costs for Coloradans. However, these savings may be offset by higher administrative costs for health care providers and facilities, which could be passed on to consumers in the form of higher prices.

Effective Date

The measure takes effect on January 1, 2019, if approved by voters at the 2018 general election.

State and Local Government Contacts

Corrections	Counties	Health Care Policy and Financing
Higher Education	Human Services	Information Technology
Judicial	Law	Municipalities
Personnel	Regulatory Agencies	Public Health and Environment

Abstract of Initiative 122: TRANSPARENCY IN BILLING BY HEALTH CARE PROVIDERS

This initial fiscal estimate, prepared by the nonpartisan Director of Research of the Legislative Council as of February 5, 2018, identifies the following impacts:

The abstract includes estimates of the fiscal impact of the initiative. If this initiative is to be placed on the ballot, Legislative Council Staff will prepare new estimates as part of a fiscal impact statement, which includes an abstract of that information. All fiscal impact statements are available at www.ColoradoBlueBook.com and the abstract will be included in the ballot information booklet that is prepared for the initiative.

State expenditures. Initiative #122 requires health care providers and facilities to disclose prices, fees and other information to consumers. The Colorado Department of Public Health and Environment must establish rules and take action to implement the measure's disclosure requirements, which will increase state expenditures by \$605,920 in FY 2018-19 and \$467,624 in FY 2019-20. Additional costs may be incurred to the extent the measure leads to higher state employee insurance premiums or results in litigation in the courts.

Local government. The measure potentially increases costs for local governments that pay for employee health insurance.

Economic impact. By promoting greater transparency about prices charged by health care providers and facilities, Initiative #122 may help consumers more effectively spend their health care dollars and could promote greater price competition among health care providers, which over the long term could lead to lower health care costs for Coloradans. However, these savings may be offset by higher administrative costs for health care providers and facilities, which could be passed on to consumers in the form of higher prices.