

CHAPTER 424

INSURANCE

HOUSE BILL 07-1234

BY REPRESENTATIVE(S) Carroll M., Green, Butcher, Carroll T., Casso, Cerbo, Curry, Kerr A., King, McGihon, Merrifield, Primavera, Solano, Stafford, Todd, Weissmann, Borodkin, Garcia, Gibbs, Labuda, Madden, and Soper;
also SENATOR(S) Tochtrop, Boyd, Fitz-Gerald, Groff, Hagedorn, Keller, Kopp, Tapia, Tupa, and Veiga.

AN ACT

CONCERNING PUBLIC NOTICE FOR INSURANCE RATE INCREASES PRIOR TO THE IMPLEMENTATION OF THE RATES, AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. 10-4-401 (3) (b), Colorado Revised Statutes, is amended, and the said 10-4-401 is further amended, BY THE ADDITION OF A NEW SUBSECTION, to read:

10-4-401. Purpose - applicability. (3) The kinds of insurance subject to this part 4 shall be divided into two classes, as follows:

(b) Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title, medical malpractice by a joint underwriting association regulated under part 9 of this article, credit, workers' compensation and employer's liability incidental thereto and written in connection therewith for rates filed by insurers, and all other kinds of insurance that are subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. ~~Concurrent with the effective date of new rates,~~ Type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner; except that credit life and credit accident and health insurers shall file schedules of premium rates pursuant to sections ~~10-10-109 and 10-10-110.~~ 10-10-109 and 10-10-110. A RATE FILING SUMMARY FOR A TYPE II KIND OF INSURANCE SUBJECT TO THIS PART 4, EXCEPT FOR WORKERS' COMPENSATION INSURANCE, SHALL BE POSTED ON THE DIVISION'S INTERNET SITE IN ORDER TO PROVIDE NOTICE TO THE PUBLIC. THE PUBLIC NOTICE SHALL INCLUDE THE RATE STANDARDS THAT APPLY PURSUANT TO SECTION

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

10-4-403 (1). NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE RIGHT OF THE PUBLIC TO INSPECT A RATE FILING AND ANY SUPPORTING INFORMATION PURSUANT TO PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., NOR TO IMPAIR THE COMMISSIONER'S ABILITY TO REVIEW RATES AND DETERMINE THAT THE RATES ARE NOT EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY.

(5) RATE FILINGS FOR INSURANCE SUBJECT TO THIS PART 4 SHALL BE FILED ELECTRONICALLY IN A FORMAT MADE AVAILABLE BY THE DIVISION, UNLESS EXEMPTED BY RULE FOR AN EMERGENCY SITUATION AS DETERMINED BY THE COMMISSIONER.

SECTION 2. 10-16-107 (1), (1.5) (c), and (3) (e) (I), Colorado Revised Statutes, are 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. (1) Rates for any sickness, accident, or health insurance policy, contract, certificate, or other evidence of coverage issued or delivered to any policyholder, enrollee, subscriber, or member in Colorado, by an insurer subject to the provisions of part 2 of this article or an entity subject to the provisions of part 3 or 4 of this article shall not be excessive, inadequate, or unfairly discriminatory. To assure compliance with the requirements of this section that rates are not excessive in relation to benefits, the commissioner shall promulgate rules ~~and regulations~~ to require rate filings and, as part thereof, may require the submission of adequate documentation and supporting information including actuarial opinions or certifications and set loss ratios for loss ratio guarantees. RATE FILINGS FOR INSURANCE REGULATED UNDER PARTS 1 TO 4 OF THIS ARTICLE SHALL BE FILED ELECTRONICALLY IN A FORMAT MADE AVAILABLE BY THE DIVISION, UNLESS EXEMPTED BY RULE FOR AN EMERGENCY SITUATION AS DETERMINED BY THE COMMISSIONER. A RATE FILING SUMMARY FOR INSURANCE REGULATED UNDER PARTS 1 TO 4 OF THIS ARTICLE SHALL BE POSTED ON THE DIVISION'S INTERNET SITE IN ORDER TO PROVIDE NOTICE TO THE PUBLIC. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE RIGHT OF THE PUBLIC TO INSPECT A RATE FILING AND ANY SUPPORTING INFORMATION PURSUANT TO PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., NOR TO IMPAIR THE COMMISSIONER'S ABILITY TO REVIEW RATES AND DETERMINE THAT THE RATES ARE NOT EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY.

(1.5) Rates for an individual sickness, accident, or health insurance policy, contract, certificate, or other evidence of coverage issued or delivered to any policyholder, enrollee, subscriber, or member in Colorado by an insurer subject to the provisions of part 2 of this article or an entity subject to the provisions of part 3 or 4 of this article shall not be excessive, inadequate, or unfairly discriminatory to assure compliance with the requirements of this section that rates are not excessive in relation to benefits. Rates on a particular individual policy form, contract, or other evidence of coverage issued or delivered to any policyholder, subscriber, or member in Colorado subject to the provisions of parts 1 to 4 of this article will not be considered excessive in relation to benefits upon filing with the commissioner if the health care coverage entity has filed with the commissioner a loss ratio guarantee which meets the requirements of this subsection (1.5) and loss ratio standards conforming with generally accepted actuarial principles and standards and regulations adopted by the commissioner of insurance. In

promulgating such regulations the commissioner shall consider the standards on health rate filings adopted by the national association of insurance commissioners. Rates will not be considered excessive so long as such entity complies with the terms of the loss ratio guarantee as provided for in this subsection (1.5). This loss ratio guarantee shall be in writing, be signed by an officer of the entity, and contain at least the following:

(c) A guarantee that the actual loss ratios for this state for the experience period in which the new rates take effect, and for each experience period thereafter until new rates are ~~filed~~ IMPLEMENTED, will meet or exceed the loss ratio standards referred to in paragraph (a) of this subsection (1.5). If the annual earned premium volume in this state under the particular policy form is less than one million dollars and therefore not actuarially credible, the loss ratio guarantee will be based on the actual nationwide loss ratio for the policy form or similar policy forms. If the aggregate earned premium for all states is less than one million dollars, the experience period will be extended until the end of the calendar year in which one million dollars of earned premium is attained, but in no event shall this period extend beyond three years.

(3) (e) (I) No schedule of charges or rates for enrollee coverage for health care services, or amendments thereto, may be used by a health maintenance organization until a copy of such schedule or amendments has been filed with the commissioner ~~concurrent with or~~ prior to the effective date AS DETERMINED BY RULES PROMULGATED BY THE COMMISSIONER.

SECTION 3. Appropriation - adjustments to the 2007 long bill. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the division of insurance cash fund created in section 10-1-103 (3), Colorado Revised Statutes, not otherwise appropriated, to the department of regulatory agencies, for allocation to the division of insurance, for the fiscal year beginning July 1, 2007, the sum of forty-two thousand dollars (\$42,000), or so much thereof as may be necessary, for the implementation of this act.

(2) For the implementation of this act, appropriations made in the annual general appropriation act for the fiscal year beginning July 1, 2007, shall be adjusted as follows: The appropriation to the department of regulatory agencies, for allocation to the division of insurance, is decreased by four thousand eight hundred eight dollars (\$4,808) and 0.2 FTE. Said sum shall be from the division of insurance cash fund created in section 10-1-103 (3), Colorado Revised Statutes.

SECTION 4. Effective date. This act shall take effect January 1, 2008.

SECTION 5. 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 1, 2007