CHAPTER 281

INSURANCE

HOUSE BILL 01-1319

BY REPRESENTATIVE(S) Marshall, Saliman, Bacon, Borodkin, Boyd, Cloer, Coleman, Daniel, Fairbank, Garcia, Groff, Hodge, Jahn, Jameson, Kester, Larson, Lawrence, Mace, Madden, Miller, Paschall, Plant, Ragsdale, Romanoff, Sanchez, Tapia, Tochtrop, Veiga, Vigil, and Williams S.;
also SENATOR(S) Takis, Reeves, Fitz-Gerald, Gordon, Hanna, Hernandez, Matsunaka, Pascoe, Tate, Thiebaut, Tupa, and Windels.

AN ACT

CONCERNING HEALTH INSURANCE FOR PERSONS IDENTIFIED AS HIGH RISK, AND, IN CONNECTION THEREWITH, CODIFYING THE NAME OF THE EXISTING STATE PROGRAM FOR PROVIDING COVERAGE TO SUCH PERSONS AS "COVERCOLORADO", CLARIFYING ELIGIBILITY FOR THE PROGRAM, ALLOWING HEALTH CARE COVERAGE OF DEPENDENTS IN THE PROGRAM, AND CREATING AN ASSESSMENT TO BE PAID BY HEALTH BENEFIT PLAN CARRIERS AUTHORIZED TO CONDUCT BUSINESS IN COLORADO.

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

SECTION 1. 10-8-501, Colorado Revised Statutes, is amended to read:

10-8-501. Short title. This part 5 shall be known and may be cited as the "Colorado ~~Uninsurable~~ HIGH RISK Health Insurance ~~Plan~~ Act". THE NAME OF THE PROGRAM CREATED BY THIS PART 5 SHALL BE "COVERCOLORADO".

SECTION 2. 10-8-502, Colorado Revised Statutes, is amended to read:

10-8-502. Legislative declaration. The general assembly hereby declares that the purpose of this part 5 is to provide access to health insurance for those Colorado residents who are now termed "~~uninsurable~~ HIGH RISK" because they are unable to obtain health insurance or unable to obtain health insurance except at prohibitive rates or with restrictive exclusions, INCLUDING THOSE WHO ARE FEDERALLY ELIGIBLE INDIVIDUALS UNDER THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", P.L. 104-191.

SECTION 3. 10-8-503 (2), (3), (5), (11), (16), and (17), Colorado Revised Statutes, are amended, and the said 10-8-503 is further amended BY THE

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

ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

10-8-503. Definitions. As used in this part 5, unless the context otherwise requires:

(2) "Benefit plan" means the coverage of the health insurance to be offered under the ~~plan~~ PROGRAM to eligible persons.

(3) "Board" means the board of directors of the ~~Colorado uninsurable health insurance plan~~ COVERCOLORADO PROGRAM.

(5) "Eligible individual" means ONE OF THE FOLLOWING:

(a) A resident of this state who meets the eligibility requirements ~~established in this part 5, whether or not such resident is legally responsible for the payment of medical expenses incurred on such resident's behalf.~~ SET FORTH IN SECTION 10-8-513; OR

(b) AN INDIVIDUAL WHO MEETS THE ELIGIBILITY REQUIREMENTS SET FORTH IN SECTION 10-8-513.5.

(6.8) "GROUP HEALTH PLAN" SHALL HAVE THE SAME MEANING AS "GROUP PLAN" AS SET FORTH IN SECTION 10-16-105.5 (1) (a).

(10.5) "INSURER" MEANS ANY ENTITY THAT PROVIDES GROUP OR INDIVIDUAL HEALTH BENEFIT PLANS, AS DEFINED IN SECTION 10-16-102 (21), SUBJECT TO STATE INSURANCE REGULATION IN THIS STATE, AS WELL AS ANY ENTITY THAT DIRECTLY OR INDIRECTLY PROVIDES STOP-LOSS OR EXCESS LOSS INSURANCE TO A SELF-INSURED GROUP HEALTH PLAN INCLUDING A PROPERTY AND CASUALTY INSURANCE COMPANY.

(11) ~~"Insured" means an eligible individual who has been accepted into the plan and who is receiving health coverage under the plan.~~

(16) ~~"Plan" means the Colorado uninsurable health insurance plan created by this part 5.~~

(16.5) "PARTICIPANT" MEANS AN ELIGIBLE INDIVIDUAL OR ELIGIBLE DEPENDENT WHO HAS BEEN ACCEPTED INTO THE PROGRAM AND WHO IS RECEIVING HEALTH COVERAGE UNDER THE PROGRAM.

(17) "Plan of operation" means the plan to create and operate the ~~Colorado uninsurable health insurance plan~~ PROGRAM, including bylaws and operating rules that are adopted by the board pursuant to this part 5.

(17.3) "PROGRAM" OR "COVERCOLORADO" MEANS COVERCOLORADO AND ITS ADMINISTRATION AND IMPLEMENTATION OF THE HEALTH BENEFIT PLANS PERMITTED UNDER THIS PART 5.

SECTION 4. 10-8-504, Colorado Revised Statutes, is amended to read:

10-8-504. Program - operation. There is hereby created a nonprofit

unincorporated public entity known as ~~the Colorado uninsurable health insurance plan~~ COVERCOLORADO. The operation of ~~such plan~~ THE PROGRAM shall be governed by the board of directors of ~~the Colorado uninsurable health insurance plan~~ COVERCOLORADO created pursuant to section 10-8-505. ~~The Colorado uninsurable health insurance plan~~ COVERCOLORADO is an instrumentality of the state; except that the debts and liabilities of the ~~plan~~ PROGRAM shall not constitute debts and liabilities of the state, and neither the ~~plan~~ PROGRAM nor the board shall be an agency of state government.

SECTION 5. 10-8-505 (1), (2), and (3), Colorado Revised Statutes, are amended to read:

10-8-505. Board of directors. (1) There is hereby created the board of directors of ~~the Colorado uninsurable health insurance plan~~ COVERCOLORADO, consisting of seven members.

(2) (a) ~~Six~~ SEVEN board members shall be appointed by the governor with the consent of the senate. These members shall serve for terms of four years; except that, of those members initially appointed, two shall serve for terms of two years, two shall serve for terms of three years, and two shall serve for terms of four years. The governor shall appoint a qualified person to fill any vacancy on the board for the remainder of any unexpired term. These board members shall be appointed as follows: ~~Three~~ FOUR shall be representatives of carriers, one of which shall be a representative of a health maintenance organization, ~~and~~ one of which shall be a representative of a sickness and accident insurance carrier, AND ONE OF WHICH SHALL BE A REPRESENTATIVE OF A STOP-LOSS OR EXCESS LOSS INSURANCE CARRIER; one shall be a member who is a medical professional who specializes in chronic disease; and two shall be members from among individuals ~~eligible to be~~ WHO CURRENTLY ARE insured OR WHO HAVE BEEN INSURED under the ~~plan~~ PROGRAM as defined in this part 5 and who are not associated with the medical profession, any hospital, or any carrier.

(b) ~~One member of the board shall be a member of the general assembly who shall serve for a term of two years. The initial appointee shall be a member of the senate appointed by the president of the senate, the next appointee shall be a member of the house of representatives appointed by the speaker of the house of representatives, and thereafter such appointment shall rotate in like manner between the senate and the house of representatives.~~

(3) The commissioner or his OR HER designee AND A MEMBER OF THE GENERAL ASSEMBLY shall serve as ~~an~~ ex officio nonvoting ~~member~~ MEMBERS of the board. THE INITIAL APPOINTEE OF THE GENERAL ASSEMBLY SHALL BE A MEMBER OF THE SENATE APPOINTED BY THE PRESIDENT OF THE SENATE, THE NEXT APPOINTEE SHALL BE A MEMBER OF THE HOUSE OF REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THEREAFTER SUCH APPOINTMENT SHALL ROTATE IN LIKE MANNER BETWEEN THE SENATE AND THE HOUSE OF REPRESENTATIVES.

SECTION 6. 10-8-506 (1), Colorado Revised Statutes, is amended to read:

10-8-506. Board - powers and duties. (1) The board shall be the governing

body of the ~~plan~~ PROGRAM and shall have all powers necessary to implement the provisions of this part 5. In addition, the board shall have the specific authority to:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this part 5 including contracts with appropriate administrative staff, consultants, and legal counsel. In addition, the board shall have the authority, with the approval of the commissioner, to enter into contracts with other states with similar plans for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions. No contract entered into pursuant to this paragraph (a) shall be subject to the provisions of article 103 of title 24, C.R.S.

(b) Sue or be sued, including taking any legal actions as necessary or proper on behalf of the ~~plan~~ PROGRAM;

(c) Take such legal action as necessary to avoid the payment of improper claims against the ~~plan~~ PROGRAM or to defend the coverage provided by or through the ~~plan~~ PROGRAM;

(d) Establish appropriate rates, rate schedules, rate adjustments, expense allowances, agent referral fees, claim reserve formulas, stop-loss ratios, means tests, and any other actuarial functions appropriate to the operation of the ~~plan~~ PROGRAM. Rates and rate schedules may be adjusted by the board for appropriate risk factors such as age and area variation in claim costs, and the board shall take into consideration appropriate risk factors in accordance with established actuarial underwriting practices. Claim reserves shall be based upon accepted actuarial practices.

(e) Establish ~~an~~ ONE OR MORE appropriate HEALTH benefit plan ~~design~~ DESIGNS with cost-containment controls, which ~~shall~~ MAY include but not be limited to preadmission review, case management, utilization reviews, exclusions or limitations with respect to treatment and services including capitated managed care for certain ~~insureds~~ PARTICIPANTS, and ~~insured~~ PARTICIPANT deductibles. The presence, the nature, or the conduct of any such cost containment controls may not be the basis for any civil liability in any legal action whether alleging personal injury or otherwise, unless injury results from willful and wanton misconduct.

(e.5) Establish such procedures and standards for the subsidization of premiums, deductibles, and other policy expenses of qualified ~~insureds~~ PARTICIPANTS as may be appropriate to accomplish the purposes of this part 5. For the purposes of this subsidization program, the board may request the submittal of such documentation by eligible individuals as it deems necessary. ~~including the submittal of Colorado state income tax returns.~~

(f) Oversee the issuance of policies of insurance and certificates or evidences of coverage in accordance with the requirements of this part 5;

(g) Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the ~~plan~~ PROGRAM, policy development, and other contract design and in any other function within the authority of the ~~plan~~ PROGRAM;

(g.5) Develop a list of medical or health conditions the existence or history of which PRESUMPTIVELY makes an individual eligible for participation in the ~~plan~~ PROGRAM without first requiring application to a carrier for health coverage;

(h) (Deleted by amendment, L. 92, p. 1504, § 4, effective April 16, 1992.)

(i) Borrow money to effect the purposes of this part 5. Any notes or other evidence of indebtedness of the ~~plan~~ PROGRAM not in default shall be legal investments for carriers and may be carried as admitted assets.

(j) Establish conditions and procedures for reinsuring risks under this part 5;

(k) (Deleted by amendment, L. 97, p. 615, § 3, effective July 1, 1997.)

(l) ASSESS SPECIAL FEES AGAINST INSURERS FOR THE CONTINUOUS OPERATION OF THE PROGRAM, AS PROVIDED IN SECTION 10-8-530 (1.5);

(m) ESTABLISH PROCEDURES FOR THE REASONABLE ADVANCE NOTICE TO INTERESTED PARTIES OF THE AGENDA FOR MEETINGS OF THE BOARD; AND

(n) ACCEPT AND EXPEND GIFTS, GRANTS, AND DONATIONS FOR OPERATION OF THE PROGRAM.

SECTION 7. 10-8-507 (1) (a), Colorado Revised Statutes, is amended to read:

10-8-507. Plan of operation - purpose - approval. (1) (a) The board shall submit a proposed plan of operation to the commissioner, which plan shall describe the operation of ~~the Colorado uninsurable health insurance plan~~ COVERCOLORADO, including provisions for bylaws and operating procedures for the board.

SECTION 8. 10-8-508 (1) (a), (1) (c), (1) (d), and (2), Colorado Revised Statutes, are amended to read:

10-8-508. Plan of operation - contents. (1) The plan of operation described in section 10-8-507 shall, at a minimum, contain the following elements:

(a) Procedures for handling and accounting for the assets and moneys of the ~~plan~~ PROGRAM, including records of all financial transactions and an annual fiscal report to the commissioner;

(c) Procedures to establish and maintain public awareness of the ~~plan~~ PROGRAM, including its eligibility requirements and enrollment procedures;

(d) Procedures to ensure compliance with the notification requirement concerning availability of the ~~plan~~ PROGRAM pursuant to section 10-8-521;

(2) All applicants and participants reporting any grievance pursuant to paragraph (f) of subsection (1) of this section shall exhaust all administrative remedies as set forth by the board before any such grievance may be the basis for legal action. The venue for any legal action involving the ~~plan~~ PROGRAM shall be the city and county of Denver. Nothing in this subsection (2) shall prohibit the board from requiring

binding arbitration for the final adjudication of any grievance.

SECTION 9. 10-8-509 (1) and (2), Colorado Revised Statutes, are amended to read:

10-8-509. Administering carrier. (1) The administering carrier shall perform all administrative, eligibility, and claims payment functions relating to the ~~plan~~ PROGRAM, including:

(a) Establishing a billing procedure for collection of premiums from ~~insureds~~ PARTICIPANTS. Billings shall be made on a periodic basis as determined by the board, which shall not be more frequent than a monthly billing.

(b) Assuring timely payment of benefits to ~~insureds~~ PARTICIPANTS, including:

(I) Making available information relating to the proper manner of submitting a claim for benefits to the ~~plan~~ PROGRAM and providing forms upon which submissions shall be made;

(II) Evaluating the eligibility of each claim for payment under the APPLICABLE HEALTH BENEFIT plan and administering each claim consistent with the standards of the industry and pursuant to guidelines established by the board;

(III) Notifying each claimant within thirty days after receiving a properly completed and executed proof of claim whether the claim is accepted, rejected, or compromised;

(IV) Ensuring that each accepted or compromised claim is paid within forty-five days of its acceptance or compromise.

(c) Submitting regular reports to the board regarding the operation of the ~~plan~~ PROGRAM. The frequency, content, and form of the reports shall be as determined by the board.

(d) Paying claims expenses from the premium payments received from or on behalf of ~~insureds~~ PARTICIPANTS. If the payments for claims expenses exceed the portion of premiums allocated by the board for payment of claims expenses, the board shall provide for additional funds for payment of claims expenses.

(e) Determining net written and earned premiums, the expense of administration, and the paid and incurred losses for each year and reporting such information to the board and the commissioner in a form and manner prescribed by the commissioner.

(f) Accepting payments of premiums from ~~insureds~~ PARTICIPANTS.

(g) Repealed.

(2) The board shall establish its own competitive bidding process to select a carrier or third party administrator to serve as the administering carrier and to select one or more vendors to provide services that may be necessary to administer the ~~plan~~ PROGRAM. The board shall evaluate bids submitted based on the criteria it

establishes and shall not be subject to the provisions of article 103 of title 24, C.R.S., in making such selections.

SECTION 10. 10-8-510, Colorado Revised Statutes, is amended to read:

10-8-510. Program - examination - financial report. (1) Not later than July 1, 1991, and July 1 of each succeeding year, the board shall submit an audited financial report for the ~~plan~~ PROGRAM for the preceding calendar year to the commissioner in a form provided or prescribed by the commissioner.

(2) The financial status of the ~~plan~~ PROGRAM shall be subject to examination by the commissioner or the commissioner's designee. Such examinations shall be conducted at least once every five years.

SECTION 11. 10-8-512 (1) and (3), Colorado Revised Statutes, are amended to read:

10-8-512. Premiums - standard risk rate. (1) Premiums charged for the ~~policies issued~~ HEALTH BENEFIT PLANS OFFERED by the ~~plan~~ PROGRAM shall be based on the standard risk rate calculated pursuant to subsection (2) of this section and shall not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable actual expenses of providing the benefits. Rates and schedules may be adjusted by the board for appropriate risk factors in accordance with established actuarial underwriting practices.

(3) (a) Premium rates for coverage under the ~~plan~~ PROGRAM shall not exceed one hundred fifty percent of the standard risk rate established pursuant to subsection (2) of this section.

(b) THE BOARD SHALL INCREASE THE PREMIUM RATES TO AN AVERAGE OF ONE HUNDRED THIRTY-FIVE PERCENT OF THE STANDARD RISK RATE ESTABLISHED PURSUANT TO SUBSECTION (2) OF THIS SECTION NO LATER THAN JULY 1, 2002.

SECTION 12. 10-8-513, Colorado Revised Statutes, is amended to read:

10-8-513. Eligibility for coverage under the program. (1) Except for those individuals who meet the criteria set forth in subsection (2) of this section AND EXCEPT AS PROVIDED IN SECTION 10-8-513.5, any individual who is a resident of this state, UNLESS EXEMPTED BY SUBSECTION (4) OF THIS SECTION, and who has been residing in the United States under the color of law for at least six months, including children who have been placed for adoption, as defined in section 10-16-104 ~~(16.5)~~ (6.5) or are under the legal guardianship of a resident of Colorado, shall be eligible for coverage under the ~~plan~~ PROGRAM, if such individual is able to provide evidence satisfactory to the administering carrier that such individual meets one of the following conditions:

(a) Such individual has applied to a carrier for a health benefit plan and:

(I) Such application has been rejected or refused because of the health or medical condition of the applicant; or

(II) Such application has been accepted, but at a premium rate exceeding the rate available through the ~~plan~~ PROGRAM; or

(III) Such application was accepted with a reduction or exclusion of coverage for a preexisting medical or health condition for a period exceeding six months.

(b) Such individual has a history of any medical or health condition that is on the PRESUMPTIVE CONDITIONS list ~~if any,~~ adopted by the board pursuant to section 10-8-506 (1) (g.5).

(c) Such individual has had a health benefit plan involuntarily terminated by a carrier in this state for any reason other than nonpayment of a premium or premiums.

(1.5) FOR THE PURPOSES OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION, A REJECTION, EXCESSIVE RATE, OR EXCLUSION BY A CARRIER OFFERING ONLY STOP-LOSS OR EXCESS LOSS INSURANCE TO A SELF-INSURED GROUP HEALTH PLAN SHALL NOT BE SATISFACTORY EVIDENCE OF ELIGIBILITY.

(2) The following individuals shall not be eligible for coverage under the ~~plan~~ PROGRAM:

(a) Those who are eligible for health care services under the "Colorado Medical Assistance Act", article 4 of title 26, C.R.S.;

(a.5) Those who fail to pay any ~~plan~~ PROGRAM premium when due;

(b) Those whose coverage under the ~~plan~~ PROGRAM has been terminated less than twelve months prior to the date of the current application;

(c) Those who have received ~~five hundred thousand~~ ONE MILLION dollars in benefits from the ~~plan~~ PROGRAM;

(d) Those who are inmates or residents of public institutions;

(e) Those who are eligible for any other health benefit plan, including any public program, that provides coverage for health care services, REGARDLESS OF WHETHER SUCH OTHER HEALTH BENEFIT PLAN COVERS ALL HEALTH CARE SERVICES OR CATEGORIES OF SERVICES THAT SUCH INDIVIDUALS MAY FROM TIME TO TIME NEED, except as provided in subparagraphs (II) and (III) of paragraph (a) of subsection (1) of this section; AND

(f) ~~Those who owe any tax when due under the provisions of the "Colorado Income Tax Act of 1987", article 22 of title 39, C.R.S. For the purposes of this paragraph (f), the board may obtain information regarding an eligible individual or insured's income tax status from the department of revenue.~~ THOSE FOR WHOM THE PROGRAM PREMIUMS ARE PAID OR REIMBURSED, DIRECTLY OR INDIRECTLY, UNDER ANY PUBLIC PROGRAM; BY ANY FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY OR POLITICAL SUBDIVISION; OR BY ANY PRIVATE ENTITY OR PERSON, INCLUDING A HEALTH CARE PROFESSIONAL, HEALTH CARE FACILITY, OTHER HEALTH CARE PROVIDER, OR PHARMACEUTICAL COMPANY, IF ANY SUCH PAYER COULD FINANCIALLY BENEFIT FROM THE COVERAGE OF AN INDIVIDUAL UNDER THE PROGRAM. NOTWITHSTANDING ANY

OTHER PROVISION IN THIS PARAGRAPH (f), THE BOARD, ON ITS OWN DISCRETION, MAY IMPLEMENT ONE OR MORE MODEL PROGRAMS INVOLVING SUCH FUNDING OF PROGRAM PREMIUMS IF SUCH MODEL PROGRAM IS FISCALLY RESPONSIBLE IN THE USE OF PROGRAM FUNDS AND CONSISTENT WITH SECTION 10-8-502.

(3) Dependents of ~~insureds~~ PARTICIPANTS shall also be eligible for coverage under the ~~plan, if such dependents meet one or more of the criteria set forth in subsection (1) of this section~~ PROGRAM.

(4) THE RESIDENCY REQUIREMENT SHALL BE WAIVED FOR ANY INDIVIDUAL WHO HAS BEEN A PARTICIPANT IN A PROGRAM SIMILAR TO COVERCOLORADO IN ANOTHER STATE AND WHO, WITHIN THIRTY DAYS OF RELOCATING TO THIS STATE, APPLIES FOR COVERAGE UNDER THE PROGRAM.

(5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, AN INDIVIDUAL SHALL NOT LOSE ELIGIBILITY FOR THE PROGRAM SOLELY BECAUSE A MEMBER OF THE INDIVIDUAL'S FAMILY PAYS, IN WHOLE OR IN PART, THE PREMIUMS FOR THE PROGRAM.

SECTION 13. Part 5 of article 8 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

10-8-513.5. Federally eligible individuals. (1) ON OR AFTER JULY 1, 2001, ANY INDIVIDUAL WHO MEETS THE DEFINITION OF "FEDERALLY ELIGIBLE INDIVIDUAL" PURSUANT TO SECTION 10-16-105.5 (1) SHALL BE ELIGIBLE FOR COVERAGE UNDER THE PROGRAM AND SHALL NOT BE SUBJECT TO THE ELIGIBILITY REQUIREMENTS OF SECTION 10-8-513.

(2) A DEPENDENT OF A FEDERALLY ELIGIBLE INDIVIDUAL SHALL BE ELIGIBLE FOR COVERAGE UNDER THE PROGRAM IF THE DEPENDENT SATISFIES THE DEFINITION OF "DEPENDENT" SET FORTH IN SECTION 10-16-102 (14).

(3) THE PROGRAM MAY, BUT NEED NOT, OFFER THE FEDERALLY ELIGIBLE INDIVIDUAL THE SAME HEALTH BENEFIT PLANS OFFERED TO INDIVIDUALS ELIGIBLE UNDER SECTION 10-8-513; EXCEPT THAT ANY HEALTH BENEFIT PLAN OFFERED SHALL MEET THE REQUIREMENTS OF THIS PART 5 WITH RESPECT TO BENEFITS AND PREMIUMS.

SECTION 14. 10-8-514, Colorado Revised Statutes, is amended to read:

10-8-514. Deductibles - coinsurance. (1) Any ~~insured~~ PARTICIPANT may select coverage from a choice of deductibles offered by the board. Such choice shall include deductibles of not less than three hundred dollars nor more than ~~two~~ FIVE thousand dollars.

(2) ~~There shall be a mandatory coinsurance requirement in excess of the mandatory deductible~~ THE BOARD SHALL ESTABLISH SUCH COINSURANCE REQUIREMENTS AND OUT-OF-POCKET EXPENSE MAXIMUMS FOR EACH OF THE HEALTH BENEFIT PLANS AS IT SHALL DEEM COMPARABLE TO THOSE OFFERED IN THE GROUP HEALTH COVERAGE MARKET IN COLORADO.

(3) For any policy year in which ~~payment ceilings established by the board are~~

~~reached, the plan~~ A PARTICIPANT'S OUT-OF-POCKET MAXIMUM IS REACHED, THE PROGRAM shall pay ~~ninety~~ ONE HUNDRED percent of all additional covered costs incurred by the ~~insured~~ PARTICIPANT.

SECTION 15. 10-8-515, Colorado Revised Statutes, is amended to read:

10-8-515. Maximum benefit. The maximum lifetime benefit per insured is ~~five hundred thousand~~ ONE MILLION dollars as provided in section 10-8-525.

SECTION 16. 10-8-516 (1) and (2), Colorado Revised Statutes, are amended to read:

10-8-516. Preexisting conditions. (1) Coverage under the ~~plan~~ PROGRAM shall exclude charges or expenses incurred during the first six months following the effective date of coverage as to any preexisting condition that is not defined more restrictively than an injury, sickness, or pregnancy for which a person incurred charges, received medical treatment, consulted a health care professional, or took prescription drugs within the six-month period immediately preceding the effective date of coverage.

(2) The ~~plan~~ PROGRAM shall give credit for the period of time an eligible individual had qualifying previous coverage for the preexisting condition that was continuous to a date not more than ninety days prior to the effective date of coverage.

SECTION 17. 10-8-518, Colorado Revised Statutes, is amended to read:

10-8-518. Nonduplication of benefits. (1) The ~~plan~~ HEALTH BENEFIT PLANS OF THE PROGRAM shall be the last payor of benefits whenever any other HEALTH benefit PLAN or source of third party payment is available.

(2) The ~~plan~~ PROGRAM shall have a cause of action against ~~an insured~~ A PARTICIPANT for the recovery of the amount of any benefits paid ~~which~~ THAT are not for health care services covered under the APPLICABLE HEALTH BENEFIT plan. Future benefits due under the APPLICABLE HEALTH BENEFIT plan may be reduced or denied as a setoff against any amount recoverable under this subsection (2).

SECTION 18. 10-8-519, Colorado Revised Statutes, is amended to read:

10-8-519. Provisions of policies. (1) A ~~policy~~ HEALTH BENEFIT PLAN offered under this part 5 shall provide that the ~~plan~~ PROGRAM is obligated to renew the policy until the first day on which the individual in whose name the ~~policy~~ HEALTH BENEFIT PLAN is issued first becomes eligible for medicare coverage, except as otherwise provided in this part 5. The ~~plan~~ PROGRAM is not obligated to renew the policy of any individual ~~that~~ WHO fails to pay any plan premium when due.

(2) The premium rates for ~~policies under the plan~~ HEALTH BENEFIT PLANS OFFERED BY THE PROGRAM shall not be changed except on a class basis and with a clear disclosure in the ~~policy~~ HEALTH BENEFIT PLAN of the right of the ~~plan~~ PROGRAM to make such changes.

SECTION 19. 10-8-521, Colorado Revised Statutes, is amended to read:

10-8-521. Notice to residents. If any individual who is a resident of this state applies to a carrier for a health benefit plan and the carrier responds to such application as described in section 10-8-513 (1) (a), OR IF ANY FEDERALLY ELIGIBLE INDIVIDUAL APPLIES TO A CARRIER FOR A HEALTH BENEFIT PLAN, the carrier shall give the individual written notice that the individual may be eligible for coverage under the ~~plan~~ PROGRAM, including information about available benefits, exclusions, and premium subsidies, and the name, address, and telephone number of the ~~plan~~ PROGRAM.

SECTION 20. 10-8-522, Colorado Revised Statutes, is amended to read:

10-8-522. Liability. The members of the board shall not be individually or jointly and severally liable for their participation in the ~~plan~~ PROGRAM or for any action taken in good faith under the provisions of this part 5.

SECTION 21. 10-8-523, Colorado Revised Statutes, is amended to read:

10-8-523. Tax exemption. The ~~plan~~ PROGRAM shall be exempt from any tax levied by this state or any of its political subdivisions.

SECTION 22. 10-8-525, Colorado Revised Statutes, is amended to read:

10-8-525. Benefits - availability - maximum coverage. Every eligible individual may purchase from the ~~plan~~ PROGRAM a ~~policy which~~ HEALTH BENEFIT PLAN THAT extends coverage for major medical expenses OR, IN THE CASE OF THE FEDERALLY ELIGIBLE INDIVIDUAL, THAT EXTENDS COMPREHENSIVE COVERAGE. Such ~~policies~~ HEALTH BENEFIT PLANS shall be renewable annually, except as otherwise provided in this part 5. Any such ~~policy~~ HEALTH BENEFIT PLAN shall pay for the health care services that are covered under this part 5, subject to the deductible and coinsurance payments and other cost containment controls authorized under this part 5 and subject to a lifetime limit of ~~five hundred thousand~~ ONE MILLION dollars per insured individual.

SECTION 23. 10-8-526, Colorado Revised Statutes, is amended to read:

10-8-526. Expenses covered. ~~Policies~~ HEALTH BENEFIT PLANS issued pursuant to this part 5 shall cover expenses incurred for health care services or articles or items related ~~thereto which~~ TO SUCH SERVICES OR ARTICLES THAT are medically necessary, subject to the cost containment controls authorized by this part 5; except that such coverage shall not extend to costs for such services or articles over and above the reasonable and customary charge in the locality and shall not extend to services or articles ~~which~~ THAT are not prescribed by a physician who is licensed to practice in the state or jurisdiction where such services or articles are provided. Such services shall include but not be limited to care for acute illnesses and ongoing care for the treatment of the insured's uninsurable condition. Coverage shall be at least comparable to that issued on a group basis in the market.

SECTION 24. The introductory portion to 10-8-527 (1), 10-8-527 (1) (b), the introductory portion to 10-8-527 (1) (d) (I), and 10-8-527 (1) (l), Colorado Revised Statutes, are amended to read:

10-8-527. Expenses excluded. (1) ~~Policies~~ HEALTH BENEFIT PLANS issued pursuant to this part 5 shall CLEARLY DISCLOSE THOSE SERVICES, ITEMS, OR SUPPLIES THAT ARE not ~~cover~~ COVERED expenses, INCLUDING, BUT NOT LIMITED TO, EXPENSES incurred for:

(b) Services rendered prior to the effective date of coverage under ~~this plan~~ THE APPLICABLE HEALTH BENEFIT PLAN for the person on whose behalf the expense is incurred;

(d) (I) Services or charges incurred by the ~~insured which~~ PARTICIPANT THAT are otherwise covered by:

(l) Service of a blood donor and any fee for failure of the ~~insured~~ PARTICIPANT to replace the first three pints of blood provided in each calendar year;

SECTION 25. 10-8-528, Colorado Revised Statutes, is amended to read:

10-8-528. Other health benefit plans not excluded. Nothing in this part 5 shall be construed to prohibit the ~~plan~~ PROGRAM from issuing additional health benefit plans with provisions other than those provided in this part 5 ~~which~~ THAT, in the opinion of the board, may be of benefit to the citizens of the state.

SECTION 26. 10-8-529, Colorado Revised Statutes, is amended to read:

10-8-529. Insolvency, impairment, or dissolution. In the event of any insolvency or impairment or dissolution of the ~~plan~~ PROGRAM by the general assembly, the commissioner shall have those rights and duties specified in parts 4 and 5 of article 3 of this title to assure abatement of any delinquency or the orderly termination of the affairs and obligations of the ~~plan~~ PROGRAM.

SECTION 27. 10-8-530, Colorado Revised Statutes, is amended to read:

10-8-530. Funding of program - repeal. (1) The ~~plan~~ PROGRAM shall be funded by the following:

(a) Moneys credited pursuant to section 38-13-116.5 (1) (c), C.R.S.;

(b) Premiums charged pursuant to section 10-8-512;

(c) Moneys remaining in the ~~Colorado uninsurable health insurance plan~~ COVERCOLORADO cash fund, created pursuant to this section, as it existed prior to July 1, 1997;

(d) SPECIAL FEES ASSESSED AGAINST INSURERS AS PROVIDED IN SUBSECTION (1.5) OF THIS SECTION;

(e) ANY MONEYS ACCEPTED THROUGH GIFTS, GRANTS, OR DONATIONS RECEIVED BY THE BOARD FOR OPERATION OF THE PROGRAM.

(1.5) (a) THE PROGRAM MAY ASSESS AGAINST INSURERS SUCH SPECIAL FEES AS MAY BE REASONABLE AND NECESSARY FOR THE OPERATION OF THE PROGRAM. THE

SPECIAL FEES SHALL BE ASSESSED ON A PROSPECTIVE, PER CAPITA BASIS, WITH THE AMOUNT OF THE SPECIAL FEE ASSESSED TO EACH INSURER EQUAL TO THE NUMBER OF LIVES INSURED BY THE INSURER IN THE STATE OF COLORADO, AS OF DECEMBER 31 OF THE PREVIOUS YEAR, MULTIPLIED BY THE PER CAPITA ASSESSMENT. SPECIAL FEES SHALL BE ASSESSED ONLY WHEN IT IS DETERMINED BY THE BOARD THAT THE PROJECTED OPERATING REVENUES OF THE PROGRAM, COMBINED WITH THE PROJECTED CASH BALANCE OF THE COVERCOLORADO CASH FUND AND THE BALANCE OF ANY FUNDS HELD OR INVESTED BY THE BOARD OR THE ADMINISTERING CARRIER, WILL NOT BE ADEQUATE, OVER THE NEXT TWELVE-MONTH PERIOD, TO PROVIDE FOR THE PROJECTED CLAIMS, ADMINISTRATIVE EXPENSES, RESERVES FOR CLAIMS INCURRED BUT NOT REPORTED, AND SURPLUS EQUAL TO TEN PERCENT OF PROJECTED CLAIMS. ALL SPECIAL FEES COLLECTED SHALL BE USED TO PAY THE ADMINISTRATIVE EXPENSES AND THE LOSSES RELATED TO ELIGIBLE INDIVIDUALS. NO PART OF THE SPECIAL FEES SHALL BE USED TO PAY FOR THE ADMINISTRATIVE EXPENSES OR LOSSES OF ANY ELIGIBLE DEPENDENTS WHO HAVE CHOSEN COVERAGE UNDER THE PROGRAM. IN THE EVENT THAT ANY INSURER FAILS TO PAY ITS SPECIAL FEE TO THE PROGRAM IN ACCORDANCE WITH THE TIME FRAMES SET FORTH BY RULE, THE COMMISSIONER IS AUTHORIZED TO UTILIZE ALL POWERS CONFERRED ON THE COMMISSIONER BY THE INSURANCE LAWS OF THIS STATE TO ENFORCE PAYMENT OF THE SPECIAL FEES.

(b) (I) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT THIS SUBSECTION (1.5), INCLUDING, BUT NOT LIMITED TO:

(A) THE REASONABLE TIME FRAMES FOR THE DETERMINATION OF THE NEED FOR AN EQUITABLE ASSESSMENT AND FOR THE BILLING AND COLLECTION OF SUCH FEES;

(B) THE PROCESS FOR DETERMINING THE PER CAPITA ASSESSMENT;

(C) ANY PROCEDURES FOR THE APPROVAL OF DEFERRAL OR ABATEMENT OF SPECIAL FEES, IN WHOLE OR IN PART, INCLUDING, BUT NOT LIMITED TO, THE CREATION OF A CREDIT AGAINST THE AMOUNT OF AN ASSESSMENT OWED BY AN INSURER FOR SUCH INSURER WHO ISSUES A SUBSTANTIAL NUMBER OF HEALTH BENEFIT PLANS TO PERSONS WHO ARE ELIGIBLE FOR THE PROGRAM; AND

(D) THE EQUITY OF THE ASSESSMENT.

(II) IN PROMULGATING SUCH RULES FOR AN EQUITABLE ASSESSMENT, THE COMMISSIONER SHALL GIVE CONSIDERATION TO:

(A) THE VOLUME OF PREMIUM DOLLARS RECEIVED BY A STOP-LOSS INSURER RELATIVE TO THE NUMBER OF COVERED LIVES INSURED BY THAT INSURER AND ANY OTHER FACTORS; AND

(B) THE BUDGET AND RATE SETTING DEADLINES OF THE INSURERS.

(III) IN PROMULGATING SUCH RULES, THE COMMISSIONER SHALL INCLUDE PROVISIONS THAT NOTICE OF THE FIRST ASSESSMENT SHALL BE PROVIDED TO THE INSURERS NO LATER THAN FEBRUARY 1, 2002, AND THAT PAYMENT FOR SUCH ASSESSMENT SHALL BE MADE NO EARLIER THAN JUNE 1, 2003.

(c) PRIOR TO NOTICE OF THE FIRST ASSESSMENT TO BE PAID BY INSURERS AND

PRIOR TO AN INCREASE IN THE AMOUNT OF THE ASSESSMENT PURSUANT TO THIS SUBSECTION (1.5), THE BOARD SHALL OBTAIN AT LEAST TWO ACTUARIAL EVALUATIONS OF THE AMOUNT OF THE ASSESSMENT.

(d) THE DEPARTMENT OF REGULATORY AGENCIES IN COOPERATION WITH THE DIVISION OF INSURANCE SHALL CONDUCT A REVIEW OF THE EFFICACY OF THE ASSESSMENT PURSUANT TO SECTION 24-34-104, C.R.S. SUCH REVIEW SHALL BE COMPLETED BY OCTOBER 15, 2007. THE DIVISION OF INSURANCE SHALL MAKE COPIES OF THE REPORT AVAILABLE TO EVERY MEMBER OF THE GENERAL ASSEMBLY.

(e) IN THE EVENT THE ASSESSMENT PURSUANT TO THIS SUBSECTION (1.5) EQUALS FIFTY PERCENT OF THE ADMINISTRATIVE AND CLAIMS EXPENSES TOTALED THAT ARE PROJECTED FOR THE PROGRAM, THE BOARD SHALL CONDUCT A REVIEW OF THE PREMIUM LEVELS, BENEFIT DESIGN, COSTS OF ADMINISTRATION, COST CONTAINMENT MEASURES AVAILABLE, AND ANY OTHER FACTORS THAT MIGHT CONTRIBUTE TO THE CONTINUED FINANCIAL SOLVENCY OF THE PROGRAM. SUCH REVIEW SHALL BE PRESENTED TO THE MEMBERS OF THE JOINT BUDGET COMMITTEE WITHIN NINETY DAYS AFTER AN ASSESSMENT THAT EQUALS FIFTY PERCENT OF THE EXPENSES OF THE PROGRAM IS MADE.

(f) EACH INSURER IS REQUIRED TO RECOUP OVER A REASONABLE LENGTH OF TIME A SUM REASONABLY CALCULATED TO RECOUP THE AMOUNT OF ANY ASSESSMENT TO BE PAID BY THE INSURER FOR COVERCOLORADO PURSUANT TO THIS SUBSECTION (1.5). AMOUNTS RECOUPED SHALL NOT BE CONSIDERED PREMIUMS FOR ANY OTHER PURPOSE, INCLUDING THE COMPUTATION OF GROSS PREMIUM TAX OR AGENT'S COMMISSION.

(g) FOR PURPOSES OF THIS SUBSECTION (1.5), "LIVES INSURED" DOES NOT INCLUDE PERSONS WHO RECEIVE HEALTH BENEFITS THROUGH MEDICAID, MEDICARE, OR THE CHILDREN'S BASIC HEALTH PLAN PURSUANT TO ARTICLE 19 OF TITLE 26, C.R.S.

(h) THIS SUBSECTION (1.5) IS REPEALED, EFFECTIVE JULY 1, 2008.

(2) Funds collected pursuant to paragraph (a) of subsection (1) of this section shall be transmitted to the state treasurer, who shall credit the same to the ~~Colorado uninsurable health insurance plan~~ COVERCOLORADO cash fund, which fund is hereby created in the state treasury. The moneys in the fund are hereby subject to annual appropriation by the general assembly for the purposes of this part 5, including payment of administrative expenses, funding of the losses of the ~~plan~~ PROGRAM, and maintenance of such reserves as may be required by the commissioner. All moneys, including interest earned on the investment or deposit of moneys in the ~~Colorado uninsurable health insurance plan~~ COVERCOLORADO cash fund, shall remain in the fund and shall not revert to the general fund of the state at the end of any fiscal year.

(3) Premiums shall be collected by the administering carrier in accordance with section 10-8-509 (1), with all premiums collected used to pay the administrative expenses and the losses of the ~~plan~~ PROGRAM. Any funds that are not immediately needed to pay administrative expenses shall be invested as determined by the board.

(4) ANY SPECIAL FEES ASSESSED SHALL BE COLLECTED BY AND DEPOSITED INTO THE ACCOUNTS OF THE PROGRAM, FOR USE AS PROVIDED IN SUBSECTION (1.5) OF THIS

SECTION. ANY FUNDS THAT ARE NOT IMMEDIATELY NEEDED TO PAY EXPENSES AND LOSSES SHALL BE INVESTED AS DETERMINED BY THE BOARD IN ACCORDANCE WITH INVESTMENT GUIDELINES SET FORTH IN ITS PLAN OF OPERATION.

SECTION 28. Repeal. 10-8-531, Colorado Revised Statutes, is repealed as follows:

10-8-531. Oversight of Colorado uninsurable health insurance plan - health, environment, welfare, and institutions committees of senate and house of representatives. ~~The health, environment, welfare, and institutions committees of the senate and house of representatives, on or after July 1, 1992, shall review the implementation and evaluate the effectiveness of the Colorado uninsurable health insurance plan. No later than January 1, 1993, the health, environment, welfare, and institutions committees of the senate and house of representatives shall make recommendations to the general assembly about the operation, administration, and funding of the plan.~~

SECTION 29. 24-77-102 (15) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-77-102. Definitions. As used in this article, unless the context otherwise requires:

(15) (b) "Special purpose authority" includes, but is not limited to:

(XII) COVERCOLORADO, CREATED PURSUANT TO SECTION 10-8-501, C.R.S.

SECTION 30. 10-14-503, Colorado Revised Statutes, is amended to read:

10-14-503. Exemptions. Except as provided in this section, societies shall be governed by the provisions of this article and shall be exempt from all other provisions of the insurance statutes of this state unless the terms of such statutes expressly apply to societies, or unless any such insurance statute is specifically made applicable to societies by this article. Societies shall comply with the applicable provisions of ~~section~~ SECTIONS 10-3-109 (2), 10-3-208, AND 10-8-530 (1.5); part 7 of article 3 of this title; and article 16 of this title.

SECTION 31. 10-16-102, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

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

(10.5) "CHURCH PLAN" SHALL HAVE THE SAME MEANING AS SET FORTH IN 29 U.S.C. SEC. 1002 (33) OF THE FEDERAL "EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974".

(20.5) "GOVERNMENT PLAN" SHALL HAVE THE SAME MEANING AS SET FORTH IN 29 U.S.C. SEC. 1002 (32) OF THE FEDERAL "EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974", AND AS IN ANY FEDERAL GOVERNMENTAL PLAN.

SECTION 32. 10-16-105.5 (1) and (2), Colorado Revised Statutes, are amended to read:

10-16-105.5. Individual health plans - federally eligible individual - limited guarantee issue. (1) ~~Every carrier offering individual health benefit plans in Colorado shall offer and accept for enrollment pursuant to subsection (2) of this section every eligible individual who applies for coverage within sixty-two days after termination of such individual's prior coverage and shall not impose any preexisting condition exclusions or limitations on the new coverage; except that this requirement shall not apply to carriers offering coverage only through bona fide associations or to carriers offering individual coverage only through conversion policies.~~ As used in this section, "FEDERALLY eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of periods of creditable coverage is eighteen months or more and whose most recent prior creditable coverage was under a group HEALTH plan. As used in this section, "group HEALTH plan" means ~~a small or large group health benefit plan, an employer-sponsored plan, an employee welfare benefit plan, a government plan, or a church plan~~ AN EMPLOYEE WELFARE BENEFIT PLAN AS DEFINED IN 29 U.S.C. SEC. 1002 (1) OF THE FEDERAL "EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974" TO THE EXTENT THAT THE PLAN PROVIDES HEALTH CARE SERVICES, INCLUDING ITEMS AND SERVICES PAID FOR AS HEALTH CARE SERVICES, TO EMPLOYEES OR THEIR DEPENDENTS DIRECTLY OR THROUGH INSURANCE REIMBURSEMENT OR OTHERWISE. A "GROUP HEALTH PLAN" INCLUDES A GOVERNMENT OR CHURCH PLAN.

(b) Who is not eligible for coverage under a group health benefit plan, medicare, or medicaid and does not have other health benefit plan coverage;

(c) Whose most recent coverage was not terminated as a result of nonpayment of premiums or fraud; and

(d) Who did not turn down an offer of continuation coverage if it was offered and who subsequently exhausted such coverage.

(2) ~~A carrier shall meet the requirements of subsection (1) of this section if:~~

~~(a) The carrier offers at least two different health benefit policy forms, both of which are designed for, are made generally available and actively marketed to, and enroll both eligible and other individuals; and~~

~~(b) The offering of policy forms includes, at a minimum:~~

~~(I) The policy forms for health benefit plan coverage with the largest and next to largest premiums volume of all such policy forms offered by the issuer in Colorado; or~~

~~(II) A lower-level coverage policy form and a higher-level coverage policy form which include benefits substantially similar to other individual health insurance coverage offered by the issuer in Colorado and are covered under a risk adjustment, risk spreading, or financial subsidization method consistent with federal regulations. As used in this subparagraph (II):~~

~~(A) "Higher-level coverage" means a policy form for which the actuarial value of the benefits under the coverage is at least fifteen percent greater than the actuarial value of lower-level coverage offered by the carrier in Colorado, and the actuarial value of the benefits under the coverage is at least one hundred percent but not greater than one hundred twenty percent of the policy form weighted average.~~

~~(B) "Lower-level coverage" means a policy form for which the actuarial value of the benefits under the coverage is at least eighty-five percent but not greater than one hundred percent of the policy form weighted average.~~

~~(C) "Policy form weighted average" means the average actuarial value of the benefits provided by all the health insurance coverage issued (as elected by the carrier) either by that carrier or, if such data are available, by all carriers in Colorado in the individual health benefit plan market during the previous year (not including coverage issued under this section), weighted by enrollment for the different coverage.~~ COVERCOLORADO IS HEREBY DESIGNATED THE STATE ALTERNATIVE MECHANISM FOR HEALTH CARE COVERAGE OF FEDERALLY ELIGIBLE INDIVIDUALS, IN ACCORDANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996". ON AND AFTER JULY 1, 2001, EVERY CARRIER OFFERING INDIVIDUAL HEALTH BENEFIT PLANS IN COLORADO SHALL PROMPTLY PROVIDE WRITTEN NOTICE PURSUANT TO SECTION 10-8-521 TO ALL FEDERALLY ELIGIBLE INDIVIDUALS WHO APPLY FOR INDIVIDUAL HEALTH BENEFIT PLAN COVERAGE. COVERCOLORADO SHALL ACCEPT FOR ENROLLMENT EVERY FEDERALLY ELIGIBLE INDIVIDUAL WHO APPLIES FOR COVERAGE WITHIN SIXTY-TWO DAYS AFTER TERMINATION OF SUCH INDIVIDUAL'S PRIOR COVERAGE AND SHALL NOT IMPOSE ANY PREEXISTING CONDITION EXCLUSIONS OR LIMITATIONS ON THE NEW COVERAGE. THE HEALTH CARE COVERAGE OFFERED BY COVERCOLORADO SHALL BE COMPREHENSIVE COVERAGE, WITH BENEFITS SUBSTANTIALLY THE SAME AS THOSE OTHERWISE OFFERED TO INDIVIDUALS ELIGIBLE FOR COVERCOLORADO. THE PREMIUMS CHARGED BY COVERCOLORADO SHALL BE THE SAME AS THE PREMIUMS OTHERWISE CHARGED TO INDIVIDUALS ELIGIBLE FOR COVERCOLORADO AND SHALL BE SUBJECT TO THE LIMITS SET FORTH IN SECTION 10-8-512 (3).

SECTION 33. 10-16-302 (1), Colorado Revised Statutes, is amended to read:

10-16-302. Incorporation and organization - exemptions. (1) Any nonprofit corporation organized under the laws of the state of Colorado for the purpose of establishing, maintaining, and operating a nonprofit plan, whereby prepaid hospital care, medical-surgical care, and other health services are made available to persons who become subscribers to such plan under a contract with the corporation, or for the purpose of providing long-term care insurance to persons pursuant to a contract with the corporation shall be subject to and governed by the provisions of part 1 of this article and this part 3 and, except as provided in this article and elsewhere in this title, shall not be subject to the laws of this state relating to insurance or insurance companies. The provisions of ~~section~~ SECTIONS 10-3-109 (2), 10-3-128, and 10-8-530 (1.5); articles 1 and 2 of this title; and parts 4, 5, 7, 8, 11, and 12 of article 3 of this title, to the extent applicable, shall govern corporations organized pursuant to the provisions of this part 3.

SECTION 34. 10-16-421 (1), Colorado Revised Statutes, is amended to read:

10-16-421. Statutory construction and relationship to other laws. (1) Except for sections 10-1-102, 10-1-121, 10-1-122, 10-3-109 (2), 10-3-118, 10-3-128, ~~and~~ 10-3-208 (7), AND 10-8-530 (1.5), and parts 4 to 8 of article 3 of this title, and as otherwise provided in this article, the provisions of the insurance law and provisions of nonprofit hospital, medical-surgical, and health service corporation laws shall not be applicable to any health maintenance organization granted a certificate of authority under this part 4.

SECTION 35. 10-3-109 (2), Colorado Revised Statutes, is amended to read:

10-3-109. Reports, statements, assessments, and maintenance of records - publication - penalties for late filing, late payment, or failure to maintain. (2) If any annual report, ~~or~~ statement, OR PAYMENT OF SPECIAL FEES ASSESSED PURSUANT TO SECTION 10-8-530 from any entity regulated by the division of insurance is not filed by the date specified by law or by rules ~~and regulations~~ of the commissioner, the commissioner may assess a penalty of up to one hundred dollars per day for each day after the date an annual statement, ~~or~~ report, OR ASSESSMENT OF SPECIAL FEES is due from any such entity.

SECTION 36. 10-3-1104 (1) (r), Colorado Revised Statutes, is amended to read:

10-3-1104. Unfair methods of competition and unfair or deceptive acts or practices. (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(r) Advising an employer to arrange for or arranging for an employee or an employee's dependent to apply to a plan developed pursuant to the "Colorado ~~Uninsurable~~ HIGH RISK Health Insurance ~~Plan~~ Act", under part 5 of article 8 of this title, for the purpose of separating such employee or employee's dependent from any group health coverage provided in connection with such employee's employment;

SECTION 37. 10-16-102 (13.7) (d), Colorado Revised Statutes, is amended to read:

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

(13.7) "Creditable coverage" means benefits or coverage provided under:

(d) A state health benefits risk pool (including but not limited to ~~the Colorado uninsurable health insurance plan~~ COVERCOLORADO); or

SECTION 38. 10-20-103 (8) (e), Colorado Revised Statutes, is amended to read:

10-20-103. Definitions. As used in this article, unless the context otherwise requires:

(8) "Member insurer" means any insurer licensed or who holds a certificate of authority in this state to write any kind of insurance for which coverage is provided pursuant to section 10-20-104 and includes any insurer whose license or certificate of authority in this state may have been suspended, revoked, not renewed, or

voluntarily withdrawn; but "member insurer" does not include:

(e) ~~The Colorado uninsurable health insurance plan~~ COVERCOLORADO;

SECTION 39. 26-4-526 (4) (i) and (4) (j), Colorado Revised Statutes, are amended to read:

26-4-526. Purchase access to medicaid program. (4) The study would include evaluation and examination of the following, but is not limited to:

(i) The relationship between ~~the Colorado uninsurable health insurance plan~~ COVERCOLORADO, created in part 5 of article 8 of title 10, C.R.S., and a purchase access program;

(j) The effect on ~~the Colorado uninsurable health insurance plan~~ COVERCOLORADO, created in part 5 of article 8 of title 10, C.R.S., of a purchase access program;

SECTION 40. 38-13-116.5 (1) (c), Colorado Revised Statutes, is amended to read:

38-13-116.5. Unclaimed property trust fund - creation - payments - interest - appropriations - records. (1) (c) All interest derived from the deposit and investment of moneys in the trust fund shall be credited to the ~~Colorado uninsurable health insurance plan~~ COVERCOLORADO cash fund established in section 10-8-530 (2), C.R.S., and shall be subject to appropriation by the general assembly for the purposes of part 5 of article 8 of title 10, C.R.S.

SECTION 41. 24-34-104 (39) (b), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (39) (b) The following agencies, functions, or both, shall terminate on July 1, 2008:

(XIII) REVIEW OF THE ASSESSMENT IMPOSED BY SECTION 10-8-530 (1.5), C.R.S., BY THE DIVISION OF INSURANCE IN COOPERATION WITH THE DEPARTMENT OF REGULATORY AGENCIES.

SECTION 42. Effective date - applicability. Sections 12, 13, 32, 42, and 43 of this act shall take effect upon signature by the governor and shall apply to program eligibility on and after said date. The remainder of this act shall take effect July 1, 2001, and shall apply to health care coverage provided by the program on or after said date.

SECTION 43. 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: June 5, 2001