

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 18-0816.01 Kip Kolkmeier x4510

SENATE BILL 18-136

SENATE SPONSORSHIP

Neville T., Lundberg, Smallwood, Tate

HOUSE SPONSORSHIP

Kraft-Tharp and Sias, Humphrey

Senate Committees

Finance

House Committees

Health, Insurance, & Environment

A BILL FOR AN ACT

101 **CONCERNING FEES FOR ADVISING CLIENTS ABOUT THE SELECTION OF**
102 **AN INDIVIDUAL HEALTH BENEFIT PLAN.**

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://leg.colorado.gov>.)

The bill allows an insurance producer or broker advising a client on individual health benefit plans to charge the client a fee if the producer or broker does not receive a commission related to the individual health benefit plan selected by the client and if the producer or broker discloses the fee to the client. The commissioner of insurance shall promulgate rules regarding how the producer or broker must provide the fee

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

HOUSE
2nd Reading Unamended
April 2, 2018

SENATE
3rd Reading Unamended
February 22, 2018

SENATE
Amended 2nd Reading
February 21, 2018

disclosure.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-133, **amend**
3 (5) as follows:

4 **10-16-133. Health carrier information disclosure - website -**
5 **insurance producer fees and disclosure requirements - legislative**
6 **declaration - rules.** (5) (a) An insurance producer licensed pursuant to
7 part 4 of article 2 of this ~~title~~ TITLE 10 who solicits or negotiates an
8 application for health care insurance on behalf of a carrier shall disclose
9 to the person purchasing the plan that the insurance producer will receive
10 a commission from the carrier. The insurance producer shall provide the
11 consumer with the standard compensation schedule for the product being
12 sold. Any change to the insurance producer's compensation from the
13 initial disclosure to the time of purchase shall be disclosed by the
14 insurance producer to the purchaser at or before the time of sale.

15 (b) AN INSURANCE PRODUCER MAY CHARGE A CLIENT A FEE FOR
16 ADVISING THE CLIENT ON THE SELECTION OF AN INDIVIDUAL HEALTH
17 BENEFIT PLAN ONLY IF THE PRODUCER:

18 (I) WILL NOT RECEIVE A COMMISSION FROM THE INSURER
19 OFFERING THE INDIVIDUAL HEALTH BENEFIT PLAN SELECTED BY THE
20 CLIENT; AND

21 (II) PROVIDES A WRITTEN DISCLOSURE TO THE CLIENT IF THE
22 PRODUCER WILL CHARGE A FEE FOR THE SERVICE.

23 (c) THE COMMISSIONER SHALL PROMULGATE REASONABLE RULES
24 THAT ARE NECESSARY OR PROPER FOR IMPLEMENTING AND ADMINISTERING
25 THIS SUBSECTION (5). THE RULES SHALL INCLUDE A PROHIBITION ON AN

1 INSURANCE PRODUCER CHARGING A FEE TO ASSIST A CLIENT TO ENROLL IN
2 MEDICAID, AS DEFINED IN SECTION 10-22-103 (8), OR THE CHILDREN'S
3 BASIC HEALTH PLAN, AS DEFINED IN SECTION 25.5-8-103 (8).

4 **SECTION 2.** In Colorado Revised Statutes, **amend** 10-22-112 as
5 follows:

6 **10-22-112. Health benefit exchange - referral to private**
7 **insurance brokers - fees - rules.** (1) ~~On or before November 1, 2016,~~
8 The exchange shall include the following in its protocol for interacting
9 with consumers in order to assist consumers in enrolling in health benefit
10 plans: Upon a consumer's contact with the exchange when seeking
11 assistance in selecting a qualified health plan, whether online OR by
12 telephone, ~~or on the internet,~~ the exchange shall inform the consumer that
13 he or she has the option of selecting coverage online, ~~or~~ with the
14 assistance of a navigator, or with the assistance of a qualified insurance
15 broker. The exchange shall inform the consumer that a navigator may
16 assist with a health benefit plan selection but may not offer advice on a
17 health benefit plan based on the consumer's individual situation, whereas
18 a qualified broker may offer advice based on the consumer's personal and
19 family situation. ~~at no additional cost to the consumer; and~~

20 (2) The exchange shall maintain ~~web-based~~ ONLINE tools that
21 allow insurance brokers to develop and maintain client relationships for
22 customers who are eligible to enroll in private health benefit plans, when
23 appropriate, if the client requests this option.

24 (3) (a) AN INSURANCE BROKER MAY CHARGE A CLIENT A FEE FOR
25 ADVISING THE CLIENT ON THE SELECTION OF AN INDIVIDUAL HEALTH
26 BENEFIT PLAN OFFERED ON THE EXCHANGE ONLY IF THE BROKER:

27 (I) WILL NOT RECEIVE A COMMISSION FROM THE INSURER

1 OFFERING THE INDIVIDUAL HEALTH BENEFIT PLAN SELECTED BY THE
2 CLIENT; AND

3 (II) PROVIDES A WRITTEN DISCLOSURE TO THE CLIENT IF THE
4 BROKER WILL CHARGE A FEE FOR THE SERVICE.

5 (b) THE COMMISSIONER MAY PROMULGATE RULES REGARDING THE
6 FORM AND MANNER BY WHICH AN INSURANCE BROKER MUST PROVIDE THE
7 DISCLOSURE REQUIRED BY THIS SUBSECTION (3). THE RULES SHALL
8 INCLUDE A PROHIBITION ON A BROKER CHARGING A FEE TO ASSIST A
9 CLIENT TO ENROLL IN MEDICAID OR THE CHILDREN'S BASIC HEALTH PLAN,
10 AS DEFINED IN SECTION 25.5-8-103 (2).

11 **SECTION 3. Act subject to petition - effective date.** This act
12 takes effect at 12:01 a.m. on the day following the expiration of the
13 ninety-day period after final adjournment of the general assembly (August
14 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
15 referendum petition is filed pursuant to section 1 (3) of article V of the
16 state constitution against this act or an item, section, or part of this act
17 within such period, then the act, item, section, or part will not take effect
18 unless approved by the people at the general election to be held in
19 November 2018 and, in such case, will take effect on the date of the
20 official declaration of the vote thereon by the governor.