Date: June 20, 2018

Staff: Alyson Williams

2018 COLORADO LEGISLATIVE SESSION WRAP-UP



2018 COLORADO LEGISLATIVE SESSION

Overview of outcomes of legislation of interest to the Health District of Northern Larimer County

Overview Statistics

Overall results for the session: 721 bills introduced, 432 passed (60% success rate)

Total Bills Tracked by the Health District: 128 Bills: 65 passed, 61 postponed indefinitely, 2 inactive¹

- 57 priority 1 bills: 25 passed/signed into law, 31 postponed indefinitely, 1 inactive.
- **36 priority 2 bills**: 21 passed/signed into law, 14 postponed indefinitely, 1 inactive.
- 35 priority 3 bills: 19 passed/signed into law, 16 postponed indefinitely

Board Positions: The Health District Board of Directors took positions on 26 pieces of legislation and 3

budgetary issues during the 2018 legislative session.

Summary

The 2018 legislative session began on January 10, 2018, and ended on May 9, 2018. This session was just short of the record number of bills introduced, 738 during the 2003 session. This year, 60 percent of bills passed during this session, compared to 62 percent in 2017. The end of the session was busier than usual as 57 bills were introduced in the last 20 days of session. Furthermore, there were still 276 bills pending passage 10 days before the end of session. Legislators addressed important issues ranging from rural broadband and transportation to PERA and the Colorado Civil Rights Division. However, health care bills did not fare as well this session. Bills intending to respond to the substance use disorder and overdose crisis in the state received bipartisan support. Additionally, some mental health bills were able to pass both chambers. There were many attempts to study and address the cost of insurance, prescription drugs, and other health care services. The majority of these were not adopted.

Legislation of Significant Importance to the Health District of Northern Larimer County

The following charts summarize the bills on which the Health District board took a position during the 2018 legislative session. The bill summary reflects what was included in the final version of the bill before it passed or was postponed indefinitely. Policy staff has added post-session notes on the bills to discuss potential next steps and issues. For a complete list of bills monitored in the 2018 session, including more in-depth summaries, see the Legislative Matrix dated June 20, 2018 The titles of the bills include hyperlinks to the official General Assembly bill page, which includes the all versions of the bill, fiscal notes, bill history, and further information.

¹ Inactive bills are ones that did not get final action before the end of the session or were placed on the calendar for after the session, effectively postponing action until after the time that the General Assembly can take such action.

| Date: | June 20, 2018 | 2018 Session Wrap-Up | Page 2 |
|-------|---------------|----------------------|--------|
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HB18-1003: Opioid Misuse Prevention This bill: The Board The introduced version of this An amended 1. Establishes the opioid and substance use voted to version of this bill did not include the strategic disorder study committee support this bill bill *passed* on plan for recovery housing and 2. Directs the Colorado Consortium for on February 13. May 4 and was report on recovery services. Prescription Drug Abuse Prevention to create *signed* by the Governor on address and report issues regarding recovery Staff will attend hearings of the May 21. Opioid and Substance Use services 3. Specifies school-based health care centers Interim Study Committee during may apply for grants to expand behavioral the 2018 interim period. health services and creates a grant program Additionally, staff will be for those activities watching for the report on 4. Creates a grant program for organizations to recovery by the Colorado operate a substance abuse screening, brief Consortium. intervention, and referral (SBIRT) program 5. Directs the Center for Research into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies to develop and implement continuing education activities to help providers prescribe safely and effectively manage chronic pain. **HB18-1007: Substance Use Disorder Payment & Coverage**

This bill:

- 1. Requires health plans to provide coverage without prior authorization for a 5-day supply of an FDA approved medication for opioid dependence (limit 1 time in 12 months)
- 2. Prohibits carriers from taking adverse action against a provider based solely on a patient satisfaction survey relating to pain treatment.
- 3. Clarifies that an urgent prior authorization request includes a request for medicationassisted treatment (MAT).
- 4. Permits a pharmacist who has entered into a collaborative pharmacy practice agreement to administer injectable MAT and to receive an enhanced dispensing fee.
- 5. Requires the Department of Health Care Policy & Financing (HCPF) and the Office of Behavioral Health (OBH) to establish rules that standardize utilization management authority timelines for the nonpharmaceutical components of MAT.
- 6. Colorado Medicaid program to authorize reimbursement for a FDA approved, ready-touse opioid overdose reversal drug without prior authorization.

The Board voted to support this bill on March 13.

An amended version of this bill *passed* on May 3 and was *signed* by the Governor on May 21.

The introduced bill only required coverage for a 5-day supply of buprenorphine. It also included a mandate for all health plans that cover physical therapy, acupuncture, or chiropractic services to not subject those services to financial provisions that are less favorable than those for primary care services if the covered person has chronic pain or a substance use disorder diagnosis. Another provision that was removed from the final bill is the prohibition of insurers from requiring a covered person to undergo step therapy using a drug that include an opioid before covering a non-opioid. The introduced bill only included Medicaid reimbursement for intranasal naloxone.

Staff will monitor rulemaking that occurs due to the enactment of this legislation.

| Date: | June 20, 2018 | 2018 Session Wrap-Up | Page 3 |
|-------|---------------|----------------------|--------|
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HB18-1097: Patient Choice of Pharmacy

This bill prohibits an insurer that offers a health plan that covers pharmaceutical services from: limiting a person's ability to select a pharmacy or pharmacist; imposing a copay, fee, or other cost-sharing requirement for selecting a pharmacy of their choice; imposing other conditions that restrict a person's choice of pharmacy; or denying a pharmacy or pharmacist the right to participate in any of its pharmacy network contracts in this state if they have a valid license in Colorado.

The Board opted to *not* take a position on this bill on March 13.

This bill was postponed indefinitely by the Senate Committee on Business, Labor, and Technology on March 19.

This bill could return in the 2019 session.

HB18-1136: Substance Use Disorder Treatment

This bill requires HCPF to apply for a federal waiver in order to add residential, inpatient, and medical detoxification substance use disorder services to the Colorado Medicaid program. The benefit is limited to nationally recognized, evidence-based level of care criteria for residential and inpatient substance use disorder treatment.

The Board voted to strongly support this bill on February 13.

An amended version of this bill *passed* on May 7 and the bill was *signed* into law by the Governor on June 5. The Governor provided a <u>statement</u> when signing the bill.

The introduced version of the bill did not include the medical detox service coverage. That language was added in the House.

Staff will monitor the development of the waiver application and weigh-in if necessary.

HB18-1177: Youth Suicide Prevention

This bill:

- 1. Requires the Office of Suicide Prevention (OSP) to develop and implement a plan to provide access to suicide prevention programs for people who regularly interact with youth but are not in a profession that typically provides training opportunities. And OSP is to contract with a nonprofit to offer the program through an existing statewide model.
- 2. Directs OSP to create and develop an online clearinghouse for access to preexisting mental health resources in Colorado
- 3. Lowers the age of consent for a minor to seek psychotherapy services from 15 years of age to 12 years of age.
- 4. Directs the Department of Human Services (DHS) and the Department of Public Health & Environment (CDPHE) to coordinate and implement an awareness campaign about youth suicide prevention and awareness of the telephone crisis line. DHS to expand phone crisis services to include text.

On February 27, the Board voted to *support* the creation of youth suicide prevention training programs and a state awareness campaign. The Board voted to remain *neutral* on the sections of the bill that would lower the mental health consent age.

This bill was postponed indefinitely on May 1 by the Senate Committee on State, Veterans, & Military Affairs.

The introduced bill only decreased the consent age for outpatient psychotherapy. IT also only had OSP within CDPHE creating the awareness campaign. The bill was amended in the House.

SB18-272 was passed, which focuses on youth suicide prevention in schools. As the mental health consent age issue is a topic that has been introduced in the past, staff believes that this issue could be addressed again in the 2019 session.

HB18-1182: Statewide System for Advance Directives

This bill states that CDPHE must create a statewide electronic system that allows medical professions and individuals to upload and access advance directives. The Board voted to *support* this bill on February 27.

This bill was postponed indefinitely, on request by sponsors, on March 29 by the House Health, Insurance, & Environment Committee.

The bill sponsors proposed to postpone indefinitely because they felt like they could not address the concerns by stakeholders and would want to have more discussion with the stakeholders on the topic.

HB18-1212: Freestanding Emergency Department Licensure

This bill creates a new license, referred to as a "freestanding emergency department license" for CDPHE to issue to a health facility that offers emergency care. These freestanding emergency departments (FSEDs) are either owned or operated by, or affiliated with a hospital and located more than 250 yards away from the main campus or independent from and not operated by or affiliated with a hospital or hospital system that is within 250 yards of a hospital. It allows for exceptions in the case of an FSED operating in a rural area or granted a waiver if it serves an underserved population. This bill further states that a health facility with a freestanding emergency department license is limited in the amount of facility fees the facility can charge patients.

The Board voted to **support** this bill on February 27.

This bill was postponed indefinitely on May 1 by the Senate State, Veterans, & Military Affairs Committee.

As FSEDs continue to be a hot topic in Colorado, this could be back in the 2019 session, but maybe with some tweaks to engage more legislators.

Although it had bipartisan sponsorship, many thought that it went too far in dictating facility fees.

HB18-1260: Prescription Drug Price Transparency

This bill requires health insurers to submit information regarding prescription drugs covered under their health plans that were dispensed in the preceding calendar year to the Division of Insurance (DOI). It requires prescription drug manufacturers to notify purchasers, health insurers, and pharmacy benefit managers when the manufacturer increases the price of a drug by more than 10% or when the manufacturer introduces a new specialty drug in the commercial market. The manufacturers must provide specified information to the DOI regarding the drugs about which manufacturers are required to notify purchasers of a drug price increase or new specialty drug on the market.

The Board voted to support a draft of this bill on February 13, which was then introduced on February 26 with the same language.

The bill was **postponed indefinitely** on April 30 by the Senate State, Veterans, & Military Affairs Committee.

Staff expects a version of this bill to be back next year. Legislators from both aisles laud transparency but cannot always agree how to do so through legislation.

HB18-1279: Electronic Prescribing Controlled Substances

This bill requires medical providers, dentists, and other practitioners to prescribe controlled substances via a prescription that is electronically transmitted to a pharmacy unless a specified exception occurs.

The Board voted to *support* this bill on March 27.

On April 25, the bill was postponed indefinitely by the Senate State, Veterans, & Military Affairs Committee. This bill could come back in discussions regarding opioid use disorders, but the federal government is also considering such a measure for Medicare Part D (H.R. 3528).

HB18-1284: Disclosure of Prescription Costs at Pharmacies

This bill bars a carrier from prohibiting a pharmacy or pharmacist from providing a covered person information on the amount a person would pay for a prescription drug if paid the "cash-price" or the clinical efficacy of any more affordable alternative drugs that are therapeutically equivalent. Carriers are prohibited from requiring a pharmacy to charge or collect a copayment from a covered person that exceeds the total submitted charges by a network pharmacy.

The Board voted to support this bill on March 27.

This bill was passed, unamended, on April 19 and signed by the Governor on April 30.

This one of the few transparency/prescription drug cost bills that made it to the Governor this session. Staff will monitor implementation.

HB18-1311: Single Geographic Rating Area Individual Health Plan

This bill prohibits a health insurer from considering the geographic location of a policyholder when establishing rates for the plan, thereby creating a single geographic rating area consisting of the entire state for purposes of all individual health benefit plans.

The Board voted to *oppose* this bill on April 10.

This bill was postponed indefinitely by the House Health, Insurance, & Environment Committee on April 19, on request of the bill sponsors.

This may not come back next session as one of the sponsors is term limited and it appeared that the sponsors deferred to the reinsurance program designed under as HB18-1392 as an adequate first-step in addressing insurance costs in their districts. However, since the reinsurance proposal failed this could be considered again in the 2019 session if stakeholders cannot agree on how to fund such a program.

HB18-1313: Pharmacists to Serve as Practitioners

This bill clarifies that a licensed and qualified pharmacist may serve as a practitioner and prescribe over-the-counter medication under the Medicaid program and a statewide drug therapy protocol pursuant to a collaborative pharmacy practice agreement.

The Board voted to support this bill on April 10.

This bill passed, with limited amendments, on May 1 and signed into law on June 6.

Staff will be monitoring implementation to determine if this will make it easier for Medicaid patients to access tobacco cessation products.

HB18-1327: All-Payer Health Claims Database

This bill allows the General Assembly to appropriate money to HCPF to pay for expenses related to the All-Payer Claims Database (APCD). This bill also establishes in statute a grant program to assist nonprofit organizations and governmental entities, other than HCPF, in accessing the database to conduct research.

On January 23, the Board voted to *support* the funding of the APCD, whether that occurred through the budgetary or legislative process.

This bill was passed unamended on April 5 and was signed by the Governor on April 23.

This legislation allows the APCD to be funded by the General Assembly as legislators see fit in future sessions.

HB18-1357: Behavioral Health Care Ombudsperson Parity Reports

This bill establishes an Office of the Ombudsman for Behavioral Health Access to Care to act as an independent office within the Department of Human Services (DHS) to assist Coloradans in accessing behavioral health care. The ombudsman is to prepare and publish an annual report that details the actions taken during the previous year that relate to the office's duties.

The bill also requires the DOI to create and submit a report to the General Assembly that details the status of mental health parity in Colorado. The Board voted to support this bill on May 1.

An amended version of this bill *passed* on May 4 and was *signed* by the Governor on May 24.

Staff will monitor the establishment of this office and any rulemaking that occurs. Additionally, the staff will watch for the mental health parity report and any effects it may have on policy in the future.

HB18-1384: Study Health Care Options

This bill requires HCPF and the DOI to conduct a study and submit a report concerning costs, benefits, and the feasibility of implementing a Medicaid buy-in option, a public-private partnership option, or a community or regionally based option for healthcare coverage.

The Board voted to support this bill on May 1.

This bill was postponed indefinitely on May 4 by the Senate Committee on State, Veterans, & Military Affairs.

Staff expects that legislation to study health insurance options in the state will return during the 2019 session as the topic of increasing insurance costs was not addressed by the General Assembly this year.

HB18-1392: State Innovation Waiver Reinsurance Program

This bill authorizes the DOI to apply to the U.S. Department of Health and Human Services (HHS) for a state innovation waiver (Section 1332), for federal funding, or both, to allow the state to implement a reinsurance program to assist health insurers in paying high-cost insurance claims in the individual market.

The Board voted to support this bill on May 1.

postponed indefinitely on May 4 by the Senate Committee on State, Veterans, & Military Affairs.

This bill was

Many from the industry that this bill was aiming to help voiced their concerns with the funding mechanism. With reinsurance programs being established in other states and the continuing increase of health insurance costs, staff expects a version of this bill to be back in the 2019 legislative session.

| Page 7 |
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HB18-1416: Student Suicide Prevention Grant Program

This bill creates the suicide prevention grant program for schools within CDPHE. The purpose of the grant program is to provide financial assistance to school districts, schools, and institute charter schools to develop and implement student suicide prevention policies and training programs.

The Board voted to support this bill on May 1.

This bill was postponed indefinitely on May 8 by the Senate Committee on Appropriations.

Senate Bill 18-272, a similar bill to this one, was passed. That bill limited the eligible schools/districts that could receive funding for prevention training. Staff will monitor the implementation of SB18-272.

SB18-022: Clinical Practice for Opioid Prescribing

This bill restricts the number of opioid pills that a health care practitioner may prescribe for an initial 7-day supply and one refill, at the prescriber's discretion, for a 7-day supply with certain exceptions mandated. This bill requires health care practitioners to query the prescription drug monitoring program (PDMP) before prescribing the first refill prescription for an opioid, except under specified circumstances. CDPHE is required to report to the General Assembly on previous studies of the PDMP and provider report cards.

The Board voted to support this bill on March 13.

An amended version of this bill was *passed* on May 7 and *signed* by the Governor on May 21.

Staff will monitor the implementation of this bill.

SB18-040: Substance Use Disorder Harm Reduction

This bill (1) specifies that hospitals may be used as clean syringe exchange sites (2) provides civil immunity for participants of a clean syringe exchange program (3) creates a supervised injection facility pilot program in the city and county of Denver and provides civil and criminal immunity for the facility (4) allows school districts and nonpublic schools to develop a policy by which schools are allows to obtain a supply of opiate antagonists in which school employees are trained to administer at risk of experiencing a drug overdose (5) requires the commission on criminal and juvenile justice to study certain topics related to sentencing for opioid-related offenses

On February 13 the Board voted to strongly support allowing for syringe access programs and allowing naloxone in schools. The Board voted to support requiring the study of opioidrelated penalties. The Board voted to not take a position on a pilot-program for a supervised injection facility.

This bill was postponed indefinitely on February 14 by the Senate State, Veterans, & Military Affairs Committee.

Most of these topics will be discussed again during the interim at the Opioid and Other Substance Use Disorders Interim Study Committee. Staff will be attending these hearings and providing the Board of Directors with information regarding the topics discussed and the bills that may come out of those discussions.

SB18-108: Eligibility Colorado Road and Community Safety Act

This bill allows a person to present a social security number as an alternative to a taxpayer identification card when obtaining a driver's license or identification card. Additionally, it streamlines the renewal process for these licenses.

The Board voted the sign-on and support the iDrive Campaign and the impending legislation, if consistent with the sign-on/white paper, on January 23.

This bill, with limited amendments, was *passed* on April 18 and *signed* into law by the Governor on May 29.

Staff will monitor the implementation of the bill and will inform the Board of Directors if any other issues that arise from the iDrive Campaign.

SB18-132: 1332 State Waiver Catastrophic Health Plans

This bill requires the DOI to conduct an actuarial analysis to determine if the sale of catastrophic health plans to those 30 years or older that do not meet a hardship requirement would result in a decrease in advanced premium tax credits or increase in average premiums for individual health plans. If it does not demonstrate either of these outcomes, the bill directs the DOI to apply to the federal government for a 5-year waiver of the federal law (Section 1332) restricting catastrophic health plans offered through the Colorado insurance marketplace. These plans would have to be sold through Connect for Health Colorado and would not be eligible for advanced premium tax credits.

The Board voted to strongly oppose this bill on February 13. After consideration of amendments made in the Senate Health and Human Services committee, the Board voted to change the strength of their position altered their position to oppose the bill.

The amended bill *passed* on April 19 and *signed* by the Governor on May 3. Staff will monitor the implementation of the bill and any rulemaking that occurs. Furthermore, staff will watch for the results of the actuarial study and present them to the Board to inform them if the waiver process will begin or not.

SB18-136: Health Insurance Producer Fee and Fee Disclosure

This bill allows an insurance producer or broker advising a client on individual health benefit plans to charge the client a fee if the producer or broker does not receive a commission related to the individual health plan selected by the client and if the producer or broker discloses the fee to the client.

The Board voted to *not* take a position on this bill on March 13.

The bill, as amended, was *passed* on April 3 and *signed* into law by the Governor on April 12.

Staff will monitor the implementation of this bill.

 Date:
 June 20, 2018
 2018 SESSION WRAP-UP
 Page 9

SB18-146: Freestanding Emergency Departments Required Consumer Notices

This bill requires a freestanding emergency department (FSED) to provide any individual that enters the facility seeking treatment a written statement of the patients' rights, which an FSED staff member or health care provider must explain orally. The FSED must post a sign containing specific information. After conducting an initial screening and determining that a patient does not have an emergency medical condition, the FSED must provide the patient a written disclosure that includes the information posted on the sign as well as other required information. Lastly the FSED must also post the information about the written disclosure on its website and update the disclosure at least every 6 months. The FSED must provide all information in a clear and understandable manner and in languages appropriate to the communities and patients it serves.

The Board voted to strongly support this bill on February 13.

The bill, as amended, was *passed* on April 10 and *signed* into law by the Governor on April 25.

The amendments to the introduced bill were limited in scope and mainly in an attempt to ensure compliance with federal law and working to make the disclosures more understandable to consumers.

This will take effect on January 1, 2019. Staff will monitor the implementation of the bill and any necessary rulemaking that occurs.

SB18-168: Medication-Assisted Treatment Through Pharmacies

This bill requires extended-release opioid antagonist MAT (i.e. naltrexone) to be included in Medicaid's pharmacy benefit. It also allows a pharmacist who has entered into a collaborative pharmacy practice agreement to administer injectable MAT and receive an enhanced dispensing fee under the Medicaid program.

The Board voted to support this bill on March 13.

The bill was postponed indefinitely on April 30, on request of the bill sponsor, in the Senate Committee on Business, Labor and Technology.

This concept of this bill was included in HB18-1007 so there was no need to keep this bill active. Staff will monitor the implementation of HB18-1007 and any related reports to determine if this assists in MAT access for Coloradans.

SB18-214: Request Self-Sufficiency Waiver Medicaid Program

This bill requires HCPF to prepare and submit a Section 1115 waiver to the federal government to implement certain self-sufficiency provisions as part of the Colorado Medicaid program. The bill requires able-bodied adults to become employed, actively seek employment, attend job or vocational training, or volunteer at a nonprofit organization to be eligible for Medicaid. The bill requires them to verify their income monthly for determination of eligibility. It authorizes HCPF to prohibit enrollment in Medicaid if a person fails to report a change in income or makes a false statement regarding compliance with the work requirement. The bill establishes a lifetime limit on Medicaid of 5 years. It authorizes HCPF to impose copayments to deter the use of

The Board voted to strongly oppose this bill on March 27.

The bill was postponed indefinitely on March 29 by the Senate Committee on Health and Human Services.

This bill failed in committee with one Republican joining the Democrats in a 3-2 vote. The 'no' votes on this bill were a result of the strain this would put on recipients as well as the administrative burden on already resource-taxed county agencies.

As the federal government has approved work requirement waivers for other states' Medicaid programs, staff believes that a version of this bill will be back in the 2019 session. However, the Centers for

| emergency departments and ambulatory services for emergency and nonemergency transportation | | | Medicare and Medicaid Services have demonstrated that they will not approve time limits. |
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| SB18-270: Behavioral | Health Crisis Trans | sition Referral Pro | ogram |
| This bill establishes the community transition specialist program in the office of behavioral health. The program coordinates referrals of highrisk individuals to transition specialists by certain behavioral health facilities and programs. Transition specialists provide services related to housing, program placement, access to behavioral health treatment or benefits, advocacy, or other supportive services. | The Board voted to support this bill on May 1. | The bill, as amended, was passed on May 9 and signed into law by the Governor on May 21. | This bill passed with strong bipartisan support in both chambers. Staff will monitor how this program is implemented and any reports/information that is publicly released. Staff will also watch the rulemaking process for this bill |

2018 SESSION WRAP-UP

Page 10

amount of money back into the program.

Budgetary Issues of Significant Importance to the Health District of Northern Larimer County

Date:

June 20, 2018

The Health District board also took positions on budgetary issues during the 2018 legislative session. The following chart summarizes these issues, the results, and details relevant post-session notes to each topic. The "Long Bill" (HB18-1322) includes the following topics as well as all other appropriations for state fiscal year 2018-2019.

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| All-Payer Claims Database (APCD) Funding | | | | |
| HCPF requested \$2.8 million in total state funds for state fiscal year (SFY) 2018-2019 to support APCD operations and backfill the private grants that are expiring. | On January 23, the Board voted to <i>support</i> the funding of the APCD, whether that occurred through the budgetary or legislative process. | In the end this was done through a bill (HB18-1327) as it was believed that the legislature did not have the authority to fund the APCD as it was originally funded through gifts, grants, and donations. In total, the APCD received \$2.6 million in funding. | | |
| Long-Acting Reve | ersible Contraception (LARC |) Funding | | |
| As in previous years, the SFY2018-2019 budget request from CDPHE includes \$2.5 million for family planning, including LARC. | The Board voted to support the funding of LARC during the budgetary process for SFY2018-2019 on January 23. | There was no attempt to remove the funding for LARC through the Joint Budget Committee process, nor in the House or Senate during the budget debate. Funding for this line item will continue at the same level as last year. | | |
| Senio | Senior Dental Program Funding | | | |
| Increase the HCPF line item for Old Age Pension Senior Dental Program General Funds from \$2,962,510 to \$3,962,510, an increase of \$1 million. The waiting lists for SFY16-17 needed \$1.1 million and waiting lists in SFY17-18 started even earlier in the year. | The Board voted to support a request to increase the SFY2018-2019 funding for the Senior Dental Program on February 27. | Although the attempt to increase the line item for the program was unsuccessful, the program is now allowed to keep recoveries (i.e. when providers are audited and shown to have received overpayments). Currently, these recoveries are reverted back into the General Fund. This will add a small | | |

| Date: | June 20, 2018 | 2018 Session Wrap-Up | Page 11 |
|-------|---------------|----------------------|---------|
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About this 2018 Legislative Session Summary

This legislative session summary was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. For more information about this summary or the Health District, please contact Alyson Williams, Policy Coordinator, at (970) 224-5209, or e-mail at awilliams@healthdistrict.org