



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 20-0114
Prime Sponsors: Sen. Danielson

Date: February 25, 2020
Bill Status: Senate HHS
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Bill Topic: PROTECT NEUTRAL DETERMINATIONS IN HEALTH INSURANCE

- Summary of Fiscal Impact:
- State Revenue (checked)
- State Expenditure (checked)
- State Transfer (unchecked)
- TABOR Refund (checked)
- Local Government (unchecked)
- Statutory Public Entity (unchecked)

This bill clarifies the applicability of remedies for the unreasonable delay or denial of insurance benefits and that discretionary clause provisions are void in an insurance policy, contract, or plan. It increases state workload on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

House Bill 08-1407 prohibited discretionary clauses that allow an insurer, plan administrator, or claim administrator to interpret terms of the policy, contract, or plan to determine eligibility for benefits in an insurance policy, contract, or plan issued in this state that offers health or disability benefits. This bill clarifies that any such provision is void and authorizes the Commissioner of Insurance to adopt rules regarding the prohibition.

The bill also clarifies that for this prohibition, "issued in this state" refers to every health and disability insurance policy, insurance contract, insurance certificate, and insurance agreement existing, offered, issued, delivered, or renewed in the State of Colorado or providing health or disability benefits to a resident or domiciliary of the State of Colorado and every employee benefit plan covering a resident or domiciliary of the state of Colorado, whether or not on behalf of an employer located or domiciled in Colorado, on or after August 5, 2008, notwithstanding any contractual or statutory choice-of-law provision to the contrary.

Finally, the bill separates a person's entitlement to de novo review in any court with jurisdiction from the person's entitlement to a trial by jury.

State Revenue

This bill may increase revenue to the Judicial Department for court filing fees for cases that will be brought due to the clarifying language of the bill. This revenue increase is subject to TABOR but has not been estimated.

State Expenditures

This bill will increase workload for the trial courts in the Judicial Department if more insureds seek a judicial remedy for their benefit delay or denial. The Division of Insurance in the Department of Regulatory Agencies (DORA) will have an increase in workload if the Commissioner of Insurance chooses to adopt rules as authorized by the bill. Workload for the Judicial Department and DORA are expected to be accomplished within existing appropriations.

TABOR refund. To the extent that the bill results in a revenue increase, the bill will increase state General Fund obligations for TABOR refunds in FY 2020-21 and FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed. It applies to every health and disability insurance policy, insurance contract, insurance certificate, and insurance agreement existing, offered, issued, delivered, or renewed in Colorado or providing health or disability benefit to a resident or domiciliary of the State of Colorado, whether or not on behalf of an employer located or domiciled in Colorado on or after the effective date, notwithstanding any contractual or statutory choice-of-law provision to the contrary.

State and Local Government Contacts

Counties	Health Care Policy and Financing
Information Technology	Judicial
Law	Municipalities
Personnel	Regulatory Agencies