

CHAPTER 268

INSURANCE

HOUSE BILL 23-1136

BY REPRESENTATIVE(S) Ortiz and Hartsook, Amabile, Bacon, Bird, Boesenecker, Bradley, Brown, Daugherty, DeGraaf, deGruy Kennedy, Dickson, English, Frizell, Froelich, Gonzales-Gutierrez, Hamrick, Herod, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Marshall, Martinez, McCormick, McLachlan, Michaelson Jenet, Parenti, Ricks, Sirota, Snyder, Story, Titone, Valdez, Velasco, Weinberg, Weissman, Willford, Woodrow, Young, McCluskie;
 also SENATOR(S) Winter F. and Liston, Bridges, Buckner, Coleman, Cutter, Danielson, Exum, Fields, Ginal, Gonzales, Marchman, Moreno, Mullica, Pelton B., Priola, Roberts, Smallwood, Sullivan, Will, Zenzinger.

AN ACT

CONCERNING HEALTH INSURANCE COVERAGE FOR A PROSTHETIC DEVICE NECESSARY FOR A COVERED PERSON TO ENGAGE IN CERTAIN TYPES OF ACTIVITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 10-16-104, **amend** (14)(d) as follows:

10-16-104. Mandatory coverage provisions - definitions - rules - applicability. (14) **Prosthetic devices.** (d) (I) EXCEPT AS PROVIDED IN SUBSECTION (14)(d)(II) OF THIS SECTION, covered benefits are limited to the most appropriate model PROSTHETIC DEVICE MODELS that adequately meets MEET the medical needs of the patient COVERED PERSON as determined by the insured's COVERED PERSON'S treating physician.

(II) WITH RESPECT TO A COVERED PERSON, COVERED BENEFITS INCLUDE AN ADDITIONAL PROSTHETIC DEVICE OR DEVICES IF THE TREATING PHYSICIAN DETERMINES THAT THE ADDITIONAL PROSTHETIC DEVICE OR DEVICES ARE NECESSARY TO ENABLE THE COVERED PERSON TO ENGAGE IN PHYSICAL AND RECREATIONAL ACTIVITIES, INCLUDING RUNNING, BICYCLING, SWIMMING, CLIMBING, SKIING, SNOWBOARDING, AND TEAM AND INDIVIDUAL SPORTS.

(III) THE DIVISION SHALL SUBMIT TO THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES:

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.

(A) A DETERMINATION AS TO WHETHER THE BENEFIT SPECIFIED IN SUBSECTION (14)(d)(II) OF THIS SECTION IS IN ADDITION TO AN ESSENTIAL HEALTH BENEFIT THAT REQUIRES THE STATE TO DEFRAY THE COST PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B); AND

(B) A REQUEST THAT THE FEDERAL DEPARTMENT CONFIRM THE DIVISION'S DETERMINATION WITHIN SIXTY DAYS AFTER RECEIVING THE DIVISION'S SUBMISSION.

(IV) SUBSECTION (14)(d)(II) OF THIS SECTION APPLIES TO, AND THE DIVISION SHALL IMPLEMENT THE REQUIREMENTS FOR, LARGE EMPLOYER POLICIES AND CONTRACTS ISSUED OR RENEWED ON OR AFTER JANUARY 1, 2025. SUBSECTION (14)(d)(II) OF THIS SECTION APPLIES TO, AND THE DIVISION SHALL IMPLEMENT THE REQUIREMENTS FOR, INDIVIDUAL AND SMALL GROUP POLICIES AND CONTRACTS ISSUED ON OR AFTER JANUARY 1, 2025, IF:

(A) THE DIVISION RECEIVES CONFIRMATION OR ANY OTHER NOTIFICATION FROM THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES THAT THE COVERAGE SPECIFIED IN SUBSECTION (14)(d)(II) OF THIS SECTION DOES NOT CONSTITUTE AN ADDITIONAL BENEFIT THAT REQUIRES THE STATE TO DEFRAY THE COST PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B); OR

(B) THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES FAILS TO RESPOND TO THE REQUEST SUBMITTED BY THE DIVISION PURSUANT TO SUBSECTION (14)(d)(III) OF THIS SECTION WITHIN THREE HUNDRED SIXTY-FIVE DAYS AFTER SUBMISSION OF THE REQUEST, IN WHICH CASE THE DIVISION SHALL CONSIDER THE FEDERAL DEPARTMENT'S UNREASONABLE DELAY A CONFIRMATION THAT THE COVERAGE SPECIFIED IN SUBSECTION (14)(d)(II) OF THIS SECTION DOES NOT REQUIRE THE STATE TO DEFRAY THE COST PURSUANT TO 42 U.S.C. SEC. 18031 (d)(3)(B).

SECTION 2. Appropriation. For the 2023-24 state fiscal year, \$6,108 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S., and is based on an assumption that the division will require an additional 0.1 FTE. To implement this act, the division may use this appropriation for personal services.

SECTION 3. Act subject to petition - effective date. 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; 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 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 25, 2023