

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0350.01 Christy Chase

HOUSE BILL 09-1012

HOUSE SPONSORSHIP

Rice and Stephens, Curry, Massey, Swalm

SENATE SPONSORSHIP

Mitchell and Newell,

House Committees

Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING INCENTIVES PROVIDED BY HEALTH INSURANCE CARRIERS**
102 **TO ENCOURAGE VOLUNTARY PARTICIPATION IN PROGRAMS TO**
103 **PROMOTE HEALTH.**

Bill Summary

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

Authorizes carriers providing individual and group health coverage plans in this state to offer incentives for covered persons and groups to participate in wellness and prevention programs (programs). Permits those incentives to include premium discounts or rebates; modifications to copayment, deductible, or coinsurance amounts; or a combination of those incentives.

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.

Allows carriers to determine the types of programs and incentives to offer as long as:

- ! Participation in the programs is voluntary and is not a condition of coverage;
- ! Nonparticipation cannot be penalized; and
- ! The participant is not required to achieve a certain outcome in order to receive the incentive.

Allows the board of directors of the CoverColorado program or carriers providing health benefit plans to CoverColorado participants to also offer the incentives.

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

2 **SECTION 1.** Part 1 of article 16 of title 10, Colorado Revised
3 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
4 read:

5 **10-16-136. Wellness and prevention programs - individual and**
6 **group health coverage plans - voluntary participation - incentives -**
7 **definitions - legislative declaration.** (1) THE GENERAL ASSEMBLY
8 HEREBY FINDS AND DECLARES THAT:

9 (a) WITH THE RISING COSTS OF HEALTH CARE COVERAGE, IT IS
10 IMPORTANT TO FIND INNOVATIVE WAYS TO REDUCE COSTS AND MAKE
11 HEALTH COVERAGE MORE AFFORDABLE FOR INDIVIDUALS AND EMPLOYER
12 GROUPS;

13 (b) WHEN INDIVIDUALS COVERED UNDER A HEALTH COVERAGE
14 PLAN LEAD HEALTHY LIFESTYLES AND ENGAGE IN WELLNESS AND DISEASE
15 PREVENTION ACTIVITIES, THEIR NEED FOR HEALTH CARE AND THE COSTS
16 OF THEIR HEALTH CARE ARE REDUCED, AND THE ENTITY PROVIDING THEIR
17 HEALTH CARE COVERAGE BENEFITS FROM REDUCED UTILIZATION RATES
18 AND COSTS;

19 (c) CARRIERS SHOULD BE AFFORDED THE ABILITY TO DEVELOP
20 INNOVATIVE AND FLEXIBLE WAYS TO ENCOURAGE COVERED PERSONS

1 UNDER THEIR HEALTH COVERAGE PLANS TO ENGAGE IN ACTIVITIES THAT
2 PROMOTE THEIR OVERALL HEALTH AND PREVENT OR REDUCE THE IMPACTS
3 OF DISEASE; AND

4 (d) IT IS THEREFORE IMPORTANT TO ALLOW CARRIERS TO PROVIDE
5 INCENTIVES, INCLUDING PREMIUM DISCOUNTS AND REDUCED
6 OUT-OF-POCKET COSTS FOR HEALTH CARE SERVICES, TO ENCOURAGE
7 COVERED PERSONS TO PARTICIPATE IN WELLNESS AND PREVENTION
8 PROGRAMS.

9 (2) (a) CONSISTENT WITH SECTION 10-16-107 (6) AND SUBJECT TO
10 SUBSECTION (3) OF THIS SECTION, A CARRIER OFFERING AN INDIVIDUAL OR
11 GROUP HEALTH COVERAGE PLAN IN THIS STATE MAY OFFER INCENTIVES TO
12 ENCOURAGE THE INDIVIDUAL OR GROUP AND OTHER COVERED PERSONS
13 UNDER THE PLAN TO PARTICIPATE IN WELLNESS AND PREVENTION
14 PROGRAMS. FOR PURPOSES OF GROUP HEALTH COVERAGE PLANS, THE
15 INCENTIVES MAY BE APPLIED TO THE ENTIRE GROUP OR TO INDIVIDUALS IN
16 THE GROUP BASED ON THEIR PARTICIPATION IN WELLNESS AND
17 PREVENTION PROGRAMS.

18 (b) CARRIERS MAY DETERMINE THE TYPES OF WELLNESS AND
19 PREVENTION PROGRAMS TO OFFER TO INDIVIDUALS AND GROUPS AND THE
20 INCENTIVES ALLOWED UNDER THE HEALTH COVERAGE PLAN. THE
21 INCENTIVES MAY INCLUDE PREMIUM DISCOUNTS OR REBATES;
22 MODIFICATIONS TO COPAYMENT, DEDUCTIBLE, OR COINSURANCE
23 AMOUNTS; OR A COMBINATION OF THESE INCENTIVES. AN INCENTIVE
24 OFFERED BY A CARRIER FOR PARTICIPATION IN WELLNESS AND PREVENTION
25 PROGRAMS SHALL BE REASONABLY RELATED TO THE PROGRAM AND TIED
26 TO PARTICIPATION IN THE PROGRAM RATHER THAN PARTICULAR
27 OUTCOMES OR RESULTS FROM SUCH PARTICIPATION.

1 (3) A CARRIER OFFERING INCENTIVES PURSUANT TO THIS SECTION
2 SHALL ENSURE THAT:

3 (a) PARTICIPATION IN A WELLNESS AND PREVENTION PROGRAM IS
4 NOT A CONDITION OF COVERAGE UNDER THE HEALTH COVERAGE PLAN;

5 (b) PARTICIPATION IN A WELLNESS AND PREVENTION PROGRAM IS
6 VOLUNTARY AND THAT A PENALTY MAY NOT BE IMPOSED ON A COVERED
7 PERSON OR GROUP FOR NOT PARTICIPATING IN A WELLNESS AND
8 PREVENTION PROGRAM;

9 (c) A COVERED PERSON OR GROUP IS NOT REQUIRED TO ACHIEVE
10 ANY SPECIFIC OUTCOME IN ORDER TO RECEIVE THE INCENTIVE FOR
11 PARTICIPATION IN A WELLNESS AND PREVENTION PROGRAM; AND

12 (d) THE CARRIER DOES NOT MARKET THE WELLNESS AND
13 PREVENTION PROGRAM IN A MANNER THAT REASONABLY COULD BE
14 CONSTRUED AS PROVIDING AN INCENTIVE PRIMARILY FOR THE PURPOSE OF
15 INDUCING INDIVIDUALS OR GROUPS TO PURCHASE THE CARRIER'S HEALTH
16 COVERAGE PLAN.

17 (4) AS USED IN THIS SECTION:

18 (a) "CARRIER" SHALL HAVE THE SAME MEANING AS SET FORTH IN
19 SECTION 10-16-102 AND SHALL INCLUDE COVERCOLORADO, ESTABLISHED
20 IN SECTION 10-8-504, AND ANY CARRIER OFFERING A HEALTH BENEFIT
21 PLAN TO PARTICIPANTS IN COVERCOLORADO.

22 (b) "WELLNESS AND PREVENTION PROGRAM" MEANS A PROGRAM
23 DESIGNED TO PROMOTE HEALTH OR PREVENT DISEASE AND MAY INCLUDE,
24 WITHOUT LIMITATION, THE FOLLOWING:

25 (I) HEALTH SCREENINGS;

26 (II) INTERNET, TELEPHONIC, LIVE COACHING, OR
27 CONSULTATION-BASED WELLNESS PROGRAMS;

- 1 (III) EDUCATION AND TRAINING ABOUT DIETARY HABITS;
- 2 (IV) ONLINE AND IN-PERSON SEMINARS OR PODCASTS ON HEALTH
- 3 AND WELLNESS TOPICS, WELLNESS HANDOUTS, A WELLNESS LIBRARY,
- 4 VIDEOS, OR NEWSLETTERS, AND A WELLNESS INTRANET SITE;
- 5 (V) WELLNESS PROGRAMS GEARED SPECIFICALLY FOR CHILDREN,
- 6 TEENS, OR SPECIAL POPULATIONS;
- 7 (VI) CORPORATE HEALTH FAIRS THAT MAY COMBINE HEALTH
- 8 SCREENINGS WITH EDUCATIONAL OPPORTUNITIES, INCLUDING ACCESS TO
- 9 INFORMATION ON LEADING A HEALTHY LIFESTYLE AND TO NUTRITIONAL
- 10 COUNSELING;
- 11 (VII) STRESS MANAGEMENT PROGRAMS;
- 12 (VIII) EMPLOYEE ASSISTANCE PROGRAMS FOR EMPLOYEES AND
- 13 THEIR FAMILIES;
- 14 (IX) DISEASE MANAGEMENT;
- 15 (X) DIABETES CARE PROGRAMS;
- 16 (XI) TOBACCO CESSATION PROGRAMS;
- 17 (XII) NURSE-ON-CALL PROGRAMS; OR
- 18 (XIII) ON-SITE OR EXTERNAL HEALTH CLUB OR FITNESS CENTER
- 19 MEMBERSHIPS OR FACILITIES.

20 **SECTION 2.** 10-16-107 (6), Colorado Revised Statutes, is
21 amended to read:

22 **10-16-107. Rate regulation - rules - approval of policy forms**
23 **- benefit certificates - evidences of coverage - benefits ratio -**
24 **disclosures on treatment of intractable pain.** (6) A carrier offering a
25 group health benefit plan may not require any individual (as a condition
26 of enrollment or continued enrollment under the plan) to pay a premium
27 or contribution that is greater than such premium or contribution for a

1 similarly situated individual enrolled in the plan on the basis of any health
2 status-related factor in relation to the individual or to an individual
3 enrolled under the plan as a dependent of the individual. This prohibition
4 shall not be construed to restrict the amount that an employer may be
5 charged for coverage under a group health benefit plan or to prevent a
6 carrier from establishing premium discounts or rebates or modifying
7 otherwise applicable copayments, COINSURANCE, or deductibles in return
8 for ~~adherence to programs of health promotion and disease~~
9 PARTICIPATION IN A WELLNESS AND prevention ~~if otherwise allowed by~~
10 ~~law~~ PROGRAM PURSUANT TO SECTION 10-16-136.

11 **SECTION 3.** Part 5 of article 8 of title 10, Colorado Revised
12 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
13 read:

14 **10-8-514.5. Incentives for participation in wellness and**
15 **prevention programs.** NOTWITHSTANDING ANY PROVISION OF THIS PART
16 5 TO THE CONTRARY AND CONSISTENT WITH SECTION 10-16-136, THE
17 BOARD OR A CARRIER PROVIDING HEALTH BENEFIT PLANS TO PARTICIPANTS
18 MAY OFFER INCENTIVES TO PARTICIPANTS FOR PARTICIPATION IN A
19 WELLNESS AND PREVENTION PROGRAM.

20 **SECTION 4. Act subject to petition - effective date -**
21 **applicability.** (1) This act shall take effect January 1, 2010.

22 (2) However, if a referendum petition is filed against this act or
23 an item, section, or part of this act during the 90-day period after final
24 adjournment of the general assembly that is allowed for submitting a
25 referendum petition pursuant to article V, section 1 (3) of the state
26 constitution, then the act, item, section, or part, shall not take effect unless
27 approved by the people at a biennial regular general election and shall

1 take effect on the date specified in subsection (1) or on the date of the
2 official declaration of the vote thereon by proclamation of the governor,
3 whichever is later.

4 (3) The provisions of this act shall apply to health coverage plans
5 issued or renewed on or after the applicable effective date of this act.