First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

PREAMENDED

This Unofficial Version Includes Committee Amendments Not Yet Adopted on Second Reading

LLS NO. 23-0847.01 Kristen Forrestal x4217

HOUSE BILL 23-1224

HOUSE SPONSORSHIP

Brown and Jodeh,

SENATE SPONSORSHIP

Roberts,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO THE "COLORADO STANDARDIZED HEALTH**
102 **BENEFIT PLAN ACT".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill makes changes to the "Colorado Standardized Health Benefit Plan Act" to:

- Require the Colorado health benefit exchange (exchange), with the consent of the commissioner of insurance (commissioner), to develop a format for displaying the standardized plans on the exchange;

- Grant the commissioner 120 days to review the rate filings for standardized plans instead of the current 60 days;
- Require a carrier to notify the commissioner of the steps the carrier will take to meet premium rate requirements if the carrier is unable to offer a standardized plan;
- Make changes to the requirements for public hearings held by the commissioner for carriers who are unable to offer the standardized plan; and
- Specify that decisions of the commissioner are final agency actions subject to judicial review in the court of appeals.

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

2 **SECTION 1.** In Colorado Revised Statutes, 10-16-1303, **amend**
3 (3)(a) as follows:

4 **10-16-1303. Definitions.** As used in this part 13, unless the
5 context otherwise requires:

6 (3) (a) "Equivalent rate" means, for a hospital that is PART OF a
7 pediatric specialty hospital ~~with~~ SYSTEM WHERE OVER NINETY PERCENT
8 OF THE HOSPITAL SYSTEM'S POPULATION SERVED IS UNDER EIGHTEEN
9 YEARS OF AGE AND THAT HAS a level one PEDIATRIC trauma center, the
10 payment rate determined by the medicaid fee schedule for the hospital
11 from the most recent year for which a complete set of hospital financial
12 data is publicly available ~~June 16, 2021~~ AS OF THE EFFECTIVE DATE OF
13 THIS SUBSECTION (3)(a), AS AMENDED, multiplied by a conversion factor
14 equal to the ratio of the statewide payment-to-cost ratio for medicare to
15 the hospital's specific payment-to-cost ratio for the most recent set of
16 publicly available hospital financial data ~~June 16, 2021~~ AS OF THE
17 EFFECTIVE DATE OF THIS SUBSECTION (3)(a), AS AMENDED, which is 1.52.

18 **SECTION 2.** In Colorado Revised Statutes, 10-16-1304, **amend**
19 (3) as follows:

20 **10-16-1304. Standardized health benefit plan - established -**

1 **components - rules - independent analysis - repeal.** (3) (a) The
2 standardized plan must be offered in a manner that allows consumers to
3 easily compare the standardized plans offered by each carrier.

4 (b) THE EXCHANGE, WITH THE CONSENT OF THE COMMISSIONER,
5 SHALL DEVELOP A FORMAT FOR DISPLAYING THE STANDARDIZED PLANS ON
6 THE EXCHANGE IN A MANNER THAT ENCOURAGES VALUE-BASED SHOPPING
7 AND ALLOWS CONSUMERS TO EASILY COMPARE THE STANDARDIZED PLANS.

8 **SECTION 3.** In Colorado Revised Statutes, **add** 10-16-1305.5 as
9 follows:

10 **10-16-1305.5. Rate filings.** (1) IN THE RATE FILINGS REQUIRED
11 PURSUANT TO SECTION 10-16-107, EACH CARRIER MUST FILE RATES FOR
12 THE STANDARDIZED PLAN AT THE PREMIUM RATES REQUIRED IN SECTION
13 10-16-1305 (2).

14 (2) IN REVIEWING THE RATES FOR THE STANDARDIZED PLANS, THE
15 COMMISSIONER MAY ESTABLISH LIMITS ON A CARRIER'S ADMINISTRATIVE
16 COSTS AND PROFITS FOR A STANDARDIZED PLAN.

17 (3) (a) NOTWITHSTANDING SECTION 10-16-107 (1), THE
18 COMMISSIONER SHALL APPROVE OR DISAPPROVE THE RATES FOR THE
19 STANDARDIZED PLANS WITHIN ONE HUNDRED TWENTY DAYS AFTER
20 SUBMISSION BY THE CARRIER. IF THE COMMISSIONER DOES NOT APPROVE
21 OR DISAPPROVE THE RATES WITHIN THE ONE-HUNDRED-TWENTY-DAY
22 PERIOD, THE CARRIER MAY IMPLEMENT AND REASONABLY RELY UPON THE
23 RATES SUBMITTED, ON THE CONDITION THAT THE COMMISSIONER MAY
24 REQUIRE A CORRECTION OF ANY DEFICIENCIES IN THE RATE FILINGS UPON
25 LATER REVIEW IF THE RATES CHARGED BY THE CARRIER ARE EXCESSIVE,
26 INADEQUATE, OR UNFAIRLY DISCRIMINATORY.

27 (b) IF A CARRIER FAILS TO SUPPLY THE INFORMATION REQUIRED BY

THIS SECTION AND SECTION 10-16-107, THE RATE FILING IS INCOMPLETE. THE COMMISSIONER SHALL MAKE A DETERMINATION OF COMPLETENESS NO LATER THAN SIXTY DAYS FOLLOWING SUBMISSION OF THE FILING FOR REVIEW. ALL RATE FILINGS NOT RETURNED ON OR BEFORE THE SIXTIETH DAY AFTER RECEIPT ARE CONSIDERED COMPLETE.

(c) THE COMMISSIONER MAY REVIEW A RATE FILING FOR SUBSTANTIVE CONTENT AND, IF REVIEWED, SHALL IDENTIFY AND NOTIFY THE CARRIER, ON OR BEFORE THE NINETIETH DAY AFTER RECEIPT OF THE RATE FILING, OF ANY DEFICIENCY IN THE FILING. THE CARRIER SHALL APPLY A CORRECTION OF A DEFICIENCY, INCLUDING A DEFICIENCY IDENTIFIED AFTER THE NINETIETH DAY, ON A PROSPECTIVE BASIS, AND THE COMMISSIONER SHALL NOT ASSESS A PENALTY AGAINST THE CARRIER IF THE VIOLATION IDENTIFIED WAS NOT WILLFUL.

SECTION 4. In Colorado Revised Statutes, 10-16-1306, **amend** (2), (3)(a), (3)(c), (4)(a)(V), (7) introductory portion, and (8); and **repeal** (1)(a) as follows:

10-16-1306. Failure to meet premium rate requirements - notice - public hearing - rules. (1) (a) ~~In the rate filings required pursuant to section 10-16-107, each carrier must file rates for the standardized plan at the premium rates required in section 10-16-1305 (2).~~

(2) If a carrier is unable to offer the standardized plan as required by section 10-16-1305 (1) at the premium rate required in section 10-16-1305 (2) in any year, the carrier, BY MARCH 1 OF THE YEAR PRECEDING THE YEAR IN WHICH THE PREMIUM RATES GO INTO EFFECT, shall:

(a) Notify the commissioner of the reasons why the carrier is

1 unable to meet the requirements ~~as follows:~~

2 ~~(a) For premium rates applicable in 2023, by May 1, 2022; and~~

3 ~~(b) For premium rates applicable in 2024 or any subsequent year,~~
4 ~~by March 1 of the year preceding the year in which the premiums rates go~~
5 ~~into effect~~ AND THE STEPS THE CARRIER WILL TAKE TO MEET THE PREMIUM
6 RATE REQUIREMENTS; AND

7 (b) PROVIDE TO THE COMMISSIONER ANY SUPPORTING
8 DOCUMENTATION RELATED TO THE HOSPITAL OR HEALTH-CARE PROVIDER
9 THAT THE CARRIER CLAIMS IS A CAUSE FOR THE CARRIER'S FAILURE TO
10 MEET THE PREMIUM RATE REQUIREMENTS.

11 (3) (a) If, on or after January 1, 2023, and pursuant to subsection
12 (2) of this section, a carrier notifies the commissioner that the carrier is
13 unable to offer the standardized plan at the premium rate required in
14 section 10-16-1305 (2) or the commissioner otherwise determines, with
15 support from an independent actuary and based on a review of THE
16 NOTIFICATION SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION
17 OR the rate and form filings, that a carrier has not met the premium rate
18 requirements in section 10-16-1305 (2) or the network adequacy
19 requirements, the division ~~shall~~ MAY hold a public hearing prior to the
20 approval of the carrier's final rates; except that, for the purposes of
21 holding a public hearing, if a carrier does not meet the network adequacy
22 requirements in section 10-16-1304 (1)(g), the commissioner shall
23 consider a carrier to have met network adequacy requirements if the
24 carrier files the action plan required in section 10-16-1304 (2)(b).

25 (c) (I) The commissioner shall ~~provide public notice and~~
26 ~~opportunity to testify at the public hearing to all affected parties,~~
27 ~~including carriers, hospitals, health-care providers, consumer advocacy~~

1 ~~organizations, and individuals. All affected parties shall have the~~
2 ~~opportunity to present evidence regarding the carrier's ability to meet the~~
3 ~~premium rate requirements and the network adequacy requirements. The~~
4 ~~commissioner shall limit the evidence presented at the hearing to~~
5 ~~information that is related to the reason the carrier failed to meet the~~
6 ~~network adequacy requirements or the premium rate requirements in~~
7 ~~section 10-16-1305 for the standardized plan in any single county~~ GIVE
8 NOTICE OF THE PUBLIC HEARING TO THE CARRIERS, HOSPITALS,
9 HEALTH-CARE PROVIDERS, INSURANCE OMBUDSMAN, AND PUBLIC AT
10 LEAST FIFTEEN DAYS PRIOR TO THE DATE OF THE HEARING.
11 (II) THE COMMISSIONER SHALL ESTABLISH BY RULE:
12 (A) THE MANNER IN WHICH THE COMMISSIONER WILL NOTIFY THE
13 PARTIES SPECIFIED IN SUBSECTION (3)(c)(I) OF THIS SECTION AND
14 INTERESTED PERSONS OF THE PUBLIC HEARINGS;
15 (B) THE MANNER IN WHICH THE PUBLIC MAY PARTICIPATE IN
16 PUBLIC HEARINGS. THE COMMISSIONER SHALL LIMIT THE PUBLIC COMMENT
17 AND EVIDENCE PRESENTED AT THE HEARING TO INFORMATION THAT IS
18 RELATED TO THE REASON THE CARRIER FAILED TO MEET THE NETWORK
19 ADEQUACY REQUIREMENTS OR THE PREMIUM RATE REQUIREMENTS IN
20 SECTION 10-16-1305 FOR THE STANDARDIZED PLAN IN ANY SINGLE
21 COUNTY.
22 (C) THE MANNER IN WHICH DOCUMENTS MUST BE SERVED ON THE
23 PARTIES;
24 (D) THE MANNER IN WHICH A CARRIER SHALL NOTIFY THE DIVISION
25 AND AFFECTED HOSPITALS, HEALTH-CARE PROVIDERS, AND THE
26 INSURANCE OMBUDSMAN OF A CARRIER'S FAILURE TO MEET THE NETWORK
27 ADEQUACY REQUIREMENTS OR THE PREMIUM RATE REQUIREMENTS IN

1 SECTION 10-16-1305;

2 (E) THE TIME FRAMES WITHIN WHICH THE PARTIES WILL BE GIVEN
3 THE OPPORTUNITY TO SUBMIT A COMPLAINT AND ANSWER AND ANY OTHER
4 NECESSARY PLEADINGS FOR THE HEARING;

5 (F) THE MANNER IN WHICH THE CARRIER, AFFECTED HEALTH-CARE
6 PROVIDERS, AFFECTED HOSPITALS, THE INSURANCE OMBUDSMAN, AND ANY
7 OTHER PERSON THE COMMISSIONER DETERMINES MAY BE AGGRIEVED BY
8 THE COMMISSIONER'S ACTION MAY PRESENT EVIDENCE, EXAMINE AND
9 CROSS-EXAMINE WITNESSES, AND OFFER ORAL AND WRITTEN ARGUMENTS
10 AT THE HEARING;

11 (G) THE PROCEDURES FOR KEEPING REQUESTED INFORMATION
12 CONFIDENTIAL AND FOR HANDLING CONFIDENTIAL INFORMATION; AND

13 (H) ANY OTHER MATTER THE COMMISSIONER DEEMS NECESSARY
14 FOR THE IMPLEMENTATION OF THE PUBLIC HEARINGS.

15 (III) THE COMMISSIONER MAY ISSUE PROCEDURAL ORDERS DURING
16 THE PUBLIC HEARING PROCESS TO FACILITATE THE EFFICIENT OPERATION
17 OF THE PUBLIC HEARING, INCLUDING ORDERING THE CONSOLIDATION OF
18 PROCEEDINGS INVOLVING THE SAME CARRIER, HOSPITALS, OR
19 HEALTH-CARE PROVIDERS IN COUNTIES IN THE SAME GEOGRAPHIC RATING
20 AREA AS ESTABLISHED BY THE COMMISSIONER PURSUANT TO SECTION
21 10-16-107 (5) AND THE LIMITATION OF DISCOVERY.

22 (4) Based on evidence presented at a hearing held pursuant to
23 subsection (3) of this section and other available data and actuarial
24 analysis, the commissioner may:

25 (a) (V) A hospital that is PART OF a pediatric specialty hospital
26 ~~with~~ SYSTEM WHERE OVER NINETY PERCENT OF THE HEALTH SYSTEM'S
27 POPULATION SERVED IS UNDER EIGHTEEN YEARS OF AGE AND THAT HAS a

level one pediatric trauma center must receive a fifty-five-percentage-point increase in the base reimbursement rate and is not eligible for additional factors under this subsection (4).

(7) Notwithstanding subsections (4) and (5) of this section, for a hospital with a negotiated reimbursement rate that is ~~lower than~~ AT LEAST ten percent ~~of~~ LESS THAN the statewide hospital median reimbursement rate measured as a percentage of medicare for the 2021 plan year using data from the Colorado all-payer health claims database described in section 25.5-1-204, the commissioner shall set the reimbursement rate for that hospital at no less than the greater of:

(8) A carrier or health-care provider may appeal a decision by the commissioner made pursuant to subsection (4) of this section to the ~~district court in the applicable jurisdiction~~ COLORADO COURT OF APPEALS. The decision of the commissioner is a final agency action subject to judicial review pursuant to section 24-4-106 ~~(6)~~ (11).

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, or safety.