

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

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LLS NO. 20-0075.02 Kristen Forrestal x4217

HOUSE BILL

HOUSE SPONSORSHIP

Roberts,

SENATE SPONSORSHIP

Donovan,

BILL TOPIC: "Colorado Affordable Health Care Option"

A BILL FOR AN ACT

101 CONCERNING THE COLORADO AFFORDABLE HEALTH CARE OPTION TO
102 BE IMPLEMENTED BY THE DEPARTMENT OF REGULATORY
103 AGENCY'S DIVISION OF INSURANCE IN ORDER TO CREATE A MORE
104 AFFORDABLE HEALTH BENEFIT PLAN FOR HEALTH CARE
105 CONSUMERS IN THIS STATE.

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>.)

Beginning January 1, 2022, the bill requires a health insurance

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

carrier (carrier) that offers an individual health benefit plan in this state to offer a Colorado option plan in the Colorado counties where the carrier offers the individual health benefit plan. The commissioner of insurance (commissioner) is required to develop and implement a Colorado option plan that must:

- Be offered to Colorado residents who purchase health insurance in the individual market;
- Implement a standardized plan that:
 - Allows consumers to easily compare health benefit plans; and
 - Provides first-dollar, predeductible coverage for certain services;
- Include the essential health benefits package;
- Provide different, specific levels of coverage;
- Include a hospital reimbursement rate formula;
- Require hospital participation;
- Require a minimum medical loss ratio of 85%; and
- Require carriers and pharmacy benefit management firms to pass rebate savings through to consumers and document the savings and pass-through in a form and manner determined by the commissioner.

The Colorado option advisory board (board) is created to advise and make recommendations to the commissioner on all aspects of the Colorado option plan.

The bill authorizes the commissioner to promulgate rules to develop, implement, and operate the Colorado option plan, including:

- Expanding the Colorado option plan to the small group market, if approved by the board;
- Establishing a board-approved hospital reimbursement rate formula; and
- Requiring carriers to offer the Colorado option plan in specific counties.

The department of public health and environment is authorized to issue a warning to, impose a fine up to \$50,000 per day to, or suspend, revoke, or impose conditions on the license of a hospital that does not participate in the Colorado option plan.

The commissioner, in consultation with the board, is required to evaluate the Colorado option plan beginning July 1, 2024, and each year thereafter.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly

1 hereby finds and declares that:

2 (a) Ensuring that all people have access to affordable health care
3 is a challenge that has vexed public officials and policy experts for
4 decades despite seemingly constant efforts to address the issue;

5 (b) Although great strides have been made in increasing access to
6 health care coverage through federal legislation, not enough has been
7 accomplished to address the affordability of health insurance;

8 (c) To address the issue, in 2019 the general assembly passed
9 legislation that directed the department of health care policy and
10 financing (department) and the division of insurance to design a state
11 option health insurance plan that would be more affordable than current
12 options available in the individual and small group markets; and

13 (d) The department and the division of insurance recommend that
14 Colorado establish a state option health insurance plan offered by private
15 health insurers and initially sold in the individual market, both on and off
16 the Colorado health benefit exchange.

17 (2) The general assembly therefore declares its intent to establish
18 a Colorado affordable health care option through a partnership among the
19 state government, private health insurers, and hospitals for the purpose of:

20 (a) Increasing the availability of affordable health insurance
21 statewide to any resident seeking coverage in the individual and small
22 group markets;

23 (b) Increasing consumer choice by having at least two private
24 health insurers offering health insurance plans in every county;

25 (c) Raising the medical loss ratio from eighty percent to
26 eighty-five percent, not including insurance producers' commissions;

27 (d) Setting hospital reimbursement rates for the Colorado

1 affordable health care option through a public and transparent formula
2 that supports independent hospitals, ensures sustainability, helps to
3 stabilize rural hospitals, and addresses Colorado's high-profit outlier
4 hospitals; and

5 (e) Requiring that all compensation and rebates from prescription
6 drug manufacturers paid to private health insurers or pharmacy benefit
7 management firms be passed through as savings to policyholders.

8 **SECTION 2.** In Colorado Revised Statutes, 10-16-107, **add** (3.7)
9 as follows:

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

11 (3.7) (a) THE COMMISSIONER SHALL DENY ANY RATE IN THE INDIVIDUAL,
12 SMALL GROUP, OR LARGE GROUP MARKET THAT REFLECTS A COST SHIFT
13 BETWEEN THE COLORADO OPTION PLAN CREATED IN SECTION 10-16-1204
14 AND THE PLAN FOR WHICH THE RATES ARE SUBMITTED AND MAY CONSIDER
15 THE TOTAL COST OF HEALTH CARE IN MAKING THIS DETERMINATION.

16 (b) THE COMMISSIONER MAY ADOPT RULES AS NECESSARY TO
17 IMPLEMENT THIS SUBSECTION (3.7).

18 **SECTION 3.** In Colorado Revised Statutes, **add** part 12 to article
19 16 of title 10 as follows:

20 **PART 12**

21 **COLORADO AFFORDABLE HEALTH CARE OPTION**

22 **10-16-1201. Short title.** THE SHORT TITLE OF THIS PART 12 IS THE
23 "COLORADO AFFORDABLE HEALTH CARE OPTION ACT".

24 **10-16-1202. Definitions.** AS USED IN THIS PART 12, UNLESS THE
25 CONTEXT OTHERWISE REQUIRES:

26 (1) "BOARD" MEANS THE COLORADO OPTION ADVISORY BOARD
27 CREATED IN SECTION 10-16-1203.

1 (2) "COLORADO OPTION PLAN" MEANS THE COLORADO OPTION
2 PLAN DESCRIBED IN SECTION 10-16-1204.

3 (3) "CRITICAL ACCESS HOSPITAL" MEANS A HOSPITAL THAT IS
4 FEDERALLY CERTIFIED OR UNDERGOING FEDERAL CERTIFICATION AS A
5 CRITICAL ACCESS HOSPITAL PURSUANT TO 42 CFR 485, SUBPART F.

6 (4) "HEALTH SYSTEM" MEANS A CORPORATION OR OTHER
7 ORGANIZATION THAT OWNS, CONTAINS, OR OPERATES THREE OR MORE
8 HOSPITALS.

9 (5) "HOSPITAL" MEANS A HOSPITAL LICENSED OR CERTIFIED
10 PURSUANT TO SECTION 25-1.5-103 (1)(a); EXCEPT THAT "HOSPITAL" DOES
11 NOT INCLUDE PSYCHIATRIC HOSPITALS, GENERAL HOSPITALS THAT ARE
12 CERTIFIED AS LONG-TERM HOSPITALS, AND INPATIENT REHABILITATION
13 FACILITIES.

14 (6) "INSURANCE PRODUCER" HAS THE MEANING SET FORTH IN
15 SECTION 10-2-103 (6).

16 (7) "MEDICARE" MEANS FEDERAL INSURANCE OR ASSISTANCE
17 PROVIDED BY THE "HEALTH INSURANCE FOR THE AGED ACT", TITLE XVIII
18 OF THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, 42 U.S.C. SEC.
19 1395 ET SEQ.

20 (8) "MEDICARE REIMBURSEMENT RATES" MEANS THE SCHEDULE
21 OF REIMBURSEMENT RATES FOR PARTICULAR HEALTH CARE SERVICES
22 PROVIDED UNDER MEDICARE.

23 (9) "REBATE" MEANS A REBATE, DISCOUNT, MARKET-SHARE
24 ALLOWANCE, REMUNERATION, COMPENSATION, OR OTHER PAYMENT OR
25 PRICE CONCESSION PROVIDED BY A PRESCRIPTION DRUG MANUFACTURER
26 TO A PHARMACY BENEFIT MANAGEMENT FIRM OR CARRIER.

27 (10) "SMALL GROUP MARKET" MEANS THE MARKET FOR SMALL

1 GROUP SICKNESS AND ACCIDENT INSURANCE AS THE TERM IS DEFINED IN
2 SECTION 10-16-102 (63).

3 (11) "STANDARDIZED PLAN" MEANS A HEALTH BENEFIT PLAN THAT
4 HAS A DEFINED BENEFIT DESIGN AND COST-SHARING STRUCTURE FOR
5 COVERED HEALTH CARE SERVICES.

6 **10-16-1203. Colorado option advisory board - creation -
7 membership - terms - duties - commissioner rules.** (1) (a) (I) THERE

8 IS HEREBY CREATED THE COLORADO OPTION ADVISORY BOARD FOR THE
9 PURPOSE OF MAKING RECOMMENDATIONS TO DEVELOP, IMPLEMENT, AND
10 OPERATE THE COLORADO OPTION PLAN IN THE BEST INTERESTS OF ALL
11 COLORADANS. THE BOARD CONSISTS OF NINE VOTING MEMBERS. THE
12 EXECUTIVE DIRECTOR OF THE EXCHANGE OR THE EXECUTIVE DIRECTOR'S
13 DESIGNEE SHALL SERVE AS A VOTING MEMBER OF THE BOARD. ON OR
14 BEFORE JULY 15, 2020:

15 (A) THE GOVERNOR SHALL APPOINT FOUR VOTING
16 NONLEGISLATIVE MEMBERS TO THE BOARD, TWO OF WHOM ARE
17 REPRESENTATIVES OF CONSUMERS WHO HAVE THE HIGHEST BARRIERS TO
18 ACCESSING HEALTH CARE, ONE OF WHOM HAS EXPERTISE OR EXPERIENCE
19 IN THE PROVISION OF HEALTH CARE TO THE UNINSURED AND LOW-INCOME
20 POPULATIONS, AND ONE OF WHOM HAS EXPERIENCE OR EXPERTISE IN
21 HEALTH CARE FINANCE;

22 (B) THE PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE
23 SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE
24 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES SHALL EACH
25 APPOINT ONE VOTING NONLEGISLATIVE MEMBER TO THE BOARD. THE
26 MEMBERS APPOINTED BY LEGISLATORS SHALL INCLUDE A MEMBER WITH
27 EXPERIENCE OR EXPERTISE IN VALUE-BASED PURCHASING AND PLAN

1 DESIGN, A MEMBER WITH EXPERIENCE OR EXPERTISE IN THE PROVISION OF
2 HEALTH CARE SERVICES IN RURAL AREAS, AND A MEMBER WITH
3 EXPERIENCE OR EXPERTISE IN HOSPITAL ADMINISTRATION.

4 (II) NO MORE THAN FOUR VOTING MEMBERS OF THE BOARD MAY
5 BE FROM THE HEALTH CARE INDUSTRY, INCLUDING HOSPITALS, CARRIERS,
6 PRODUCERS, AND PROVIDERS. THE MEMBERS MUST PUBLICLY DISCLOSE
7 WHETHER THEY HAVE ANY FINANCIAL INTEREST IN THE IMPLEMENTATION
8 OF THE COLORADO OPTION PLAN.

9 (III) THE PERSONS MAKING THE APPOINTMENTS TO THE BOARD
10 SHALL COORDINATE APPOINTMENTS TO ENSURE THAT:

11 (A) THE MAJORITY OF THE MEMBERS DO NOT HAVE A FINANCIAL
12 INTEREST IN THE HEALTH CARE INDUSTRY;

13 (B) THE MEMBERS REFLECT THE GEOGRAPHIC, ETHNIC, RACIAL,
14 AND ECONOMIC DIVERSITY OF THE STATE;

15 (C) THE MEMBERS AS A WHOLE HAVE DEMONSTRATED EXPERIENCE
16 AND EXPERTISE IN ALL AREAS OUTLINED IN SUBSECTION (1)(a)(IV) OF THIS
17 SECTION; AND

18 (D) AT LEAST THREE VOTING MEMBERS OF THE BOARD ARE FROM
19 RURAL AREAS OF THE STATE.

20 (IV) THE BOARD MUST HAVE EXPERIENCE OR EXPERTISE IN EACH
21 OF THE FOLLOWING AREAS, AND EACH INDIVIDUAL APPOINTED TO THE
22 BOARD MUST HAVE DEMONSTRATED EXPERIENCE OR EXPERTISE IN AT
23 LEAST TWO OF THE FOLLOWING AREAS:

24 (A) INDIVIDUAL HEALTH INSURANCE COVERAGE;

25 (B) VALUE-BASED PURCHASING AND PLAN DESIGN;

26 (C) HEALTH CARE CONSUMER NAVIGATION AND ASSISTANCE IN
27 ACCESSING HEALTH CARE;

- 1 (D) HEALTH CARE FINANCE;
- 2 (E) THE PROVISION OF HEALTH CARE SERVICES IN RURAL AREAS;
- 3 (F) THE PROVISION OF HEALTH CARE SERVICES TO UNINSURED AND
- 4 LOW-INCOME POPULATIONS;
- 5 (G) HEALTH CARE ACTUARIAL ANALYSIS;
- 6 (H) AS A MEMBER OF AN EMPLOYEE ORGANIZATION THAT
- 7 REPRESENTS SERVICE EMPLOYEES IN THE HEALTH CARE INDUSTRY;
- 8 (I) HEALTH CARE DELIVERY SYSTEMS;
- 9 (J) REPRESENTING CONSUMERS IN THE DEVELOPMENT OF HEALTH
- 10 CARE POLICY;
- 11 (K) HOSPITAL ADMINISTRATION; OR
- 12 (L) INSURANCE BROKERAGE.

13 (V) (A) EXCEPT AS PROVIDED IN SUBSECTION (1)(a)(V)(B) OF THIS

14 SECTION, THE TERMS OF OFFICE OF THE VOTING MEMBERS OF THE BOARD

15 ARE THREE YEARS, AND MEMBERS OF THE BOARD MAY SERVE A MAXIMUM

16 OF TWO CONSECUTIVE THREE-YEAR TERMS.

17 (B) IN ORDER TO ENSURE STAGGERED TERMS, THE INITIAL TERM OF

18 OFFICE OF TWO OF THE VOTING MEMBERS APPOINTED BY THE GOVERNOR

19 AND THE MEMBERS APPOINTED BY THE MINORITY LEADER OF THE SENATE

20 AND THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES IS TWO

21 YEARS. AFTER SERVING AN INITIAL TWO-YEAR TERM, THESE MEMBERS

22 MAY SERVE UP TO TWO ADDITIONAL, CONSECUTIVE THREE-YEAR TERMS.

23 (b) (I) THE GOVERNOR SHALL APPOINT A REPRESENTATIVE OF

24 EACH OF THE FOLLOWING TO SERVE TO SERVE AS NONVOTING, EX OFFICIO

25 MEMBERS OF THE BOARD:

- 26 (A) THE OFFICE OF THE GOVERNOR;
- 27 (B) A STATEWIDE ASSOCIATION OF PROFESSIONAL NURSES;

1 (C) A STATEWIDE ASSOCIATION REPRESENTING PHYSICIANS;

2 (D) A STATEWIDE ASSOCIATION OF HOSPITALS; AND

3 (E) A STATEWIDE ASSOCIATION OF CARRIERS.

4 (II) THE COMMISSIONER OF INSURANCE, THE EXECUTIVE DIRECTOR
5 OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE
6 ADMINISTRATOR OF THE ALL-PAYER HEALTH CLAIMS DATABASE
7 ESTABLISHED PURSUANT TO SECTION 25.5-1-204, OR THEIR DESIGNEES
8 SHALL ALSO SERVE AS EX OFFICIO MEMBERS.

9 (c) MEMBERS OF THE BOARD MAY BE REMOVED BY THEIR
10 RESPECTIVE APPOINTING AUTHORITIES FOR CAUSE AS DEFINED BY THE
11 BYLAWS OF THE BOARD.

12 (d) IF A VACANCY OCCURS ON THE BOARD, THE APPOINTING
13 AUTHORITY FOR THE VACATED POSITION SHALL FILL THE VACANCY BY
14 APPOINTMENT FOR THE REMAINDER OF THE UNEXPIRED TERM. IF A
15 MEMBER IS APPOINTED TO FILL A VACANCY AND SERVES FOR MORE THAN
16 HALF OF THE UNEXPIRED TERM, THE MEMBER IS ELIGIBLE TO SERVE ONE
17 MORE TERM.

18 (2) THE DIVISION SHALL CONVENE THE BOARD AND PROVIDE
19 TECHNICAL AND ADMINISTRATIVE SUPPORT TO ASSIST THE BOARD IN
20 CARRYING OUT ITS RESPONSIBILITIES PURSUANT TO THIS PART 12. THE
21 BOARD SHALL ELECT A CHAIR AND VICE-CHAIR FROM AMONG THE VOTING
22 MEMBERS OF THE BOARD. THE BOARD SHALL MEET AT LEAST QUARTERLY,
23 HOLD PUBLIC MEETINGS, AND ALLOW THE OPPORTUNITY FOR PUBLIC
24 TESTIMONY. THE BOARD SHALL ESTABLISH BYLAWS TO GUIDE ITS
25 OPERATION, INCLUDING THE AUTHORITY TO GO INTO EXECUTIVE SESSION
26 TO DISCUSS CONFIDENTIAL OR PROPRIETARY INFORMATION.

27 (3) BOARD MEMBERS MAY RECEIVE A PER DIEM AND

1 REIMBURSEMENT FOR TRAVEL AND OTHER NECESSARY EXPENSES WHILE
2 ENGAGED IN THE PERFORMANCE OF OFFICIAL DUTIES OF THE BOARD.

3 (4) BOARD MEMBERS ARE SUBJECT TO PART 4 OF ARTICLE 6,
4 ARTICLE 18, AND PART 2 OF ARTICLE 72 OF TITLE 24.

5 (5) THE BOARD SHALL ADVISE THE COMMISSIONER ON THE
6 DEVELOPMENT, IMPLEMENTATION, AND OPERATION OF THE COLORADO
7 OPTION PLAN, INCLUDING:

8 (a) DATA AND METRICS TO AID THE COMMISSIONER OR AN
9 INDEPENDENT THIRD PARTY IN THE EVALUATION OF THE COLORADO
10 OPTION PLAN PURSUANT TO SECTION 10-16-1206 (1);

11 (b) A STANDARDIZED PLAN AS THE COLORADO OPTION PLAN;

12 (c) HOW PASS-THROUGH FUNDS FROM ANY FEDERAL WAIVERS
13 RECEIVED PURSUANT TO SECTION 25.5-1-129 (7) SHOULD BE ALLOCATED;

14 (d) ANY FEDERAL WAIVER APPLICATION REQUIRED IN SECTION
15 25.5-1-129 (7);

16 (e) VALUE-BASED PAYMENTS AND PLAN DESIGN IN THE COLORADO
17 OPTION PLAN;

18 (f) ON OR BEFORE JANUARY 1, 2023, THE TIMING AND FEASIBILITY
19 OF OFFERING THE COLORADO OPTION PLAN IN THE SMALL GROUP MARKET;

20 (g) THE INDEPENDENT THIRD-PARTY EVALUATION OF THE
21 COLORADO OPTION PLAN AND ITS SUSTAINABILITY IF THE COMMISSION
22 CONTRACTS WITH A THIRD-PARTY PURSUANT TO SECTION 10-16-1206; AND

23 (h) OPPORTUNITIES TO LEVERAGE THE COLORADO OPTION PLAN TO
24 PROMOTE INNOVATION THAT IMPROVES THE QUALITY, ACCESS, AND
25 AFFORDABILITY OF HEALTH CARE.

26 (6) THE BOARD MAY OVERRIDE A DECISION OF THE COMMISSIONER
27 CONCERNING THE DEVELOPMENT, IMPLEMENTATION, AND OPERATION OF

1 THE COLORADO OPTION PLAN BY AN AFFIRMATIVE VOTE OF AT LEAST
2 SEVEN OF THE VOTING MEMBERS OF THE BOARD.

3 **10-16-1204. Colorado option plan - carriers required to offer**
4 **- required components - rules.** (1) (a) BEGINNING JANUARY 1, 2022, A
5 CARRIER THAT OFFERS AN INDIVIDUAL HEALTH BENEFIT PLAN IN
6 COLORADO SHALL OFFER THE COLORADO OPTION PLAN IN THE INDIVIDUAL
7 MARKET IN EACH COUNTY WHERE THE CARRIER OFFERS AN INDIVIDUAL
8 HEALTH BENEFIT PLAN.

9 (b) IF THERE IS A COUNTY IN THIS STATE WITH ONLY ONE CARRIER
10 IN THE INDIVIDUAL MARKET, IN ORDER TO ENSURE THAT THERE ARE AT
11 LEAST TWO CARRIERS OFFERING THE COLORADO OPTION PLAN IN EACH
12 COUNTY IN THE STATE, THE COMMISSIONER MAY, BY RULE, REQUIRE
13 CARRIERS TO OFFER THE COLORADO OPTION PLAN IN SPECIFIC COUNTIES.
14 IN DETERMINING WHETHER CARRIERS ARE REQUIRED TO OFFER THE
15 COLORADO OPTION PLAN IN A SPECIFIC COUNTY, THE COMMISSIONER
16 SHALL CONSIDER:

17 (I) EACH CARRIER'S STRUCTURE, THE NUMBER OF COVERED LIVES
18 THE CARRIER HAS IN ALL LINES OF BUSINESS IN EACH COUNTY, AND THE
19 CARRIER'S EXISTING SERVICE AREAS; AND

20 (II) ALTERNATIVE HEALTH CARE COVERAGE AVAILABLE IN EACH
21 COUNTY, INCLUDING HEALTH CARE COVERAGE COOPERATIVES AS DEFINED
22 IN SECTION 10-16-1002.

23 (c) THE COMMISSIONS PAID TO PRODUCERS FOR THE SALE OF THE
24 COLORADO OPTION PLAN MUST BE COMPARABLE TO THE AVERAGE
25 COMMISSIONS PAID FOR THE SALE OF OTHER PLANS OFFERED IN THE
26 INDIVIDUAL MARKET.

27 (2) (a) THE COMMISSIONER SHALL ADOPT RULES TO DEVELOP,

1 IMPLEMENT, AND OPERATE THE COLORADO OPTION PLAN IN ACCORDANCE
2 WITH THIS SECTION. IN DEVELOPING THE COLORADO OPTION PLAN, THE
3 COMMISSIONER SHALL CONSIDER RECOMMENDATIONS FROM THE BOARD.

4 THE COLORADO OPTION PLAN MUST:

5 (I) BE OFFERED TO COLORADO RESIDENTS WHO PURCHASE HEALTH
6 INSURANCE IN THE INDIVIDUAL MARKET, INCLUDING THROUGH THE
7 EXCHANGE;

8 (II) IMPLEMENT A STANDARDIZED PLAN THAT:

9 (A) ALLOWS CONSUMERS TO EASILY COMPARE THE COLORADO
10 OPTION PLAN WITH OTHER HEALTH BENEFIT PLANS OFFERED IN THE
11 INDIVIDUAL MARKET; AND

12 (B) PROVIDES FIRST-DOLLAR, PREDEDUCTIBLE COVERAGE FOR
13 CERTAIN SERVICES SUCH AS PRIMARY HEALTH CARE AND BEHAVIORAL
14 HEALTH CARE, AS APPROPRIATE;

15 (III) INCLUDE THE ESSENTIAL HEALTH BENEFITS PACKAGE;

16 (IV) PROVIDE AT LEAST BRONZE AND SILVER LEVELS OF COVERAGE
17 AS DESCRIBED IN SECTION 1302 (d) OF THE FEDERAL ACT AND AS SPECIFIED
18 IN SECTION 10-16-103.4;

19 (V) REIMBURSE HOSPITALS FOR INPATIENT AND OUTPATIENT
20 SERVICES BASED ON THE FORMULA ESTABLISHED PURSUANT TO SECTION
21 10-16-1205;

22 (VI) REQUIRE THAT A MINIMUM OF EIGHTY-FIVE PERCENT OF THE
23 MONEY COLLECTED AS PREMIUMS BE SPENT ON PATIENT CARE; AND

24 (VII) REQUIRE EACH CARRIER TO REDUCE COLORADO OPTION PLAN
25 PREMIUMS BY AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE
26 ESTIMATED REBATES THAT THE CARRIER OR A PHARMACY BENEFIT
27 MANAGEMENT FIRM ADMINISTERING OR MANAGING PRESCRIPTION DRUG

1 BENEFITS FOR THE CARRIER RECEIVED FOR PRESCRIPTION DRUGS COVERED
2 BY THE COLORADO OPTION PLAN IN THE PREVIOUS PLAN YEAR. THE
3 COMMISSIONER SHALL SPECIFY, BY RULE, THE FORM AND MANNER OF THE
4 PREMIUM REDUCTION.

5 (b) IN DEVELOPING THE COLORADO OPTION PLAN, THE
6 COMMISSIONER SHALL, IN CONSULTATION WITH THE BOARD, THE
7 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE
8 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, CONSIDER:

9 (I) LOWERING COSTS TO CONSUMERS, INCLUDING THE COST OF
10 PREMIUMS, COINSURANCE, COPAYMENTS, AND DEDUCTIBLES;

11 (II) INCREASING ACCESS TO HEALTH CARE;

12 (III) INCREASING CONSUMER CHOICE;

13 (IV) REDUCING HEALTH DISPARITIES;

14 (V) MINIMIZING COST SHIFTING, IMPACTS ON OTHER MARKETS,
15 AND IMPACTS ON THE SUBSIDIZED POPULATION;

16 (VI) IMPROVING CARE COORDINATION; AND

17 (VII) INCORPORATING VALUE-BASED PAYMENTS AND PLAN DESIGN
18 TO DRIVE MARKETPLACE EFFICIENCIES.

19 (3) THE COMMISSIONER SHALL ADOPT RULES:

20 (a) TO INCREASE THE AFFORDABILITY OF THE COLORADO OPTION
21 PLAN FOR INDIVIDUALS AND FAMILIES WHOSE INCOME IS UP TO FOUR
22 HUNDRED PERCENT OF THE FEDERAL POVERTY LINE;

23 (b) CONCERNING THE PREMIUM AMOUNTS FOR SILVER PLANS
24 BASED ON THE ACTUARIAL VALUE OF SILVER PLANS;

25 (c) IMPLEMENTING RECOMMENDATIONS THAT ARE WITHIN THE
26 COMMISSIONER'S AUTHORITY AS A RESULT OF ANY STUDY CONDUCTED
27 PURSUANT TO SECTION 10-16-1104 (2); AND

1 (d) IMPLEMENTING RECOMMENDATIONS THAT ARE WITHIN THE
2 COMMISSIONER'S AUTHORITY AS A RESULT OF ANY STUDY CONDUCTED
3 PURSUANT TO SECTION 10-16-1104 (2).

4 **10-16-1205. Hospital reimbursement rates - plan expansion -**
5 **rules.** (1) (a) THE COMMISSIONER SHALL, BY RULE, IMPLEMENT A
6 FORMULA THAT SETS REASONABLE CARRIER REIMBURSEMENT RATES TO
7 HOSPITALS FOR INPATIENT AND OUTPATIENT HOSPITAL SERVICES UNDER
8 THE COLORADO OPTION PLAN. THE FORMULA MUST BE STRUCTURED TO
9 HELP LOWER PREMIUMS AND OUT-OF-POCKET COSTS FOR CONSUMERS AND
10 TO INCREASE ACCESS TO HEALTH CARE IN RURAL AREAS.

11 (b) THE HOSPITAL REIMBURSEMENT RATE FORMULA MUST BE
12 BASED ON A PERCENTAGE OF THE MEDICARE REIMBURSEMENT RATES OR
13 EQUIVALENT RATES FOR THE PLAN YEAR IN WHICH THE FORMULA IS
14 IMPLEMENTED.

15 (c) NOTWITHSTANDING SUBSECTION (1)(a) OF THIS SECTION, FOR
16 THE 2022 AND 2023 PLAN YEARS, THE BASE REIMBURSEMENT RATE FOR
17 HOSPITALS IS ONE HUNDRED FIFTY-FIVE PERCENT OF THE HOSPITAL'S
18 MEDICARE REIMBURSEMENT RATE OR EQUIVALENT RATES. THE BASE
19 REIMBURSEMENT RATE FOR A HOSPITAL SHALL BE ADJUSTED AS FOLLOWS:

20 (I) A HOSPITAL THAT IS A CRITICAL ACCESS HOSPITAL OR THAT IS
21 INDEPENDENT AND NOT PART OF A HEALTH SYSTEM MUST RECEIVE A
22 TWENTY-PERCENTAGE-POINT INCREASE IN THE BASE REIMBURSEMENT
23 RATE. A HOSPITAL THAT IS A CRITICAL ACCESS HOSPITAL AND IS NOT PART
24 OF A HEALTH SYSTEM MUST RECEIVE UP TO A FORTY-PERCENTAGE-POINT
25 INCREASE IN THE BASE REIMBURSEMENT RATE.

26 (II) A HOSPITAL WITH A COMBINED PERCENTAGE OF MEDICARE
27 AND MEDICAID PATIENTS THAT EXCEEDS THE STATEWIDE AVERAGE MUST

1 RECEIVE UP TO A THIRTY-PERCENTAGE-POINT INCREASE IN ITS BASE
2 REIMBURSEMENT RATE, WITH THE ACTUAL INCREASE TO BE DETERMINED
3 BASED ON THE HOSPITAL'S PERCENTAGE SHARE OF MEDICAID AND
4 MEDICARE PATIENTS.

5 (III) A HOSPITAL THAT IS EFFICIENT IN MANAGING THE
6 UNDERLYING COST OF CARE, TAKING INTO ACCOUNT THE HOSPITAL'S
7 TOTAL MARGINS, OPERATING COSTS, AND NET PATIENT REVENUE, MUST
8 RECEIVE UP TO A FORTY-PERCENTAGE-POINT INCREASE IN ITS BASE
9 REIMBURSEMENT RATE.

10 (2) FOR THE 2024 PLAN YEAR AND EACH SUBSEQUENT PLAN YEAR,
11 THE BOARD SHALL ADVISE THE COMMISSIONER ON ADJUSTMENTS TO THE
12 PERCENTAGE ADJUSTMENTS TO THE BASE REIMBURSEMENT RATE
13 SPECIFIED IN SUBSECTION (1)(c) OF THIS SECTION AND OTHER FACTORS TO
14 CONSIDER IN THE HOSPITAL REIMBURSEMENT RATE FORMULA.

15 (3) THE REIMBURSEMENT RATE FORMULA DEVELOPED PURSUANT
16 TO SUBSECTION (1) OF THIS SECTION APPLIES TO HOSPITAL SERVICES
17 PROVIDED ON OR AFTER JANUARY 1, 2022, TO COVERED PERSONS
18 ENROLLED IN THE COLORADO OPTION PLAN ON OR AFTER THAT DATE.

19 (4) WHEN IMPLEMENTING THE HOSPITAL REIMBURSEMENT RATE
20 FORMULA PURSUANT TO THIS SECTION, THE COMMISSIONER SHALL, IN
21 COLLABORATION WITH THE BOARD, DEVELOP A PROCESS TO CONSULT WITH
22 EMPLOYEE MEMBERSHIP ORGANIZATIONS REPRESENTING HEALTH CARE
23 SYSTEMS EMPLOYEES IN COLORADO AND MAKE ANY NECESSARY CHANGES
24 TO THE HOSPITAL REIMBURSEMENT RATE FORMULA IN ORDER TO ENSURE
25 THAT RATES REFLECT THE COST OF ADEQUATE WAGES, BENEFITS,
26 STAFFING, AND TRAINING FOR THESE EMPLOYEES TO PROVIDE QUALITY
27 CARE FOLLOWING THE CONSULTATIONS.

1 (5) (a) THE COMMISSIONER MAY, UPON A DEMONSTRATION BY A
2 HOSPITAL THAT THE HOSPITAL REIMBURSEMENT RATE FOR THAT HOSPITAL
3 WILL HAVE A SIGNIFICANT ADVERSE EFFECT ON ITS FINANCIAL
4 SUSTAINABILITY AND IN CONSULTATION WITH THE DEPARTMENT OF
5 HEALTH CARE POLICY AND FINANCING AND THE BOARD, EXEMPT A
6 HOSPITAL FROM OR CHANGE THE HOSPITAL REIMBURSEMENT RATE
7 FORMULA DEVELOPED PURSUANT TO THIS SECTION FOR THE HOSPITAL.

8 (b) IF A HOSPITAL IS NOT EXEMPTED FROM PARTICIPATION IN THE
9 COLORADO OPTION PLAN OR THE REIMBURSEMENT RATE FORMULA AND
10 REFUSES TO PARTICIPATE IN THE COLORADO OPTION PLAN, THE
11 COMMISSIONER SHALL, AFTER CONSULTATION WITH THE DEPARTMENT OF
12 HEALTH CARE POLICY AND FINANCING AND THE BOARD, NOTIFY THE
13 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OF THE HOSPITAL'S
14 REFUSAL TO PARTICIPATE.

15 (6) ON OR AFTER JANUARY 1, 2023, WITH THE AFFIRMATIVE VOTE
16 OF THE MAJORITY OF THE VOTING MEMBERS OF THE BOARD, AND IN
17 CONSULTATION WITH THE DEPARTMENT OF HEALTH CARE POLICY AND
18 FINANCING, THE COMMISSIONER MAY PROMULGATE RULES TO EXPAND THE
19 COLORADO OPTION PLAN TO THE SMALL GROUP MARKET WITH ANY
20 CHANGES TO THE COLORADO OPTION PLAN THAT THE COMMISSIONER
21 DEEMS NECESSARY. A COLORADO OPTION PLAN OFFERED IN THE SMALL
22 GROUP MARKET MUST MEET ALL THE CRITERIA REQUIRED BY THIS PART 12
23 FOR THE COLORADO OPTION PLAN OFFERED IN THE INDIVIDUAL MARKET.
24 IN EVALUATING THE EXPANSION OF THE COLORADO OPTION PLAN TO THE
25 SMALL GROUP MARKET, THE COMMISSIONER SHALL CONSIDER WHETHER
26 PARTICIPATION IN A HEALTH CARE COVERAGE COOPERATIVE, AS DEFINED
27 IN SECTION 10-16-1002 (2), WOULD MEET THE REQUIREMENTS TO OFFER

1 THE COLORADO OPTION PLAN IN THE SMALL GROUP MARKET.

2 **10-16-1206. Colorado option plan evaluation - hospital**
3 **sustainability - reports.** (1) NOTWITHSTANDING SECTION 24-1-136
4 (11)(a)(I), ON OR BEFORE JULY 1, 2024, AND ON OR BEFORE EACH JULY 1
5 THEREAFTER, THE COMMISSIONER, IN CONSULTATION WITH THE BOARD,
6 SHALL EVALUATE THE COLORADO OPTION PLAN AND REPORT ITS FINDINGS
7 TO THE HEALTH AND INSURANCE COMMITTEE AND THE PUBLIC HEALTH
8 CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
9 REPRESENTATIVES AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF
10 THE SENATE, OR THEIR SUCCESSOR COMMITTEES. THE COMMISSIONER
11 SHALL ALSO ANNUALLY PRESENT THE REPORT AS PART OF THE
12 DEPARTMENT OF REGULATORY AGENCIES' PRESENTATION TO THE
13 COMMITTEE OF REFERENCE AT A HEARING HELD PURSUANT TO SECTION
14 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR ACCOUNTABLE,
15 RESPONSIVE, AND TRANSPARENT (SMART) GOVERNMENT ACT". THE
16 COMMISSIONER MAY CONTRACT WITH AN INDEPENDENT THIRD-PARTY
17 ENTITY TO CONDUCT THE EVALUATION OF THE COLORADO OPTION PLAN.
18 THE REPORT SHALL INCLUDE AN EVALUATION OF:

19 (a) THE EFFECT OF THE COLORADO OPTION PLAN ON THE
20 INDIVIDUAL MARKET AND ANY COST SHIFTING AMONG MARKETS;

21 (b) THE EFFECT OF THE COLORADO OPTION PLAN FOR INDIVIDUALS
22 WHO QUALIFY FOR PREMIUM TAX CREDITS AND COST-SHARING
23 REDUCTIONS AUTHORIZED UNDER THE FEDERAL ACT;

24 (c) THE ADEQUACY OF THE NETWORK PROVIDERS IN THE
25 COLORADO OPTION PLAN; AND

26 (d) OTHER ASPECTS OF THE COLORADO OPTION PLAN AS
27 DETERMINED BY THE COMMISSIONER.

1 (2) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), ON OR
2 BEFORE JULY 1, 2024, AND ON OR BEFORE EACH JULY 1 THEREAFTER, THE
3 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND
4 FINANCING SHALL, IN CONSULTATION WITH THE BOARD, EVALUATE THE
5 IMPACT OF THE COLORADO OPTION PLAN ON HOSPITAL SUSTAINABILITY,
6 THE HEALTH CARE WORKFORCE, AND HEALTH CARE WAGES AND REPORT
7 THE FINDINGS TO THE HEALTH AND INSURANCE COMMITTEE AND THE
8 PUBLIC HEALTH CARE AND HUMAN SERVICES COMMITTEE OF THE HOUSE OF
9 REPRESENTATIVES AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF
10 THE SENATE, OR THEIR SUCCESSOR COMMITTEES. THE EXECUTIVE
11 DIRECTOR SHALL ALSO ANNUALLY PRESENT THE REPORT AS PART OF THE
12 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING'S PRESENTATION
13 TO THE COMMITTEE OF REFERENCE AT A HEARING HELD PURSUANT TO
14 SECTION 2-7-203 (2)(a) OF THE "STATE MEASUREMENT FOR
15 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
16 GOVERNMENT ACT".

17 **SECTION 4.** In Colorado Revised Statutes, 25-3-103, **add** (6) as
18 follows:

19 **25-3-103. License denial or revocation - provisional license -**
20 **rules.** (6) THE DEPARTMENT MAY SUSPEND, REVOKE, OR IMPOSE
21 CONDITIONS ON THE LICENSE OF, OR IMPOSE FINES ON, A HOSPITAL THAT
22 DOES NOT PARTICIPATE IN THE COLORADO OPTION PLAN AS REQUIRED BY
23 SECTION 25-3-124.

24 **SECTION 5.** In Colorado Revised Statutes, **add** 25-3-124 as
25 follows:

26 **25-3-124. Hospitals - Colorado option plan - hospital**
27 **reimbursement rate formula.** (1) A HOSPITAL LICENSED OR CERTIFIED

1 BY THE DEPARTMENT PURSUANT TO SECTION 25-1.5-103 (1)(a), OTHER
2 THAN A PSYCHIATRIC HOSPITAL, A GENERAL HOSPITAL THAT IS CERTIFIED
3 AS A LONG-TERM CARE HOSPITAL PURSUANT TO 42 CFR 412.23 (e), OR AN
4 INPATIENT REHABILITATION FACILITY, SHALL PARTICIPATE IN THE
5 COLORADO OPTION PLAN DEVELOPED PURSUANT TO PART 12 OF ARTICLE
6 16 OF TITLE 10, INCLUDING THE HOSPITAL REIMBURSEMENT RATE
7 FORMULA DEVELOPED PURSUANT TO SECTION 10-16-1205.

8 (2) IF THE DEPARTMENT RECEIVES NOTICE FROM THE
9 COMMISSIONER OF INSURANCE PURSUANT TO SECTION 10-16-1205 (5)(b)
10 THAT A HOSPITAL REFUSES TO PARTICIPATE IN THE COLORADO OPTION
11 PLAN AS REQUIRED BY SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT
12 SHALL ISSUE A WARNING TO THE HOSPITAL. IF THE HOSPITAL REFUSES TO
13 PARTICIPATE IN THE COLORADO OPTION PLAN AFTER RECEIPT OF THE
14 WARNING, THE DEPARTMENT SHALL FINE THE HOSPITAL UP TO FIFTY
15 THOUSAND DOLLARS PER DAY THAT THE HOSPITAL REFUSES TO
16 PARTICIPATE. IN DETERMINING THE APPROPRIATE PENALTY, THE
17 DEPARTMENT SHALL CONSIDER THE HOSPITAL'S FINANCIAL
18 CIRCUMSTANCES AND OTHER CIRCUMSTANCES DEEMED RELEVANT BY THE
19 DEPARTMENT.

20 **SECTION 6.** In Colorado Revised Statutes, 25.5-1-129, **add**
21 (7)(a)(III) as follows:

22 **25.5-1-129. State department proposal - state option for health**
23 **care coverage - report to general assembly - waiver authorization -**
24 **legislative declaration.** (7) (a) (III) IN ANY WAIVER OR AMENDMENT TO
25 THE STATE PLAN UNDER THIS SUBSECTION (7), THE STATE DEPARTMENT
26 AND THE DIVISION SHALL RECOMMEND THAT THE MAJORITY OF
27 PASS-THROUGH FUNDING RECEIVED AS A RESULT OF THE COLORADO

1 OPTION PLAN BE DEDICATED TO INCREASING AFFORDABILITY FOR
2 INDIVIDUALS AND FAMILIES WITH INCOMES UP TO FOUR HUNDRED PERCENT
3 OF THE FEDERAL POVERTY LINE.

4 **SECTION 7. Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety.