CHAPTER 111

INSURANCE

SENATE BILL 99-141

BY SENATORS Pascoe, Evans, Feeley, Reeves, Wham, Chlouber, Dyer, Epps, Hernandez, Linkhart, Martinez, Matsunaka, Nichol, Phillips, Powers, Rupert, Tanner, Teck, Thiebaut, and Wattenberg.
also REPRESENTATIVES Tochtrop, Alexander, Bacon, Chavez, Clarke, Coleman, Dean, Gagliardi, Grossman, Hagedorn, Hefley, Keller, Leyba, Mace, McElhany, Miller, Morrison, Paschall, Ragsdale, Scott, Takis, Tapia, Tate, Tupa, Veiga, Vigil, S. Williams, Windels, and Witwer.

AN ACT

CONCERNING TREATMENT OF INSUREDS BY HEALTH CARE PROVIDERS, AND, IN CONNECTION THEREWITH, ALLOWING SPECIALISTS TO HAVE A STANDING REFERRAL FOR TREATMENT OF AN INSURED AND REQUIRING PROVIDERS TO DISCLOSE THAT THE INSURED MAY SEEK A SECOND OPINION AFTER BENEFITS HAVE BEEN DENIED.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that efficient and easy access to necessary health care coverage is very important to residents of Colorado. Coloradans seeking the care of a health care provider are not always informed of the availability of second opinions. Therefore, Coloradans should be informed about the availability of second medical opinions.

(2) The general assembly further finds and declares that Colorado residents should be allowed to access the appropriate specialist or specialized treatment center without multiple telephone calls and office visits that are not productive for the patient or the health care provider. Carriers and entities that contract with carriers should facilitate patient care to save the patient time and effort and to save the carriers and entities that contract with carriers unnecessary expenses. Therefore, the general assembly determines that the people of Colorado would be better served if carriers and entities that contract with carriers provide for standing referrals to specialists for covered persons for a period of up to one year, or longer if the health benefit plan provides for such.

SECTION 2. 10-16-705 (14), Colorado Revised Statutes, is amended, and the said 10-16-705 is further amended BY THE ADDITION OF THE FOLLOWING

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

NEW SUBSECTIONS, to read:

10-16-705. Requirements for carriers and participating providers. (9.5) IF THE HEALTH BENEFIT PLAN PROVIDES COVERAGE FOR A SECOND OPINION, THE CARRIER AND ANY ENTITY THAT CONTRACTS WITH THE CARRIER SHALL DISCLOSE THE AVAILABILITY OF THE SECOND OPINION ALONG WITH THE HEALTH BENEFIT DESCRIPTION FORM.

(11.5) A CARRIER OR ENTITY THAT CONTRACTS WITH THE CARRIER SHALL NOT PENALIZE A PRIMARY CARE PROVIDER WHO MAKES A STANDING REFERRAL OF A COVERED PERSON TO A SPECIALIST, NOR SHALL THE SPECIALIST TREATING THE COVERED PERSON BE PENALIZED, WITH ACTIONS THAT INCLUDE BUT ARE NOT LIMITED TO DISINCENTIVES OR DISAFFILIATION, EXCEPT FOR VIOLATIONS OF SECTION 10-1-127, C.R.S.

(14) Every contract between a carrier OR ENTITY THAT CONTRACTS WITH A CARRIER and a participating provider for a managed care plan that requires preauthorization for particular services, treatments, or procedures shall include:

(a) A provision that clearly states that the sole responsibility for obtaining any necessary preauthorization rests with the participating provider that recommends or orders said services, treatments, or procedures, not with the covered person; AND

(b) A PROVISION THAT ALLOWS A COVERED PERSON TO RECEIVE A STANDING REFERRAL, AS DEFINED IN SECTION 10-16-102 (43.5), FOR MEDICALLY NECESSARY TREATMENT, TO A SPECIALIST OR SPECIALIZED TREATMENT CENTER PARTICIPATING IN THE CARRIER'S NETWORK OR PARTICIPATING IN A SUBDIVISION OR SUBGROUPING OF THE CARRIER'S NETWORK IF THE SUBDIVISION OR SUBGROUPING DEMONSTRATES NETWORK ADEQUACY PURSUANT TO SECTION 10-16-704. THE PRIMARY CARE PROVIDER FOR THE COVERED PERSON, IN CONSULTATION WITH THE SPECIALIST AND COVERED PERSON, SHALL DETERMINE THAT THE COVERED PERSON NEEDS ONGOING CARE FROM THE SPECIALIST IN ORDER TO MAKE THE STANDING REFERRAL. A TIME PERIOD FOR THE STANDING REFERRAL OF UP TO ONE YEAR, OR A LONGER PERIOD OF TIME IF AUTHORIZED BY THE CARRIER OR ANY ENTITY THAT CONTRACTS WITH THE CARRIER, SHALL BE DETERMINED BY THE PRIMARY CARE PROVIDER IN CONSULTATION WITH THE SPECIALIST OR SPECIALIZED TREATMENT CENTER. THE SPECIALIST OR SPECIALIZED TREATMENT CENTER SHALL REFER THE COVERED PERSON BACK TO THE PRIMARY CARE PROVIDER FOR PRIMARY CARE. TO BE REIMBURSED BY THE CARRIER OR ENTITY CONTRACTING WITH A CARRIER, TREATMENT PROVIDED BY THE SPECIALIST SHALL BE FOR A COVERED PERSON AND MUST COMPLY WITH PROVISIONS CONTAINED IN THE COVERED PERSON'S CERTIFICATE OR POLICY. THE PRIMARY CARE PHYSICIAN SHALL RECORD THE REASON, DIAGNOSIS, OR TREATMENT PLAN NECESSITATING THE STANDING REFERRAL.

SECTION 3. 10-16-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

10-16-102. Definitions. As used in this article, unless the context otherwise requires:

(43.5) "STANDING REFERRAL" MEANS A REFERRAL BY THE COVERED PERSON'S

PRIMARY CARE PROVIDER TO A SPECIALIST OR SPECIALIZED TREATMENT CENTER PARTICIPATING IN THE CARRIER'S NETWORK FOR ONGOING TREATMENT OF A COVERED PERSON.

SECTION 4. 10-16-113 (3), Colorado Revised Statutes, is amended to read:

10-16-113. Procedure for denial of benefits. (3) All denials of requests for reimbursement for medical treatment, STANDING REFERRALS, or other benefits on the grounds that such treatment or covered benefit is not medically necessary, appropriate, effective, or efficient shall include an explanation of the specific medical basis for the denial and shall advise the covered person of the right to appeal such decision.

SECTION 5. 10-16-107 (3) (b) (II) (A), Colorado Revised Statutes, is amended to read:

10-16-107. Rate regulation - approval of policy forms - benefit certificates - evidences of coverage - loss ratio guarantees - disclosures on treatment of intractable pain. (3) (b) An evidence of coverage shall contain:

(II) A clear and complete statement, if a contract, or a reasonably complete summary, if a certificate, of:

(A) The health care services and the insurance or other benefits, if any, to which the enrollee is entitled under the health care plan, INCLUDING THE ABILITY TO OBTAIN A SECOND OPINION FOR PROPOSED TREATMENT BY THE HEALTH CARE PROVIDER, IF THE HEALTH BENEFIT PLAN PROVIDES SUCH COVERAGE;

SECTION 6. Effective date - applicability. This act shall take effect July 1, 1999, and shall apply to health benefit policies and certificates newly issued or renewed on or after said date.

SECTION 7. 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 15, 1999