Colorado Association of Health Plans

INSURANCE 101

COLORADO SPECIFIC INSURANCE REQUIREMENTS*

RATE REVIEW

Colorado Law requires that the Division of Insurance reviews proposed premium rates of all health insurance plans before they are sold on the market. The Division's job is to make sure that any rate increases or decreases are actuarially sound and justified. The Division will not allow proposed rate increases or decreases if it believes the rate could lead the health insurer to insolvency and result in members' claims not be paid, or if the rate isn't supported by actuarial data.

GEOGRAPHIC RATINGS

The state is divided into nine geographic rating areas for individual and small group insurance. Each area is compiled of cities with similar health care costs so that areas with higher costs (more expensive hospitals and doctors) aren't subsidized by lower-cost areas.

In 2016, the Colorado legislature required the Division of Insurance to study the possibility of moving to a single statewide rate because some mountain counties have seen increasingly high premiums. The study found that moving to one statewide rate would not lower health care costs and could have a detrimental effect on the number of carriers willing to participate in all areas of the state. Simply, carriers that provide coverage in more expensive rural cities and counties would have to build the higher hospital and physician costs into their statewide premiums. Consequently, their premiums would be much more expensive and less competitive than premiums from carriers who only serve the lower-cost metro areas.

NETWORK ADEQUACY

Network adequacy laws and regulations play a larger role in contracting and insurance premiums than most businesses or consumers realize.

In Colorado, all insurers are required to have enough physicians of all specialties, hospitals and pharmacies to provide care for health care services covered by their insurance. These laws require insurers to have a sufficient number, specialty type, and geographic distribution of providers to ensure all covered individuals have access to care without an "unreasonable delay."

NATIONAL LAWS

CONTRACTING (AKA – WHICH DOCTORS AND HOSPITALS CAN I SEE?)

Almost no other insurance issue gets more attention at the Colorado state legislature than contracting disputes between insurers and providers.

Insurers negotiate contractual rates with providers across the state. These negotiations are a subtle dance between ensuring access for their consumers and contending with market pressures for

higher reimbursement rates for health care services. While doctors and hospitals argue that insurers hold all the power in these negotiations, there has actually been a major power-shift over the past decade as more hospitals merged, hospitals acquired numerous physician practices, and physician groups have merged—a frequent practice for particular specialties.

These new mega physician groups and hospital systems can dictate their desired reimbursement because insurers will need them in their network in order to meet network adequacy requirements (more about that issue later). Additionally, certain laws create incentives for hospital-based providers to stay outside of an insurer's network, which gives them more negotiating leverage if a carrier wants to avoid having to pay much larger out-of-network bills due to Colorado law.

MEDICAL LOSS RATIOS AND INSURANCE ADMINISTRATIVE COSTS

The ACA (commonly known as Obamacare) created medical loss ratio limits (MLR) to ensure that premiums are predominantly spent on medical care. Individual and small group plans have an 80 percent MLR requirement, meaning that 80 cents on the dollar must be spent on costs like hospitals and doctors, labs and scans, and prescription drugs. Large group plans have an 85 percent MLR requirement.

These limits leave, at the most, 20 cents on the dollar for administrative costs, marketing and profit. **No other health care entity – not doctors, not hospitals, not drug manufacturing companies -- has spending requirements to ensure money is spent on care for patients. Similarly, no other health care entity has legal limits on administrative costs or profit.**

INSURANCE GROUPS: INDIVIDUAL, SMALL GROUP, LARGE GROUP AND SELF-INSURED

There are four basic insurance group sizes: individual, small group, large group, and self-insured. What many people don't realize is that the size of your plan may determine which laws have oversight over your plan and care.

Individual plans cover one person, including family members if applicable. They are paid for exclusively by the person covered by the plan. They are always regulated under Colorado law in Colorado.

Small group plans cover businesses with up to 100 employees. Companies with more than 50 full-time employees MUST offer coverage to all of those full-time employees. Small group plans are regulated under Colorado law except if they opt to self-insure.

Large group plans cover businesses with more than 100 employees. All full-time employees of companies with fully-insured plans MUST be offered coverage and can only be excluded if they have another plan (either an individual plan or if they are on a spouse's insurance plan). Some of these plans are regulated by Colorado law, but a large majority are self-insured.

Self-insured plans are usually managed by a large business that decides to take on the financial risk of covering its employees. The business sets up its own benefits design and pharmacy coverage. In these situations, an insurer is only the administrator of the plan. The business sets the rules and pays the medical bills directly rather than paying a premium to an insurer. These insurance plans are often known as ERISA plans because the plans are regulated under federal laws (including ERISA) rather than being regulated by the state. This means that many consumer protections provided for in Colorado law do not cover employees of self-insured plans.

**For more detail on regulatory requirements, see companion white paper entitled "Health Insurance Laws and Regulations."*

It is important to note that 75 percent of Coloradans are covered under self-insured plans or government plans (Medicaid, etc.) – neither of which are regulated by Colorado. That means any Colorado legislation or law ONLY affects about 25 percent of health plans in the state – most of which are small group plans provided by small businesses with tight margins.[1]

MENTAL HEALTH PARITY

Federal law requires that mental health conditions be given the same coverage as physical conditions, meaning if the insurance plan allows unlimited doctors' visits for Multiple Scleroses, it must also cover unlimited doctors' visits for Bipolar Disorder. Additionally, those with mental health conditions must have equal access to drugs, emergency care, and the same maximum out-of-pocket limits, amongst other requirements. The most recent Federal Mental Health Parity Law passed in 2008, and all non-grandfathered health insurance plans were required to comply with this law as of 2017.

ESSENTIAL HEALTH CARE BENEFITS

When the ACA passed, it included a list of benefit categories that were required coverage in every non-grandfathered health insurance plan. Those categories are: (1) Ambulatory Patient Services; (2) Emergency Services; (3) Hospitalization; (4) Maternity and Newborn Care; (5) Mental Health and Substance Use Disorder Services Including Behavioral Health Treatment; (6) Prescription Drugs; (7) Rehabilitative and Habilitative Services and Devices; (8) Laboratory Services; (9) Preventative and Wellness Services and Chronic Disease Management; and (10) Pediatric Services, Including Oral and Vision Care.

CORRECTING COMMON MISCONCEPTIONS ABOUT HEALTH INSURANCE

- No one can be denied for insurance based on their age, health status or gender.
- Insurers cannot go back and deny coverage for a procedure that has been given prior approval.
- Insurance companies cannot turn down people who apply for coverage because they are sick or have a pre-existing condition.
- Current law requires health insurance companies spending less than 85% of premiums on health care services (or 80% in the individual market) to refund money to their members.

[1] Health Insurance Cost Report to The Colorado General Assembly for Calendar year 2015, https://drive.google.com/file/d/0BwguXutc4vbpbUhJTnRnT01DSTg/view, Colorado Department of Regulatory Agencies, (Jan 3, 2016)

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