CHAPTER 194

INSURANCE

HOUSE BILL 19-1233

BY REPRESENTATIVE(S) Froelich and Caraveo, Bird, Buentello, Cutter, Duran, Esgar, Exum, Galindo, Garnett, Gonzales-Gutierrez, Gray, Hansen, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, McLachlan, Melton, Michaelson Jenet, Mullica, Roberts, Sirota, Snyder, Sullivan, Titone, Valdez A., Valdez D., Buckner, Coleman, Becker; also SENATOR(S) Ginal and Moreno, Winter, Zenzinger.

AN ACT

CONCERNING PAYMENT SYSTEM REFORMS TO REDUCE HEALTH CARE COSTS BY INCREASING UTILIZATION OF PRIMARY CARE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) A highly functioning health care system with a robust primary care foundation delivers quality health care at a lower cost;

(b) A primary care system with adequate resources would ensure delivery of the right care, in the right place at the right time;

(c) Evidence indicates investments in advanced primary care delivery yield net savings, as demonstrated in the Colorado medicaid accountable care collaborative;

(d) Additional investments in primary care should come through evidence-based alternative payment models that:

(I) Provide incentives for value rather than volume;

(II) Are adequate to sustain infrastructure to deliver advanced primary care that is patient-centered, comprehensive, coordinated, and accessible;

(III) Direct resources to the patient and the practice level that expand the capacity of the primary care system to equitably meet the health needs of patients; and

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Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(IV) Sustain advanced primary care delivery models, such as the patient-centered medical home, that provide quality and accountable care;

(e) The share of health care spending on primary care is a critical measure of the primary care orientation of a health care system;

(f) The state of Colorado will achieve more affordable care and better outcomes by consistently measuring and sustaining a system-wide investment in primary care; and

(g) The health care system is a comprehensive entity that requires the commissioner of insurance to evaluate the total cost of health care as part of the rate review process in order to decrease health care disparities in Colorado and to advance the welfare of the public through overall quality, efficiency, and affordability.

SECTION 2. In Colorado Revised Statutes, **add** 10-16-150 as follows:

10-16-150. Primary care payment reform collaborative - created - powers and duties - report - definition - repeal. (1) THE COMMISSIONER SHALL CONVENE A PRIMARY CARE PAYMENT REFORM COLLABORATIVE TO:

(a) CONSULT WITH THE DEPARTMENT OF PERSONNEL, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE ADMINISTRATOR OF THE COLORADO ALL-PAYER HEALTH CLAIMS DATABASE DESCRIBED IN SECTION 25.5-1-204;

(b) ADVISE IN THE DEVELOPMENT OF THE AFFORDABILITY STANDARDS AND TARGETS FOR CARRIER INVESTMENTS IN PRIMARY CARE ESTABLISHED IN ACCORDANCE WITH SECTION 10-16-107 (3.5);

(c) IN COORDINATION WITH THE ADMINISTRATOR OF THE ALL-PAYER CLAIMS DATABASE DESCRIBED IN SECTION 25.5-1-204, ANALYZE THE PERCENTAGE OF MEDICAL EXPENSES ALLOCATED TO PRIMARY CARE:

(I) BY HEALTH INSURERS;

(II) UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF TITLE 25.5; AND

(III) UNDER THE "CHILDREN'S BASIC HEALTH PLAN ACT", ARTICLE 8 OF TITLE 25.5;

(d) DEVELOP A RECOMMENDATION TO THE COMMISSIONER ON THE DEFINITION OF PRIMARY CARE FOR THE PURPOSES OF THIS SECTION;

(e) REPORT ON CURRENT HEALTH INSURER PRACTICES AND METHODS OF REIMBURSEMENT THAT DIRECT GREATER HEALTH CARE RESOURCES AND INVESTMENTS TOWARD HEALTH CARE INNOVATION AND CARE IMPROVEMENT IN PRIMARY CARE;

(f) IDENTIFY BARRIERS TO THE ADOPTION OF ALTERNATIVE PAYMENT MODELS BY HEALTH INSURERS AND PROVIDERS, AND DEVELOP RECOMMENDATIONS TO ADDRESS THE BARRIERS;

(g) DEVELOP RECOMMENDATIONS TO INCREASE THE USE OF ALTERNATIVE PAYMENT MODELS THAT ARE NOT PAID ON A FEE-FOR-SERVICE OR PER-CLAIM BASIS TO:

(I) INCREASE THE INVESTMENT IN ADVANCED PRIMARY CARE DELIVERED BY PRACTICES THAT ARE PATIENT-CENTERED MEDICAL HOMES AS DEFINED BY NATIONAL OR STATE-RECOGNIZED CRITERIA OR THAT HAVE DEMONSTRATED THE ABILITY TO PROVIDE HIGH-QUALITY PRIMARY CARE;

(II) ALIGN PRIMARY CARE REIMBURSEMENT BY ALL CONSUMERS OF PRIMARY CARE; AND

(III) DIRECT INVESTMENT TOWARD HIGHER VALUE PRIMARY CARE SERVICES WITH AN AIM TOWARD REDUCING HEALTH DISPARITIES;

(h) CONSIDER HOW TO INCREASE INVESTMENT IN ADVANCED PRIMARY CARE WITHOUT INCREASING COSTS TO CONSUMERS OR INCREASING THE TOTAL COST OF HEALTH CARE; AND

(i) DEVELOP AND SHARE BEST PRACTICES AND TECHNICAL ASSISTANCE TO HEALTH INSURERS AND CONSUMERS, WHICH MAY INCLUDE:

(I) ALIGNING QUALITY METRICS AS DEVELOPED IN THE STATE INNOVATION MODEL;

(II) FACILITATING THE INTEGRATION OF BEHAVIORAL AND PHYSICAL PRIMARY CARE;

(III) PRACTICE TRANSFORMATION; AND

(IV) THE DELIVERY OF ADVANCED PRIMARY CARE THAT FACILITATES APPROPRIATE UTILIZATION OF SERVICES IN APPROPRIATE SETTINGS.

(2) THE COMMISSIONER SHALL INVITE REPRESENTATIVES FROM THE FOLLOWING TO PARTICIPATE IN THE PRIMARY CARE PAYMENT REFORM COLLABORATIVE:

(a) HEALTH CARE PROVIDERS, INCLUDING PRIMARY CARE PROVIDERS;

(b) HEALTH CARE CONSUMERS;

(c) EMPLOYERS THAT PURCHASE HEALTH INSURANCE FOR EMPLOYEES AND EMPLOYERS THAT OFFER SELF-INSURED HEALTH BENEFIT PLANS;

(d) HEALTH INSURERS, INCLUDING ENTITIES THAT CONTRACT WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AS MANAGED CARE ENTITIES;

(e) THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES;

(f) THE PRIMARY CARE OFFICE IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT CREATED PURSUANT TO SECTION 25-1.5-403;

(g) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING; AND

(h) EXPERTS IN HEALTH INSURANCE ACTUARIAL ANALYSIS.

(3) THE COMMISSIONER SHALL CONVENE THE PRIMARY CARE PAYMENT REFORM COLLABORATIVE ON OR BEFORE JULY 15, 2019.

(4) BY DECEMBER 15, 2019, AND BY EACH DECEMBER 15 THEREAFTER, THE PRIMARY CARE PAYMENT REFORM COLLABORATIVE SHALL PUBLISH PRIMARY CARE PAYMENT REFORM RECOMMENDATIONS, INFORMED BY THE PRIMARY CARE SPENDING REPORT PREPARED IN ACCORDANCE WITH SECTION 25.5-1-204 (3)(c). THE COLLABORATIVE SHALL MAKE THE REPORT AVAILABLE ELECTRONICALLY TO THE GENERAL PUBLIC.

(5) THE DIVISION MAY SEEK, ACCEPT, AND EXPEND GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION.

(6) AS USED IN THIS SECTION, "HEALTH INSURER" MEANS:

(a) A CARRIER THAT IS SUBJECT TO PART 2, 3, OR 4 OF THIS ARTICLE 16 AND THAT IS OFFERING HEALTH BENEFIT PLANS IN COLORADO; AND

(b) A CARRIER THAT PROVIDES OR ADMINISTERS A GROUP BENEFIT PLAN FOR STATE EMPLOYEES PURSUANT TO PART 6 OF ARTICLE 50 OF TITLE 24.

(7) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2025. BEFORE THE REPEAL, THE FUNCTIONS OF THE PRIMARY CARE PAYMENT REFORM COLLABORATIVE ARE SCHEDULED FOR REVIEW IN ACCORDANCE WITH SECTION 24-34-104.

SECTION 3. In Colorado Revised Statutes, 10-1-108, **amend** (7) as follows:

10-1-108. Duties of commissioner - reports - publications - fees - disposition of funds - adoption of rules - examinations and investigations. (7) (a) It is the duty and responsibility of the commissioner to supervise the business of insurance in this state to assure that it is conducted in accordance with the laws of this state and in such a manner as to protect policyholders and the general public.

(b) IN COMPLYING WITH THIS SUBSECTION (7), THE COMMISSIONER SHALL:

(I) ENCOURAGE THE FAIR TREATMENT OF HEALTH CARE PROVIDERS, INCLUDING PRIMARY CARE PROVIDERS;

(II) ENCOURAGE POLICIES AND DEVELOPMENTS, INCLUDING INCREASED INVESTMENTS IN PRIMARY CARE, THAT DECREASE HEALTH DISPARITIES AND IMPROVE THE QUALITY, EFFICIENCY, AND AFFORDABILITY OF HEALTH CARE SERVICE DELIVERY AND OUTCOMES; AND

(III) VIEW THE HEALTH CARE SYSTEM AS A COMPREHENSIVE ENTITY AND ENCOURAGE AND DIRECT HEALTH INSURERS TOWARD POLICIES THAT ADVANCE THE WELFARE OF THE PUBLIC THROUGH OVERALL EFFICIENCY, AFFORDABILITY, IMPROVED HEALTH CARE QUALITY, AND APPROPRIATE ACCESS.

SECTION 4. In Colorado Revised Statutes, 10-16-107, **amend** (2)(a)(I); and **add** (3.5) as follows:

10-16-107. Rate filing regulation - benefits ratio - rules. (2) (a) (I) Rates for an individual health coverage plan issued or delivered to any policyholder, enrollee, subscriber, or member in Colorado by an insurer subject to part 2 of this ~~article~~ ARTICLE 16 or an entity subject to part 3 or 4 of this ~~article~~ ARTICLE 16 shall not be excessive, inadequate, or unfairly discriminatory to assure compliance with the requirements of this section that rates are not excessive in relation to benefits. Rates are excessive if they are likely to produce a long run profit that is unreasonably high for the insurance provided or if expenses are unreasonably high in relation to services rendered. In determining if rates are excessive, the commissioner may consider:

(A) The expected filed rates in relation to the actual rates charged;

(B) WHETHER THE CARRIER'S PRODUCTS ARE AFFORDABLE; AND

(C) WHETHER THE CARRIER HAS IMPLEMENTED EFFECTIVE STRATEGIES TO ENHANCE THE AFFORDABILITY OF ITS PRODUCTS.

(3.5) THE COMMISSIONER SHALL PROMULGATE RULES ESTABLISHING AFFORDABILITY STANDARDS. THESE STANDARDS MUST INCLUDE APPROPRIATE TARGETS FOR CARRIER INVESTMENTS IN PRIMARY CARE. IN DEVELOPING THESE STANDARDS, THE COMMISSIONER SHALL CONSIDER THE RECOMMENDATIONS OF THE PRIMARY CARE PAYMENT REFORM COLLABORATIVE CREATED IN SECTION 10-16-150.

SECTION 5. In Colorado Revised Statutes, **add** 24-50-620 as follows:

24-50-620. Targets for investment in primary care. A CARRIER SHALL ADOPT APPROPRIATE TARGETS FOR INVESTMENTS IN PRIMARY CARE TO SUPPORT VALUE-BASED HEALTH CARE DELIVERY IN ALIGNMENT WITH THE AFFORDABILITY STANDARDS DEVELOPED IN ACCORDANCE WITH SECTION 10-16-107 (3.5). THE CARRIER SHALL CONSIDER THE RECOMMENDATIONS OF THE PRIMARY CARE PAYMENT REFORM COLLABORATIVE CREATED IN SECTION 10-16-150. TARGETS ESTABLISHED UNDER THIS SECTION DO NOT APPLY IN THE CASE OF A NONPROFIT, NONGOVERNMENTAL HEALTH MAINTENANCE ORGANIZATION WITH RESPECT TO MANAGED CARE PLANS THAT PROVIDE A MAJORITY OF COVERED PROFESSIONAL SERVICES THROUGH A SINGLE CONTRACTED MEDICAL GROUP.

SECTION 6. In Colorado Revised Statutes, 25.5-1-204, **add** (3)(c) as follows:

25.5-1-204. Advisory committee to oversee the all-payer health claims database - creation - members - duties - legislative declaration - rules - report. (3) (c) (I) BY AUGUST 31, 2019, AND BY EACH AUGUST 31 THEREAFTER, THE ADMINISTRATOR SHALL PROVIDE A PRIMARY CARE SPENDING REPORT TO THE

COMMISSIONER OF INSURANCE FOR USE BY THE PRIMARY CARE PAYMENT REFORM COLLABORATIVE ESTABLISHED IN SECTION 10-16-150 REGARDING PRIMARY CARE SPENDING:

(A) BY CARRIERS, AS DEFINED IN SECTIONS 10-16-102 (8) AND 24-50-603 (2);

(B) UNDER THE "COLORADO MEDICAL ASSISTANCE ACT", ARTICLES 4, 5, AND 6 OF THIS TITLE 25.5; AND

(C) UNDER THE "CHILDREN'S BASIC HEALTH PLAN ACT", ARTICLE 8 OF THIS TITLE 25.5.

(II) THE REPORT PREPARED IN ACCORDANCE WITH THIS SUBSECTION (3)(c) MUST INCLUDE THE PERCENTAGE OF THE MEDICAL EXPENSES ALLOCATED TO PRIMARY CARE, THE SHARE OF PAYMENTS THAT ARE MADE THROUGH NATIONALLY RECOGNIZED ALTERNATIVE PAYMENT MODELS, AND THE SHARE OF PAYMENTS THAT ARE NOT PAID ON A FEE-FOR-SERVICE OR PER-CLAIM BASIS.

SECTION 7. In Colorado Revised Statutes, **add** 25.5-4-423 as follows:

25.5-4-423. Targets for investments in primary care. THE STATE DEPARTMENT SHALL ADOPT APPROPRIATE TARGETS FOR INVESTMENTS IN PRIMARY CARE TO SUPPORT VALUE-BASED HEALTH CARE DELIVERY IN ALIGNMENT WITH THE AFFORDABILITY STANDARDS DEVELOPED IN ACCORDANCE WITH SECTION 10-16-107 (3.5). THE STATE DEPARTMENT SHALL CONSIDER THE RECOMMENDATIONS OF THE PRIMARY CARE PAYMENT REFORM COLLABORATIVE CREATED IN SECTION 10-16-150. TARGETS ESTABLISHED UNDER THIS SECTION DO NOT APPLY IN THE CASE OF A NONPROFIT, NONGOVERNMENTAL HEALTH MAINTENANCE ORGANIZATION WITH RESPECT TO MANAGED CARE PLANS THAT PROVIDE A MAJORITY OF COVERED PROFESSIONAL SERVICES THROUGH A SINGLE CONTRACTED MEDICAL GROUP.

SECTION 8. In Colorado Revised Statutes, 24-34-104, **add** (26)(a)(VIII) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (26) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2025:

(VIII) THE PRIMARY CARE PAYMENT REFORM COLLABORATIVE ESTABLISHED IN SECTION 10-16-150.

SECTION 9. Appropriation. For the 2019-20 state fiscal year, $109,679 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S. To implement this act, the division may use this appropriation as follows:

(a) $109,299 for personal services, which amount is based on an assumption that the division will require an additional 0.4 FTE; and

(b) $380 for operating expenses.

SECTION 10. 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 16, 2019