

## CHAPTER 146

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**INSURANCE**

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**HOUSE BILL 94-1094**

BY REPRESENTATIVE Pankey;  
also SENATOR Mutzebaugh.

**AN ACT****CONCERNING ADOPTION OF THE "COLORADO CATASTROPHIC HEALTH INSURANCE COVERAGE ACT".**

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

**SECTION 1.** Part 1 of article 16 of title 10, Colorado Revised Statutes, 1987 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

**10-16-114. Short title.** SECTIONS 10-16-114 TO 10-16-117 SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO CATASTROPHIC HEALTH INSURANCE COVERAGE ACT".

**10-16-115. Definitions.** AS USED IN SECTIONS 10-16-114 TO 10-16-117, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "CATASTROPHIC HEALTH INSURANCE" MEANS INSURANCE MEETING THE REQUIREMENTS SET FORTH IN SECTION 10-16-116 (2).

(2) "DEPENDENT CHILD" MEANS AN ADOPTED OR NATURAL CHILD OF AN EMPLOYEE WHO IS:

(a) UNDER TWENTY-ONE YEARS OF AGE;

(b) LEGALLY ENTITLED TO OR THE SUBJECT OF A COURT ORDER FOR THE PROVISION OF PROPER OR NECESSARY SUBSISTENCE, EDUCATION, MEDICAL CARE, OR ANY OTHER CARE NECESSARY FOR THE INDIVIDUAL'S HEALTH, GUIDANCE, OR WELL-BEING AND WHO IS NOT OTHERWISE EMANCIPATED, SELF-SUPPORTING, MARRIED, OR A MEMBER

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

OF THE ARMED FORCES OF THE UNITED STATES; OR

(c) SO MENTALLY OR PHYSICALLY INCAPACITATED THAT THE INDIVIDUAL CANNOT PROVIDE FOR HIMSELF OR HERSELF.

(3) "EMPLOYEE" MEANS AN INDIVIDUAL WHO RESIDES IN THIS STATE AND IS EMPLOYED BY AN EMPLOYER.

(4) "EMPLOYER" MEANS A PERSON OR ENTITY EMPLOYING ONE OR MORE INDIVIDUALS IN THIS STATE, EXCLUDING THE FEDERAL GOVERNMENT OR BUSINESSES PROVIDING HEALTH INSURANCE COVERAGE THROUGH A SELF-INSURED PLAN WHICH HAS BENEFITS EQUAL TO OR GREATER THAN A CATASTROPHIC HEALTH INSURANCE PLAN SET FORTH IN SECTION 10-16-116.

**10-16-116. Catastrophic health insurance - coverage.** (1) ON AND AFTER THE EFFECTIVE DATE OF SECTIONS 10-16-114 TO 10-16-117, ANY EMPLOYER WHO DOES NOT OFFER OTHER HEALTH INSURANCE MAY OFFER CATASTROPHIC HEALTH INSURANCE TO ITS EMPLOYEES PURSUANT TO SECTIONS 10-16-114 TO 10-16-117. EMPLOYEES WHO ELECT SUCH COVERAGE SHALL PAY THE COST OF THE INSURANCE PURSUANT TO SECTION 10-16-117.

(2) EACH CATASTROPHIC HEALTH INSURANCE POLICY IS REQUIRED TO:

(a) BE IN THE NAME OF THE INSURED EMPLOYEE;

(b) HAVE A MINIMUM DEDUCTIBLE OF TWO THOUSAND FIVE HUNDRED DOLLARS;

(c) OFFER COVERAGE FOR THE SPOUSE AND DEPENDENT CHILDREN OF THE INSURED EMPLOYEE;

(d) COVER ALL EMPLOYEES WHO ELECT COVERAGE AND ARE NOT OTHERWISE COVERED BY MEDICARE OR ANOTHER EMPLOYER'S CATASTROPHIC HEALTH INSURANCE POLICY;

(e) COVER AN EMPLOYEE WHO WOULD BE ELIGIBLE EXCEPT FOR UNDERWRITING CONSIDERATIONS THAT RELATE TO HEALTH, IF THE EMPLOYEE WAS CONTINUOUSLY COVERED FOR ONE YEAR OR MORE UNDER ANOTHER HEALTH INSURANCE POLICY;

(f) BE PRICED PURSUANT TO A MODIFIED FORM OF COMMUNITY RATING. THE INFORMATION TO BE TAKEN INTO ACCOUNT BY THE INSURER DURING THE UNDERWRITING PROCESS IS LIMITED TO THE APPLICANT'S AGE, SEX, HEALTH STATUS, AND THE GEOGRAPHICAL AREA IN WHICH THE APPLICANT LIVES.

(g) PROVIDE A CLEARLY WRITTEN CONTRACT OF COVERAGE INCLUDING A LIST OF PROCEDURES COVERED UNDER THE POLICY. THIS LIST WILL BE UPDATED ANNUALLY AND SENT TO THE INSURED.

(h) INCLUDE A PORTABILITY CLAUSE WHICH PROVIDES THAT:

(I) WHEN AN EMPLOYEE LEAVES EMPLOYMENT FOR ANY REASON THE EMPLOYEE, THE EMPLOYEE'S SPOUSE, AND THE EMPLOYEE'S DEPENDENT CHILDREN MAY EACH

ELECT TO CONVERT COVERAGE TO AN INDIVIDUAL POLICY IF THEY REQUEST TO DO SO WITHIN THIRTY-ONE DAYS AFTER THE DATE COVERAGE IS LOST;

(II) AN EMPLOYEE OR THE SPOUSE OR COVERED DEPENDENTS OF AN EMPLOYEE WHO ELECT TO CONVERT COVERAGE SHALL PAY ALL PREMIUMS AFTER THE DATE OF THE CONVERSION, WHICH PREMIUMS MAY NOT EXCEED ONE HUNDRED THIRTY-FIVE PERCENT OF PREMIUM AMOUNTS THAT WOULD HAVE BEEN CHARGED WITH RESPECT TO SUCH PERSON HAD HE OR SHE BEEN COVERED AS AN EMPLOYEE UNDER THE PLAN DURING THE SAME PERIOD. IF THE PLAN UNDER WHICH SUCH PERSON WAS COVERED IS CANCELLED OR NOT RENEWED, THE PREMIUM RATES SHALL BE BASED ON THE RATE WHICH WOULD HAVE BEEN CHARGED TO SUCH PERSON HAD THE PLAN CONTINUED IN FORCE AS DETERMINED BY THE INSURER IN ACCORDANCE WITH STANDARD ACTUARIAL PRINCIPLES.

(III) BENEFITS MAY NOT BE LESS THAN THOSE PROVIDED UNDER THE POLICY PRIOR TO THE DATE OF CONVERSION;

(IV) THE INSURER MAY APPLY AGAINST THE BENEFIT LIMITS OF THE CONVERSION POLICY ANY BENEFITS PAID PRIOR TO THE DATE OF CONVERSION, IF THE INSURER CREDITS THE INSURED WITH ANY WAITING PERIOD OR DEDUCTIBLE WHICH WAS CREDITED UNDER THE POLICY PRIOR TO THE DATE OF CONVERSION; AND

(V) UPON THE DEATH OF THE INSURED, ONE OF THE SURVIVING DEPENDENTS OF THE INSURED MAY CONVERT THE POLICY TO AN INDIVIDUAL POLICY.

**10-16-117. Premium payments - pre-tax - election - reporting requirements.**

(1) WHEN AN EMPLOYEE HAS PURCHASED CATASTROPHIC HEALTH INSURANCE PURSUANT TO SECTIONS 10-16-114 TO 10-16-117, THE EMPLOYEE IS RESPONSIBLE FOR PAYING THE ENTIRE COST OF THE INSURANCE; HOWEVER, THE EMPLOYER, AT ITS OPTION, MAY PAY ALL OR A PART OF SUCH COST.

(2) AN EMPLOYEE SHALL ELECT TO PURCHASE CATASTROPHIC HEALTH INSURANCE BY SIGNING A WRITTEN ELECTION. SUCH ELECTION SHALL BE IN THE FORM PRESCRIBED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE AND SHALL BE SIGNED PRIOR TO THE DATE THE EMPLOYER WITHHOLDS THE FIRST CONTRIBUTION.

(3) AN EMPLOYER SHALL WITHHOLD THE PREMIUM PAYMENTS FOR CATASTROPHIC HEALTH INSURANCE FROM THE WAGES OF AN EMPLOYEE WHO HAS ELECTED COVERAGE AND SHALL REMIT THE PREMIUMS TO THE INSURING ENTITY ON THE EMPLOYEE'S BEHALF. ALL SUCH PREMIUMS COLLECTED BY AN EMPLOYER ARE WITHHELD FROM THE EMPLOYEE'S WAGES ON A PRE-TAX BASIS PURSUANT TO SECTION 39-22-104.5, C.R.S.

(4) AN EMPLOYER WITHHOLDING PREMIUM PAYMENTS FROM AN EMPLOYEE'S WAGES PURSUANT TO THIS SECTION SHALL REPORT THE AMOUNT WITHHELD TO THE DEPARTMENT OF REVENUE, PURSUANT TO RULES PROMULGATED BY SUCH DEPARTMENT.

**SECTION 2.** Part 1 of article 22 of title 39, Colorado Revised Statutes, 1982 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION

to read:

**39-22-104.5. Pre-tax payments - catastrophic health insurance.** FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 1994, AMOUNTS WITHHELD FROM AN INDIVIDUAL'S WAGES THAT ARE USED TO PAY FOR CATASTROPHIC HEALTH INSURANCE PURSUANT TO AND WITHIN THE LIMITATIONS PRESCRIBED BY SECTION 10-16-117, C.R.S., ARE EXCLUDED FROM THE INDIVIDUAL'S FEDERAL TAXABLE INCOME FOR PURPOSES OF THE STATE INCOME TAX IMPOSED BY SECTION 39-22-104.

**SECTION 3. Effective date.** This act shall take effect January 1, 1995.

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

Approved: April 20, 1994