

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Health & Human Services.

HB24-1258 be amended as follows:

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.

28 (3) IF A COVERED PERSON'S OUT-OF-POCKET EXPENSES CREDITED
29 TO THE NEW HEALTH BENEFIT PLAN IN ACCORDANCE WITH SUBSECTION (2)
30 OF THIS SECTION FOR COVERAGE UNDER THE ORIGINAL HEALTH BENEFIT
31 PLAN ARE GREATER THAN THE COINSURANCE AMOUNTS REQUIRED BY THE
32 NEW HEALTH BENEFIT PLAN, THE NEW CARRIER IS NOT REQUIRED TO APPLY
33 THE AMOUNT IN EXCESS TO THE NEW HEALTH BENEFIT PLAN.

34 (4) THE COMMISSIONER SHALL PROMULGATE RULES TO IMPLEMENT
35 THIS SECTION THAT INCLUDE PROTOCOLS FOR EACH CARRIER TO FOLLOW
36 WHEN CREDITING OUT-OF-POCKET EXPENSES PAID BY A COVERED PERSON
37 TO A NEW HEALTH BENEFIT PLAN AND PROTOCOLS FOR THE DIVISION TO
38 FOLLOW TO ENSURE THAT THE NECESSARY DATA TO DETERMINE THE
39 AMOUNT OF THE OUT-OF-POCKET EXPENSES CREDIT FOR EACH NEW
40 MEMBER IS DELIVERED TO EACH CARRIER IN A TIMELY AND ACCURATE

1 MANNER BY THE COMMISSIONER. THE COMMISSIONER SHALL COLLECT THE
2 NECESSARY DATA FROM THE CARRIERS FOR THE DIVISION'S
3 DETERMINATION OF THE AMOUNT OF THE OUT-OF-POCKET EXPENSE
4 CREDITS. THE PROTOCOLS MUST BE BASED ON THE OUT-OF-POCKET
5 MAXIMUM AMOUNTS, AS DESCRIBED IN SECTION 10-16-161, FROM THE
6 DIVISION. THE COMMISSIONER SHALL CONSULT WITH THE EXCHANGE TO
7 DEVELOP THE PROTOCOLS.

8 (5) THE NEW HEALTH BENEFIT PLAN IS REQUIRED ONLY TO CREDIT
9 OUT-OF-POCKET EXPENSES TOWARD THE DEDUCTIBLE AND THE
10 OUT-OF-POCKET MAXIMUM, WHICH ARE REPORTED BY THE PREVIOUS
11 HEALTH BENEFIT PLAN, THE HEALTH BENEFIT PLAN'S CONSERVATORSHIP,
12 OR THE DIVISION IN A TIME AND MANNER DETERMINED BY THE
13 COMMISSIONER.

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

17 (b) (I) A CARRIER MAY RECOUP, OVER A REASONABLE LENGTH OF
18 TIME, A SUM EQUAL TO THE AMOUNT OF OUT-OF-POCKET EXPENSES
19 CREDITED TO COVERED PERSONS, IN ACCORDANCE WITH THIS SECTION.
20 THE AMOUNT MUST BE REASONABLY CALCULATED TO RECOUP THESE
21 EXPENSES AND IS SUBJECT TO REVIEW BY THE COMMISSIONER. AN AMOUNT
22 RECOUPED IS NOT CONSIDERED A PREMIUM FOR ANY OTHER PURPOSE,
23 INCLUDING THE COMPUTATIONS OF GROSS PREMIUM TAX OR AN AGENT'S
24 COMMISSION.

25 (II) A CARRIER THAT IMPOSES A SURCHARGE TO RECOUP THE
26 AMOUNT OF OUT-OF-POCKET EXPENSES CREDITED PURSUANT TO THIS
27 SECTION MUST INCLUDE THE AMOUNT OF THE SURCHARGE AS PART OF THE
28 CARRIER'S RATE FILING PURSUANT TO SECTION 10-16-107 (1). THE
29 CARRIER MUST SHOW THE SURCHARGE IN THE RATE FILING AS A SEPARATE
30 COMPONENT OF THE RATE AND SHALL INCLUDE SUPPORTING
31 DOCUMENTATION.

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

37 (8) A CARRIER IS NOT REQUIRED TO CREDIT ALL OF THE
38 OUT-OF-POCKET EXPENSES PAID BY THE COVERED PERSON TO THE NEW
39 HEALTH BENEFIT PLAN IN ACCORDANCE WITH SUBSECTION (2) OF THIS
40 SECTION IF DOING SO WOULD CAUSE THE CARRIER TO BECOME INSOLVENT.

41 **SECTION 2. Act subject to petition - effective date -**
42 **applicability.** (1) This act takes effect January 1, 2025; except that, if a
43 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within the ninety-day period after final adjournment of the general
3 assembly, then the act, item, section, or part will not take effect unless
4 approved by the people at the general election to be held in November
5 2024 and, in such case, will take effect January 1, 2025, or on the date of
6 the official declaration of the vote thereon by the governor, whichever is
7 later.

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

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