

## CHAPTER 283

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**INSURANCE**

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**HOUSE BILL 03-1163**

BY REPRESENTATIVE(S) Marshall, Borodkin, Cloer, Madden, Merrifield, Paccione, Ragsdale, Romanoff, Williams S., Carroll, Coleman, Frangas, Harvey, Pommer, Spradley, Stafford, Stengel, and Williams T.;;  
also SENATOR(S) Takis, Fitz-Gerald, Hagedorn, Nichol, and Phillips.

**AN ACT**

**CONCERNING ADMINISTRATIVE CHANGES TO THE OPERATION OF COVERCOLORADO, AND, IN CONNECTION THEREWITH, DIRECTING TO COVERCOLORADO A PORTION OF THE PREMIUM TAX, FINES, AND PENALTIES COLLECTED BY THE DIVISION OF INSURANCE FROM HEALTH INSURERS AUTHORIZED TO CONDUCT BUSINESS IN COLORADO.**

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

**SECTION 1.** Repeal. 10-8-503 (2) and (10), Colorado Revised Statutes, are repealed as follows:

**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 program to eligible persons.~~

(10) ~~"Hospital" means an institution licensed by the department of public health and environment, as specified in section 25-3-101, C.R.S.~~

**SECTION 2.** 10-8-513 (3), Colorado Revised Statutes, is amended to read:

**10-8-513. Eligibility for coverage under the program.** (3) Dependents of participants ~~shall also be eligible for coverage~~ MAY BE COVERED under the program; EXCEPT THAT THE PROGRAM NEED NOT OFFER THE SAME HEALTH BENEFIT PLAN OR THE SAME PREMIUM TO SUCH DEPENDENT AS IS OFFERED TO ELIGIBLE INDIVIDUALS.

**SECTION 3.** 10-8-513.5 (1) and (2), Colorado Revised Statutes, are amended to read:

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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.*

**10-8-513.5. Federally eligible individuals.** (1) ~~(a) On or after July 1, 2001, any individual who meets the definition of "federally eligible individual" pursuant to section 10-16-105.5 (1)~~ FOR THE PURPOSES OF THIS PART 5, "FEDERALLY ELIGIBLE INDIVIDUAL" MEANS ANY ONE OF THE FOLLOWING, TO THE EXTENT FEDERALLY ELIGIBLE INDIVIDUALS ARE DESIGNATED BY THE GOVERNOR:

(I) ANY INDIVIDUAL WHO MEETS THE DEFINITION OF "FEDERALLY ELIGIBLE INDIVIDUAL" PURSUANT TO SECTION 10-16-105.5 (1);

(II) ANY INDIVIDUAL WHO IS ELIGIBLE FOR A TAX CREDIT AGAINST THE AMOUNTS THE INDIVIDUAL MUST PAY FOR QUALIFYING HEALTH INSURANCE PURSUANT TO THE FEDERAL "TRADE ACT OF 2002", AS AMENDED; OR

(III) ANY OTHER INDIVIDUAL WHO IS DESIGNATED BY FEDERAL LAW AS ELIGIBLE FOR COVERAGE BY A QUALIFIED STATE HIGH RISK POOL.

(b) FEDERALLY ELIGIBLE INDIVIDUALS 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~~ MAY BE COVERED under the program if the dependent satisfies the definition of "dependent" set forth in section 10-16-102 (14); EXCEPT THAT THE PROGRAM NEED NOT OFFER THE SAME HEALTH BENEFIT PLAN OR THE SAME PREMIUM TO SUCH DEPENDENT AS IS OFFERED TO ELIGIBLE INDIVIDUALS.

**SECTION 4.** 10-8-514 (1), Colorado Revised Statutes, is amended to read:

**10-8-514. Deductibles - coinsurance.** (1) Any 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 five thousand dollars.~~

**SECTION 5.** 10-8-516 (1) and (2), Colorado Revised Statutes, are amended to read:

**10-8-516. Preexisting conditions.** (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, coverage under the 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 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~~ ENROLLMENT IN THE PROGRAM. IN THE CASE OF AN INDIVIDUAL ELIGIBLE FOR THE PROGRAM PURSUANT TO SECTION 10-8-513.5 (1) (a) (II), THE PROGRAM SHALL NOT IMPOSE AN EXCLUSION ON COVERAGE OF A PREEXISTING CONDITION OF ANY SUCH INDIVIDUAL IF THE INDIVIDUAL HAD QUALIFYING PREVIOUS COVERAGE FOR AT LEAST A THREE-MONTH PERIOD CONTINUOUS TO A DATE NOT MORE THAN NINETY DAYS PRIOR

TO ENROLLMENT IN THE PROGRAM.

**SECTION 6.** 10-8-530 (1.5) (a), (1.5) (b) (I) (B), and (1.5) (g), Colorado Revised Statutes, are amended to read:

**10-8-530. Funding of program - repeal.** (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 COLORADO lives insured by the insurer UNDER A POLICY ISSUED AND DELIVERED 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:

(B) The process for determining the per capita assessment, INCLUDING THE PROCESS FOR OBTAINING ACCURATE INFORMATION ABOUT THE NUMBER OF LIVES INSURED BY ANY INSURER WITHIN THE SIX MONTHS PRIOR TO AN ASSESSMENT;

(g) For purposes of this subsection (1.5), "lives insured" ~~does not~~ SHALL BE DETERMINED BY RULE OF THE COMMISSIONER; EXCEPT THAT IN NO EVENT SHALL "LIVES INSURED" 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., OR THE FEDERAL EMPLOYEES HEALTH BENEFIT PROGRAM. "LIVES INSURED" MAY EXCLUDE DEPENDENT LIVES, AT THE DISCRETION OF THE COMMISSIONER.

**SECTION 7. Repeal.** 10-8-530 (1.5) (f), Colorado Revised Statutes, is repealed.

**SECTION 8. Applicability.** This act shall apply to premium taxes, fines, and penalties assessed against a health insurer authorized to conduct business in this state and to coverage under CoverColorado on or after the effective date of this act.

**SECTION 9. 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: May 21, 2003