

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

REENGROSSED

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

LLS NO. 01-0960.03 Julie Hoerner

HOUSE BILL 01-1374

HOUSE SPONSORSHIP

Spradley

SENATE SPONSORSHIP

Anderson

House Committees

Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO INCREASE THE AVAILABILITY OF HEALTH**
102 **INSURANCE, AND, IN CONNECTION THEREWITH, ALLOWING**
103 **ADJUSTMENTS FOR PREMIUMS FOR BUSINESS GROUPS OF ONE,**
104 **CHANGING NETWORK ADEQUACY REQUIREMENTS, AND**
105 **RELAXING RESTRICTIONS ON DISCONTINUING PARTICULAR**
106 **INSURANCE PRODUCTS TO THE SMALL GROUP HEALTH**
107 **INSURANCE MARKET.**

Bill Summary

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

Allows small group carriers to increase the premium rate for the

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.

HOUSE
Amended 2nd Reading
April 12, 2001

business group of one for persons who are eligible for the Colorado uninsurable health insurance plan up to 150% of the average premium. Allows small group carriers to increase or decrease premiums for the business group of one for persons who do not meet the eligibility requirements for the Colorado uninsurable health insurance plan 20%. Includes wellness and prevention programs, nonsmokers, and prescription drugs to control medical conditions as a preventive health condition for group underwriting status.

Limits the premium increase on individual health insurance policies to 10% annually. Requires that once an individual policy is issued, it shall not be denied renewal.

Redefines network adequacy provisions for preferred provider organizations.

Clarifies that the contractual rate negotiated between a health care provider and a carrier also apply to:

- All health care providers within the same federal employer identification number; and
- All health care providers who agree to treat patients of a health care provider subject to the contract with the carrier.

Repeals the requirement for legislative council staff to review the operations of small group accident and sickness insurance, guaranteed issue, and provisions for basic and standard plans.

Allows small group carriers to discontinue obsolete health benefit plans as long as the carrier maintains health insurance options for any remaining insureds.

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

2 **SECTION 1.** 10-16-105 (7.2) and (11), Colorado Revised
3 Statutes, are amended, and the said 10-16-105 is further amended BY
4 THE ADDITION OF A NEW SUBSECTION, to read:

5 **10-16-105. Small group sickness and accident insurance -**
6 **guaranteed issue - mandated provisions for basic and standard health**
7 **benefit plans.** (7.2) The commissioner shall promulgate rules to
8 implement a basic health benefit plan and a standard health benefit plan
9 to be offered by each small employer carrier as a condition of transacting
10 business in this state. Such rules shall be ~~effective January 1, 1995, and~~
11 in conformity with the provisions of article 4 of title 24, C.R.S.

1 (8.5) (a) ON OR AFTER JANUARY 1, 2001, FOR SMALL GROUP
2 HEALTH BENEFIT PLANS ISSUED TO BUSINESS GROUPS OF ONE
3 CARRIERS MAY ADJUST RATES FOR HEALTH STATUS. SUCH ADJUSTMENTS
4 MAY NOT RESULT IN A RATE FOR A BUSINESS GROUP OF ONE THAT DEVIATES
5 MORE THAN TWENTY PERCENT GREATER THAN OR FORTY PERCENT LESS
6 THAN THE CARRIER'S APPROVED INDEX RATE ON OR AFTER JANUARY 1,
7 2002.

8 (b) SEMIANNUALLY A SMALL GROUP CARRIER SHALL REPORT
9 INFORMATION, ON FORMS PRESCRIBED BY THE COMMISSIONER, ENABLING
10 THE COMMISSIONER TO MONITOR THE NUMBER OF SMALL GROUP POLICIES
11 THAT WERE ISSUED BY SUCH CARRIER THAT WERE AT THE COMMUNITY
12 INDEX RATE, THAT WERE ADJUSTED UP FROM THE INDEX RATE FOR HEALTH
13 STATUS, AND THAT WERE ADJUSTED DOWN FROM THE INDEX RATE FOR
14 HEALTH STATUS.

15 (c) (I) THE COMMISSIONER SHALL EVALUATE WHETHER CERTAIN
16 FACTORS MAY BE ASCERTAINED WITH A REASONABLE DEGREE OF
17 CERTAINTY FOR THE PURPOSES OF CREATING A CREDIT AGAINST THE
18 AMOUNT OF A PREMIUM FOR A SMALL GROUP. SUCH FACTORS SHALL
19 INCLUDE, BUT ARE NOT LIMITED TO, THE NUMBER OF INDIVIDUALS WITHIN
20 THE GROUP WHO:

21 (A) ARE NONSMOKERS;

22 (B) UTILIZE WELLNESS AND PREVENTION PROGRAMS OFFERED BY
23 THE EMPLOYER; AND

24 (C) UTILIZE PRESCRIPTION DRUGS TO CONTROL CERTAIN MEDICAL
25 CONDITIONS.

26 (II) IF THE COMMISSIONER DETERMINES THAT THE FACTORS
27 OUTLINED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c) MAY BE

1 REASONABLY QUANTIFIED, THE COMMISSIONER SHALL PROMULGATE A RULE
2 ALLOWING FOR A CREDIT AGAINST THE AMOUNT OF A PREMIUM CHARGED
3 FOR A SMALL GROUP THAT CONTAINS INDIVIDUALS WHO MEET THE CRITERIA
4 IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (c).

5 (11) ~~The requirements contained in this section for small employer~~
6 ~~carriers to issue basic and standard health benefit plans shall terminate~~
7 ~~July 1, 2001, unless the general assembly acts by bill to extend such~~
8 ~~requirements beyond said date after conducting the review required in~~
9 ~~section 10-16-120.~~

10

11 **SECTION 2. Repeal.** 10-16-120, Colorado Revised Statutes, is
12 repealed as follows:

13 **10-16-120. Legislative review of requirements for guaranteed**
14 **issue of basic and standard health benefit plans.** ~~(1) During the regular~~
15 ~~session of the general assembly in the year 2001, the legislative council~~
16 ~~of the general assembly shall conduct a review of the operation of~~
17 ~~requirements contained in section 10-16-105 for small employer carriers~~
18 ~~to issue basic and standard health benefit plans. Such review shall~~
19 ~~consider, but not be limited to, the effect of such requirement on the~~
20 ~~availability and affordability of health care coverage to residents of~~
21 ~~Colorado. As a result of the review required by this subsection (1), the~~
22 ~~legislative council may recommend to the general assembly any~~
23 ~~legislation determined to be necessary based on such review.~~

24 ~~(2) The requirements contained in section 10-16-105 for small~~
25 ~~employer carriers to issue basic and standard health benefit plans shall~~
26 ~~terminate July 1, 2001, unless the general assembly acts by bill to extend~~
27 ~~said requirements beyond July 1, 2001.~~

1 **SECTION 3.** The introductory portion to 10-16-201.5 (6) and
2 10-16-201.5 (6) (a) and (6) (b), Colorado Revised Statutes, are amended,
3 and the said 10-16-201.5 (6) is further amended BY THE ADDITION OF
4 A NEW PARAGRAPH, to read:

5 **10-16-201.5. Renewability of health benefit plans - modification**
6 **of health benefit plans.** (6) A large group health benefit plan carrier may
7 discontinue offering a particular type of large group health coverage only
8 if:

9 (a) The large group health carrier provides notice of such
10 discontinuation at least ninety days prior to the date of the discontinuation
11 of such coverage to each policyholder provided this type of coverage and
12 each certificate holder, participant, and beneficiary covered by such a
13 policy;

14 (b) The large group health carrier offers to each policyholder
15 provided coverage of this type the option to purchase any other health
16 insurance coverage currently being offered by the carrier to a group in
17 such market; and

18 (d) WITH RESPECT TO THE DISCONTINUANCE OF A PARTICULAR
19 SMALL GROUP PLAN, THE CARRIER SHALL NOTIFY THE COMMISSIONER PRIOR
20 TO PROVIDING NOTIFICATION TO POLICYHOLDERS AND INSURED AS
21 SPECIFIED IN PARAGRAPH (a) OF THIS SUBSECTION (6). IN ADDITION TO
22 SUCH NOTICE, THE CARRIER SHALL PROVIDE TO THE COMMISSIONER THE
23 FOLLOWING CERTIFICATIONS:

24 (I) THAT THE PREMIUMS OFFERED FOR OTHER HEALTH INSURANCE
25 COVERAGE BY THE CARRIER PURSUANT TO PARAGRAPH (b) OF THIS
26 SUBSECTION (6) ARE NOT EXCESSIVE, INADEQUATE, OR UNFAIRLY
27 DISCRIMINATORY RELATIVE TO THE PLAN THAT WAS DISCONTINUED; AND

1 (II) THAT THE BENEFIT LEVELS OFFERED IN OTHER HEALTH
2 INSURANCE COVERAGE BY THE CARRIER ARE IN COMPLIANCE WITH THE
3 REQUIREMENTS PROVIDED BY LAW FOR SMALL GROUP HEALTH INSURANCE.

4 SECTION 4. 10-16-704 (1), (2), and (6), Colorado Revised
5 Statutes, are amended, and the said 10-16-704 is further amended BY
6 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

7 10-16-704. Network adequacy. (1) A carrier providing OFFERING
8 a managed care plan shall maintain a network that is sufficient in numbers
9 and types of providers to assure that all covered benefits to covered
10 persons will be accessible without unreasonable delay. In the case of
11 emergency services, covered persons shall have access to health care
12 services twenty-four hours per day, seven days per week. Sufficiency
13 shall be determined in accordance with the requirements of this section
14 and may be established by reference to any reasonable criteria used by the
15 carrier, including, but not limited to:

- 16 (a) Provider-covered person ratios by specialty;
- 17 (b) Primary care provider-covered person ratios;
- 18 (c) Geographic accessibility, WHICH COULD IN SOME
19 CIRCUMSTANCES REQUIRE THE CROSSING OF COUNTY OR STATE LINES;
- 20 (d) Waiting times for appointments with participating providers;
- 21 (e) Hours of operation; and
- 22 (f) The volume of technological and specialty services available
23 to serve the needs of covered persons requiring covered technologically
24 advanced or specialty care; AND
- 25 (g) AN ADEQUATE NUMBER OF ACCESSIBLE ACUTE CARE HOSPITAL
26 SERVICES WITHIN A REASONABLE DISTANCE OR TRAVEL TIME OR BOTH.

27 [REDACTED]

1 (2) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS
2 SUBSECTION (2), in any case where ~~the~~ A carrier has no participating
3 providers to provide a covered benefit, the carrier OFFERING A MANAGED
4 CARE PLAN shall arrange for a referral to a provider with the necessary
5 expertise and ensure that the covered person obtains the covered benefit
6 at no greater cost to the covered person than if the benefit were obtained
7 from participating providers.

8 (b) IN ANY CASE WHERE A CARRIER OFFERING A MANAGED CARE
9 PLAN WITH AN OUT-OF-NETWORK BENEFIT OUTSIDE OF A METROPOLITAN
10 STATISTICAL AREA OR PRIMARY METROPOLITAN STATISTICAL AREA HAS NO
11 PARTICIPATING PROVIDERS TO PROVIDE A COVERED BENEFIT IN A LOCATION
12 WHERE A MAJORITY OF PEOPLE IN THE CARRIER'S GEOGRAPHIC AREA
13 ACCESS NONEMERGENCY SERVICES, THE CARRIER SHALL ARRANGE FOR
14 PAYMENT FOR SERVICES TO A PROVIDER WITH THE NECESSARY EXPERTISE
15 AND ENSURE THAT THE COVERED PERSON OBTAINS THE COVERED BENEFIT
16 AS PROVIDED IN THIS PARAGRAPH (b). IN SUCH CASE THE COVERED PERSON
17 SHALL HAVE ONE OF THE FOLLOWING OPTIONS:

18 (I) THE COVERED PERSON MAY CHOOSE TO RECEIVE COVERED
19 BENEFITS FROM AN IN-NETWORK PROVIDER LOCATED OUTSIDE A LOCATION
20 WHERE A MAJORITY OF PEOPLE IN THE CARRIER'S GEOGRAPHIC AREA
21 ACCESS NONEMERGENCY CARE SERVICES, IN WHICH CASE THE COVERED
22 PERSON SHALL ONLY BE SUBJECT TO THE CARRIER'S CONTRACTUAL
23 PROVISIONS; OR

24 (II) THE COVERED PERSON MAY CHOOSE TO RECEIVE COVERED
25 BENEFITS FROM AN OUT-OF-NETWORK PROVIDER AND BE SUBJECT TO
26 POSSIBLE BALANCE BILLING ON PROVIDER CHARGES. SUCH BALANCE
27 BILLING, IF ANY, MAY BE THE DIFFERENCE BETWEEN THE PROVIDER'S

1 CHARGES AND EITHER OF THE FOLLOWING:

2 (A) A NEGOTIATED RATE AGREED UPON BETWEEN THE CARRIER AND
3 THE PROVIDER IN A SPECIFIC INSTANCE; OR

4 (B) THE GREATER OF THE CARRIER'S LOWEST IN-NETWORK RATE OR
5 THE USUAL AND CUSTOMARY REIMBURSEMENT RATE FOR A GEOGRAPHIC
6 AREA GROUPING AS DETERMINED BY THE COMMISSIONER BY RULE. FOR
7 THE PURPOSES OF THIS SUB-SUBPARAGRAPH (B) ONLY, THE COMMISSIONER
8 SHALL GROUP TOGETHER COUNTIES WITH SIMILAR DEMOGRAPHIC AND
9 ECONOMIC CHARACTERISTICS. SUCH CHARACTERISTICS SHALL INCLUDE,
10 BUT NOT BE LIMITED TO, AVERAGE PER CAPITA INCOME, THE COST OF
11 HOUSING, GENERAL COSTS OF LIVING, POVERTY AND UNEMPLOYMENT
12 LEVELS, OR THE PRIMARY ECONOMIC BASE OF THE COUNTY.

13 (III) NOTHING IN THIS PARAGRAPH (b) SHALL PRECLUDE BALANCE
14 BILLING BY A NON-PARTICIPATING PROVIDER.

15 (IV) FOR A HEALTH MAINTENANCE ORGANIZATION WITH A POINT OF
16 SERVICE OPTION, THE PROVISIONS OF THIS PARAGRAPH (b) SHALL NOT
17 APPLY.

18 (c) THE CARRIER SHALL PROVIDE AN UNDERSTANDABLE
19 DISCLOSURE TO COVERED PERSONS IN ALL POLICY CONTRACT MATERIALS,
20 CERTIFICATES OF COVERAGE, AND MARKETING MATERIALS ABOUT THE
21 POSSIBLE BALANCE BILLING BY NON-PARTICIPATING PROVIDERS AND THE
22 MECHANISMS AVAILABLE TO OBTAIN THE CARRIER'S REIMBURSEMENT
23 RATES FOR SPECIFIC COVERED HEALTH CARE SERVICES.

24 (d) IN THE EVENT THE CARRIER'S NETWORK CHANGES PURSUANT TO
25 THE PROVISIONS OF THIS SECTION, THE CARRIER SHALL PROVIDE NOTICE OF
26 THE CHANGE TO THE COMMISSIONER FIFTEEN DAYS PRIOR TO THE CHANGE.
27 THE CARRIER SHALL PROVIDE AN UNDERSTANDABLE DISCLOSURE TO ITS

1 COVERED PERSONS ABOUT CHANGES IN THE NETWORK AND ABOUT
2 POSSIBLE BALANCE BILLING BY OUT-OF-NETWORK PROVIDERS, THE
3 MECHANISMS AVAILABLE TO OBTAIN THE CARRIER'S REIMBURSEMENT
4 RATES FOR SPECIFIC COVERED HEALTH CARE SERVICES, AND CONTRACT
5 INFORMATION FOR THE CARRIER AT LEAST SIXTY DAYS PRIOR TO THE
6 CHANGE.

7 (e) NOTHING IN THIS SUBSECTION (2) SHALL DELAY ACCESS TO
8 HEALTH CARE SERVICES.

9 (2.5) A CARRIER SHALL MAKE AVAILABLE UPON REQUEST THE
10 CARRIER'S USUAL AND CUSTOMARY REIMBURSEMENT RATE FOR
11 ANTICIPATED HEALTH CARE SERVICES FROM NON-PARTICIPATING
12 PROVIDERS. THE CARRIER'S METHODOLOGY FOR DETERMINING THE USUAL
13 AND CUSTOMARY REIMBURSEMENT RATE SHALL BE APPLIED IN A UNIFORM
14 MANNER STATEWIDE; EXCEPT THAT GEOGRAPHIC ADJUSTMENTS MAY BE
15 MADE APART FROM THE STANDARD METHODOLOGY.

16 ~~(6) The carrier shall establish and maintain adequate arrangements~~
17 ~~to ensure reasonable proximity of participating providers to covered~~
18 ~~persons and shall only market a network plan in a geographic area where~~
19 ~~network providers are accessible without unreasonable delay. In~~
20 ~~determining whether a health carrier has complied with this subsection~~
21 ~~(6), consideration shall be given to the relative availability of health care~~
22 ~~providers in the service area under consideration.~~

23 (10) (a) IN DETERMINING THE REASONABLENESS OF TRAVEL TIME
24 AND DISTANCE, CONSIDERATION SHALL BE GIVEN TO THE RELATIVE
25 AVAILABILITY OF HEALTH CARE PROVIDERS, THE LOCATIONS WHERE THE
26 MAJORITY OF PEOPLE IN THE AREA ACCESS NONEMERGENCY SERVICES, AND
27 THE MANAGED CARE PLAN'S EFFORTS TO CONTRACT WITH LOCAL

1 PROVIDERS AT REASONABLE RATES. THE COMMISSIONER MAY DEEM A
2 MANAGED CARE PLAN'S CURRENT ACCREDITATION WITH A NATIONALLY
3 RECOGNIZED ACCREDITING ENTITY AS SUFFICIENT TO MEET NETWORK
4 ADEQUACY REQUIREMENTS TO THE EXTENT THAT THE NATIONALLY
5 RECOGNIZED ACCREDITING ENTITY EVALUATES THE CHARACTERISTICS IN
6 THIS SECTION.

7 (b) THE COMMISSIONER SHALL PROMULGATE A RULE CONCERNING
8 A PROCEDURE TO ADDRESS CASES IN WHICH A COVERED PERSON IS SO
9 SEVERELY IMPAIRED THAT SUCH PERSON IS UNABLE TO MOVE FROM PLACE
10 TO PLACE WITHOUT THE AID OF A MECHANICAL DEVICE OR WHO HAS A
11 PHYSICAL OR MENTAL CONDITION VERIFIED BY A PHYSICIAN LICENSED TO
12 PRACTICE MEDICINE IN THIS STATE OR PRACTICING MEDICINE PURSUANT TO
13 SECTION 12-36-106 (3) (i), C.R.S., THAT SUCH IMPAIRMENT LIMITS
14 SUBSTANTIALLY THE PERSON'S ABILITY TO MOVE FROM PLACE TO PLACE.

15 (c) THE COMMISSIONER MAY UTILIZE THE REMEDIES OUTLINED IN
16 SECTION 10-3-1108 IF THE CARRIER FAILS TO PROVIDE PROPER
17 DISCLOSURES TO COVERED PERSONS PURSUANT TO SUBSECTION (2) OF THIS
18 SECTION.

19 **SECTION 5.** The introductory portion to 10-16-704 (9) and
20 10-16-704 (9) (a), Colorado Revised Statutes, are amended, and the said
21 10-16-704 (9) is further amended BY THE ADDITION OF THE
22 FOLLOWING NEW PARAGRAPHS, to read:

23 **10-16-704. Network adequacy.** (9) Beginning January 1, 1998,
24 a carrier shall maintain and make available upon request of the
25 commissioner, the executive director of the department of public health
26 and environment, or the executive director of the department of health
27 care policy and financing, in a manner and form that reflects the

1 requirements specified in paragraphs (a) to (k) of this subsection (9), an
2 access plan for each managed care network that the carrier offers in this
3 state. The carrier shall make the access plans, absent confidential
4 information as specified in section 24-72-204 (3), C.R.S., available on its
5 business premises and shall provide them to any interested party upon
6 request. In addition, all health benefit plans and marketing materials shall
7 clearly disclose the existence and availability of the access plan. All
8 rights and responsibilities of the covered person under the health benefit
9 plan, however, shall be included in the contract provisions, regardless of
10 whether or not such provisions are also specified in the access plan. The
11 carrier shall prepare an access plan prior to offering a new managed care
12 network and shall update an existing access plan whenever the carrier
13 makes any material change to an existing managed care network, but not
14 less than annually. ~~The A CARRIER'S access plan shall describe or contain~~
15 ~~at least~~ DEMONSTRATE the following:

16 (a) ~~The carrier's network, which shall demonstrate the following:~~

17 (I) ~~An adequate number of accessible acute care hospital services,~~
18 ~~within a reasonable distance or travel time, or both;~~

19 (II) ~~An adequate number of accessible primary care providers,~~
20 ~~within a reasonable distance or travel time, or both; and~~

21 (III) ~~An adequate number of accessible specialists and~~
22 ~~sub-specialists, within a reasonable distance or travel time, or both;~~

23 (a.3) AN ADEQUATE NUMBER OF ACCESSIBLE PRIMARY CARE
24 PROVIDERS, WITHIN A REASONABLE DISTANCE OR TRAVEL TIME, OR BOTH;

25 (a.5) AN ADEQUATE NUMBER OF ACCESSIBLE SPECIALISTS AND
26 SUB-SPECIALISTS, WITHIN A REASONABLE DISTANCE OR TRAVEL TIME, OR
27 BOTH;

1 (a.7) GEOGRAPHIC ACCESSIBILITY, WHICH IN SOME CIRCUMSTANCES
2 COULD REQUIRE THE CROSSING OF COUNTY OR STATE LINES; AND

3 (a.9) AN ADEQUATE NUMBER OF PHARMACY PROVIDERS WITHIN A
4 REASONABLE DISTANCE, TRAVEL TIME, DELIVERY TIME, OR ALL THREE.
5 NOTHING IN THIS PARAGRAPH (a.9) SHALL PRECLUDE THE USE OF A RETAIL
6 OR MAIL-ORDER PHARMACY PROVIDER.

7 **SECTION 6. Effective date - applicability.** (1) This act shall
8 take effect January 1, 2002, unless a referendum petition is filed during
9 the ninety-day period after final adjournment of the general assembly that
10 is allowed for submitting a referendum petition pursuant to article V,
11 section 1 (3) of the state constitution. If such a referendum petition is
12 filed against this act or an item, section, or part of this act within such
13 period, then the act, item, section, or part, if approved by the people, shall
14 take effect on the date of the official declaration of the vote thereon by
15 proclamation of the governor.

16 (2) The provisions of this act shall apply to health benefit plans
17 issued or renewed on or after said date.