

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0471.01 Kristen Forrestal x4217

SENATE BILL 23-179

SENATE SPONSORSHIP

Moreno and Will,

HOUSE SPONSORSHIP

Hartsook and Daugherty,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING INSURANCE CARRIER REQUIREMENTS FOR HEALTH**
102 **COVERAGE PLANS.**

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 requires a health insurance carrier (carrier) that issues, sells, renews, or offers a dental coverage plan to file, beginning in 2024, dental loss ratio forms with the division of insurance (division) for the preceding calendar year in which dental coverage was provided.

The division is required to post dental loss ratio information on its website or submit the information to the administrator of the all-payer

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

health claims database (APCD). If the information is submitted to the APCD administrator, the administrator is directed to make the information available to the public.

Once the division has collected dental loss ratio information for 2 years, the commissioner of insurance (commissioner) shall promulgate rules that create a process to identify any carriers that significantly deviate from average dental loss ratios and to investigate the causes of the deviation.

Current law requires the commissioner to adopt rules requiring every carrier providing a health benefit plan to issue to covered persons to whom an identification card is issued a standardized, printed card containing plan information. The bill amends this requirement to encompass health coverage plans.

The bill also requires prepaid dental plans to file rates with the division.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Access to quality dental care is an essential component of
5 every Coloradan's health and well-being, as untreated dental issues
6 contribute to a number of serious medical conditions, including chronic
7 obstructive pulmonary disease, heart disease, stroke, and preterm labor or
8 premature birth, all of which drastically increase costs to individuals and
9 to the state;

10 (b) Meaningful insurance coverage is one of the most important
11 factors behind patients utilizing dental care services;

12 (c) The value that patients receive from their dental plans has
13 eroded over time, particularly given the design of capped dental benefits
14 that limit insurer risk and coverage of dental care services;

15 (d) The average annual maximum coverage amounts among dental
16 plans have not meaningfully increased in decades, and dental care
17 coverage pays for far less than it once did;

1 (e) Greater transparency on how premium dollars are spent by
2 health insurance carriers provides accountability for insurance plans and
3 ensures that patients get the most value for premiums paid;

4 (f) Patients should have visibility regarding how many of their
5 insurance premium dollars pay for health-care and dental services as
6 opposed to administrative, marketing, and operational costs;

7 (g) Medical loss ratio standards are already in place for health
8 insurance, requiring health insurance carriers in Colorado to comply with
9 transparency and disclosure standards;

10 (h) The medical loss ratio standards for health insurance carriers,
11 requiring at least eighty percent of patient premiums to be spent on direct
12 patient care, have been working across all fifty states to increase
13 transparency and accountability within medical insurance for more than
14 ten years;

15 (i) Dental plans in this state are not required to have equivalent
16 transparency and disclosure standards, known as dental loss ratios, in
17 place;

18 (j) Momentum is growing across the country to implement dental
19 loss ratios to ensure transparency and accountability for dental plans;

20 (k) In the November 2022 election, voters in Massachusetts
21 overwhelmingly supported a ballot initiative, with a decisive seventy-two
22 percent supermajority vote, to require that dental plans spend at least
23 eighty-three percent of patient premiums on direct patient care;

24 (l) When patients and employers are comparing dental plans for
25 purchase, they should have access to information that shows how much
26 coverage is actually provided relative to what they pay in premiums for
27 the coverage;

1 (m) Bringing transparency to how much care the premiums are
2 actually paying for is an important step to drive efficiencies in care and
3 ensure value in patients' dental benefits; and

4 (n) As Colorado has long been a leader in policies that increase
5 transparency, value, accountability, and access to health care for
6 consumers, Colorado should continue to lead and provide protections for
7 consumers in accessing dental care coverage.

8 (2) In order to ensure dental care is accessible for all Coloradans,
9 it is critical that Colorado establish transparency and accountability for
10 dental plans by establishing standards for how premium dollars must be
11 spent on patient care.

12 **SECTION 2.** In Colorado Revised Statutes, 10-16-107, **amend**
13 (1)(a), (1)(f), (2)(a)(I) introductory portion, and (2)(b), as follows:

14 **10-16-107. Rate filing regulation - benefits ratio - rules.**

15 (1) (a) A carrier subject to part 2, 3, ~~or 4,~~ OR 5 of this ~~article~~ ARTICLE 16
16 shall not establish rates for any sickness, accident, or health insurance
17 policy, contract, certificate, or other evidence of coverage OR DENTAL
18 COVERAGE PLAN, AS DEFINED IN SECTION 10-16-158 (1)(a), issued or
19 delivered to any policyholder, enrollee, subscriber, or member in
20 Colorado that are excessive, inadequate, or unfairly discriminatory. To
21 assure compliance with the requirements of this section that rates are not
22 excessive in relation to benefits, the commissioner shall promulgate rules
23 to require rate filings and, as part of the rules, may require the submission
24 of adequate documentation and supporting information, including
25 actuarial opinions or certifications and set expected benefits ratios. The
26 carrier shall submit expected rate increases to the commissioner at least
27 sixty days prior to the proposed implementation of the rates. If the

1 commissioner does not approve or disapprove the rate filings within a
2 sixty-day period, the carrier may implement and reasonably rely upon the
3 rates on the condition that the commissioner may require correction of
4 any deficiencies in the rate filing upon later review if the rate the carrier
5 charged is excessive, inadequate, or unfairly discriminatory. A
6 prospective rate adjustment is the sole remedy for rate deficiencies
7 pursuant to this subsection (1). If the commissioner finds deficiencies in
8 the rate filing after a sixty-day period, the commissioner shall provide
9 notice to the carrier, and the carrier shall correct the rate on a prospective
10 basis.

11 (f) Carriers shall file rate filings for insurance regulated under
12 parts 1 to ~~4 5~~ of this ~~article~~ ARTICLE 16 electronically in a format made
13 available by the division, unless exempted by rule for an emergency
14 situation as determined by the commissioner. The division shall post on
15 its website a rate filing summary for insurance regulated under parts 1 to
16 ~~4 5~~ of this ~~article~~ ARTICLE 16 in order to provide notice to the public.

17 (2) (a) (I) Rates for an individual health coverage plan issued or
18 delivered to any policyholder, enrollee, subscriber, or member in
19 Colorado by an insurer subject to part 2 of this article 16 or an entity
20 subject to part 3, ~~or~~ 4, OR 5 of this article 16 shall not be excessive,
21 inadequate, or unfairly discriminatory to assure compliance with the
22 requirements of this section that rates are not excessive in relation to
23 benefits. Rates are excessive if they are likely to produce a long run profit
24 that is unreasonably high for the insurance provided or if expenses are
25 unreasonably high in relation to services rendered. In determining if rates
26 are excessive, the commissioner may consider:

27 (b) Notwithstanding any other provision of this ~~article~~ ARTICLE 16,

1 a carrier subject to part 2, 3, ~~or~~ 4, OR 5 of this ~~article~~ ARTICLE 16 shall not
2 vary the premium rate for an individual health coverage plan due to the
3 gender of the individual policyholder, enrollee, subscriber, or member.
4 Any premium rate based on the gender of the individual policyholder,
5 enrollee, subscriber, or member is unfairly discriminatory and is not
6 allowed.

7 **SECTION 3.** In Colorado Revised Statutes, **add** 10-16-158 as
8 follows:

9 **10-16-158. Dental coverage plans - dental loss ratio - rules -**
10 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
11 OTHERWISE REQUIRES:

12 (a) "DENTAL COVERAGE PLAN" MEANS A HEALTH COVERAGE PLAN
13 THAT INCLUDES COVERAGE FOR THE COSTS OF DENTAL CARE SERVICES.
14 "DENTAL COVERAGE PLAN" INCLUDES A PLAN ISSUED BY A PREPAID
15 DENTAL PLAN ORGANIZATION THAT HAS A CERTIFICATE OF AUTHORITY TO
16 OPERATE PURSUANT TO PART 5 OF THIS ARTICLE 16.

17 (b) (I) "DENTAL LOSS RATIO" MEANS THE PERCENTAGE OF
18 PREMIUM DOLLARS COLLECTED EACH YEAR FOR A DENTAL COVERAGE
19 PLAN THAT THE DENTAL COVERAGE PLAN SPENDS ON DENTAL SERVICES
20 PROVIDED TO AN ENROLLEE, SEPARATE FROM OVERHEAD AND
21 ADMINISTRATIVE COSTS.

22 (II) THE DENTAL LOSS RATIO IS CALCULATED BY DIVIDING THE
23 NUMERATOR BY THE DENOMINATOR, WHERE:

24 (A) THE NUMERATOR IS THE SUM OF THE AMOUNT EXPENDED FOR
25 CLINICAL DENTAL SERVICES PROVIDED TO ENROLLEES, THE AMOUNT
26 EXPENDED ON ACTIVITIES THAT IMPROVE DENTAL CARE QUALITY, AND THE
27 AMOUNT OF CLAIMS PAYMENTS IDENTIFIED THROUGH FRAUD REDUCTION

1 EFFORTS; AND

2 (B) THE DENOMINATOR IS THE TOTAL AMOUNT OF PREMIUM
3 REVENUE, EXCLUDING FEDERAL AND STATE TAXES, LICENSING AND
4 REGULATORY FEES PAID, AND ANY OTHER PAYMENTS REQUIRED BY
5 FEDERAL LAW.

6 (2) (a) THE COMMISSIONER SHALL DEFINE BY RULE:

7 (I) EXPENDITURES FOR CLINICAL DENTAL SERVICES;

8 (II) ACTIVITIES THAT IMPROVE DENTAL CARE QUALITY; AND

9 (III) OVERHEAD AND ADMINISTRATIVE COST EXPENDITURES.

10 (b) THE DEFINITIONS PROMULGATED BY RULE PURSUANT TO THIS
11 SECTION MUST BE CONSISTENT WITH SIMILAR DEFINITIONS THAT ARE USED
12 FOR THE REPORTING OF MEDICAL LOSS RATIOS BY CARRIERS OFFERING
13 HEALTH BENEFIT PLANS IN THE STATE. OVERHEAD AND ADMINISTRATIVE
14 COSTS MUST NOT BE INCLUDED IN THE NUMERATOR AS DESCRIBED IN
15 SUBSECTION (1)(b)(II)(A) OF THIS SECTION.

16 (3) (a) ON OR BEFORE JULY 31, 2024, AND ON OR BEFORE JULY 31
17 EACH YEAR THEREAFTER, A CARRIER THAT ISSUES, SELLS, RENEWS, OR
18 OFFERS A DENTAL COVERAGE PLAN SHALL FILE A DENTAL LOSS RATIO
19 FORM ELECTRONICALLY WITH THE DIVISION FOR THE PRECEDING
20 CALENDAR YEAR IN WHICH DENTAL COVERAGE WAS PROVIDED BY THE
21 DENTAL COVERAGE PLAN. THE COMMISSIONER MAY CREATE A NEW
22 REPORTING FORM OR USE AN EXISTING REPORTING FORM TO FACILITATE
23 DATA COLLECTION. THE COMMISSIONER SHALL ENSURE THAT FIELDS ARE
24 REPORTED CONSISTENTLY BY CARRIERS. THE FILING MUST:

25 (I) REPORT THE CALCULATED DENTAL LOSS RATIO ACCORDING TO
26 THE FORMULA IN SUBSECTION (1)(b)(II) OF THIS SECTION;

27 (II) SEPARATELY REPORT EACH DATA ELEMENT DESCRIBED IN

1 SUBSECTION (1)(b) OF THIS SECTION;

2 (III) REPORT ADDITIONAL DATA THAT INCLUDES THE NUMBER OF
3 ENROLLEES, THE PLAN DEDUCTIBLE AMOUNTS, THE ANNUAL MAXIMUM
4 COVERAGE LIMIT, AND THE NUMBER OF ENROLLEES WHO MEET OR EXCEED
5 THE ANNUAL COVERAGE LIMIT;

6 (IV) REPORT DATA BY MARKET SEGMENT AND PRODUCT TYPE, AS
7 DEFINED BY RULE OF THE COMMISSIONER; AND

8 (V) BE IN A FORM AND MANNER AS PRESCRIBED BY RULE OF THE
9 COMMISSIONER.

10 (b) FOR THE REPORT TO BE SUBMITTED ON OR BEFORE JULY 31,
11 2024, A CARRIER SHALL ALSO SUBMIT THE INFORMATION REQUIRED IN
12 SUBSECTION (3)(a) OF THIS SECTION FOR THE PLAN YEARS 2021 THROUGH
13 2024.

14 (c) IF THE COMMISSIONER DEEMS THAT DATA VERIFICATION OF A
15 CARRIER'S DENTAL LOSS RATIO FOR A DENTAL COVERAGE PLAN IS
16 NECESSARY, THE COMMISSIONER SHALL GIVE THE CARRIER AT LEAST
17 THIRTY DAYS NOTIFICATION PRIOR TO BEGINNING THE VERIFICATION
18 PROCESS WITH THE CARRIER.

19 (d) WITHIN ONE HUNDRED TWENTY DAYS AFTER THE DIVISION
20 RECEIVES THE DENTAL LOSS RATIO INFORMATION COLLECTED PURSUANT
21 TO SUBSECTION (3)(a) OF THIS SECTION, THE DIVISION SHALL MAKE THE
22 INFORMATION, INCLUDING THE AGGREGATE DENTAL LOSS RATIO AND THE
23 DATA REPORTED PURSUANT TO SUBSECTION (3)(a)(II) OF THIS SECTION,
24 AVAILABLE TO THE PUBLIC IN A SEARCHABLE FORMAT ON A PUBLIC
25 WEBSITE THAT ALLOWS MEMBERS OF THE PUBLIC TO COMPARE DENTAL
26 LOSS RATIOS AMONG CARRIERS BY PLAN TYPE BY:

27 (I) POSTING THE INFORMATION ON THE DIVISION'S WEBSITE; OR

1 (II) PROVIDING THE INFORMATION TO THE ADMINISTRATOR OF THE
2 ALL-PAYER HEALTH CLAIMS DATABASE ESTABLISHED PURSUANT TO
3 SECTION 25.5-1-204. IF THE DIVISION PROVIDES THE INFORMATION TO THE
4 ADMINISTRATOR, THE ADMINISTRATOR SHALL MAKE THE INFORMATION
5 AVAILABLE TO THE PUBLIC IN A FORMAT DETERMINED BY THE DIVISION
6 AND SHALL REPORT THE DATA TO THE GENERAL ASSEMBLY DURING THE
7 "STATE MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND
8 TRANSPARENT (SMART) GOVERNMENT ACT" HEARINGS HELD PURSUANT
9 TO PART 2 OF ARTICLE 7 OF TITLE 2.

10 (4) (a) ONCE THE DIVISION HAS COLLECTED THE DATA PURSUANT
11 TO SUBSECTION (3) OF THIS SECTION FOR TWO CALENDAR YEARS, THE
12 COMMISSIONER SHALL PROMULGATE RULES THAT CREATE A PROCESS TO
13 IDENTIFY ANY CARRIERS THAT SIGNIFICANTLY DEVIATE FROM AVERAGE
14 DENTAL LOSS RATIOS AND TO INVESTIGATE THE CAUSES OF THE
15 DEVIATION. SUCH PROCESS SHALL INCLUDE:

16 (I) CALCULATING AN AVERAGE DENTAL LOSS RATIO FOR EACH
17 MARKET SEGMENT USING AGGREGATE DATA FOR A THREE-YEAR PERIOD,
18 CONSISTING OF DATA FOR THE DENTAL LOSS RATIO REPORTING YEAR THAT
19 IS BEING REPORTED AND THE DATA FOR THE TWO PRIOR DENTAL LOSS
20 RATIO REPORTING YEARS;

21 (II) IDENTIFYING AS OUTLIERS THE DENTAL COVERAGE PLANS
22 THAT FALL OUTSIDE OF A SET NUMBER OF STANDARD DEVIATIONS FROM
23 THE AVERAGE DENTAL LOSS RATIO, AS DETERMINED BY RULE OF THE
24 COMMISSIONER BASED ON REVIEW OF THE DATA.

25 (b) THE COMMISSIONER MAY APPLY MORE RESTRICTIVE STANDARD
26 DEVIATION METRICS OVER TIME TO PREVENT DECLINES IN THE AVERAGE
27 DENTAL LOSS RATIO IN A MARKET SEGMENT AND MAY ESTABLISH BY RULE

1 ADDITIONAL CRITERIA FOR USE IN IDENTIFYING OUTLIERS.

2 (5) (a) THE COMMISSIONER MAY ENFORCE COMPLIANCE WITH THE
3 REPORTING REQUIREMENTS IN THIS SECTION AND IMPOSE A PENALTY OR
4 REMEDY AGAINST A PERSON WHO VIOLATES THIS SECTION.

5 (b) THE COMMISSIONER MAY INVESTIGATE OR TAKE ENFORCEMENT
6 ACTIONS AGAINST CARRIERS THAT ARE DETERMINED TO BE OUTLIERS
7 PURSUANT TO SUBSECTION (4) OF THIS SECTION AND RULES ADOPTED
8 PURSUANT TO SAID SUBSECTION (4) AND IMPOSE A PENALTY OR REMEDY
9 AGAINST A PERSON WHO VIOLATES THIS SECTION.

10 (6) THE COMMISSIONER MAY PROMULGATE RULES TO IMPLEMENT
11 THIS SECTION.

12 **SECTION 4.** In Colorado Revised Statutes, 10-16-135, **amend**
13 (1)(a) introductory portion, (1)(a)(III), (1)(a)(IV), and (1)(b) as follows:

14 **10-16-135. Health coverage plan information cards - rules -**
15 **standardization - contents.** (1) (a) The commissioner shall adopt rules
16 requiring every carrier providing a health ~~benefit~~ COVERAGE plan to issue
17 to covered persons to whom a health ~~benefit~~ COVERAGE plan
18 identification card is issued a standardized, printed card containing plan
19 information. To the extent possible, the rules ~~shall~~ MUST incorporate and
20 not conflict with the requirements of section 10-16-124 regarding
21 prescription information cards. The commissioner shall adopt ~~initial~~ rules
22 ~~by October 31, 2008, that describe the format of a standardized, printed~~
23 ~~card to be issued by carriers to persons covered under a health benefit~~
24 ~~plan to whom health benefit plan identification cards are issued. The rules~~
25 ~~establishing~~ THAT ESTABLISH the format for the printed card, ~~shall~~ WHICH
26 RULES MUST include a standard size, ~~shall~~ require the card to be legible
27 and photocopied, and ~~shall~~ delineate the information to be contained on

1 the card, including ~~but not limited to~~, the following information, as
2 applicable:

3 (III) Contact information for the carrier or health ~~benefit~~
4 COVERAGE plan administrator; and

5 (IV) An indication of whether the health ~~benefit~~ COVERAGE plan
6 is regulated by the state.

7 (b) The rules adopted pursuant to ~~paragraph (a) of this subsection~~
8 ~~(1) shall~~ SUBSECTION (1)(a) OF THIS SECTION MUST require all carriers to
9 issue a standardized, printed card to a covered person to whom a health
10 ~~benefit~~ COVERAGE plan identification card is issued upon the purchase or
11 renewal of or enrollment in a plan on or after ~~July 1, 2009. No later than~~
12 ~~July 1, 2010~~ THE EFFECTIVE DATE OF THIS SUBSECTION (1)(b), AS
13 AMENDED. STARTING JULY 1, 2024, all carriers shall issue the
14 standardized, printed card to covered persons to whom health benefit plan
15 identification cards are issued CARDS.

16 **SECTION 5.** In Colorado Revised Statutes, 25.5-1-204, **add**
17 (5)(j) as follows:

18 **25.5-1-204. Advisory committee to oversee the all-payer health**
19 **claims database - creation - members - duties - legislative declaration**
20 **- rules - report.** (5) If sufficient funding is received, the executive
21 director shall direct the administrator to create the database and the
22 administrator shall:

23 (j) PUBLISH INFORMATION TO THE PUBLIC CONCERNING DENTAL
24 LOSS RATIO INFORMATION COLLECTED BY THE DIVISION OF INSURANCE
25 PURSUANT TO SECTION 10-16-158.

26 **SECTION 6. Act subject to petition - effective date.** This act
27 takes effect at 12:01 a.m. on the day following the expiration of the

1 ninety-day period after final adjournment of the general assembly; except
2 that, if a referendum petition is filed pursuant to section 1 (3) of article V
3 of the state constitution against this act or an item, section, or part of this
4 act within such period, then the act, item, section, or part will not take
5 effect unless approved by the people at the general election to be held in
6 November 2024 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.