

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0420.02 Kristen Forrestal x4217

SENATE BILL 13-124

SENATE SPONSORSHIP

Kefalas,

HOUSE SPONSORSHIP

Primavera,

Senate Committees
Business, Labor, & Technology

House Committees

A BILL FOR AN ACT

101 CONCERNING REQUIREMENTS OF INTERMEDIARIES IN THE BUSINESS OF
102 INSURANCE, AND, IN CONNECTION THEREWITH, ENACTING THE
103 "CONSUMER PROTECTION ACT OF 2013".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill adds to the definition of "intermediary" specific functions that an intermediary performs. Intermediaries are held to the same standards as carriers regarding prompt payment of claims. The bill allows the commissioner of insurance to investigate complaints against

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.

intermediaries that fail to comply. It also prohibits specific acts by intermediaries and defines the willful violation of the prohibitions as an unfair method of competition and an unfair or deceptive act in the business of insurance.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 hereby finds and declares that more transparency is needed among
4 carriers, intermediaries, providers, and persons covered under a health
5 insurance policy. The general assembly further finds that greater oversight
6 over intermediaries is needed and that they need to be held to the same
7 standards as carriers regarding transparency, prompt payment of claims,
8 and adherence to agreed-upon terms in a contract. Therefore, the general
9 assembly enacts the following "Consumer Protection Act of 2013" to
10 ensure that intermediaries in insurance transactions are held to a high
11 standard of consumer protection.

12 **SECTION 2.** In Colorado Revised Statutes, 10-16-102, **amend**
13 (25.5) as follows:

14 **10-16-102. Definitions.** As used in this article, unless the context
15 otherwise requires:

16 (25.5) "Intermediary" means a person authorized by health care
17 providers OR CARRIERS to negotiate and execute provider contracts with
18 carriers. ~~on behalf of such providers~~ AN INTERMEDIARY INCLUDES ANY
19 PERSON THAT CONDUCTS UTILIZATION MANAGEMENT, UTILIZATION
20 REVIEW, PROVIDER CREDENTIALING, ADMINISTRATION OF HEALTH
21 INSURANCE BENEFITS, SETTING OR NEGOTIATION OF REIMBURSEMENT
22 RATES, PAYMENT TO PROVIDERS, NETWORK DEVELOPMENT, CLAIMS
23 PROCESSING, OR DISEASE MANAGEMENT PROGRAMS ON BEHALF OF A

1 CARRIER.

2 **SECTION 3.** In Colorado Revised Statutes, 10-16-106.5, **amend**
3 (7) and (9) as follows:

4 **10-16-106.5. Prompt payment of claims - legislative**
5 **declaration.** (7) (a) If a carrier delegates its claims processing functions
6 to a third party, INCLUDING AN INTERMEDIARY, the delegation agreement
7 shall provide that the claims processing entity shall comply with the
8 requirements of this section. Any delegation by the carrier shall not be
9 construed to limit the carrier's responsibility to comply with this section
10 or any other applicable section of this article.

11 (b) AN INTERMEDIARY RESPONSIBLE FOR CLAIMS PROCESSING
12 FUNCTIONS FOR A CARRIER SHALL COMPLY WITH THIS SECTION.

13 (9) (a) The commissioner may investigate claims against a ~~health~~
14 ~~coverage plan~~ CARRIER that is authorized to conduct business in this state
15 when such claims are filed by a provider related to the improper handling
16 or denial of benefits pursuant to this section.

17 (b) THE COMMISSIONER MAY INVESTIGATE A COMPLAINT AGAINST
18 AN INTERMEDIARY WHEN A COMPLAINT IS FILED BY A PROVIDER RELATED
19 TO THE PROMPT PAYMENT OF A CLAIM, CHANGE OF BILLING CODES, OR THE
20 DENIAL OF BENEFITS PURSUANT TO THIS SECTION.

21 **SECTION 4.** In Colorado Revised Statutes, 10-16-706, **add** (10)
22 as follows:

23 **10-16-706. Intermediaries.** (10) AN INTERMEDIARY:

24 (a) SHALL NOT USE A COVERED PERSON'S INSURANCE BENEFITS FOR
25 THE PAYMENT OF THE INTERMEDIARY'S ADMINISTRATIVE COSTS OR ADD
26 ADMINISTRATIVE FEES TO A COVERED PERSON'S CHARGES;

27 (b) SHALL NOT ALTER THE CURRENT PROCEDURAL TERMINOLOGY

1 (CPT) CODE OR DIAGNOSTIC CODE SUBMITTED BY A PROVIDER SO THAT THE
2 CPT CODE REFLECTS SERVICES NOT PERFORMED BY THE PROVIDER;

3 (c) SHALL NOT ALTER PROVIDER CHARGES SO THAT THE CHARGES
4 DO NOT REFLECT CHARGES SUBMITTED FOR THE SERVICES PERFORMED BY
5 THE PROVIDER;

6 (d) SHALL NOT ALTER A CONTRACT BETWEEN A PROVIDER AND A
7 CARRIER OR INTERMEDIARY WITHOUT THE WRITTEN CONSENT OF THE
8 ENTITY WITH WHOM THE INTERMEDIARY HAS ENTERED INTO THE
9 CONTRACT;

10 (e) SHALL NOT DENY REIMBURSEMENT TO A PROVIDER LICENSED IN
11 COLORADO TO PROVIDE THE SERVICE WHO HAS A CONTRACT WITH EITHER
12 THE INTERMEDIARY OR THE CARRIER, OR BOTH, WHEN THE SERVICE MEETS
13 ALL THE REQUIREMENTS IN THE HEALTH COVERAGE PLAN;

14 (f) SHALL NOT RETALIATE AGAINST A PROVIDER FOR DISCLOSING
15 INFORMATION TO A COVERED PERSON REGARDING AN INTERMEDIARY'S
16 PRACTICES; AND

17 (g) SHALL INFORM A COVERED PERSON THAT UTILIZATION REVIEWS
18 ARE PERFORMED BY THE INTERMEDIARY.

19 **SECTION 5.** In Colorado Revised Statutes, 10-16-707, **add** (4)
20 as follows:

21 **10-16-707. Enforcement.** (4) THE COMMISSIONER HAS THE
22 AUTHORITY TO INVESTIGATE COMPLAINTS THAT AN INTERMEDIARY HAS
23 VIOLATED THIS PART 7 MADE BY A PROVIDER OR POLICYHOLDER.

24 **SECTION 6.** In Colorado Revised Statutes, 10-3-1104, **add** (1)
25 (rr) as follows:

26 **10-3-1104. Unfair methods of competition - unfair or deceptive**
27 **acts or practices.** (1) The following are defined as unfair methods of

1 competition and unfair or deceptive acts or practices in the business of
2 insurance:

3 (rr) A WILLFUL VIOLATION OF SECTION 10-16-706 (10).

4 **SECTION 7. Act subject to petition - effective date.** This act
5 takes effect January 1, 2014; except that, if a referendum petition is filed
6 pursuant to section 1 (3) of article V of the state constitution against this
7 act or an item, section, or part of this act within the ninety-day period after
8 final adjournment of the general assembly, then the act, item, section, or
9 part will not take effect unless approved by the people at the general
10 election to be held in November 2014 and, in such case, will take effect
11 on the date of the official declaration of the vote thereon by the governor.