A BILL FOR AN ACT

CONCERNING PROTECTIONS FOR CONSUMERS WHO PARTICIPATE IN HEALTH CARE COST-SHARING ARRANGEMENTS.

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 defines a "health care cost-sharing arrangement" as a health care sharing ministry or medical cost-sharing community that collects funds from its members on a regular basis, at levels established by the arrangement, for purposes of sharing, covering, or defraying the medical costs of its members. A health care cost-sharing arrangement is required to:
Report specified information to the commissioner of insurance (commissioner) regarding its operations, financial statements, membership, and medical bills submitted, paid, and denied;  
Provide certain disclosures on its website, in marketing materials, and to potential members; and  
Respond to requests for payment of medical expenses from health care providers within a period specified by the commissioner by rule.

If an insurance broker offers to enroll or enrolls individuals or groups in a health care cost-sharing arrangement, the broker must provide the same disclosures that a health care cost-sharing arrangement is required to provide.

The bill also prohibits a health care cost-sharing arrangement or insurance broker from offering or enrolling participants in the arrangement during the annual open enrollment period for health benefit plans.

The commissioner is authorized to adopt rules to implement the data reporting, disclosure, and response time requirements and to impose fines for failure to comply with the requirements and prohibitions specified in the bill.

A person is prohibited from making, issuing, circulating, or causing to be made, issued, or circulated any statement or publication that misrepresents the medical cost-sharing benefits, advantages, conditions, or terms of any health care cost-sharing arrangement. The commissioner is authorized to issue an emergency, ex parte cease-and-desist order against a person the commissioner believes to be violating this prohibition if it appears to the commissioner that the alleged conduct is fraudulent, creates an immediate danger to public safety, or is causing or is reasonably expected to cause significant, imminent, and irreparable public injury. If a person violates the emergency order, the commissioner may impose a civil penalty, order restitution, or both.

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

SECTION 1. In Colorado Revised Statutes, add 10-3-903.7 as follows:

10-3-903.7. Health care cost-sharing arrangements - reporting requirements - disclosures - restriction on enrollment - timely response to provider bills - rules - fines - prohibited acts - enforcement - definitions. (1) Definitions. As used in this section:
(a) "HEALTH CARE COST-SHARING ARRANGEMENT" MEANS:

(I) A HEALTH CARE SHARING MINISTRY, AS DEFINED IN 26 U.S.C. SEC. 5000A (d)(2)(B); OR

(II) A MEDICAL COST-SHARING COMMUNITY OR OTHER ARRANGEMENT OR ENTITY THROUGH WHICH MEMBERS OF THE COMMUNITY OR ARRANGEMENT CONTRIBUTE MONEY ON A REGULAR BASIS, AT LEVELS ESTABLISHED BY THE COMMUNITY OR ARRANGEMENT, THAT MAY BE USED TO SHARE, COVER, OR OTHERWISE DEFRAY THE MEDICAL COSTS OF MEMBERS OF THE COMMUNITY OR ARRANGEMENT.

(b) "PRODUCER" HAS THE SAME MEANING SET FORTH IN SECTION 10-2-103 (6).

(2) Reporting requirements. By March 1, 2021, and by each March 1 thereafter, a person, other than a producer, that offers, operates, manages, or administers a health care cost-sharing arrangement in this state shall file with the commissioner, in the form and manner required by the commissioner by rule, the following information and documentation:

(a) Annual audited financial statements for the previous fiscal year;

(b) A detailed list of any commissions or other fees paid to third parties for marketing, promoting, or enrolling members in the health care cost-sharing arrangement or for operating, managing, or administering a health care cost-sharing arrangement in this state;

(c) A list and description of membership benefits, limitations, and exclusions applicable to the health care
COST-SHARING ARRANGEMENT IN THIS STATE;

(d) A LIST OF PROVIDERS WITH WHOM THE HEALTH CARE COST-SHARING ARRANGEMENT HAS A PROVIDER AGREEMENT, CONTRACT, OR OTHER ARRANGEMENT IN THIS STATE;

(e) THE TOTAL NUMBER OF MEMBERS AND HOUSEHOLDS IN THE HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE IN THE PREVIOUS CALENDAR YEAR;

(f) IF APPLICABLE, THE TOTAL NUMBER OF EMPLOYER GROUPS, AND THE TOTAL NUMBER OF EMPLOYEES IN EACH EMPLOYER GROUP, THAT PARTICIPATED IN THE HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE IN THE PREVIOUS CALENDAR YEAR;

(g) THE NUMBER OF APPLICATIONS OR OTHER REQUESTS TO PARTICIPATE IN THE HEALTH CARE COST-SHARING ARRANGEMENT THAT WERE SUBMITTED, ACCEPTED, AND DENIED IN THIS STATE IN THE PREVIOUS CALENDAR YEAR;

(h) THE TOTAL NUMBER, IN THE PREVIOUS CALENDAR YEAR, OF:

(I) BILLS OR MEDICAL EXPENSES SUBMITTED TO THE HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE BY OR ON BEHALF OF MEMBERS, INCLUDING THE TOTAL AMOUNT OF ALL BILLS OR MEDICAL EXPENSES THAT WERE SUBMITTED IN THIS STATE;

(II) BILLS OR MEDICAL EXPENSES PAID WITH THE MONEY COLLECTED, MANAGED, OR FACILITATED BY THE HEALTH CARE COST-SHARING ARRANGEMENT FOR ITS MEMBERS IN THIS STATE, INCLUDING THE TOTAL AMOUNT OF ALL BILLS OR MEDICAL EXPENSES THAT WERE PAID IN THIS STATE;

(III) BILLS OR MEDICAL EXPENSES SUBMITTED IN THIS STATE THAT THE HEALTH CARE COST-SHARING ARRANGEMENT, IN WHOLE OR IN PART,
DENIED OR DETERMINED TO BE INELIGIBLE FOR COST SHARING, INCLUDING THE TOTAL AMOUNT OF ALL BILLS AND MEDICAL EXPENSES SUBMITTED IN THIS STATE THAT WERE DENIED OR DETERMINED TO BE INELIGIBLE;

(IV) RETROACTIVE MEMBERSHIP DENIALS IN THIS STATE; AND

(V) APPEALS OR GRIEVANCES SUBMITTED TO THE HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE, INCLUDING THE NUMBER OF APPEALS IN THIS STATE APPROVED IN WHOLE OR IN PART AND THE DOLLAR AMOUNT APPROVED IN THE APPEAL; AND

(i) THE TOTAL AMOUNT PAID INTO THE HEALTH CARE COST-SHARING ARRANGEMENT IN THE PREVIOUS CALENDAR YEAR BY MEMBERS WHO ARE RESIDENTS OF THIS STATE; AND

(j) THE NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE NUMBER OF AN INDIVIDUAL SERVING AS A CONTACT PERSON FOR THE HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE. THE COMMISSIONER SHALL NOT MAKE THE HEALTH CARE COST-SHARING ARRANGEMENT’S CONTACT PERSON INFORMATION AVAILABLE TO THE PUBLIC.

(3) Disclosure requirements. (a) ON AND AFTER JANUARY 1, 2021, PRIOR TO ENROLLING, ACCEPTING, OR RENEWING AN INDIVIDUAL OR GROUP IN A HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE, A PERSON, OTHER THAN A PRODUCER, OFFERING, OPERATING, MANAGING, OR ADMINISTERING THE HEALTH CARE COST-SHARING ARRANGEMENT SHALL PROVIDE A WRITTEN DISCLOSURE, EITHER IN HARD COPY OR ELECTRONIC FORMAT, TO BE SIGNED BY THE PROSPECTIVE OR RENEWING MEMBER OR GROUP, CONTAINING THE FOLLOWING INFORMATION:

(I) A HEALTH CARE COST-SHARING ARRANGEMENT IS NOT A QUALIFIED HEALTH PLAN, AND PARTICIPATION OR MEMBERSHIP IN A
HEALTH CARE COST-SHARING ARRANGEMENT DOES NOT GUARANTEE
PAYMENT OF BILLS OR MEDICAL EXPENSES;

(II) A MEMBER OF A HEALTH CARE COST-SHARING ARRANGEMENT
REMAINS PERSONALLY RESPONSIBLE FOR PAYMENT OF ALL BILLS OR
MEDICAL EXPENSES;

(III) A MEMBER OF A HEALTH CARE COST-SHARING ARRANGEMENT
MAY BE SUBJECT TO CERTAIN PREEXISTING CONDITION EXCLUSIONS OR
OTHER LIMITATIONS; AND

(IV) ANY OTHER DISCLOSURES DETERMINED BY THE
COMMISSIONER BY RULE TO ADDRESS CONSUMER CONFUSION OR TO
ENSURE CONSUMERS HAVE NECESSARY INFORMATION TO MAKE INFORMED
DECISIONS.

(b) ON AND AFTER JANUARY 1, 2021, A PERSON, OTHER THAN
A PRODUCER, OFFERING, OPERATING, MANAGING, OR ADMINISTERING THE
HEALTH CARE COST-SHARING ARRANGEMENT SHALL DISPLAY
PROMINENTLY ON ITS WEBSITE, IF THE PERSON HAS A WEBSITE, AND IN ITS
WRITTEN MARKETING MATERIALS THE INFORMATION SPECIFIED IN
SUBSECTION (3)(a) OF THIS SECTION.

(c) ON AND AFTER JANUARY 1, 2021, A PRODUCER OFFERING A
HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE SHALL
PROVIDE A WRITTEN OR ELECTRONIC DISCLOSURE TO A PROSPECTIVE
CLIENT BEFORE SELLING THE ARRANGEMENT TO THE CLIENT. THE
DISCLOSURE MUST INCLUDE THE FOLLOWING INFORMATION;

(I) A HEALTH CARE COST-SHARING ARRANGEMENT IS NOT A
QUALIFIED HEALTH PLAN, AND PARTICIPATION OR MEMBERSHIP IN A
HEALTH CARE COST-SHARING ARRANGEMENT DOES NOT GUARANTEE
PAYMENT OF BILLS OR MEDICAL EXPENSES;
(II) A MEMBER OF A HEALTH CARE COST-SHARING ARRANGEMENT REMAINS PERSONALLY RESPONSIBLE FOR PAYMENT OF ALL BILLS OR MEDICAL EXPENSES;

(III) A MEMBER OF A HEALTH CARE COST-SHARING ARRANGEMENT MAY BE SUBJECT TO CERTAIN PREEXISTING CONDITION EXCLUSIONS OR OTHER LIMITATIONS; AND

(IV) Any other disclosures determined by the commissioner by rule to address consumer confusion or to ensure consumers have necessary information to make informed decisions.

(4) Notice of decision on bills. A HEALTH CARE COST-SHARING ARRANGEMENT THAT RECEIVES A BILL OR REQUEST FOR PAYMENT OF MEDICAL EXPENSES FROM A MEMBER OF THE HEALTH CARE COST-SHARING ARRANGEMENT OR FROM A HEALTH CARE PROVIDER THAT PROVIDED HEALTH CARE TO A MEMBER OF THE HEALTH CARE COST-SHARING ARRANGEMENT SHALL PROVIDE A RESPONSE TO THE BILL OR REQUEST FOR PAYMENT WITHIN A SPECIFIED NUMBER OF DAYS, AS DETERMINED BY THE COMMISSIONER BY RULE, AFTER THE DATE THE BILL IS SUBMITTED OR THE REQUEST FOR PAYMENT IS MADE TO THE HEALTH CARE COST-SHARING ARRANGEMENT. IF THE HEALTH CARE COST-SHARING ARRANGEMENT FAILS TO PAY OR FACILITATE THE PAYMENT OF THE MEDICAL EXPENSES IN ACCORDANCE WITH THE HEALTH CARE COST-SHARING ARRANGEMENT GUIDELINES OR FAILS TO RESPOND TO THE BILL OR REQUEST FOR PAYMENT WITHIN THE TIME SPECIFIED BY THE COMMISSIONER BY RULE, THE FAILURE CONSTITUTES A DENIAL OF THE BILL OR REQUEST OR A DETERMINATION THAT THE EXPENSES ARE INELIGIBLE FOR COST SHARING. IF THE HEALTH CARE COST-SHARING ARRANGEMENT PAYS OR FACILITATES THE PAYMENT

(5) Rules. The commissioner:

(a) Shall adopt rules to implement the disclosure and reporting requirements specified in this section and the time by which a health care cost-sharing arrangement is required to respond to a bill or request for payment of medical expenses; and

(b) May establish a schedule for the assessment of penalties as authorized in subsection (6) of this section based on the frequency and severity of noncompliance.

(6) Civil penalties. (a) (I) The commissioner may assess a penalty against a health care cost-sharing arrangement for failing to:
(A) File the information required by subsection (2) of this section;

(B) Post or provide the disclosures required by subsection (3) of this section; OR

(C) Pay or respond to a bill or request for payment within the time specified by rule pursuant to subsection (4) of this section.

(II) The commissioner may assess a penalty of up to five hundred dollars for an initial violation of a requirement or prohibition specified in this subsection (6)(a) and up to five thousand dollars for any subsequent failure to comply with a requirement or prohibition specified in this subsection (6)(a).

(b) If a producer fails to post or provide the disclosures required by subsection (3) of this section, the commissioner may also assess a civil penalty in accordance with section 10-2-804.

(7) Prohibited acts - enforcement. A person shall not make, issue, circulate, or cause to be made, issued, or circulated any statement or publication that misrepresents the medical cost-sharing benefits, advantages, conditions, or terms of any health care cost-sharing arrangement. The commissioner may enforce this subsection (7) in accordance with sections 10-3-904.5, 10-3-904.6, and 10-3-904.7.

SECTION 2. In Colorado Revised Statutes, 10-3-904.5, amend (1)(a) as follows:

10-3-904.5. Emergency cease-and-desist orders - issuance.

(1) The commissioner may issue an emergency cease-and-desist order ex
parte if:

(a) The commissioner believes that:

(I) An unauthorized person is engaging in the business of insurance in violation of the provisions of section 10-3-105 or 10-3-903 or is in violation of a rule promulgated by the commissioner; and OR

(II) A PERSON, INCLUDING AN UNAUTHORIZED PERSON, IS VIOLATING SECTION 10-3-903.7; AND

SECTION 3. Applicability. This act applies to conduct occurring on or after the effective date of this act.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.