

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 24-0643.01 Kristen Forrestal x4217

SENATE BILL 24-080

SENATE SPONSORSHIP

Fields and Jaquez Lewis, Bridges, Buckner, Cutter, Exum, Ginal, Michaelson Jenet, Priola, Winter F.

HOUSE SPONSORSHIP

Young and Marvin, Amabile, Boesenecker, Brown, Daugherty, Epps, Garcia, Hamrick, Hernandez, Jodeh, Kipp, Lieder, Lindsay, Lukens, McCluskie, McLachlan, Rutinel, Sirota, Story, Titone, Valdez

Senate Committees

Health & Human Services
Appropriations

House Committees

Health & Human Services
Appropriations

HOUSE
3rd Reading Unamended
May 7, 2024

A BILL FOR AN ACT

101 **CONCERNING HEALTH INSURANCE CARRIER PRICE TRANSPARENCY**
102 **REQUIREMENTS, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

HOUSE
2nd Reading Unamended
May 6, 2024

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>.)

SENATE
3rd Reading Unamended
April 30, 2024

The bill requires health insurance carriers (carriers) to comply with federal price transparency laws and to make available an internet-based self-service tool that provides real-time responses to a covered person's questions concerning carrier prices that are based on cost-sharing information.

SENATE
Amended 2nd Reading
April 29, 2024

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.*

The bill also requires carriers to submit information required by federal pharmacy benefit and drug cost reporting laws to the commissioner of insurance. A carrier that violates the requirements of the bill engages in an unfair method of competition and an unfair or deceptive act or practice in the business of insurance.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-167 and
3 10-16-168 as follows:

4 **10-16-167. Carriers - health care - price transparency -**
5 **violation - rules - legislative declaration - definitions.**

6 (1) (a) **Legislative declaration.** THE GENERAL ASSEMBLY FINDS AND
7 DECLARES THAT:

8 (I) THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE
9 ACT", PUB.L. 111-148, WAS ENACTED ON MARCH 23, 2010, AND THE
10 FEDERAL "HEALTH CARE AND EDUCATION RECONCILIATION ACT OF
11 2010", PUB.L. 111-152, WAS ENACTED ON MARCH 30, 2010, AND THESE
12 ACTS ARE REFERRED TO COLLECTIVELY AS "PPACA";

13 (II) PPACA REORGANIZED, AMENDED, AND ADDED TO THE
14 PROVISIONS OF PART A OF TITLE XXVII OF THE FEDERAL "PUBLIC HEALTH
15 SERVICE ACT", PUB.L. 78-410, RELATING TO HEALTH COVERAGE
16 REQUIREMENTS FOR GROUP HEALTH PLANS AND HEALTH INSURANCE
17 ISSUERS IN THE GROUP AND INDIVIDUAL MARKETS;

18 (III) SECTION 2715A OF THE FEDERAL "PUBLIC HEALTH SERVICE
19 ACT", PUB.L. 78-410, PROVIDES THAT GROUP HEALTH PLANS AND HEALTH
20 INSURANCE ISSUERS OFFERING GROUP OR INDIVIDUAL HEALTH INSURANCE
21 COVERAGE MUST COMPLY WITH SECTION 1311 (e)(3) OF PPACA, WHICH
22 ADDRESSES TRANSPARENCY IN HEALTH COVERAGE AND IMPOSES CERTAIN
23 REPORTING AND DISCLOSURE REQUIREMENTS FOR HEALTH PLANS;

1 (IV) EFFECTIVE JANUARY 11, 2021, THE FEDERAL CENTERS FOR
2 MEDICARE AND MEDICAID SERVICES, OR "CMS", PUBLISHED THE FINAL
3 RULE TO IMPLEMENT PPACA, CODIFIED AT 45 CFR 147.210 TO 147.212;

4 (V) IN ITS SUMMARY OF THE FINAL RULE, CMS STATES THAT
5 REQUIRING PLANS TO DISCLOSE IN-NETWORK PROVIDER RATES,
6 HISTORICAL OUT-OF-NETWORK ALLOWED AMOUNTS AND THE ASSOCIATED
7 BILLED CHARGES, AND NEGOTIATED RATES FOR PRESCRIPTION DRUGS "CAN
8 HELP ENSURE THE ACCURATE AND TIMELY DISCLOSURE OF INFORMATION
9 APPROPRIATE TO SUPPORT AN EFFICIENT AND COMPETITIVE HEALTH CARE
10 MARKET"; AND

11 (VI) AS FORMER UNITED STATES PRESIDENT DONALD TRUMP'S
12 "EXECUTIVE ORDER ON IMPROVING PRICE AND QUALITY TRANSPARENCY
13 IN AMERICAN HEALTHCARE TO PUT PATIENTS FIRST" EXPLAINS: "TO
14 MAKE FULLY INFORMED DECISIONS ABOUT THEIR HEALTHCARE, PATIENTS
15 MUST KNOW THE PRICE AND QUALITY OF A GOOD OR SERVICE IN
16 ADVANCE." ADDITIONALLY, THE EXECUTIVE ORDER THEN NOTES THAT
17 "PATIENTS OFTEN LACK BOTH ACCESS TO USEFUL PRICE AND QUALITY
18 INFORMATION AND THE INCENTIVES TO FIND LOW-COST, HIGH-QUALITY
19 CARE." THE LACK OF THIS INFORMATION IS WIDELY UNDERSTOOD TO BE
20 ONE OF THE ROOT PROBLEMS CAUSING DYSFUNCTION WITHIN THE UNITED
21 STATES' HEALTH-CARE SYSTEM.

22 (b) THEREFORE, IN ORDER TO PROTECT COLORADO HEALTH-CARE
23 CONSUMERS, IT IS THE INTENT OF THE GENERAL ASSEMBLY TO REQUIRE
24 CARRIERS TO PROVIDE CONSUMER ACCESS TO ACCURATE AND ACCESSIBLE
25 HEALTH-CARE COVERAGE PRICE INFORMATION.

26 (2) **Definitions.** AS USED IN THIS SECTION:

27 (a) "CARRIER PRICE TRANSPARENCY LAWS" MEANS THE

1 REQUIREMENTS CODIFIED IN 42 U.S.C. SEC. 18031 (e)(3), AS AMENDED,
2 AND THE IMPLEMENTING RULES ADOPTED BY THE UNITED STATES
3 DEPARTMENT OF HEALTH AND HUMAN SERVICES.

4 (b) "FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES"
5 OR "CMS" MEANS THE CENTERS FOR MEDICARE AND MEDICAID SERVICES
6 IN THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

7 (c) "ITEMS AND SERVICES" OR "ITEMS OR SERVICES" MEANS "ITEMS
8 OR SERVICES" AS DEFINED IN 45 CFR 147.210 (a)(2)(xiii).

9 (d) "PHARMACY BENEFIT AND DRUG COST REPORTING LAWS"
10 MEANS THE REQUIREMENTS CODIFIED IN 26 U.S.C. SEC. 9825, AS
11 AMENDED.

12 (3) **Transparency - rules.** (a) BEGINNING JULY 1, 2024, A
13 CARRIER SHALL COMPLY WITH CARRIER PRICE TRANSPARENCY LAWS,
14 INCLUDING MAKING AVAILABLE AN INTERNET-BASED SELF-SERVICE TOOL
15 THAT PROVIDES REAL-TIME RESPONSES TO EACH INDIVIDUAL ENROLLED IN
16 A HEALTH BENEFIT PLAN WHO REQUESTS COST-SHARING INFORMATION. ==

17 ==
18 (b) THE COMMISSIONER MAY ADOPT RULES TO IMPLEMENT THIS
19 SUBSECTION (3) THAT ALIGN, TO THE EXTENT PRACTICABLE, WITH THE
20 CARRIER PRICE TRANSPARENCY LAWS AND ANY SUBSEQUENT GUIDANCE
21 FROM THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES.

22 (4) (a) EACH CARRIER SHALL MAKE PUBLICLY AVAILABLE, IN A
23 FORM AND MANNER DETERMINED BY THE COMMISSIONER, THREE
24 PRICE-TRANSPARENCY FILES. THE FILES MUST INCLUDE INFORMATION
25 REGARDING:

26 (I) BEGINNING JULY 1, 2025, AND EVERY SIX MONTHS
27 THEREAFTER, NEGOTIATED RATES FOR ALL COVERED ITEMS AND SERVICES

1 BETWEEN THE HEALTH BENEFIT PLAN OR CARRIER AND IN-NETWORK
2 PROVIDERS;

3 (II) BEGINNING JULY 1, 2025, AND EVERY SIX MONTHS
4 THEREAFTER, UNIQUE OUT-OF-NETWORK ALLOWED AMOUNTS AND BILLED
5 CHARGES FOR COVERED ITEMS AND SERVICES FURNISHED BY
6 OUT-OF-NETWORK PROVIDERS; AND

7 (III) NO EARLIER THAN TWELVE MONTHS AFTER THE DATE OF THE
8 FINALIZATION OF REQUIREMENTS AND TECHNICAL SPECIFICATIONS BY THE
9 UNITED STATES SECRETARY OF LABOR, THE UNITED STATES SECRETARY
10 OF HEALTH AND HUMAN SERVICES, AND THE UNITED STATES SECRETARY
11 OF THE TREASURY, IN-NETWORK NEGOTIATED RATES AND HISTORICAL NET
12 PRICES FOR ALL PRESCRIPTION DRUGS COVERED BY THE HEALTH BENEFIT
13 PLAN OR CARRIER.

14 (b) INFORMATION SUBMITTED BY HEALTH INSURERS AND
15 PHARMACY BENEFIT MANAGERS TO THE DIVISION IN ACCORDANCE WITH
16 SUBSECTION (4)(a) OF THIS SECTION IS SUBJECT TO PUBLIC INSPECTION
17 UNDER THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF
18 TITLE 24.

19 (c) ON OR BEFORE JANUARY 1, 2025, THE COMMISSIONER SHALL
20 CONDUCT A STAKEHOLDER ENGAGEMENT PROCESS THAT INCLUDES
21 REPRESENTATIVES FROM CARRIERS REGULATED IN THIS STATE THAT ARE
22 REQUIRED TO PRODUCE THE PRICE-TRANSPARENCY FILES TO CREATE A
23 STANDARDIZED TEMPLATE, INCLUDING THE FORMAT AND METHOD OF
24 SUBMISSION, FOR THE PRICE-TRANSPARENCY FILES. THE STANDARDIZED
25 TEMPLATE MUST NOT REQUIRE DATA THAT IS IN ADDITION TO WHAT IS
26 REQUIRED BY THE UNITED STATES SECRETARY OF LABOR, THE UNITED
27 STATES SECRETARY OF HEALTH AND HUMAN SERVICES, AND THE UNITED

1 STATES SECRETARY OF THE TREASURY. THE DATA AND FORMAT OF THE
2 SUBMISSION SHALL NOT BE MATERIALLY DIFFERENT FROM THE DATA THAT
3 CARRIERS ARE REQUIRED TO SUBMIT UNDER THE FEDERAL CARRIER PRICE
4 TRANSPARENCY LAWS. SUBMISSION OF COLORADO-SPECIFIC DATA SHALL
5 NOT BE CONSIDERED A MATERIAL DIFFERENCE.

6 (d) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT
7 THIS SUBSECTION (4).

8 (e) EACH CARRIER SHALL UPDATE THE PRICE-TRANSPARENCY FILES
9 AND INFORMATION REQUIRED BY SUBSECTION (4)(a) OF THIS SECTION
10 AT LEAST EVERY SIX MONTHS. EACH CARRIER SHALL CLEARLY INDICATE
11 THE DATE THAT THE FILES WERE MOST RECENTLY UPDATED.

12 =====
13 **10-16-168. Carriers - prescription drug coverage -**
14 **transparency - violation.** BEGINNING JULY 1, 2025, AND ON OR BEFORE
15 EACH JULY 1 THEREAFTER, EACH CARRIER SHALL SUBMIT TO THE
16 COMMISSIONER, IN THE SAME FORM AND MANNER AS SUBMITTED TO THE
17 UNITED STATES SECRETARY OF HEALTH AND HUMAN SERVICES,
18 INFORMATION REQUIRED BY FEDERAL PHARMACY BENEFIT AND DRUG COST
19 REPORTING LAWS.

20 =====
21 **SECTION 2. Appropriation.** (1) For the 2024-25 state fiscal
22 year, \$267,758 is appropriated to the department of regulatory agencies.
23 This appropriation is from the division of insurance cash fund created in
24 section 10-1-103 (3)(a)(I), C.R.S. To implement this act, the department
25 may use this appropriation as follows:

26 (a) \$94,808 for use by the division of insurance for personal
27 services, which amount is based on an assumption that the division will

1 require an additional 1.0 FTE;
2 (b) \$112,950 for use by the division of insurance for operating
3 expenses; and
4 (c) \$60,000 for the purchase of information technology services.
5 (2) For the 2024-25 state fiscal year, \$60,000 is appropriated to
6 the office of the governor for use by the office of information technology.
7 This appropriation is from reappropriated funds received from the
8 department of regulatory agencies under subsection (1)(c) of this section.
9 To implement this act, the office may use this appropriation to provide
10 information technology services for the department of regulatory
11 agencies.

12 **SECTION 3. Safety clause.** The general assembly finds,
13 determines, and declares that this act is necessary for the immediate
14 preservation of the public peace, health, or safety or for appropriations for
15 the support and maintenance of the departments of the state and state
16 institutions.