

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

February 14, 2024  
Date

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

HB24-1258 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and  
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** 10-16-105.9 as  
4 follows:

5 **10-16-105.9. Health benefit plan - carrier insolvency - covered**  
6 **persons - deductible amounts - rules - definition.** (1) AS USED IN THIS  
7 SECTION:

8 (a) "OUT-OF-POCKET EXPENSES" MEANS EXPENSES PAID TOWARD  
9 A HEALTH BENEFIT PLAN:

10 (I) DEDUCTIBLE FOR MEDICAL SERVICES AND PRESCRIPTION DRUGS  
11 THAT WERE CREDITED UNDER THE COVERED PERSON'S HEALTH BENEFIT  
12 PLAN; AND

13 (II) OUT-OF-POCKET MAXIMUM FOR MEDICAL SERVICES AND  
14 PRESCRIPTION DRUGS THAT WERE CREDITED UNDER THE PERSON'S HEALTH  
15 BENEFIT PLAN, INCLUDING ANY COINSURANCE AMOUNTS.

16 (b) "OUT-OF-POCKET EXPENSES" DOES NOT INCLUDE PREMIUM  
17 PAYMENTS MADE FOR A HEALTH BENEFIT PLAN.

18 (2) FOR INDIVIDUAL HEALTH BENEFIT PLANS, IF A COVERED PERSON  
19 HAS PAID ANY OUT-OF-POCKET EXPENSES FOR SERVICES COVERED BY A  
20 HEALTH BENEFIT PLAN IN A GIVEN PLAN YEAR, AND THE CARRIER THAT  
21 PROVIDES THE HEALTH BENEFIT PLAN TO THE COVERED PERSON EXITS THE  
22 HEALTH INSURANCE MARKET AND CAN NO LONGER PROVIDE HEALTH  
23 INSURANCE BENEFITS TO THAT PERSON DURING THE SAME PLAN YEAR, A  
24 CARRIER OF A NEW HEALTH BENEFIT PLAN THAT COVERS THE PERSON  
25 DURING THE SAME PLAN YEAR SHALL CREDIT ALL OF THE OUT-OF-POCKET  
26 EXPENSES PAID BY THE COVERED PERSON TO THE NEW HEALTH BENEFIT  
27 PLAN.

1 (3) IF A COVERED PERSON'S OUT-OF-POCKET EXPENSES CREDITED  
2 TO THE NEW HEALTH BENEFIT PLAN IN ACCORDANCE WITH SUBSECTION (2)  
3 OF THIS SECTION FOR COVERAGE UNDER THE ORIGINAL HEALTH BENEFIT  
4 PLAN ARE GREATER THAN THE AMOUNT OF OUT-OF-POCKET EXPENSES  
5 REQUIRED BY THE NEW HEALTH BENEFIT PLAN, THE NEW CARRIER IS NOT  
6 REQUIRED TO APPLY THE AMOUNT IN EXCESS TO THE NEW HEALTH BENEFIT  
7 PLAN.

8 (4) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT  
9 THIS SECTION THAT INCLUDE PROTOCOLS FOR EACH CARRIER TO FOLLOW  
10 WHEN CREDITING OUT-OF-POCKET EXPENSES PAID BY A COVERED PERSON  
11 TO A NEW HEALTH BENEFIT PLAN AND PROTOCOLS FOR THE DIVISION TO  
12 FOLLOW TO ENSURE THAT THE NECESSARY DATA TO DETERMINE THE  
13 AMOUNT OF THE OUT-OF-POCKET EXPENSES CREDIT FOR EACH NEW  
14 MEMBER IS DELIVERED TO EACH CARRIER IN A TIMELY AND ACCURATE  
15 MANNER BY THE COMMISSIONER. THE COMMISSIONER SHALL COLLECT THE  
16 NECESSARY DATA FROM THE CARRIERS FOR THE DIVISION'S  
17 DETERMINATION OF THE AMOUNT OF THE OUT-OF-POCKET EXPENSE  
18 CREDITS. THE PROTOCOLS MUST BE BASED ON THE OUT-OF-POCKET  
19 MAXIMUM AMOUNTS, AS DESCRIBED IN SECTION 10-16-161, FROM THE  
20 DIVISION. THE COMMISSIONER SHALL CONSULT WITH THE EXCHANGE TO  
21 DEVELOP THE PROTOCOLS.

22 (5) THE NEW HEALTH BENEFIT PLAN IS REQUIRED ONLY TO CREDIT  
23 OUT-OF-POCKET EXPENSES TOWARD THE DEDUCTIBLE AND THE  
24 OUT-OF-POCKET MAXIMUM, WHICH ARE REPORTED BY THE PREVIOUS  
25 HEALTH BENEFIT PLAN, THE HEALTH BENEFIT PLAN'S CONSERVATORSHIP,  
26 OR THE DIVISION IN A TIME AND MANNER DETERMINED BY THE  
27 COMMISSIONER.

28 (6) (a) THE NEW CARRIER MAY FILE A CLAIM FOR THE AMOUNT OF  
29 THE INCREASE IN CLAIMS LIABILITY AS A RESULT OF THIS SECTION WITH  
30 THE ESTATE OF THE ORIGINAL HEALTH BENEFIT PLAN CARRIER.

31 (b) (I) A CARRIER MAY RECOUP, OVER A REASONABLE LENGTH OF  
32 TIME, A SUM EQUAL TO THE AMOUNT OF OUT-OF-POCKET EXPENSES  
33 CREDITED TO COVERED PERSONS, IN ACCORDANCE WITH THIS SECTION.  
34 THE AMOUNT MUST BE REASONABLY CALCULATED TO RECOUP THESE  
35 EXPENSES AND IS SUBJECT TO REVIEW BY THE COMMISSIONER. AN AMOUNT  
36 RECOUPED IS NOT CONSIDERED A PREMIUM FOR ANY OTHER PURPOSE,  
37 INCLUDING THE COMPUTATIONS OF GROSS PREMIUM TAX OR AN AGENT'S  
38 COMMISSION.

39 (II) A CARRIER THAT IMPOSES A SURCHARGE TO RECOUP THE  
40 AMOUNT OF OUT-OF-POCKET EXPENSES CREDITED PURSUANT TO THIS  
41 SECTION MUST INCLUDE THE AMOUNT OF THE SURCHARGE AS PART OF THE  
42 CARRIER'S RATE FILING PURSUANT TO SECTION 10-16-107 (1). THE  
43 CARRIER MUST SHOW THE SURCHARGE IN THE RATE FILING AS A SEPARATE

1 COMPONENT OF THE RATE AND SHALL INCLUDE SUPPORTING  
2 DOCUMENTATION.

3 (7) A CARRIER SHALL NOT FILE A CLAIM FOR THE AMOUNT OF THE  
4 INCREASE IN CLAIMS LIABILITY DUE TO THIS SECTION WITH THE ESTATE OF  
5 THE ORIGINAL HEALTH BENEFIT PLAN IF THE CARRIER HAS RECOUPED  
6 COSTS FOR OUT-OF-POCKET EXPENSES CREDITED TO COVERED PERSONS IN  
7 ACCORDANCE WITH SUBSECTION (6)(b) OF THIS SECTION.

8 (8) SUBJECT TO APPROVAL BY THE COMMISSIONER, A CARRIER IS  
9 NOT REQUIRED TO CREDIT ALL OF THE OUT-OF-POCKET EXPENSES PAID BY  
10 THE COVERED PERSON TO THE NEW HEALTH BENEFIT PLAN IN ACCORDANCE  
11 WITH SUBSECTION (2) OF THIS SECTION IF DOING SO WOULD CAUSE THE  
12 CARRIER TO BECOME INSOLVENT.

13 **SECTION 2. Act subject to petition - effective date -**  
14 **applicability.** (1) This act takes effect January 1, 2025; except that, if a  
15 referendum petition is filed pursuant to section 1 (3) of article V of the  
16 state constitution against this act or an item, section, or part of this act  
17 within the ninety-day period after final adjournment of the general  
18 assembly, then the act, item, section, or part will not take effect unless  
19 approved by the people at the general election to be held in November  
20 2024 and, in such case, will take effect January 1, 2025, or on the date of  
21 the official declaration of the vote thereon by the governor, whichever is  
22 later.

23 (2) This act applies to health benefit plans issued or renewed on  
24 or after the applicable effective date of this act."

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