

First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0847.01 Kristen Forrestal x4217

HOUSE BILL 23-1224

HOUSE SPONSORSHIP

Brown and Jodeh,

SENATE SPONSORSHIP

Roberts,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING CHANGES TO THE "COLORADO STANDARDIZED HEALTH
102 BENEFIT PLAN ACT".

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 makes changes to the "Colorado Standardized Health Benefit Plan Act" to:

- Require the Colorado health benefit exchange (exchange), with the consent of the commissioner of insurance (commissioner), to develop a format for displaying the standardized plans on the exchange;

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- Grant the commissioner 120 days to review the rate filings for standardized plans instead of the current 60 days;
- Require a carrier to notify the commissioner of the steps the carrier will take to meet premium rate requirements if the carrier is unable to offer a standardized plan;
- Make changes to the requirements for public hearings held by the commissioner for carriers who are unable to offer the standardized plan; and
- Specify that decisions of the commissioner are final agency actions subject to judicial review in the court of appeals.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-1304, **amend**
3 (3) as follows:

4 **10-16-1304. Standardized health benefit plan - established -**
5 **components - rules - independent analysis - repeal.** (3) (a) The
6 standardized plan must be offered in a manner that allows consumers to
7 easily compare the standardized plans offered by each carrier.

8 (b) THE EXCHANGE, WITH THE CONSENT OF THE COMMISSIONER,
9 SHALL DEVELOP A FORMAT FOR DISPLAYING THE STANDARDIZED PLANS ON
10 THE EXCHANGE IN A MANNER THAT ENCOURAGES VALUE-BASED SHOPPING
11 AND ALLOWS CONSUMERS TO EASILY COMPARE THE STANDARDIZED PLANS.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 10-16-1305.5 as
13 follows:

14 **10-16-1305.5. Rate filings.** (1) IN THE RATE FILINGS REQUIRED
15 PURSUANT TO SECTION 10-16-107, EACH CARRIER MUST FILE RATES FOR
16 THE STANDARDIZED PLAN AT THE PREMIUM RATES REQUIRED IN SECTION
17 10-16-1305 (2).

18 (2) IN REVIEWING THE RATES FOR THE STANDARDIZED PLANS, THE
19 COMMISSIONER MAY ESTABLISH LIMITS ON A CARRIER'S ADMINISTRATIVE
20 COSTS AND PROFITS FOR A STANDARDIZED PLAN.

1 (3) (a) NOTWITHSTANDING SECTION 10-16-107 (1), THE
2 COMMISSIONER SHALL APPROVE OR DISAPPROVE THE RATES FOR THE
3 STANDARDIZED PLANS WITHIN ONE HUNDRED TWENTY DAYS AFTER
4 SUBMISSION BY THE CARRIER. IF THE COMMISSIONER DOES NOT APPROVE
5 OR DISAPPROVE THE RATES WITHIN THE ONE-HUNDRED-TWENTY-DAY
6 PERIOD, THE CARRIER MAY IMPLEMENT AND REASONABLY RELY UPON THE
7 RATES SUBMITTED, ON THE CONDITION THAT THE COMMISSIONER MAY
8 REQUIRE A CORRECTION OF ANY DEFICIENCIES IN THE RATE FILINGS UPON
9 LATER REVIEW IF THE RATES CHARGED BY THE CARRIER ARE EXCESSIVE,
10 INADEQUATE, OR UNFAIRLY DISCRIMINATORY.

11 (b) IF A CARRIER FAILS TO SUPPLY THE INFORMATION REQUIRED BY
12 THIS SECTION AND SECTION 10-16-107, THE RATE FILING IS INCOMPLETE.
13 THE COMMISSIONER SHALL MAKE A DETERMINATION OF COMPLETENESS
14 NO LATER THAN SIXTY DAYS FOLLOWING SUBMISSION OF THE FILING FOR
15 REVIEW. ALL RATE FILINGS NOT RETURNED ON OR BEFORE THE SIXTIETH
16 DAY AFTER RECEIPT ARE CONSIDERED COMPLETE.

17 (c) THE COMMISSIONER MAY REVIEW A RATE FILING FOR
18 SUBSTANTIVE CONTENT AND, IF REVIEWED, SHALL IDENTIFY AND NOTIFY
19 THE CARRIER, ON OR BEFORE THE NINETIETH DAY AFTER RECEIPT OF THE
20 RATE FILING, OF ANY DEFICIENCY IN THE FILING. THE CARRIER SHALL
21 APPLY A CORRECTION OF A DEFICIENCY, INCLUDING A DEFICIENCY
22 IDENTIFIED AFTER THE NINETIETH DAY, ON A PROSPECTIVE BASIS, AND THE
23 COMMISSIONER SHALL NOT ASSESS A PENALTY AGAINST THE CARRIER IF
24 THE VIOLATION IDENTIFIED WAS NOT WILLFUL.

25 **SECTION 3.** In Colorado Revised Statutes, 10-16-1306, **amend**
26 (2), (3)(a), (3)(c), (7) introductory portion, and (8); and **repeal** (1)(a) as
27 follows:

1 **10-16-1306. Failure to meet premium rate requirements -**
2 **notice - public hearing - rules.** (1) (a) ~~In the rate filings required~~
3 ~~pursuant to section 10-16-107, each carrier must file rates for the~~
4 ~~standardized plan at the premium rates required in section 10-16-1305~~
5 ~~(2).~~

6 (2) If a carrier is unable to offer the standardized plan as required
7 by section 10-16-1305 (1) at the premium rate required in section
8 10-16-1305 (2) in any year, the carrier, BY MARCH 1 OF THE YEAR
9 PRECEDING THE YEAR IN WHICH THE PREMIUM RATES GO INTO EFFECT,
10 shall:

11 (a) Notify the commissioner of the reasons why the carrier is
12 unable to meet the requirements ~~as follows:~~

13 ~~(a) For premium rates applicable in 2023, by May 1, 2022; and~~

14 ~~(b) For premium rates applicable in 2024 or any subsequent year,~~
15 ~~by March 1 of the year preceding the year in which the premiums rates go~~
16 ~~into effect~~ AND THE STEPS THE CARRIER WILL TAKE TO MEET THE PREMIUM
17 RATE REQUIREMENTS; AND

18 (b) PROVIDE TO THE COMMISSIONER ANY SUPPORTING
19 DOCUMENTATION RELATED TO THE HOSPITAL OR HEALTH-CARE PROVIDER
20 THAT THE CARRIER CLAIMS IS A CAUSE FOR THE CARRIER'S FAILURE TO
21 MEET THE PREMIUM RATE REQUIREMENTS.

22 (3) (a) If, on or after January 1, 2023, and pursuant to subsection
23 (2) of this section, a carrier notifies the commissioner that the carrier is
24 unable to offer the standardized plan at the premium rate required in
25 section 10-16-1305 (2) or the commissioner otherwise determines, with
26 support from an independent actuary and based on a review of THE
27 NOTIFICATION SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION

1 OR the rate and form filings, that a carrier has not met the premium rate
2 requirements in section 10-16-1305 (2) or the network adequacy
3 requirements, the division ~~shall~~ MAY hold a public hearing prior to the
4 approval of the carrier's final rates; except that, for the purposes of
5 holding a public hearing, if a carrier does not meet the network adequacy
6 requirements in section 10-16-1304 (1)(g), the commissioner shall
7 consider a carrier to have met network adequacy requirements if the
8 carrier files the action plan required in section 10-16-1304 (2)(b).

9 (c) (I) The commissioner shall ~~provide public notice and~~
10 ~~opportunity to testify at the public hearing to all affected parties,~~
11 ~~including carriers, hospitals, health-care providers, consumer advocacy~~
12 ~~organizations, and individuals. All affected parties shall have the~~
13 ~~opportunity to present evidence regarding the carrier's ability to meet the~~
14 ~~premium rate requirements and the network adequacy requirements. The~~
15 ~~commissioner shall limit the evidence presented at the hearing to~~
16 ~~information that is related to the reason the carrier failed to meet the~~
17 ~~network adequacy requirements or the premium rate requirements in~~
18 ~~section 10-16-1305 for the standardized plan in any single county~~ GIVE
19 NOTICE OF THE PUBLIC HEARING TO THE CARRIERS, HOSPITALS,
20 HEALTH-CARE PROVIDERS, INSURANCE OMBUDSMAN, AND PUBLIC AT
21 LEAST FIFTEEN DAYS PRIOR TO THE DATE OF THE HEARING.

22 (II) THE COMMISSIONER SHALL ESTABLISH BY RULE:

23 (A) THE MANNER IN WHICH THE COMMISSIONER WILL NOTIFY THE
24 PARTIES SPECIFIED IN SUBSECTION (3)(c)(I) OF THIS SECTION AND
25 INTERESTED PERSONS OF THE PUBLIC HEARINGS;

26 (B) THE MANNER IN WHICH THE PUBLIC MAY PARTICIPATE IN
27 PUBLIC HEARINGS. THE COMMISSIONER SHALL LIMIT THE PUBLIC COMMENT

1 AND EVIDENCE PRESENTED AT THE HEARING TO INFORMATION THAT IS
2 RELATED TO THE REASON THE CARRIER FAILED TO MEET THE NETWORK
3 ADEQUACY REQUIREMENTS OR THE PREMIUM RATE REQUIREMENTS IN
4 SECTION 10-16-1305 FOR THE STANDARDIZED PLAN IN ANY SINGLE
5 COUNTY.

6 (C) THE MANNER IN WHICH DOCUMENTS MUST BE SERVED ON THE
7 PARTIES;

8 (D) THE MANNER IN WHICH A CARRIER SHALL NOTIFY THE DIVISION
9 AND AFFECTED HOSPITALS, HEALTH-CARE PROVIDERS, AND THE
10 INSURANCE OMBUDSMAN OF A CARRIER'S FAILURE TO MEET THE NETWORK
11 ADEQUACY REQUIREMENTS OR THE PREMIUM RATE REQUIREMENTS IN
12 SECTION 10-16-1305;

13 (E) THE TIME FRAMES WITHIN WHICH THE PARTIES WILL BE GIVEN
14 THE OPPORTUNITY TO SUBMIT A COMPLAINT AND ANSWER AND ANY OTHER
15 NECESSARY PLEADINGS FOR THE HEARING;

16 (F) THE MANNER IN WHICH THE CARRIER, AFFECTED HEALTH-CARE
17 PROVIDERS, AFFECTED HOSPITALS, THE INSURANCE OMBUDSMAN, AND ANY
18 OTHER PERSON THE COMMISSIONER DETERMINES MAY BE AGGRIEVED BY
19 THE COMMISSIONER'S ACTION MAY PRESENT EVIDENCE, EXAMINE AND
20 CROSS-EXAMINE WITNESSES, AND OFFER ORAL AND WRITTEN ARGUMENTS
21 AT THE HEARING;

22 (G) THE PROCEDURES FOR KEEPING REQUESTED INFORMATION
23 CONFIDENTIAL AND FOR HANDLING CONFIDENTIAL INFORMATION; AND

24 (H) ANY OTHER MATTER THE COMMISSIONER DEEMS NECESSARY
25 FOR THE IMPLEMENTATION OF THE PUBLIC HEARINGS.

26 (III) THE COMMISSIONER MAY ISSUE PROCEDURAL ORDERS DURING
27 THE PUBLIC HEARING PROCESS TO FACILITATE THE EFFICIENT OPERATION

1 OF THE PUBLIC HEARING, INCLUDING ORDERING THE CONSOLIDATION OF
2 PROCEEDINGS INVOLVING THE SAME CARRIER, HOSPITALS, OR
3 HEALTH-CARE PROVIDERS IN COUNTIES IN THE SAME GEOGRAPHIC RATING
4 AREA AS ESTABLISHED BY THE COMMISSIONER PURSUANT TO SECTION
5 10-16-107 (5) AND THE LIMITATION OF DISCOVERY.

6 (7) Notwithstanding subsections (4) and (5) of this section, for a
7 hospital with a negotiated reimbursement rate that is ~~lower than~~ AT LEAST
8 ten percent ~~of~~ LESS THAN the statewide hospital median reimbursement
9 rate measured as a percentage of medicare for the 2021 plan year using
10 data from the Colorado all-payer health claims database described in
11 section 25.5-1-204, the commissioner shall set the reimbursement rate for
12 that hospital at no less than the greater of:

13 (8) A carrier or health-care provider may appeal a decision by the
14 commissioner made pursuant to subsection (4) of this section to the
15 ~~district court in the applicable jurisdiction~~ COLORADO COURT OF APPEALS.
16 The decision of the commissioner is a final agency action subject to
17 judicial review pursuant to section 24-4-106 ~~(6)~~ (11).

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