

Second Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 08-0333.01 Christy Chase

HOUSE BILL 08-1009

HOUSE SPONSORSHIP

Massey, Casso, and Green

SENATE SPONSORSHIP

Morse, Boyd, and Shaffer

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING EMERGENCY MEDICAL CARE COVERAGE IN CONNECTION
102 WITH AN AUTOMOBILE INSURANCE POLICY ISSUED IN
103 COLORADO.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Health Care Task Force. Requires an automobile insurance policy issued, delivered, or renewed on or after January 1, 2009, to contain emergency medical care coverage of at least \$15,000 to cover the costs of all medically necessary and accident-related emergency medical care services provided to a person injured in a motor vehicle accident. Establishes a presumption that the minimum amount of emergency

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

medical care coverage required by law is included in an automobile insurance policy if the insurer fails to include any emergency medical care coverage in the policy. Preserves the right of the insurer to offer, and the insured to purchase, emergency medical care coverage in excess of the minimum coverage required by law.

Specifies the providers to whom the emergency medical care coverage benefits are to be paid for providing emergency medical care services to an injured person. Specifies the reimbursement rate for providers based on a percentage of the 2006 medicare resource-based relative value scale (RBRVS) fee schedule.

Requires an insurer to honor a proper assignment of emergency medical care benefits by the insured to a health care provider and to promptly pay emergency medical care claims.

Makes conforming amendments.

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

2 **SECTION 1.** 10-4-620, Colorado Revised Statutes, is amended
3 to read:

4 **10-4-620. Required coverages - legal liability - emergency**
5 **medical care - definitions.** (1) Subject to the limitations and exclusions
6 authorized by this part 6, the basic coverage required for compliance with
7 this part 6 is:

8 (a) Legal liability coverage for bodily injury or death arising out
9 of the use of the motor vehicle to a limit, exclusive of interest and costs,
10 of twenty-five thousand dollars to any one person in any one accident and
11 fifty thousand dollars to all persons in any one accident and for property
12 damage arising out of the use of the motor vehicle to a limit, exclusive of
13 interest and costs, of fifteen thousand dollars in any one accident; AND

14 (b) (I) EMERGENCY MEDICAL CARE COVERAGE OF AT LEAST
15 FIFTEEN THOUSAND DOLLARS PER PERSON IN ANY ONE ACCIDENT FOR THE
16 PAYMENT OF ALL MEDICALLY NECESSARY AND ACCIDENT-RELATED
17 EMERGENCY MEDICAL CARE EXPENSES FOR BODILY INJURY ARISING OUT

1 OF THE OWNERSHIP, MAINTENANCE, OR USE OF THE MOTOR VEHICLE.
2 PAYMENT SHALL BE MADE TO A FIRST RESPONDER, TRAUMA PHYSICIAN,
3 TRAUMA CENTER, OR EMERGENCY DEPARTMENT OF A LICENSED OR
4 CERTIFIED HOSPITAL, FOR MEDICALLY NECESSARY AND
5 ACCIDENT-RELATED EMERGENCY MEDICAL CARE SERVICES PROVIDED TO
6 THE INJURED PERSON AFTER THE ACCIDENT.

7 (II) IF AN INSURER FAILS TO INCLUDE EMERGENCY MEDICAL CARE
8 COVERAGE IN A POLICY ISSUED PURSUANT TO THIS PART 6, THE INSURED'S
9 POLICY SHALL BE PRESUMED TO INCLUDE THE MINIMUM EMERGENCY
10 MEDICAL CARE COVERAGE REQUIRED BY THIS PARAGRAPH (b). NOTHING
11 IN THIS PARAGRAPH (b) SHALL PRECLUDE AN INSURER FROM OFFERING, OR
12 AN INSURED FROM PURCHASING, EMERGENCY MEDICAL CARE COVERAGE
13 IN EXCESS OF THE AMOUNT OF COVERAGE REQUIRED BY THIS PARAGRAPH
14 (b).

15 (III) MEDICALLY NECESSARY AND ACCIDENT-RELATED
16 EMERGENCY MEDICAL CARE PROVIDED TO A PERSON CLAIMING
17 EMERGENCY MEDICAL CARE COVERAGE BY A FIRST RESPONDER, TRAUMA
18 PHYSICIAN, TRAUMA CENTER, OR EMERGENCY DEPARTMENT OF A
19 LICENSED OR CERTIFIED HOSPITAL SHALL BE REIMBURSED AT THE RATE OF
20 TWO HUNDRED PERCENT OF THE 2006 MEDICARE RESOURCE-BASED
21 RELATIVE VALUE SCALE (RBRVS) FEE SCHEDULE, AS ADJUSTED BY THE
22 GEOGRAPHICAL PRACTICE COST INDEX, OR A SUCCESSOR INDEX.

23 (IV) AN INSURER SHALL HONOR A PROPER ASSIGNMENT OF
24 EMERGENCY MEDICAL CARE COVERAGE BENEFITS MADE PURSUANT TO
25 SECTION 10-4-634 AND SHALL PROMPTLY PAY CLAIMS FOR EMERGENCY
26 MEDICAL CARE COVERAGE IN ACCORDANCE WITH SECTION 10-4-642.

27 (V) AS USED IN THIS PARAGRAPH (b), UNLESS THE CONTEXT

1 OTHERWISE REQUIRES:

2 (A) "EMERGENCY MEDICAL CARE" OR "TRAUMA CARE" MEANS
3 CARE PROVIDED BY A FIRST RESPONDER, TRAUMA PHYSICIAN, TRAUMA
4 CENTER, OR EMERGENCY DEPARTMENT OF A LICENSED OR CERTIFIED
5 HOSPITAL TO A PERSON INJURED IN A MOTOR VEHICLE ACCIDENT FROM THE
6 TIME THE ADMINISTRATION OF CARE BEGINS TO THE TIME THE PATIENT IS
7 FULLY STABILIZED OR THROUGH THE FIRST EPISODE OF CARE. THE TERM
8 INCLUDES A TRAUMA CARE SYSTEM, TRAUMA TRANSPORT PROTOCOLS,
9 AND TRIAGE, AS DEFINED IN SECTION 25-3.5-703 (10), (11), AND (12),
10 C.R.S., RESPECTIVELY.

11 (B) "FIRST RESPONDER" MEANS A PERSON OR ENTITY THAT
12 RESPONDS TO, AND PROVIDES EMERGENCY MEDICAL CARE TO AN
13 INDIVIDUAL INJURED IN, A MOTOR VEHICLE ACCIDENT. THE TERM
14 INCLUDES, BUT IS NOT LIMITED TO, A PERSON OR ENTITY PROVIDING
15 AMBULANCE SERVICE, INCLUDING AIR AMBULANCE SERVICE, AN
16 EMERGENCY MEDICAL TECHNICIAN, AS DEFINED IN SECTION 25-3.5-103
17 (8), C.R.S., AND ANY SERVICE AGENCY, AS DEFINED IN SECTION 25-3.5-103
18 (11.5), C.R.S., OR OTHER PERSON OR ENTITY THAT PROVIDES EMERGENCY
19 MEDICAL CARE AT THE SCENE OF OR IMMEDIATELY AFTER A MOTOR
20 VEHICLE ACCIDENT. "FIRST RESPONDER" DOES NOT INCLUDE A HOSPITAL.

21 (C) "MEDICALLY NECESSARY" EMERGENCY MEDICAL CARE IS CARE
22 THAT IS PROVIDED BY A PROVIDER DESCRIBED IN SUBPARAGRAPH (I) OF
23 THIS PARAGRAPH (b) TO A PERSON INJURED IN A MOTOR VEHICLE
24 ACCIDENT AND THAT IS REQUIRED TO IDENTIFY, DIAGNOSE, TREAT,
25 REHABILITATE, OR AMELIORATE THE PERSON'S INJURY, ITS EFFECTS, OR
26 THE SYMPTOMS OF THE INJURY IN A MANNER THAT IS CONSISTENT WITH
27 GENERALLY ACCEPTED STANDARDS OF THE PROVIDER'S HEALTH CARE

1 PROFESSION; CLINICALLY APPROPRIATE IN TERMS OF TYPE, FREQUENCY,
2 EXTENT, TIMING, SITE, AND DURATION; REPRESENTATIVE OF THE BEST
3 PRACTICES OF THE PROFESSION OR OF TREATMENT PRACTICE GUIDELINES
4 OR ETHICS ADOPTED, RECOGNIZED, OR GENERALLY ACCEPTED BY STATE OR
5 NATIONAL PROFESSIONAL ASSOCIATIONS FOR THE RESPECTIVE HEALTH
6 CARE PROFESSION; OR EFFICIENT IN A MANNER TO AVOID WASTE AND
7 REFRAIN FROM THE PROVISION OF SERVICES THAT ARE NOT LIKELY TO
8 PRODUCE BENEFIT TO OR ARE NOT PRIMARILY FOR THE CONVENIENCE OF
9 THE INJURED PERSON OR HEALTH CARE PROVIDER.

10 (D) "STABILIZE" MEANS, WITH RESPECT TO A MEDICAL CONDITION
11 RESULTING FROM A TRAUMA, TO PROVIDE SUCH MEDICAL TREATMENT OF
12 THE CONDITION AS MAY BE NECESSARY TO ASSURE, WITHIN REASONABLE
13 MEDICAL PROBABILITY, THAT NO MATERIAL DETERIORATION OF THE
14 CONDITION IS LIKELY TO RESULT OR OCCUR DURING THE TRANSFER OF AN
15 INDIVIDUAL TO OR FROM A TRAUMA CENTER.

16 (E) "TRAUMA" MEANS AN INJURY OR WOUND TO A LIVING PERSON
17 CAUSED BY THE APPLICATION OF AN EXTERNAL PHYSICAL FORCE. TRAUMA
18 INCLUDES ANY EVENT THAT THREATENS LIFE, LIMB, OR THE WELL-BEING
19 OF AN INDIVIDUAL IN SUCH A MANNER THAT A PRUDENT LAY PERSON
20 WOULD BELIEVE THAT IMMEDIATE MEDICAL CARE IS NEEDED.

21 (F) "TRAUMA CENTER" MEANS A HEALTH CARE FACILITY THAT IS
22 DESIGNATED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
23 AS A LEVEL I, II, III, IV, OR V FACILITY OR AS A REGIONAL PEDIATRIC
24 TRAUMA CENTER.

25 (G) "TRAUMA PHYSICIAN" MEANS A TRAUMA SURGEON,
26 ORTHOPEDIC SURGEON, NEUROSURGEON, INTENSIVE CARE UNIT PHYSICIAN,
27 ANESTHESIOLOGIST, OR PHYSICIAN WHO PROVIDES CARE IN A TRAUMA

1 CENTER OR THE EMERGENCY DEPARTMENT OF A LICENSED OR CERTIFIED
2 HOSPITAL TO A TRAUMA PATIENT INJURED IN A MOTOR VEHICLE ACCIDENT.

3 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT ANY
4 OTHER COVERAGE AMOUNTS MADE AVAILABLE BY AN INSURER.

5 **SECTION 2.** The introductory portion to 10-4-601 (10), Colorado
6 Revised Statutes, is amended to read:

7 **10-4-601. Definitions.** As used in this part 6, unless the context
8 otherwise requires:

9 (10) "Policy" means an automobile insurance policy providing
10 coverage for all or any of the following coverages: Collision,
11 comprehensive, bodily injury liability, property damage liability, medical
12 payments, EMERGENCY MEDICAL CARE, and uninsured motorist coverage,
13 or a combination automobile policy providing bodily injury liability,
14 property damage liability, medical payments, EMERGENCY MEDICAL CARE,
15 uninsured motorist, and physical damage coverage, delivered or issued for
16 delivery in this state, insuring a single individual, or husband and wife,
17 or family members residing in the same household, as named insured, and
18 under which the insured vehicles therein designated are of the following
19 types only:

20 **SECTION 3.** 10-4-609 (1) (c), Colorado Revised Statutes, is
21 amended to read:

22 **10-4-609. Insurance protection against uninsured motorists -**
23 **applicability.** (1) (c) The coverage described in paragraph (a) of this
24 subsection (1) shall be in addition to any legal liability coverage and shall
25 cover the difference, if any, between the amount of the limits of any legal
26 liability coverage and the amount of the damages sustained, excluding
27 exemplary damages, up to the maximum amount of the coverage obtained

1 pursuant to this section. A single policy or endorsement for uninsured or
2 underinsured motor vehicle coverage issued for a single premium
3 covering multiple vehicles may be limited to applying once per accident.
4 The amount of the coverage available pursuant to this section shall not be
5 reduced by a setoff from any other coverage, including, but not limited to,
6 legal liability insurance, medical payments coverage, EMERGENCY
7 MEDICAL CARE COVERAGE, health insurance, or other uninsured or
8 underinsured motor vehicle insurance.

9 **SECTION 4.** 10-4-634, Colorado Revised Statutes, is amended
10 to read:

11 **10-4-634. Assignment of payment for covered benefits.**

12 (1) (a) On and after ~~thirty days after April 5~~, MAY 5, 2004, a policy of
13 motor vehicle insurance coverage pursuant to this part 6 shall allow, but
14 not require, an insured under the policy to assign, in writing, payments
15 due under medical payments coverage of the policy to a licensed hospital
16 or other licensed health care provider, as defined in section 10-4-902 (3),
17 an occupational therapist as described in section 6-1-707 (1) (c), C.R.S.,
18 or a massage therapist for services provided to the insured that are
19 covered under the policy.

20 (b) ON AND AFTER JANUARY 1, 2009, A POLICY OF MOTOR VEHICLE
21 INSURANCE COVERAGE PURSUANT TO THIS PART 6 SHALL ALLOW, BUT NOT
22 REQUIRE, AN INSURED UNDER THE POLICY TO ASSIGN, IN WRITING,
23 PAYMENTS DUE UNDER THE EMERGENCY MEDICAL CARE COVERAGE OF THE
24 POLICY TO A FIRST RESPONDER, TRAUMA PHYSICIAN, TRAUMA CENTER, OR
25 EMERGENCY DEPARTMENT OF A LICENSED OR CERTIFIED HOSPITAL FOR
26 SERVICES PROVIDED TO THE INSURED THAT ARE COVERED UNDER THE
27 POLICY.

1 (2) When a ~~licensed hospital or other licensed health care~~
2 ~~provider, occupational therapist, or massage therapist~~ PROVIDER
3 DESCRIBED IN SUBSECTION (1) OF THIS SECTION receives an assignment
4 from an insured, it is the responsibility of the provider to bill the insurer
5 and notify the insurer that the ~~licensed health care~~ provider holds an
6 assignment on file. The insurer shall honor this assignment the same as
7 if a copy of the assignment had been received by the insurer. Only upon
8 request of the insurer shall the ~~health care~~ provider be required to provide
9 a copy of the assignment. The provider shall also provide a copy of such
10 bill to the insured, stating on such copy that it is for informational
11 purposes only and that the insurer has been billed for covered benefits.
12 The provider shall also furnish to the insurer a current taxpayer
13 identification number as part of the initial bill and each subsequent
14 billing. Subsequent billings to an insurer need not include a copy of the
15 assignment unless required by the insurer so long as it is clearly noted on
16 each such subsequent billing that the benefits have been assigned. The
17 insurer shall honor such assignment and make payment of covered
18 benefits directly to ~~such licensed hospital or other licensed health care~~
19 ~~THE provider, occupational therapist, or massage therapist.~~ If the insurer
20 fails to honor such assignment but instead makes payment to the insured,
21 and if the insured fails to timely pay an amount equivalent to such
22 payment to the ~~licensed hospital or other licensed health care~~ provider,
23 then the insurer shall be liable for such payment directly to the ~~licensed~~
24 ~~hospital or other licensed health care~~ provider. ~~occupational therapist, or~~
25 ~~massage therapist.~~ It shall be the responsibility of the ~~licensed hospital~~
26 ~~or other licensed health care~~ provider ~~occupational therapist, or massage~~
27 ~~therapist~~ to notify the insurer if timely payment has not been received.

1 **SECTION 5.** 10-4-642 (2) (a), (2) (b), (3), and (12), Colorado
2 Revised Statutes, are amended to read:

3 **10-4-642. Prompt payment of direct benefits - legislative**
4 **declaration - definitions.** (2) As used in this section, unless the context
5 otherwise requires:

6 (a) "Claim" means a claim for payment of medical payments
7 coverage benefits OR EMERGENCY MEDICAL CARE COVERAGE BENEFITS in
8 accordance with the insurer's policy.

9 (b) "Claimant" means a policyholder, insured, or injured person
10 entitled to medical payments benefits OR EMERGENCY MEDICAL CARE
11 COVERAGE BENEFITS as a result of a motor vehicle accident or a provider
12 with the proper assignment of benefits.

13 (3) The commissioner may, in consultation with interested parties,
14 including health care providers, adopt a uniform application form, ~~for~~
15 ~~medical payments benefits or~~ a uniform claim form, or both a uniform
16 application and uniform claim form FOR MEDICAL PAYMENTS BENEFITS OR
17 EMERGENCY MEDICAL CARE COVERAGE BENEFITS. For a uniform claim
18 form or a uniform application form having elements provided by a health
19 care provider, the commissioner shall consider the uniform claim forms
20 and elements adopted for health insurance pursuant to section
21 10-16-106.3. If the commissioner determines that new elements are
22 required to establish that an injury or benefit requested is the result of a
23 motor vehicle accident, the new elements may be listed in a separate
24 uniform application form.

25 (12) When an insured entitled to benefits under medical payments
26 coverage OR EMERGENCY MEDICAL CARE COVERAGE is injured or believes
27 that he or she has been injured in ~~an~~ A MOTOR VEHICLE accident and is

1 examined or treated by a health care provider, such health care provider
2 shall notify the insurer within thirty calendar days after the insured's
3 initial visit. This subsection (12) shall not apply to a hospital or other
4 health facility or entity licensed or certified pursuant to section
5 25-1.5-103 (1), C.R.S.

6 **SECTION 6.** 10-4-643, Colorado Revised Statutes, is amended
7 to read:

8 **10-4-643. Electronic claim forms - rules.** The commissioner
9 may promulgate rules, consistent with section 10-4-642, for an insurer to
10 accept claim forms for medical payments coverage benefits OR
11 EMERGENCY MEDICAL CARE COVERAGE BENEFITS from health care
12 providers in electronic form. An insurer shall not prohibit the submission
13 of a medical payments coverage benefit claim OR AN EMERGENCY
14 MEDICAL CARE COVERAGE BENEFIT CLAIM in hard-copy form, nor shall an
15 insurer be prohibited from requiring that a claim be submitted in
16 hard-copy form. An insurer shall not require submission of a medical
17 payments coverage benefit claim form OR AN EMERGENCY MEDICAL CARE
18 COVERAGE BENEFIT CLAIM FORM other than those set forth in section
19 10-4-642.

20 **SECTION 7.** 10-16-203 (5) (b), Colorado Revised Statutes, is
21 amended to read:

22 **10-16-203. Optional provisions in individual sickness and**
23 **accident insurance policies.** (5) (b) If the foregoing policy provision is
24 included in a policy ~~which~~ THAT also contains the policy provisions in
25 subsection (6) of this section, there shall be added to the caption of the
26 foregoing provision the phrase "..... Expense incurred benefits". The
27 insurer may include in this provision, at its option, a definition of "other

1 valid coverage", approved as to form by the commissioner, which
2 definition shall be limited in subject matter to coverage provided by
3 organizations subject to regulation by insurance law or by insurance
4 authorities of this or any other state of the United States or any province
5 of Canada, and by hospital or medical service organizations, and to any
6 other coverage the inclusion of which may be approved by the
7 commissioner. In the absence of such definition, such term shall not
8 include group insurance, automobile medical payments insurance,
9 AUTOMOBILE EMERGENCY MEDICAL CARE COVERAGE, or coverage
10 provided by hospital or medical service organizations or by union welfare
11 plans or employer or employee benefit organizations. For the purpose of
12 applying the foregoing policy provision with respect to any insured, any
13 amount of benefit provided for such insured pursuant to any compulsory
14 benefit statute, including any workers' compensation or employer's
15 liability statute, whether provided by a governmental agency or otherwise,
16 shall in all cases be deemed to be "other valid coverage" of which the
17 insurer has had notice. In applying the foregoing policy provision no
18 third-party liability coverage shall be included as "other valid coverage".

19 **SECTION 8.** 18-1.3-603 (8) (d) (II), Colorado Revised Statutes,
20 is amended to read:

21 **18-1.3-603. Assessment of restitution - corrective orders.**
22 (8) (d) (II) Nothing in this paragraph (d) shall prohibit a nonowner driver
23 or passenger in the vehicle from being awarded restitution if the driver or
24 passenger was not covered by his or her own medical payments coverage
25 OR EMERGENCY MEDICAL CARE COVERAGE policy.

26 **SECTION 9. Effective date - applicability.** This act shall take
27 effect January 1, 2009, and shall apply to automobile insurance policies

1 issued, delivered, or renewed on or after said date.

2 **SECTION 10. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.