

CHAPTER 239

INSURANCE

SENATE BILL 10-020

BY SENATOR(S) Boyd, Foster, Schwartz, Hudak, Steadman;
also REPRESENTATIVE(S) Massey, Apuan, Court, Gerou, Looper, McFadyen, Merrifield, Middleton, Scanlan.

AN ACT**CONCERNING MEASURES TO ADDRESS THE FINANCIAL VIABILITY OF THE COVERCOLORADO PROGRAM.**

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

SECTION 1. 10-8-506 (1) (m), Colorado Revised Statutes, is amended, and the said 10-8-506 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

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

(m) Establish procedures for the reasonable advance notice to interested parties of the agenda for meetings of the board; ~~and~~

(o) ESTABLISH ONE OR MORE FEE SCHEDULES, IN ACCORDANCE WITH SECTION 10-8-512.5, SETTING THE AMOUNT THAT ALL MEDICAL, SURGICAL, HOSPITAL, AND OTHER HEALTH CARE SERVICE PROVIDERS WILL BE COMPENSATED BY THE PROGRAM FOR PROVIDING SERVICES COVERED BY THE PROGRAM TO A COVERCOLORADO PARTICIPANT; AND

(p) (I) MAINTAIN ENROLLMENT CONSISTENT WITH AND WITHIN THE AVAILABLE FINANCIAL RESOURCES OF THE PROGRAM, IN ACCORDANCE WITH CRITERIA AND PROCEDURES ESTABLISHED BY THE BOARD AND SUBJECT TO APPLICABLE FEDERAL LAW AND SUBPARAGRAPH (II) OF THIS PARAGRAPH (p).

(II) PRIOR TO IMPLEMENTING A LIMITATION ON NEW ENROLLMENT IN THE PROGRAM PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (p), THE BOARD

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

SHALL NOTIFY THE JOINT BUDGET COMMITTEE:

(A) IN CONJUNCTION WITH ITS ANNUAL REPORT SUBMITTED PURSUANT TO SECTION 10-8-530(4)(c), OF THE NEED TO LIMIT NEW ENROLLMENT IN THE PROGRAM BASED ON PROJECTIONS OF PROGRAM ENROLLMENT AND AVAILABLE FINANCIAL RESOURCES FOR THE PROGRAM. THE BOARD SHALL NOT IMPLEMENT A LIMITATION ON NEW ENROLLMENT PRIOR TO THE END OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY FOLLOWING THE NOTICE SUBMITTED TO THE JOINT BUDGET COMMITTEE PURSUANT TO THIS SUB-SUBPARAGRAPH (A), UNLESS THE JOINT BUDGET COMMITTEE NOTIFIES THE BOARD, PRIOR TO THE END OF THE NEXT REGULAR SESSION, THAT ADDITIONAL FUNDING FOR THE PROGRAM IS UNAVAILABLE; OR

(B) IN THE CASE OF A FINANCIAL EMERGENCY OR THREAT OF INSOLVENCY THAT ARISES AT ANY TIME DURING THE FISCAL YEAR, OF THE IMMEDIATE NEED TO LIMIT NEW ENROLLMENT IN THE PROGRAM. THE BOARD SHALL NOT IMPLEMENT A LIMITATION ON NEW ENROLLMENT SOONER THAN SIXTY DAYS AFTER PROVIDING NOTICE TO THE JOINT BUDGET COMMITTEE PURSUANT TO THIS SUB-SUBPARAGRAPH (B), DURING WHICH TIME THE JOINT BUDGET COMMITTEE SHALL DETERMINE WHETHER ADDITIONAL FUNDING WILL BE MADE AVAILABLE TO THE PROGRAM. THE JOINT BUDGET COMMITTEE SHALL NOTIFY THE BOARD WITHIN SAID SIXTY DAYS WHETHER ADDITIONAL FUNDING IS AVAILABLE, AND IF THE JOINT BUDGET COMMITTEE NOTIFIES THE BOARD THAT NO ADDITIONAL FUNDING IS AVAILABLE, THE BOARD MAY IMPLEMENT THE PROPOSED LIMITATION ON NEW ENROLLMENT.

SECTION 2. Part 5 of article 8 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

10-8-512.5. Fee schedule - compensation of health care providers.

(1) (a) THE BOARD MAY ESTABLISH ONE OR MORE FEE SCHEDULES SETTING THE AMOUNT THAT THE PROGRAM WILL COMPENSATE ALL MEDICAL, SURGICAL, HOSPITAL, AND OTHER HEALTH CARE SERVICE PROVIDERS WHO PROVIDE SERVICES COVERED BY THE PROGRAM TO A COVERCOLORADO PARTICIPANT. A FEE SCHEDULE ESTABLISHED PURSUANT TO THIS SECTION MAY BE BASED ON VARIOUS REIMBURSEMENT METHODOLOGIES COMMONLY USED IN THE HEALTH INSURANCE INDUSTRY, INCLUDING DISCOUNTED BILLED CHARGES, CASE RATES, THE FEE SCHEDULE ESTABLISHED PURSUANT TO SECTION 8-42-101 (3) (a), C.R.S., FOR SERVICES PROVIDED BY PHYSICIANS TO INJURED WORKERS UNDER THE "WORKERS' COMPENSATION ACT OF COLORADO", AND MULTIPLES OF MEDICARE REIMBURSEMENT, BUT SHALL BE SET AT AMOUNTS THAT EXCEED THE REIMBURSEMENT GENERALLY PAID TO ANY CATEGORY OF PROVIDER BY MEDICARE. ADDITIONALLY, IN DEVELOPING A FEE SCHEDULE PURSUANT TO THIS SECTION, THE BOARD SHALL CONSIDER AT LEAST THE FOLLOWING FACTORS:

(I) THE COSTS SAVINGS TO THE PROGRAM;

(II) THE EQUITY OF THE FEE SCHEDULE FOR PROVIDERS;

(III) THE IMPACT A FEE SCHEDULE MAY HAVE ON THE COST SHIFT TO OTHER PAYERS; AND

(IV) THE IMPACT A FEE SCHEDULE MAY HAVE ON ACCESS TO PROVIDERS.

(b) (I) PRIOR TO ESTABLISHING A FEE SCHEDULE PURSUANT TO THIS SECTION, THE BOARD SHALL CREATE ONE OR MORE MECHANISMS, SUCH AS AN ADVISORY REIMBURSEMENT COMMITTEE, TO ASSIST AND MAKE RECOMMENDATIONS TO THE BOARD IN ESTABLISHING THE FEE SCHEDULE. THE BOARD SHALL TAKE SUCH RECOMMENDATIONS AND OTHER INPUT FROM PROVIDERS INTO CONSIDERATION WHEN ESTABLISHING A FEE SCHEDULE.

(II) IF THE BOARD ESTABLISHES A FEE SCHEDULE, THE BOARD SHALL REVIEW THE FEE SCHEDULE ANNUALLY TO DETERMINE WHETHER ANY MODIFICATIONS ARE NEEDED. PRIOR TO DETERMINING WHETHER TO MODIFY OR ACTUALLY MODIFYING THE FEE SCHEDULE, THE BOARD SHALL CONSULT WITH AND CONSIDER THE RECOMMENDATIONS OF ANY ADVISORY REIMBURSEMENT COMMITTEE OR OTHER MECHANISM CREATED PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) AND SHALL CONSIDER ANY OTHER INPUT FROM PROVIDERS.

(III) ANY MECHANISMS FOR INPUT CREATED BY THE BOARD PURSUANT TO THIS PARAGRAPH (b), INCLUDING AN ADVISORY REIMBURSEMENT COMMITTEE, SHALL BE PUBLIC AND OPEN TO PARTICIPATION BY HEALTH CARE PROVIDERS, HOSPITAL REPRESENTATIVES, CONSUMERS, AND OTHER STAKEHOLDERS WHO POSSESS INFORMATION THAT WILL CONTRIBUTE TO AND ASSIST IN THE ESTABLISHMENT OR MODIFICATION OF A FEE SCHEDULE AS AUTHORIZED BY THIS SECTION.

(c) ANY FEE SCHEDULE ESTABLISHED PURSUANT TO THIS SECTION SHALL TAKE EFFECT NO SOONER THAN JANUARY 1, 2011, OR ON SUCH LATER DATE AS DETERMINED BY THE BOARD.

(d) IF THE ESTABLISHED FEE SCHEDULE RESULTS IN SAVINGS TO THE PROGRAM, THE BOARD SHALL USE THE SAVINGS TO REDUCE THE AMOUNTS NEEDED FROM PARTICIPANTS, INSURERS, AND THE UNCLAIMED PROPERTY TRUST FUND PURSUANT TO SECTION 10-8-530 (1) FOR THE TOTAL FUNDING FOR THE PROGRAM, AS DEFINED IN SECTION 10-8-530 (1) (e) (I).

(2) (a) A HEALTH CARE PROVIDER, HEALTH CARE FACILITY, EMERGENCY SERVICE PROVIDER, OR OTHER PERSON OR ENTITY PROVIDING HEALTH CARE SERVICES TO A PARTICIPANT SHALL NOT CONTRACT WITH OR OTHERWISE DEMAND PAYMENT FROM A PARTICIPANT OR THE PROGRAM FOR AMOUNTS FOR SERVICES COVERED BY THE PROGRAM THAT ARE IN EXCESS OF THE APPLICABLE FEE ON A FEE SCHEDULE ESTABLISHED PURSUANT TO THIS SECTION. ANY DEMAND FOR PAYMENT OF CHARGES THAT EXCEEDS THE APPLICABLE FEE ON THE FEE SCHEDULE SHALL BE UNLAWFUL, VOID, AND UNENFORCEABLE AS A DEBT.

(b) NOTHING IN THIS SUBSECTION (2) PRECLUDES A HEALTH CARE PROVIDER, HEALTH CARE FACILITY, EMERGENCY SERVICE PROVIDER, OR OTHER PERSON OR ENTITY PROVIDING HEALTH CARE SERVICES TO A PARTICIPANT FROM BILLING OR CHARGING A PARTICIPANT FOR APPLICABLE COINSURANCE, DEDUCTIBLE, OR COPAYMENT AMOUNTS OR FOR SERVICES NOT COVERED BY THE PROGRAM.

SECTION 3. 10-8-526, Colorado Revised Statutes, is amended to read:

10-8-526. Expenses covered. Health benefit plans issued pursuant to this part 5 shall cover expenses incurred for health care services or articles or items related

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~~ ANY SCHEDULE OF FEES ESTABLISHED PURSUANT TO SECTION 10-8-512.5 and shall not extend to services or articles 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 under a health benefit plan shall be at least comparable to that issued on a group basis in the market.

SECTION 4. 10-8-513.5 (3), Colorado Revised Statutes, is amended to read:

10-8-513.5. Federally eligible individuals. (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.~~ THE REQUIREMENTS OF THIS PART 5 REGARDING BENEFITS, PREMIUMS, AND LIFETIME OR ANNUAL BENEFIT LIMITS, AND THE PREEXISTING CONDITION LIMITATION PERIODS ALLOWED BY SECTION 10-8-516, APPLY TO FEDERALLY ELIGIBLE INDIVIDUALS WHO PARTICIPATE IN THE PROGRAM, UNLESS OTHERWISE PROVIDED IN THE FEDERAL LAW ESTABLISHING THE ELIGIBILITY FOR THE INDIVIDUALS.

SECTION 5. 10-8-530 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

10-8-530. Funding of program - rules - repeal. (1) (b.5) NOTHING IN PARAGRAPH (b) OF THIS SUBSECTION (1) LIMITS THE ABILITY OF THE PROGRAM TO APPLY FOR, ACCEPT, OR EXPEND FEDERAL FUNDS, GRANTS, OR DONATIONS PROVIDED TO THE PROGRAM FOR THE IMPLEMENTATION AND ADMINISTRATION OF A TEMPORARY HIGH RISK HEALTH INSURANCE POOL PROGRAM AS REQUIRED BY SECTION 1101 OF THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT", H.R. 3590, PUB.L. 111-148, OR FOR THE PAYMENT OF CLAIM EXPENSES OF THE FEDERALLY ELIGIBLE INDIVIDUALS WHO PARTICIPATE IN THE PROGRAM UNDER A TEMPORARY HIGH RISK HEALTH INSURANCE POOL PROGRAM PURSUANT TO SAID FEDERAL ACT. ANY FEDERAL FUNDS, GRANTS, OR DONATIONS PROVIDED TO THE PROGRAM FOR THE PURPOSES SPECIFIED IN THIS PARAGRAPH (b.5) SHALL NOT BE COMMINGLED WITH MONEYS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) AND SHALL NOT BE INCLUDED AS A SOURCE OF FUNDING OR AS PART OF THE FUNDING FORMULA FOR THE PROGRAM AS SET FORTH IN PARAGRAPH (b) OF THIS SUBSECTION (1).

SECTION 6. Effective date. This act shall take effect July 1, 2010.

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: May 20, 2010