

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

REVISED

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

LLS NO. 24-1028.02 Kristen Forrestal x4217

HOUSE BILL 24-1258

HOUSE SPONSORSHIP

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A BILL FOR AN ACT

101 **CONCERNING CREDIT FOR THE OUT-OF-POCKET EXPENSES PAID BY A**
102 **COVERED PERSON WHEN A HEALTH INSURANCE CARRIER EXITS**
103 **THE MARKET.**

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>.)

For small group and individual health benefit plans, if an individual who is entitled to receive benefits or services under a health benefit plan has incurred any out-of-pocket expenses, including payments for a deductible or other coinsurance amount, under the health benefit plan during a plan year, and the individual's health insurance carrier exits

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.

SENATE
Amended 2nd Reading
April 17, 2024

HOUSE
3rd Reading Unamended
February 20, 2024

HOUSE
Amended 2nd Reading
February 16, 2024

the health insurance market and can no longer provide coverage to the individual, the bill requires the individual's new health insurance carrier to credit all of the out-of-pocket expenses paid by the individual in accordance with the original health benefit plan in the given plan year to the new health benefit plan if the individual enrolls in the new health benefit plan in the established special enrollment period.

The bill grants rule-making authority to the commissioner of insurance.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 10-16-105.9** as
3 follows:

4 **10-16-105.9. Health benefit plan - carrier insolvency - covered**
5 **persons - deductible amounts - rules - definition.** (1) AS USED IN THIS
6 SECTION:

7 (a) "OUT-OF-POCKET EXPENSES" MEANS EXPENSES PAID TOWARD
8 A HEALTH BENEFIT PLAN:

9 (I) DEDUCTIBLE FOR MEDICAL SERVICES AND PRESCRIPTION DRUGS
10 THAT WERE CREDITED UNDER THE COVERED PERSON'S HEALTH BENEFIT
11 PLAN; AND

12 (II) OUT-OF-POCKET MAXIMUM FOR MEDICAL SERVICES AND
13 PRESCRIPTION DRUGS THAT WERE CREDITED UNDER THE PERSON'S HEALTH
14 BENEFIT PLAN, INCLUDING ANY COINSURANCE AMOUNTS.

15 (b) "OUT-OF-POCKET EXPENSES" DOES NOT INCLUDE PREMIUM
16 PAYMENTS MADE FOR A HEALTH BENEFIT PLAN.

17 (2) FOR INDIVIDUAL HEALTH BENEFIT PLANS, IF A COVERED PERSON
18 HAS PAID ANY OUT-OF-POCKET EXPENSES FOR SERVICES COVERED BY A
19 HEALTH BENEFIT PLAN IN A GIVEN PLAN YEAR, AND THE CARRIER THAT
20 PROVIDES THE HEALTH BENEFIT PLAN TO THE COVERED PERSON EXITS THE
21 HEALTH INSURANCE MARKET AND CAN NO LONGER PROVIDE HEALTH

1 INSURANCE BENEFITS TO THAT PERSON DURING THE SAME PLAN YEAR, A
2 CARRIER OF A NEW HEALTH BENEFIT PLAN THAT COVERS THE PERSON
3 DURING THE SAME PLAN YEAR SHALL CREDIT ALL OF THE OUT-OF-POCKET
4 EXPENSES PAID BY THE COVERED PERSON TO THE NEW HEALTH BENEFIT
5 PLAN.

6 (3) IF A COVERED PERSON'S OUT-OF-POCKET EXPENSES CREDITED
7 TO THE NEW HEALTH BENEFIT PLAN IN ACCORDANCE WITH SUBSECTION (2)
8 OF THIS SECTION FOR COVERAGE UNDER THE ORIGINAL HEALTH BENEFIT
9 PLAN ARE GREATER THAN THE AMOUNT OF OUT-OF-POCKET EXPENSES
10 REQUIRED BY THE NEW HEALTH BENEFIT PLAN, THE NEW CARRIER IS NOT
11 REQUIRED TO APPLY THE AMOUNT IN EXCESS TO THE NEW HEALTH BENEFIT
12 PLAN.

13 (4) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT
14 THIS SECTION THAT INCLUDE PROTOCOLS FOR EACH CARRIER TO FOLLOW
15 WHEN CREDITING OUT-OF-POCKET EXPENSES PAID BY A COVERED PERSON
16 TO A NEW HEALTH BENEFIT PLAN AND PROTOCOLS FOR THE DIVISION TO
17 FOLLOW TO ENSURE THAT THE NECESSARY DATA TO DETERMINE THE
18 AMOUNT OF THE OUT-OF-POCKET EXPENSES CREDIT FOR EACH NEW
19 MEMBER IS DELIVERED TO EACH CARRIER IN A TIMELY AND ACCURATE
20 MANNER BY THE COMMISSIONER. THE COMMISSIONER SHALL COLLECT THE
21 NECESSARY DATA FROM THE CARRIERS FOR THE DIVISION'S
22 DETERMINATION OF THE AMOUNT OF THE OUT-OF-POCKET EXPENSE
23 CREDITS. THE PROTOCOLS MUST BE BASED ON THE OUT-OF-POCKET
24 MAXIMUM AMOUNTS, AS DESCRIBED IN SECTION 10-16-161, FROM THE
25 DIVISION. THE COMMISSIONER SHALL CONSULT WITH THE EXCHANGE TO
26 DEVELOP THE PROTOCOLS.

27 (5) THE NEW HEALTH BENEFIT PLAN IS REQUIRED ONLY TO CREDIT

1 OUT-OF-POCKET EXPENSES TOWARD THE DEDUCTIBLE AND THE
2 OUT-OF-POCKET MAXIMUM, WHICH ARE REPORTED BY THE PREVIOUS
3 HEALTH BENEFIT PLAN, THE HEALTH BENEFIT PLAN'S CONSERVATORSHIP,
4 OR THE DIVISION IN A TIME AND MANNER DETERMINED BY THE
5 COMMISSIONER.

6 (6) (a) THE NEW CARRIER MAY FILE A CLAIM FOR THE AMOUNT OF
7 THE CREDITED OUT-OF-POCKET EXPENSES AS A RESULT OF THIS SECTION
8 WITH THE ESTATE OF THE ORIGINAL HEALTH BENEFIT PLAN CARRIER.

9 (b) (I) A CARRIER MAY RECOUP, OVER A REASONABLE LENGTH OF
10 TIME, A SUM EQUAL TO THE AMOUNT OF OUT-OF-POCKET EXPENSES
11 CREDITED TO COVERED PERSONS, IN ACCORDANCE WITH THIS SECTION.
12 THE AMOUNT MUST BE REASONABLY CALCULATED TO RECOUP THESE
13 EXPENSES AND IS SUBJECT TO REVIEW BY THE COMMISSIONER. AN AMOUNT
14 RECOUPED IS NOT CONSIDERED A PREMIUM FOR ANY OTHER PURPOSE,
15 INCLUDING THE COMPUTATIONS OF GROSS PREMIUM TAX OR AN AGENT'S
16 COMMISSION.

17 (II) A CARRIER THAT IMPOSES A SURCHARGE TO RECOUP THE
18 AMOUNT OF OUT-OF-POCKET EXPENSES CREDITED PURSUANT TO THIS
19 SECTION MUST INCLUDE THE AMOUNT OF THE SURCHARGE AS PART OF THE
20 CARRIER'S RATE FILING PURSUANT TO SECTION 10-16-107 (1). THE
21 CARRIER MUST SHOW THE SURCHARGE IN THE RATE FILING AS A SEPARATE
22 COMPONENT OF THE RATE AND SHALL INCLUDE SUPPORTING
23 DOCUMENTATION.

24 (7) A CARRIER SHALL NOT FILE A CLAIM FOR THE AMOUNT OF THE
25 INCREASE IN CLAIMS LIABILITY DUE TO THIS SECTION WITH THE ESTATE OF
26 THE ORIGINAL HEALTH BENEFIT PLAN IF THE CARRIER HAS RECOUPED
27 COSTS FOR OUT-OF-POCKET EXPENSES CREDITED TO COVERED PERSONS IN

1 ACCORDANCE WITH SUBSECTION (6)(b) OF THIS SECTION.

2 (8) SUBJECT TO APPROVAL BY THE COMMISSIONER, A CARRIER IS
3 NOT REQUIRED TO CREDIT ALL OF THE OUT-OF-POCKET EXPENSES PAID BY
4 THE COVERED PERSON TO THE NEW HEALTH BENEFIT PLAN IN ACCORDANCE
5 WITH SUBSECTION (2) OF THIS SECTION IF DOING SO WOULD CAUSE THE
6 CARRIER TO BECOME INSOLVENT.

7 **SECTION 2. Act subject to petition - effective date -**
8 **applicability.** (1) This act takes effect January 1, 2025; except that, if a
9 referendum petition is filed pursuant to section 1 (3) of article V of the
10 state constitution against this act or an item, section, or part of this act
11 within the ninety-day period after final adjournment of the general
12 assembly, then the act, item, section, or part will not take effect unless
13 approved by the people at the general election to be held in November
14 2024 and, in such case, will take effect January 1, 2025, or on the date of
15 the official declaration of the vote thereon by the governor, whichever is
16 later.

17 (2) This act applies to health benefit plans issued or renewed on
18 or after the applicable effective date of this act.