

## CHAPTER 338

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**INSURANCE**


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**HOUSE BILL 13-1115**

BY REPRESENTATIVE(S) McCann, Fields, Labuda, Levy, Schafer, Swalm, Tyler, Joshi, Primavera, Ryden, Young, Buckner, Ginal, Hamner, Kagan, Lebsack, Mitsch Bush, Pettersen, Williams, Lee, Melton;  
also SENATOR(S) Steadman and Roberts, Aguilar, Giron, Guzman, Heath, Jahn, Jones, Kefalas, Kerr, Newell, Nicholson, Schwartz, Tochtrop, Todd.

**AN ACT**

**CONCERNING THE REPEAL OF COVERCOLORADO, AND, IN CONNECTION THEREWITH, TERMINATING HEALTH CARE COVERAGE FOR ALL COVERCOLORADO PARTICIPANTS EFFECTIVE APRIL 1, 2014, AS PART OF THE TRANSITION TO HEALTH INSURANCE COVERAGE REGARDLESS OF PREEXISTING MEDICAL CONDITIONS UNDER THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT".**

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

**SECTION 1.** In Colorado Revised Statutes, **add** 10-8-502.5, 10-8-530.5, 10-8-536, and 10-8-537, as follows:

**10-8-502.5. Legislative declaration.** (1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT THE PURPOSE OF THIS PART 5 HAS BEEN TO PROVIDE ACCESS TO HEALTH INSURANCE FOR THOSE COLORADO RESIDENTS WHO ARE TERMED "HIGH RISK" BECAUSE THEY ARE UNABLE TO OBTAIN HEALTH INSURANCE OR UNABLE TO OBTAIN HEALTH INSURANCE EXCEPT AT PROHIBITIVE RATES OR WITH RESTRICTIVE EXCLUSIONS.

(2) FURTHER, THE GENERAL ASSEMBLY RECOGNIZES THAT:

(a) WITH THE PASSAGE OF THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT", H.R. 3590, PUB.L. 111-148, COLORADO RESIDENTS WHO ARE HIGH RISK WILL BE ABLE TO OBTAIN HEALTH INSURANCE WITH COVERAGE FOR ANY PREEXISTING MEDICAL CONDITIONS; AND

(b) THIS ABILITY TO OBTAIN COVERAGE ELIMINATES THE NEED FOR THIS PART 5.

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

**10-8-530.5. Termination of funding from unclaimed property trust fund - return of moneys from CoverColorado to unclaimed property trust fund.**

(1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 5 OR ARTICLE 13 OF TITLE 38, C.R.S., ON AND AFTER MAY 1, 2013, THE STATE TREASURER SHALL NOT TRANSMIT ANY ADDITIONAL MONEYS FROM THE UNCLAIMED PROPERTY TRUST FUND TO COVERCOLORADO, AND EFFECTIVE MAY 1, 2013, THE STATE TREASURER SHALL END THE TRANSMISSION OF MONEYS FROM THE UNCLAIMED PROPERTY TRUST FUND TO COVERCOLORADO AS REQUIRED BY THIS SUBSECTION (1).

(2) ON JULY 1, 2013, THE BOARD SHALL TRANSMIT FIFTEEN MILLION DOLLARS FROM THE ACCOUNTS OF COVERCOLORADO TO THE STATE TREASURER FOR DEPOSIT INTO THE UNCLAIMED PROPERTY TRUST FUND CREATED IN SECTION 38-13-116.5, C.R.S.

**10-8-536. Cessation of program coverage.** (1) THE BOARD OF DIRECTORS SHALL DEVELOP AN ORDERLY PLAN FOR THE CESSATION OF THE PROGRAM, TO INCLUDE THE FOLLOWING:

(a) CESSATION OF ENROLLMENT OF ANY NEW PARTICIPANTS FOR EFFECTIVE DATES OF COVERAGE AFTER DECEMBER 1, 2013, AND TERMINATION OF HEALTH CARE COVERAGE FOR ALL PARTICIPANTS, EFFECTIVE APRIL 1, 2014. THE PROGRAM WILL MAKE ALL REASONABLE EFFORTS TO GIVE ADEQUATE NOTICE OF TERMINATION OF COVERAGE TO PARTICIPANTS AND TO ASSIST IN THE TRANSITION OF PARTICIPANTS TO OTHER HEALTH CARE COVERAGE.

(b) PAYMENT OF ALL CLAIMS FOR COVERED SERVICES FROM HEALTH CARE PROVIDERS THAT ARE TIMELY FILED IN ACCORDANCE WITH THE POLICIES OF THE PROGRAM AT THE THEN-EXISTING FEE SCHEDULE FOR HEALTH CARE PROVIDERS. THE PROGRAM WILL MAKE ALL REASONABLE EFFORTS TO GIVE ADEQUATE NOTICE TO HEALTH CARE PROVIDERS AND PARTICIPANTS OF THE NEED TO FILE ALL OUTSTANDING CLAIMS FOR PAYMENT FOR COVERED SERVICES IN ACCORDANCE WITH THE POLICIES OF THE PROGRAM.

(c) PAYMENT OR SETTLEMENT OF ALL OTHER OUTSTANDING LIABILITIES OF THE PROGRAM NO LATER THAN DECEMBER 31, 2014. THE PROGRAM SHALL PROVIDE A COMPLETE AND FINAL ACCOUNTING OF PROGRAM FUNDS TO THE DIVISION OF INSURANCE NO LATER THAN MARCH 31, 2015.

(2) ON OR BEFORE MARCH 31, 2015, THE BOARD OF DIRECTORS SHALL MAKE A FINAL DISPOSITION OF ALL FUNDS REMAINING IN ANY ACCOUNT OF THE PROGRAM. THE BOARD SHALL FIRST TRANSFER TWENTY-FIVE PERCENT OF THE REMAINING FUNDS TO THE NONPROFIT UNINCORPORATED PUBLIC ENTITY CREATED IN ARTICLE 22 OF THIS TITLE. THE BOARD SHALL THEN TRANSFER THE AMOUNT REMAINING TO A COLORADO NONPROFIT FOUNDATION SELECTED BY THE BOARD, WITH SPECIFIC INSTRUCTIONS THAT THE FUNDS BE DISTRIBUTED STATEWIDE FOR THE PURPOSES OF PROMOTING ACCESS TO HEALTH CARE AND IMPROVING HEALTH OUTCOMES FOR POPULATIONS IN COLORADO WITH HIGH HEALTH CARE NEEDS. THE BOARD SHALL PROMPTLY GIVE NOTICE OF THE TRANSFER TO THE DIVISION OF INSURANCE.

(3) LOSS OF COVERAGE UNDER THE COVERCOLORADO PROGRAM UNDER PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IS A LOSS OF MINIMUM

ESSENTIAL COVERAGE FOR PURPOSES OF ENROLLMENT IN THE COLORADO HEALTH BENEFIT EXCHANGE, CREATED UNDER ARTICLE 22 OF THIS TITLE. LOSS OF COVERAGE UNDER THE COVER COLORADO PROGRAM UNDER PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION IS AN INVOLUNTARY LOSS OR TERMINATION OF EXISTING CREDITABLE COVERAGE FOR THE PURPOSES OF QUALIFYING A PARTICIPANT FOR SPECIAL ENROLLMENT IN AN INDIVIDUAL OR GROUP HEALTH PLAN IN THE STATE OF COLORADO.

**10-8-537. Repeal.** THIS PART 5 IS REPEALED, EFFECTIVE MARCH 31, 2015.

**SECTION 2.** In Colorado Revised Statutes, 10-8-534, **amend** (1) (a) as follows:

**10-8-534. Tax credit for contributions to CoverColorado - allocation notice - rules.** (1) (a) For tax years 2005 through ~~2014~~ 2012 there shall be allowed a credit against the tax imposed by sections 10-3-209 and 10-6-128 to any insurance company that becomes a qualified taxpayer by making a contribution to CoverColorado pursuant to this section.

**SECTION 3.** In Colorado Revised Statutes, 10-3-109, **amend** (2) as follows:

**10-3-109. Reports, statements, assessments, and maintenance of records - publication - penalties for late filing, late payment, or failure to maintain - repeal.** (2) (a) If any annual report, statement, or payment of special fees assessed pursuant to section 10-8-530 from any entity regulated by the division of insurance is not filed by the date specified by law or by rules of the commissioner, the commissioner may assess a penalty of up to one hundred dollars per day for each day after the date an annual statement, report, or assessment of special fees is due from any such entity.

(b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE MARCH 31, 2015.

**SECTION 4.** In Colorado Revised Statutes, 10-3-1104, **amend** (1) (r) as follows:

**10-3-1104. Unfair methods of competition - unfair or deceptive acts or practices - repeal.** (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(r) (I) Advising an employer to arrange for or arranging for an employee or an employee's dependent to apply to a plan developed pursuant to the "Colorado High Risk Health Insurance Act", under part 5 of article 8 of this title, for the purpose of separating such employee or employee's dependent from any group health coverage provided in connection with such employee's employment.

(II) THIS PARAGRAPH (r) IS REPEALED, EFFECTIVE MARCH 31, 2015.

**SECTION 5.** In Colorado Revised Statutes, 10-3.5-106, **amend** (1) (b) (II) (B) as follows:

**10-3.5-106. Aggregate limitations on credits - repeal.** (1) (b) (II) (B) Notwithstanding any other requirement of this article, of the ten million dollars of tax credits that would otherwise be claimed annually for ten years

beginning in tax year 2005 pursuant to this subsection (1), five million dollars shall not be claimed pursuant to this subsection (1) and an equivalent amount of credits may instead be claimed annually pursuant to section 10-8-534; except that, if S.B. 04-106 is enacted at the second regular session of the sixty-fourth general assembly, becomes law, and is subsequently declared to be unconstitutional by a final judgment that invalidates the tax credits enacted by such bill, the remaining five million dollars of tax credits that would otherwise be claimed annually each of the remaining calendar years through 2014 shall not be claimed pursuant to this subsection (1), and a total of ten million dollars of tax credits may instead be claimed annually for each of the remaining calendar years through 2014 pursuant to section 10-8-534. THIS SUB-SUBPARAGRAPH (B) IS REPEALED, EFFECTIVE MARCH 31, 2015.

**SECTION 6.** In Colorado Revised Statutes, **amend** 10-14-503 as follows:

**10-14-503. Exemptions.** Except as provided in this section, societies shall be governed by the provisions of this article and shall be exempt from all other provisions of the insurance statutes of this state unless the terms of such statutes expressly apply to societies, or unless any such insurance statute is specifically made applicable to societies by this article. Societies shall comply with the applicable provisions of sections 10-3-109 (2) AND 10-3-208; ~~and 10-8-530 (1.5)~~; part 7 of article 3 of this title; and article 16 of this title.

**SECTION 7.** In Colorado Revised Statutes, 10-16-102, **amend** (13.7) (d) and (36.3) as follows:

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

(13.7) "Creditable coverage" means benefits or coverage provided under:

(d) A state health benefits risk pool; ~~(including but not limited to CoverColorado)~~; or

(36.3) "Qualifying event" includes birth, adoption, marriage, dissolution of marriage, loss of employer-sponsored insurance, loss of eligibility under the "Colorado Medical Assistance Act", articles 4, 5, and 6 of title 25.5, C.R.S., loss of eligibility under the children's basic health plan, article 8 of title 25.5, C.R.S., entry of a valid court or administrative order mandating the child be covered, or involuntary loss of other existing coverage for any reason other than fraud, misrepresentation, or failure to pay a premium. FOR THE PURPOSES OF THIS SUBSECTION (36.3), LOSS OF COVERAGE UNDER THE COVERCOLORADO PROGRAM DUE TO THE PROGRAM'S TERMINATION IS AN INVOLUNTARY LOSS OF EXISTING COVERAGE.

**SECTION 8.** In Colorado Revised Statutes, 10-16-105.5, **add** (6) as follows:

**10-16-105.5. Individual health plans - federally eligible individual - limited guarantee issue - repeal.** (6) THIS SECTION IS REPEALED, EFFECTIVE JANUARY 1, 2014.

**SECTION 9.** In Colorado Revised Statutes, 10-16-107.2, **amend** (2) (c) (VI) as follows:

**10-16-107.2. Filing of health policies - rules - repeal.** (2) (c) (VI) (A) If a carrier decides to deny coverage based upon information received in the initial uniform application form, the denial of coverage shall serve as a denial for purposes of eligibility for coverage through CoverColorado pursuant to part 5 of article 8 of this title.

(B) THIS SUBPARAGRAPH (VI) IS REPEALED, EFFECTIVE JANUARY 1, 2014.

**SECTION 10.** In Colorado Revised Statutes, 10-16-136, **repeal** (7) (a) as follows:

**10-16-136. Wellness and prevention programs - individual and small group health coverage plans - voluntary participation - incentives or rewards - definitions - legislative declaration - repeal.** (7) As used in this section:

(a) ~~"Carrier" shall have the same meaning as set forth in section 10-16-102 and shall include CoverColorado, established in section 10-8-504, and any carrier offering a health benefit plan to participants in CoverColorado.~~

**SECTION 11.** In Colorado Revised Statutes, 10-16-302, **amend** (1) as follows:

**10-16-302. Incorporation and organization - exemptions.** (1) Any nonprofit corporation organized under the laws of the state of Colorado for the purpose of establishing, maintaining, and operating a nonprofit plan, whereby prepaid hospital care, medical-surgical care, and other health services are made available to persons who become subscribers to such plan under a contract with the corporation, or for the purpose of providing long-term care insurance to persons pursuant to a contract with the corporation shall be subject to and governed by the provisions of part 1 of this article and this part 3 and, except as provided in this article and elsewhere in this title, shall not be subject to the laws of this state relating to insurance or insurance companies. The provisions of sections 10-3-109 (2) AND 10-3-128; ~~and 10-8-530 (1.5)~~; articles 1 and 2 of this title; and parts 4, 5, 7, 8, 11, and 12 of article 3 of this title, to the extent applicable, shall govern corporations organized pursuant to the provisions of this part 3.

**SECTION 12.** In Colorado Revised Statutes, 10-16-421, **amend** (1) as follows:

**10-16-421. Statutory construction and relationship to other laws.** (1) Except for sections 10-1-102, 10-1-116, 10-1-117, 10-1-118, 10-3-109 (2), 10-3-118, 10-3-128, AND 10-3-208, ~~and 10-8-530 (1.5)~~; part 2 of article 1 of this title, and parts 4 to 8 of article 3 of this title, and as otherwise provided in this article, the provisions of the insurance law and provisions of nonprofit hospital, medical-surgical, and health service corporation laws shall not be applicable to any health maintenance organization granted a certificate of authority under this part 4.

**SECTION 13.** In Colorado Revised Statutes, 10-18-103, **amend** (5) as follows:

**10-18-103. Standards for policy provisions - guarantee issue.** (5) The

guaranteed issue period for a medicare supplement policy shall not be for less than six months after a previous policy has been involuntarily terminated for reasons other than nonpayment of premiums or for fraud or abuse. FOR PURPOSES OF THIS SUBSECTION (5), TERMINATION OF COVERAGE IN THE COVERCOLORADO COORDINATION OF BENEFITS PLAN DUE TO THE PLAN'S TERMINATION IS AN INVOLUNTARY TERMINATION OF A PREVIOUS POLICY.

**SECTION 14.** In Colorado Revised Statutes, 10-20-103, **amend** (8) (e) as follows:

**10-20-103. Definitions - repeal.** As used in this article, unless the context otherwise requires:

(8) "Member insurer" means any insurer licensed or who holds a certificate of authority in this state to write any kind of insurance for which coverage is provided pursuant to section 10-20-104 and includes any insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn; but "member insurer" does not include:

(e) (I) CoverColorado.

(II) THIS PARAGRAPH (e) IS REPEALED, EFFECTIVE MARCH 31, 2015.

**SECTION 15.** In Colorado Revised Statutes, 24-77-102, **amend** (15) (b) (XII) as follows:

**24-77-102. Definitions - repeal.** As used in this article, unless the context otherwise requires:

(15) (b) "Special purpose authority" includes, but is not limited to:

(XII) (A) CoverColorado, created pursuant to section 10-8-501, C.R.S.

(B) THIS SUBPARAGRAPH (XII) IS REPEALED, EFFECTIVE MARCH 31, 2015.

**SECTION 16.** In Colorado Revised Statutes, 25.5-1-204, **amend** (5) (a) as follows:

**25.5-1-204. Advisory committee to establish an all-payer health claims database - creation - members - duties - creation of all-payer health claims database - rules - repeal.** (5) If sufficient funding is received, the executive director shall direct the administrator to create the database and the administrator shall:

(a) Determine the data to be collected from payers and the method of collection, including mandatory and voluntary reporting of health care and health quality data. ~~If the administrator requires mandatory reporting, CoverColorado, created in part 5 of article 8 of title 10, C.R.S., shall be included in the mandatory reporting requirements.~~

**SECTION 17.** In Colorado Revised Statutes, 38-13-113, **amend** (1) (b) as

follows:

**38-13-113. Custody by state - holder relieved from liability - waiver of rights by owner - reimbursement of holder paying claim - reclaiming for owner - defense of holder - payment of safe deposit box or repository charges.**

(1) (b) Any person appearing to be an owner of property paid or delivered to the administrator pursuant to this article may notify the administrator on a form prescribed by the administrator that the person waives the right to claim the property. ~~Upon receipt of such notice, the administrator shall transfer the property to the CoverColorado cash fund created in section 10-8-530 (2), C.R.S. After the property is transferred to the fund, the state shall no longer be responsible for the safekeeping of the property and shall be relieved of all liability to the extent of the value of the property for any claim that may arise or be made with respect to the property.~~

**SECTION 18.** In Colorado Revised Statutes, 38-13-116.5, **add** (2.7) (a.5) (III) as follows:

**38-13-116.5. Unclaimed property trust fund - creation - payments - interest - appropriations - records - rules - repeal.** (2.7) (a.5) (III) **THIS PARAGRAPH (a.5) IS REPEALED, EFFECTIVE MARCH 31, 2015.**

**SECTION 19. Appropriation - adjustments to 2013 long bill.** (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of the treasury for the fiscal year beginning July 1, 2013, are adjusted as follows:

(a) The cash funds figure included for informational purposes from the unclaimed property trust fund created in section 38-13-116.5 (1) (a), Colorado Revised Statutes, for CoverColorado, is decreased by \$36,511,694.

**SECTION 20. Effective date.** (1) Sections 6, 7, 10, 11, 12, 16, and 17 of this act take effect March 31, 2015, and the remainder of this act takes effect upon passage.

(2) Sections 7, 8, and 9 of this act take effect only if House Bill 13-1266 does not become law.

**SECTION 21. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 28, 2013