

**Please Support HB23- 1116: Contracts Between Carriers & Providers**  
**Representative Hartsook & Representative Daugherty**  
**Senator Rodriguez & Senator Baisley**

**What the Bill Does:**

- The bill prohibits a contract between a health insurance carrier and a licensed health-care provider from restricting the form or method of payment the carrier uses to make payments to the provider so that the only acceptable payment method is a credit card payment.
- If a carrier initiates a payment to a provider using, or changes the payment method to an electronic funds transfer payments, including virtual credit card payments, the bill requires that the carrier:
  - Notifies the provider of any fees associated with the particular payment method
  - Advise the provider of the available payment methods and include instruction on how to select an alternative available payment method
  - And, with each payment method, remit an explanation of benefits
- The bill prohibits a carrier from charging a fee for the change in the payment method and allows the provider's billing service to charge a fee under certain circumstances
- The bill makes it an unfair method of competition and unfair or deceptive practice if a carrier violates or fails to comply with the requirements of the contract limitations or requirements

**The problem:**

Providers of services are having to accept payment for their services to patients by virtual credit card by health plan providers and the provider must pay a fee for that form of payment, thus reducing their contractual rate.

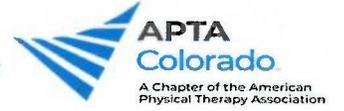
***What is a virtual credit card?***

A virtual card is not an actual hard plastic, physical card. Instead, it's a one-time-use, 16-digit code with the accompanying information to process the virtual card on a merchant card terminal. With a virtual card, no bank account information needs to be supplied to receive a health care claim payment. Virtual card payments can be sent to you either through Document Library (online) or through the mail.

**Supporting Organizations**

Colorado Society of Oral and Maxillofacial Surgeons  
APTA Colorado  
American Society of Anesthesiologists  
Colorado Association of Medical Equipment Services  
Colorado Radiological Association  
Colorado Dental Association  
Emergency Medical Services Association of Colorado  
American College of Emergency Physicians – Colorado Chapter  
Association of Dental Support Organizations  
Colorado Society of Osteopathic Medicine  
American Academy of Family Physicians – Colorado Chapter

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# HB 23-1116

## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

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<b>Drafting Number:</b>	LLS 23-0591	<b>Date:</b>	January 27, 2023
<b>Prime Sponsors:</b>	Rep. Hartsook; Daugherty Sen. Rodriguez; Baisley	<b>Bill Status:</b>	House Health & Insurance
		<b>Fiscal Analyst:</b>	Kristine McLaughlin   303-866-4776 kristine.mclaughlin@coleg.gov

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**Bill Topic:** CONTRACTS BETWEEN CARRIERS & PROVIDERS

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<b>Summary of Fiscal Impact:</b>	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill requires carriers that process payments for health care providers to offer certain payment method options and places restrictions on process fees. It may increase state revenue and state and local workload on an ongoing basis beginning in FY 2023-24.

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**Appropriation Summary:** No appropriation is required.

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**Fiscal Note Status:** The fiscal note reflects the introduced bill.

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## Summary of Legislation

The bill places restrictions on carriers that process payments for health care providers. Beginning in FY 2023-24, contracts must:

- offer a method of payment that is not associated with a fee;
- offer a method of payment other than a credit card;
- notify the provider of any fees associated with electronic payments and advise them of alternative methods;
- not impose a fee for changing methods of payments; and
- require an explanation of benefits with each payment.

Failure to comply with contract requirements is a deceptive trade practice.

## State Revenue

**Civil penalties.** Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may

be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

**Filing fees.** The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

## State Expenditures

The bill increases workload in various state agencies by a minimal amount.

**Department of Regulatory Agencies.** Workload will increase to update regulations pertaining to payment methods. This workload is can be accomplished within existing appropriations.

**Department of Law.** Workload in the Department of Law will minimally increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

**Judicial Department.** The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that online marketplaces will abide by the law and that any violation of the legislation will result in minimal number of new cases. The fiscal note assumes that this can be accomplished within existing resources and that no change in appropriations is required.

## Local Government

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

## Effective Date

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

## State and Local Government Contacts

District Attorneys  
Judicial

Health Care Policy and Financing  
Law

Information Technology  
Regulatory Agencies

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

**REENGROSSED**

*This Version Includes All Amendments  
Adopted in the House of Introduction*

LLS NO. 23-0591.01 Kristen Forrestal x4217

**HOUSE BILL 23-1116**

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**HOUSE SPONSORSHIP**

**Hartsook and Daugherty**, Ortiz, Bird, Boesenecker, Brown, Dickson, Duran, Frizell, Garcia, Hamrick, Jodeh, Lindsay, McCluskie, Ricks, Sharbini, Sirota, Snyder, Story, Velasco, Weissman, Woodrow, Young

**SENATE SPONSORSHIP**

**Rodriguez and Baisley**,

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**House Committees**

Health & Insurance

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING INSURANCE CONTRACTS FOR HEALTH-CARE SERVICES**  
102             **THAT INVOLVE ELECTRONIC PAYMENTS TO A HEALTH-CARE**  
103             **PROVIDER.**

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**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>.)*

The bill:

- Requires a contract between a health insurance carrier (carrier) and a licensed health-care provider (provider) for the provision of health-care services to covered persons under a health coverage plan issued by the carrier (contract)

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.*

HOUSE  
3rd Reading Unamended  
February 3, 2023

HOUSE  
Amended 2nd Reading  
February 2, 2023

to offer at least one method of payment to the provider for which there is not an associated fee; and

- Prohibits the contract from restricting the form or method of payment the carrier uses to make payments to the provider so that the only acceptable payment method is a credit card payment.

If a carrier initiates a payment to a provider using, or changes the payment method to, electronic funds transfer payments, including virtual credit card payments, the bill requires the carrier to:

- Notify the provider of any fees associated with the particular payment method;
- Advise the provider of the available payment methods and include instructions on how to select an alternative available method; and
- With each payment, remit an explanation of benefits.

The bill prohibits a carrier from charging a fee for a change in the payment method to a specified electronic transaction and allows a provider's billing service to charge a fee under certain circumstances.

The bill makes it an unfair method of competition and unfair or deceptive act or practice in the business of insurance if a carrier violates or fails to comply with the requirements of the contract limitations and requirements.

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

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3 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-121.3 as  
4 follows:

5 **10-16-121.3. Limitations on provisions in contracts between**  
6 **carriers and licensed health-care providers - methods of payment -**  
7 **fees.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
8 REQUIRES:

9 (a) "BILLING SERVICE" MEANS A PERSON OR ENTITY THAT  
10 CONTRACTS WITH A LICENSED HEALTH-CARE PROVIDER TO:

11 (I) PROCESS BILLS FOR HEALTH-CARE SERVICES PROVIDED BY THE  
12 LICENSED HEALTH-CARE PROVIDER; AND

13 (II) PURSUANT TO THE TERMS OF THE CONTRACT, SUBMIT BILLS,

1 REQUEST RECONSIDERATION OF PAYMENTS, AND RECEIVE PAYMENTS OR  
2 REIMBURSEMENTS FOR HEALTH-CARE SERVICES PROVIDED BY THE  
3 LICENSED HEALTH-CARE PROVIDER.

4 (b) "CONTRACT" MEANS A CONTRACT BETWEEN A CARRIER AND A  
5 LICENSED HEALTH-CARE PROVIDER FOR THE PROVISION OF HEALTH-CARE  
6 SERVICES TO COVERED PERSONS UNDER A HEALTH COVERAGE PLAN ISSUED  
7 BY THE CARRIER.

8 (c) "HEALTH-CARE ELECTRONIC FUNDS TRANSFERS AND  
9 REMITTANCE ADVICE TRANSACTION" HAS THE SAME MEANING AS DEFINED  
10 IN 45 CFR 162.1601 AND INCORPORATES THE STANDARDS DESCRIBED IN  
11 45 CFR 162.1602.

12 (2) IN A CONTRACT ENTERED INTO, AMENDED, OR RENEWED ON OR  
13 AFTER THE EFFECTIVE DATE OF THIS SECTION, THE CARRIER SHALL:

14 (a) OFFER AT LEAST ONE METHOD OF PAYMENT TO THE LICENSED  
15 HEALTH-CARE PROVIDER THAT DOES NOT REQUIRE AN ASSOCIATED FEE  
16 CHARGED TO THE HEALTH-CARE PROVIDER; AND

17 (b) NOT RESTRICT THE METHOD OR FORM OF PAYMENT TO THE  
18 LICENSED HEALTH-CARE PROVIDER SO THAT THE ONLY ACCEPTABLE  
19 PAYMENT METHOD IS A CREDIT CARD PAYMENT.

20 (3) IF A CARRIER INITIATES A PAYMENT TO A LICENSED  
21 HEALTH-CARE PROVIDER USING, OR CHANGES THE PAYMENT METHOD TO,  
22 ELECTRONIC FUNDS TRANSFER PAYMENTS, INCLUDING VIRTUAL CREDIT  
23 CARD PAYMENTS, THE CARRIER SHALL:

24 (a) NOTIFY THE LICENSED HEALTH-CARE PROVIDER IF ANY FEE IS  
25 ASSOCIATED WITH A PARTICULAR PAYMENT METHOD;

26 (b) ADVISE THE LICENSED HEALTH-CARE PROVIDER OF THE  
27 AVAILABLE PAYMENT METHODS AND PROVIDE CLEAR INSTRUCTIONS TO

1 THE LICENSED HEALTH-CARE PROVIDER AS TO HOW TO SELECT AN  
2 ALTERNATIVE PAYMENT METHOD; AND

3 (c) WITH EACH PAYMENT, REMIT AN EXPLANATION OF BENEFITS.

4 (4) FOR ANY CONTRACT THAT IS IN EFFECT ON OR BEFORE THE  
5 EFFECTIVE DATE OF THIS SECTION OR THAT IS ENTERED INTO, AMENDED,  
6 OR RENEWED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, A  
7 CARRIER THAT INITIATES A PAYMENT TO A LICENSED HEALTH-CARE  
8 PROVIDER USING, OR CHANGES THE PAYMENT METHOD TO, A HEALTH-CARE  
9 ELECTRONIC FUNDS TRANSFERS AND REMITTANCE ADVICE TRANSACTION  
10 SHALL NOT CHARGE A FEE SOLELY TO TRANSMIT THE PAYMENT TO THE  
11 LICENSED HEALTH-CARE PROVIDER UNLESS THE LICENSED HEALTH-CARE  
12 PROVIDER CONSENTS TO THE FEE. A LICENSED HEALTH-CARE PROVIDER'S  
13 BILLING SERVICE MAY CHARGE A REASONABLE FEE RELATED TO  
14 TRANSACTION MANAGEMENT, DATA MANAGEMENT, PORTAL SERVICES, OR  
15 OTHER VALUE-ADDED SERVICES ABOVE AND BEYOND THE BANK  
16 TRANSMITTAL WHEN TRANSMITTING AN ELECTRONIC FUNDS TRANSFER.

17 (5) THE COMMISSIONER HAS THE AUTHORITY TO ENFORCE THIS  
18 SECTION AND IMPOSE A PENALTY OR REMEDY AGAINST A PERSON WHO  
19 VIOLATES THIS SECTION.

20 **SECTION 2. Act subject to petition - effective date.** This act  
21 takes effect at 12:01 a.m. on the day following the expiration of the  
22 ninety-day period after final adjournment of the general assembly; except  
23 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
24 of the state constitution against this act or an item, section, or part of this  
25 act within such period, then the act, item, section, or part will not take  
26 effect unless approved by the people at the general election to be held in

- 1 November 2024 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.