

CHAPTER 236

INSURANCE

HOUSE BILL 20-1236

BY REPRESENTATIVE(S) Lontine and Will, Benavidez, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Exum, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Snyder, Titone, Valdez A., Valdez D., Young, Becker, Froelich, Gonzales-Gutierrez, Sirota;
also SENATOR(S) Tate and Bridges, Gonzales, Hansen, Moreno, Story.

AN ACT

CONCERNING A HEALTH CARE COVERAGE ENROLLMENT PROGRAM THAT USES INFORMATION GATHERED FROM STATE INDIVIDUAL INCOME TAX RETURN FORMS TO AID UNINSURED INDIVIDUALS IN OBTAINING HEALTH CARE COVERAGE.

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

SECTION 1. In Colorado Revised Statutes, 10-16-105.7, **amend** (3)(a)(II)(F); and **add** (3)(a)(II)(F.5) and (3)(a)(III) as follows:

10-16-105.7. Health benefit plan open enrollment periods - special enrollment periods - rules. (3) (a) (II) A triggering event occurs when:

(F) An individual gains access to other creditable coverage as a result of a permanent change of residence; ~~or~~

(F.5) AN UNINSURED INDIVIDUAL WAS INCLUDED IN THE CALCULATION OF "FAMILY SIZE" AS DEFINED IN THE FEDERAL "INTERNAL REVENUE CODE OF 1986", 26 U.S.C. SEC. 36B (d)(1), AS AMENDED, BY A TAX FILER WHO FILED AN INCOME TAX RETURN FOR THE PRIOR CALENDAR YEAR BY THE APRIL 15 TAX DEADLINE, AND THE EXCHANGE NOTIFIES THE INDIVIDUAL BASED ON INFORMATION PROVIDED THROUGH THE COLORADO AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT PROGRAM CREATED IN SECTION 10-22-113 THAT THE INDIVIDUAL QUALIFIES FOR A SUBSIDIZED HEALTH BENEFIT PLAN; OR

(III) FOR THE PURPOSES OF SUBSECTION (3)(a)(II)(F.5) OF THIS SECTION, A CARRIER IS NOT REQUIRED TO FURTHER VERIFY THAT AN INDIVIDUAL IS ELIGIBLE FOR A SPECIAL ENROLLMENT PERIOD.

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.

SECTION 2. In Colorado Revised Statutes, 10-22-103, **amend** the introductory portion; and **add** (6.5) as follows:

10-22-103. Definitions. As used in this ~~article~~ ARTICLE 22, unless the context otherwise requires:

(6.5) "HEALTH CARE COVERAGE AFFORDABILITY PROGRAM" MEANS:

(a) A MEDICAL ASSISTANCE PROGRAM UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5;

(b) THE "CHILDREN'S BASIC HEALTH PLAN ACT", ARTICLE 8 OF TITLE 25.5; OR

(c) A HEALTH BENEFIT PLAN OFFERED THROUGH THE EXCHANGE FOR WHICH A PREMIUM TAX CREDIT OR COST-SHARING REDUCTIONS ARE AVAILABLE.

SECTION 3. In Colorado Revised Statutes, **add** 10-22-113 as follows:

10-22-113. Colorado affordable health care coverage easy enrollment program - advisory committee - creation - appointments - duties - definitions - repeal. (1) THERE IS HEREBY CREATED THE COLORADO AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT PROGRAM FOR THE PURPOSE OF LEVERAGING THE INDIVIDUAL INCOME TAX FILING PROCESS TO MAXIMIZE THE ENROLLMENT OF ELIGIBLE UNINSURED INDIVIDUALS IN A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM.

(2) (a) FOR THE PURPOSE OF GUIDING THE IMPLEMENTATION AND ADMINISTRATION OF THE PROGRAM, THERE IS HEREBY CREATED THE AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT ADVISORY COMMITTEE. THE EXECUTIVE DIRECTORS OF THE EXCHANGE AND THE DEPARTMENT OF REVENUE, OR THEIR DESIGNEES, SHALL SERVE AS CO-CHAIRS OF THE ADVISORY COMMITTEE. ON OR BEFORE SEPTEMBER 1, 2020, THE BOARD SHALL APPOINT NINE ADDITIONAL MEMBERS, AS SPECIFIED IN SUBSECTION (2)(b) OF THIS SECTION, TO SERVE ON THE ADVISORY COMMITTEE. IN MAKING THE APPOINTMENTS, THE BOARD SHALL CONSIDER THE GEOGRAPHIC, ECONOMIC, ETHNIC, AND OTHER CHARACTERISTICS OF THE STATE.

(b) MEMBERS OF THE ADVISORY COMMITTEE MUST INCLUDE:

(I) A REPRESENTATIVE OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING;

(II) A REPRESENTATIVE OF THE DIVISION;

(III) A REPRESENTATIVE OF CONSUMER ADVOCACY GROUPS;

(IV) A REPRESENTATIVE OF SMALL EMPLOYERS, AS DEFINED IN SECTION 10-16-102 (61);

(V) A REPRESENTATIVE OF INSURERS;

(VI) A HEALTH CARE CONSUMER;

(VII) A HEALTH COVERAGE GUIDE OR OTHER PERSON WITH EXPERTISE IN THE PROCESS OF APPLYING FOR FEDERAL INSURANCE OR ASSISTANCE AS PROVIDED BY:

(A) TITLE XIX OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, AND THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5; OR

(B) THE CHILDREN'S BASIC HEALTH PLAN, AS DEFINED IN ARTICLE 8 OF TITLE 25.5;

(VIII) AN INSURANCE PRODUCER, AS DEFINED IN SECTION 10-2-103 (6); AND

(IX) A PROVIDER OF INCOME TAX PREPARATION SERVICES.

(c) OF THE MEMBERS FIRST APPOINTED, IN ORDER TO ENSURE STAGGERED TERMS, THE INITIAL TERM OF OFFICE OF FIVE OF THE MEMBERS IS TWO YEARS AND THE INITIAL TERM OF OFFICE OF FOUR OF THE MEMBERS IS FOUR YEARS. THEREAFTER, THE TERM OF OFFICE OF ALL MEMBERS IS FOUR YEARS.

(d) MEMBERS OF THE ADVISORY COMMITTEE MAY BE REMOVED FOR CAUSE BY THE BOARD OR BY A MAJORITY VOTE OF THE ADVISORY COMMITTEE MEMBERS.

(e) THE ADVISORY COMMITTEE SHALL MEET AS OFTEN AS NECESSARY TO CARRY OUT ITS DUTIES PURSUANT TO THIS SECTION.

(f) MEMBERS OF THE ADVISORY COMMITTEE ARE NOT ENTITLED TO RECEIVE PER DIEM OR OTHER COMPENSATION FOR PERFORMANCE OF SERVICES FOR THE ADVISORY COMMITTEE BUT MAY BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES, INCLUDING ANY REQUIRED DEPENDENT CARE AND DEPENDENT OR ATTENDANT TRAVEL, FOOD, AND LODGING, WHILE ENGAGED IN THE PERFORMANCE OF OFFICIAL DUTIES OF THE ADVISORY COMMITTEE.

(g) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2030.

(3) (a) THE ADVISORY COMMITTEE SHALL:

(I) DETERMINE THE MINIMUM INFORMATION NECESSARY TO COLLECT THROUGH THE STATE INDIVIDUAL INCOME TAX FORMS TO IDENTIFY UNINSURED INDIVIDUALS AND ALLOW THE EXCHANGE TO ASSESS WHETHER THEY ARE POTENTIALLY ELIGIBLE FOR ENROLLMENT IN A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM OR OTHER CREDITABLE COVERAGE;

(II) DETERMINE THE PROCEDURES THAT WILL BE USED TO TRANSFER TAX FILER INFORMATION FROM THE DEPARTMENT OF REVENUE TO THE EXCHANGE IN ORDER TO FACILITATE THE PROGRAM;

(III) RECOMMEND REVISIONS TO THE STATE INDIVIDUAL INCOME TAX FORM, SUPPLEMENTAL SCHEDULES, OR BOTH TO BE IMPLEMENTED BY THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 39-22-5202 THAT ARE NEEDED TO IMPLEMENT THE PROGRAM. THE RECOMMENDATIONS MUST INCLUDE:

(A) A QUESTION ASKING IF THE TAX FILER WANTS THE EXCHANGE TO ASSESS WHETHER THE UNINSURED INDIVIDUALS IN THE TAX HOUSEHOLD ARE POTENTIALLY ELIGIBLE FOR A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM OR OTHER CREDITABLE COVERAGE USING INFORMATION FROM THE TAX FILER'S STATE INDIVIDUAL INCOME TAX RETURN AND OTHER SOURCES AVAILABLE TO THE EXCHANGE;

(B) FOR TAX FILERS THAT WANT THE EXCHANGE TO ASSESS POTENTIAL ELIGIBILITY, A REQUEST FOR: THE IDENTITY OF THE UNINSURED INDIVIDUALS AND ANY ADDITIONAL INFORMATION, INCLUDING THE HOUSEHOLD SIZE OF THE TAX FILER, THAT IS NOT OTHERWISE AVAILABLE TO THE EXCHANGE AND THAT IS DEEMED ESSENTIAL BY THE ADVISORY COMMITTEE FOR MAKING ASSESSMENTS OF POTENTIAL ELIGIBILITY; EXCEPT THAT THE REQUEST FOR ADDITIONAL INFORMATION SHALL NOT INCLUDE REQUESTS FOR CITIZENSHIP, IMMIGRATION, OR HEALTH STATUS;

(IV) DRAFT RECOMMENDED INSTRUCTIONS FOR THE INDIVIDUAL TAX FORM INSTRUCTION BOOKLET THAT EXPLAIN HOW TO ANSWER THE QUESTIONS ADDED TO THE TAX RETURN FORM OR SCHEDULES PURSUANT TO SECTION 39-22-5202 (1)(b) AND THE EFFECTS OF INDICATING THAT THE TAX FILER WOULD LIKE THE EXCHANGE TO ASSESS THE ELIGIBILITY OF UNINSURED HOUSEHOLD MEMBERS;

(V) DETERMINE THE PROCESS THAT THE EXCHANGE WILL USE UNDER THE PROGRAM TO ASSESS POTENTIAL ELIGIBILITY FOR AND ASSIST WITH ENROLLMENT IN A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM OR OTHER CREDITABLE COVERAGE INCLUDING:

(A) A TIMELINE FOR ASSESSING EACH INDIVIDUAL'S POTENTIAL ELIGIBILITY FOR A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM OR OTHER CREDITABLE COVERAGE;

(B) A PROCESS TO NOTIFY INDIVIDUALS REGARDING THE OUTCOMES OF ASSESSMENTS OF POTENTIAL ELIGIBILITY, WHICH PROCESS IS DESIGNED TO MAXIMIZE HEALTH CARE COVERAGE ENROLLMENT LEVELS; AND

(C) A PROCESS FOR HANDLING UNINSURED INDIVIDUALS WHOSE STATUS AS UNITED STATES CITIZENS CANNOT BE VERIFIED THROUGH INFORMATION AVAILABLE TO THE EXCHANGE; AND

(VI) DETERMINE THE FEASIBILITY OF AND, IF FEASIBLE, RECOMMEND A PROCESS FOR AUTOMATIC ENROLLMENT, THROUGH THE PROGRAM, OF ELIGIBLE UNINSURED INDIVIDUALS IN A MEDICAL ASSISTANCE PROGRAM UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5, OR OTHER ZERO-NET-PREMIUM CREDITABLE COVERAGE.

(b) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2030.

(4) THE EXCHANGE, THROUGH PROCEDURES DETERMINED BY THE ADVISORY COMMITTEE, SHALL:

(a) ASSESS WHETHER UNINSURED INDIVIDUALS IDENTIFIED THROUGH THE PROGRAM ARE POTENTIALLY ELIGIBLE FOR A HEALTH CARE COVERAGE

AFFORDABILITY PROGRAM OR OTHER CREDITABLE COVERAGE;

(b) NOTIFY THE UNINSURED INDIVIDUALS REGARDING THEIR POTENTIAL ELIGIBILITY;

(c) ENROLL OR ASSIST WITH ENROLLING THE UNINSURED INDIVIDUALS IN CREDITABLE COVERAGE; AND

(d) NOT TAKE ADDITIONAL STEPS TO DETERMINE ELIGIBILITY FOR OR ENROLL AN UNINSURED INDIVIDUAL IDENTIFIED THROUGH THE PROGRAM IF THE EXCHANGE CANNOT VERIFY THAT THE UNINSURED INDIVIDUAL IS A UNITED STATES CITIZEN UNTIL THE INDIVIDUAL PROVIDES AFFIRMATIVE CONSENT USING PROCEDURES DEVELOPED BY THE ADVISORY COMMITTEE PURSUANT TO SUBSECTION (3)(a)(V)(C) OF THIS SECTION.

(5) AS USED IN THIS SECTION:

(a) (I) "ADVISORY COMMITTEE" MEANS THE AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT ADVISORY COMMITTEE.

(II) THIS SUBSECTION (5)(a) IS REPEALED, EFFECTIVE SEPTEMBER 1, 2030.

(b) "CREDITABLE COVERAGE" HAS THE SAME MEANING AS SET FORTH IN SECTION 10-16-102 (16).

(c) "PROGRAM" MEANS THE COLORADO AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT PROGRAM.

(d) "UNINSURED INDIVIDUAL" MEANS AN INDIVIDUAL WHO DOES NOT HAVE CREDITABLE COVERAGE.

SECTION 4. In Colorado Revised Statutes, 39-21-113, **add** (25) as follows:

39-21-113. Reports and returns - rule. (25) NOTWITHSTANDING THE CONFIDENTIALITY REQUIREMENTS IN THIS SECTION, THE EXECUTIVE DIRECTOR SHALL PROVIDE THE INFORMATION AUTHORIZED BY THE TAXPAYER TO BE COLLECTED PURSUANT TO SECTION 39-22-5202 (1) TO THE COLORADO HEALTH BENEFIT EXCHANGE CREATED IN ARTICLE 22 OF TITLE 10 AND MAY SHARE THE INFORMATION WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO FACILITATE ASSESSMENT OF POTENTIAL ELIGIBILITY FOR AND ENROLLMENT IN A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM THROUGH THE COLORADO AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT PROGRAM CREATED IN SECTION 10-22-113. ANY INFORMATION PROVIDED TO THE COLORADO HEALTH BENEFIT EXCHANGE OR THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING PURSUANT TO THIS SUBSECTION (25) REMAINS CONFIDENTIAL, AND THE BOARD OF DIRECTORS AND ALL OFFICERS, AGENTS, CLERKS, AND EMPLOYEES OF THE COLORADO HEALTH BENEFIT EXCHANGE AND THE EXECUTIVE DIRECTOR AND ALL AGENTS, CLERKS, AND EMPLOYEES OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING ARE SUBJECT TO THE LIMITATIONS SET FORTH IN SUBSECTION (4) OF THIS SECTION AND THE PENALTIES IN SUBSECTION (6) OF THIS SECTION.

SECTION 5. In Colorado Revised Statutes, **add** part 52 to article 22 of title 39 as follows:

PART 52
COLORADO AFFORDABLE HEALTH CARE
COVERAGE EASY ENROLLMENT PROGRAM

39-22-5201. Definitions. AS USED IN THIS PART 52, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ADVISORY COMMITTEE" MEANS THE AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT ADVISORY COMMITTEE CREATED IN SECTION 10-22-113.

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE.

(3) "EXCHANGE" MEANS THE COLORADO HEALTH BENEFIT EXCHANGE CREATED IN ARTICLE 22 OF TITLE 10.

(4) "HEALTH CARE COVERAGE AFFORDABILITY PROGRAM" MEANS:

(a) A MEDICAL ASSISTANCE PROGRAM UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5;

(b) THE "CHILDREN'S BASIC HEALTH PLAN ACT", ARTICLE 8 OF TITLE 25.5; OR

(c) A HEALTH BENEFIT PLAN, AS DEFINED IN SECTION 10-22-103 (6), OFFERED THROUGH THE EXCHANGE FOR WHICH PREMIUM TAX CREDITS OR COST-SHARING REDUCTIONS ARE AVAILABLE.

39-22-5202. Uninsured designation - required forms - rules. (1) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2021:

(a) THE COLORADO STATE INDIVIDUAL INCOME TAX FORM MUST ALLOW TAX FILERS TO:

(I) REQUEST THAT THE EXCHANGE ASSESS WHETHER UNINSURED TAX HOUSEHOLD MEMBERS ARE POTENTIALLY ELIGIBLE FOR FREE OR LOWER-COST HEALTH COVERAGE UNDER A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM USING INFORMATION FROM THEIR TAX RETURN AND OTHER SOURCES AVAILABLE TO THE EXCHANGE; AND

(II) IDENTIFY UNINSURED HOUSEHOLD MEMBERS AND PROVIDE OTHER INFORMATION DETERMINED NECESSARY BY THE ADVISORY COMMITTEE PURSUANT TO SECTION 10-22-113 (3)(a) TO FACILITATE THE COLORADO AFFORDABLE HEALTH CARE COVERAGE EASY ENROLLMENT PROGRAM CREATED IN SECTION 10-22-113;

(b) THE ASSOCIATED TAX FORM INSTRUCTION BOOKLET MUST EXPLAIN HOW TO ANSWER THE QUESTIONS ADDED TO THE STATE INDIVIDUAL INCOME TAX FORM OR SCHEDULES PURSUANT TO THIS SECTION AND SECTION 10-22-113 (3)(a)(IV) AND THE EFFECT OF ASKING THE EXCHANGE TO ASSESS WHETHER UNINSURED HOUSEHOLD MEMBERS ARE POTENTIALLY ELIGIBLE FOR FREE OR LOWER-COST HEALTH COVERAGE UNDER A HEALTH CARE COVERAGE AFFORDABILITY PROGRAM.

(2) IN IMPLEMENTING SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL CONSIDER THE DETERMINATIONS AND RECOMMENDATIONS DEVELOPED BY THE ADVISORY COMMITTEE PURSUANT TO SECTION 10-22-113 (3)(a).

(3) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT SHALL PROMULGATE RULES AS NECESSARY TO IMPLEMENT THE TAX FORMS AND SCHEDULES REQUIRED BY THIS SECTION AND TO IMPLEMENT THE SHARING OF INFORMATION AUTHORIZED BY THIS SECTION WITH THE EXCHANGE AND THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING.

SECTION 6. 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 (August 5, 2020, if adjournment sine die is on May 6, 2020); 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.

Approved: July 6, 2020