

CHAPTER 85

INSURANCE

SENATE BILL 19-041

BY SENATOR(S) Smallwood, Bridges, Cooke, Coram, Court, Crowder, Holbert, Marble, Moreno, Priola, Scott, Tate, Williams A.;
also REPRESENTATIVE(S) Kraft-Tharp, Froelich, Jaquez Lewis, Snyder, Titone.

AN ACT

CONCERNING A REQUIRED CONTRACT PROVISION REGARDING THE PAYMENT OF PREMIUMS BY A POLICYHOLDER TO A HEALTH INSURANCE CARRIER FOR EACH INDIVIDUAL COVERED UNDER A HEALTH INSURANCE POLICY.

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

SECTION 1. In Colorado Revised Statutes, 10-16-103.5, **amend** (1) as follows:

10-16-103.5. Payment of premiums - required term in contract - rules.

(1) (a) Every contract FOR A HEALTH BENEFIT PLAN between a carrier and a policyholder shall ~~contain a provision that requires a~~ REQUIRE THE policyholder to pay premiums FOR EACH INDIVIDUAL COVERED UNDER THE POLICYHOLDER'S POLICY:

~~(a) (I) For each individual covered under the policyholder's policy~~ Through the date that the policyholder notifies the carrier that the individual covered under the policy is no longer eligible or covered; ~~except that, if a dependent is no longer covered because the dependent becomes enrolled in the children's basic health plan, established pursuant to article 8 of title 25.5, C.R.S., the policyholder shall notify the carrier of the change in coverage at least thirty days prior to the date that the dependent is no longer covered; or~~

~~(b) (II)~~ Through the date that the policyholder notifies the carrier that the policyholder no longer intends to maintain coverage for the group through the carrier; OR

~~(III)~~ THROUGH THE DATE THAT THE INDIVIDUAL COVERED UNDER THE POLICY IS NO LONGER ELIGIBLE OR COVERED IF THE POLICYHOLDER NOTIFIES THE CARRIER WITHIN TEN BUSINESS DAYS AFTER THE DATE THAT THE INDIVIDUAL IS NO LONGER

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

ELIGIBLE OR COVERED BECAUSE THE INDIVIDUAL LEFT EMPLOYMENT WITHOUT NOTICE TO THE EMPLOYER OR THE INDIVIDUAL IS AN EMPLOYEE WHOSE EMPLOYMENT WAS TERMINATED FOR GROSS MISCONDUCT.

(b) SUBSECTION (1)(a)(III) OF THIS SECTION DOES NOT APPLY IF A DEPENDENT IS NO LONGER COVERED BECAUSE THE DEPENDENT BECOMES ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN, ESTABLISHED PURSUANT TO ARTICLE 8 OF TITLE 25.5. IF THE DEPENDENT BECOMES ENROLLED IN THE CHILDREN'S BASIC HEALTH PLAN, THE POLICYHOLDER SHALL NOTIFY THE CARRIER OF THE CHANGE IN COVERAGE AT LEAST THIRTY DAYS PRIOR TO THE DATE THAT THE DEPENDENT IS NO LONGER COVERED.

(c) IF THE POLICYHOLDER NOTIFIES THE CARRIER WITHIN THE TEN-DAY PERIOD PURSUANT TO SUBSECTION (1)(a)(III) OF THIS SECTION, THE CARRIER IS NOT REQUIRED TO PROVIDE BENEFITS TO THE INDIVIDUAL AFTER THE DATE THAT THE INDIVIDUAL IS NO LONGER ELIGIBLE OR COVERED UNDER THE POLICY, UNLESS THE INDIVIDUAL ELECTS TO CONTINUE HEALTH INSURANCE COVERAGE PURSUANT TO THE "CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985", 29 U.S.C. SEC. 1161 ET SEQ., AS AMENDED, OR SECTION 10-16-108.

(d) NOTHING IN THIS SUBSECTION (1) PRECLUDES A CARRIER AND POLICYHOLDER FROM AGREEING TO A DATE OTHER THAN A DATE SPECIFIED IN SUBSECTION (1)(a)(III) OF THIS SECTION.

(e) THE COMMISSIONER MAY PROMULGATE RULES CONCERNING THE ELIGIBILITY NOTIFICATIONS IN THIS SUBSECTION (1) IN ORDER TO ENSURE CONSISTENCY AMONG POLICYHOLDERS AND CARRIERS.

(f) FOR THE PURPOSES OF THIS SUBSECTION (1), "GROSS MISCONDUCT" MEANS A DELIBERATE WRONGDOING BY THE EMPLOYEE THAT FUNDAMENTALLY UNDERMINES THE RELATIONSHIP OF TRUST AND CONFIDENCE BETWEEN THE EMPLOYER AND EMPLOYEE.

SECTION 2. In Colorado Revised Statutes, 10-16-704, **amend** (4.5)(f) and (4.5)(j) as follows:

10-16-704. Network adequacy - rules - legislative declaration. (4.5) (f) A carrier shall not retroactively adjust a claim based on eligibility if the provider received verification of eligibility within two business days prior to the delivery of services, UNLESS THE POLICYHOLDER NOTIFIED THE CARRIER OF AN INDIVIDUAL'S INELIGIBILITY PURSUANT TO SECTION 10-16-103.5 (1).

(j) A carrier shall not retroactively adjust a claim based on eligibility if the provision of benefits is a required policy provision pursuant to section 10-16-202 (4) or ~~section~~ 10-16-214 (3), UNLESS THE POLICYHOLDER NOTIFIED THE CARRIER OF AN INDIVIDUAL'S INELIGIBILITY PURSUANT TO SECTION 10-16-103.5 (1).

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is

filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to contracts entered into or renewed or claims filed on or after the applicable effective date of this act.

Approved: April 8, 2019