

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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 or**
7 **rewards - definitions - legislative declaration.** (1) THE GENERAL
8 ASSEMBLY 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 OR REWARDS, 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 OR
12 REWARDS TO ENCOURAGE THE INDIVIDUAL OR GROUP AND OTHER
13 COVERED PERSONS UNDER THE PLAN TO PARTICIPATE IN WELLNESS AND
14 PREVENTION PROGRAMS. FOR PURPOSES OF GROUP HEALTH COVERAGE
15 PLANS, THE INCENTIVES OR REWARDS MAY BE APPLIED TO THE ENTIRE
16 GROUP OR TO INDIVIDUALS IN THE GROUP BASED ON THEIR PARTICIPATION
17 IN WELLNESS AND 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 OR REWARDS ALLOWED UNDER THE HEALTH COVERAGE PLAN.
21 THE INCENTIVES OR REWARDS MAY INCLUDE PREMIUM DISCOUNTS OR
22 REBATES; MODIFICATIONS TO COPAYMENT, DEDUCTIBLE, OR COINSURANCE
23 AMOUNTS; OR A COMBINATION OF THESE INCENTIVES OR REWARDS. AN
24 INCENTIVE OR REWARD OFFERED BY A CARRIER FOR PARTICIPATION IN
25 WELLNESS AND PREVENTION PROGRAMS SHALL BE REASONABLY RELATED
26 TO THE PROGRAM AND TIED TO PARTICIPATION IN THE PROGRAM RATHER
27 THAN PARTICULAR OUTCOMES OR RESULTS FROM SUCH PARTICIPATION.

1 (3) A CARRIER OFFERING INCENTIVES OR REWARDS PURSUANT TO
2 THIS SECTION 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 OR REWARD
11 FOR 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 OR REWARD PRIMARILY FOR THE
15 PURPOSE OF INDUCING INDIVIDUALS OR GROUPS TO PURCHASE THE
16 CARRIER'S HEALTH COVERAGE PLAN.

17 (4) NOTHING IN THIS SECTION SHALL PROHIBIT A CARRIER FROM
18 OFFERING INCENTIVES TO COVERED PERSONS FOR ADHERENCE TO
19 PROGRAMS OF HEALTH PROMOTION AND DISEASE PREVENTION IF
20 OTHERWISE ALLOWED BY STATE OR FEDERAL LAW.

21 (5) AS USED IN THIS SECTION:

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

26 (b) "WELLNESS AND PREVENTION PROGRAM" MEANS A PROGRAM
27 DESIGNED TO PROMOTE HEALTH OR PREVENT DISEASE AND MAY INCLUDE,

1 WITHOUT LIMITATION, THE FOLLOWING:

2 (I) HEALTH SCREENINGS;

3 (II) MENTAL HEALTH AND SUBSTANCE ABUSE SCREENINGS AND
4 PREVENTION;

5 (III) INTERNET, TELEPHONIC, LIVE COACHING, OR
6 CONSULTATION-BASED WELLNESS PROGRAMS;

7 (IV) EDUCATION AND TRAINING ABOUT DIETARY HABITS;

8 (V) ONLINE AND IN-PERSON SEMINARS OR PODCASTS ON HEALTH
9 AND WELLNESS TOPICS, WELLNESS HANDOUTS, A WELLNESS LIBRARY,
10 VIDEOS, OR NEWSLETTERS, AND A WELLNESS INTRANET SITE;

11 (VI) WELLNESS PROGRAMS GEARED SPECIFICALLY FOR CHILDREN,
12 TEENS, OR SPECIAL POPULATIONS;

13 (VII) CORPORATE HEALTH FAIRS THAT MAY COMBINE HEALTH
14 SCREENINGS WITH EDUCATIONAL OPPORTUNITIES, INCLUDING ACCESS TO
15 INFORMATION ON LEADING A HEALTHY LIFESTYLE AND TO NUTRITIONAL
16 COUNSELING;

17 (VIII) STRESS MANAGEMENT PROGRAMS;

18 (IX) EMPLOYEE ASSISTANCE PROGRAMS FOR EMPLOYEES AND
19 THEIR FAMILIES;

20 (X) DISEASE MANAGEMENT;

21 (XI) DIABETES CARE PROGRAMS;

22 (XII) TOBACCO CESSATION PROGRAMS;

23 (XIII) NURSE-ON-CALL PROGRAMS; OR

24 (XIV) ON-SITE OR EXTERNAL HEALTH CLUB OR FITNESS CENTER
25 MEMBERSHIPS OR FACILITIES.

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

1 **10-16-107. Rate regulation - rules - approval of policy forms**
2 **- benefit certificates - evidences of coverage - benefits ratio -**
3 **disclosures on treatment of intractable pain.** (6) A carrier offering a
4 group health benefit plan may not require any individual (as a condition
5 of enrollment or continued enrollment under the plan) to pay a premium
6 or contribution that is greater than such premium or contribution for a
7 similarly situated individual enrolled in the plan on the basis of any health
8 status-related factor in relation to the individual or to an individual
9 enrolled under the plan as a dependent of the individual. This prohibition
10 shall not be construed to restrict the amount that an employer may be
11 charged for coverage under a group health benefit plan or to prevent a
12 carrier from establishing premium discounts or rebates or modifying
13 otherwise applicable copayments, COINSURANCE, or deductibles in return
14 for adherence to programs of health promotion and disease prevention if
15 otherwise allowed by STATE OR FEDERAL law OR FOR PARTICIPATION IN A
16 WELLNESS AND PREVENTION PROGRAM PURSUANT TO SECTION 10-16-136.

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

20 **10-8-514.5. Incentives or rewards for participation in wellness**
21 **and prevention programs.** NOTWITHSTANDING ANY PROVISION OF THIS
22 PART 5 TO THE CONTRARY AND CONSISTENT WITH SECTION 10-16-136, THE
23 BOARD OR A CARRIER PROVIDING HEALTH BENEFIT PLANS TO PARTICIPANTS
24 MAY OFFER INCENTIVES OR REWARDS TO PARTICIPANTS FOR
25 PARTICIPATION IN A WELLNESS AND PREVENTION PROGRAM.

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

1 (2) However, if a referendum petition is filed against this act or
2 an item, section, or part of this act during the 90-day period after final
3 adjournment of the general assembly that is allowed for submitting a
4 referendum petition pursuant to article V, section 1 (3) of the state
5 constitution, then the act, item, section, or part, shall not take effect unless
6 approved by the people at a biennial regular general election and shall
7 take effect on the date specified in subsection (1) or on the date of the
8 official declaration of the vote thereon by proclamation of the governor,
9 whichever is later.

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