

Bulletin No. B-4.105

Policy Directives for Small and Large Group Health Benefit Plans Related to COVID-19

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result from Colorado. Since then, CDPHE has confirmed hundreds of presumptive positive cases and numerous deaths, as the State is continuing to experience community spread of the virus.

The Governor declared a disaster emergency on March 10, 2020, and issued a corresponding Executive Order D 2020 003 on March 11, 2020. Included in the Executive Order were directives for the Colorado Department of Labor and Employment (CDLE) to: 1) engage in emergency rulemaking for temporary paid sick leave; and 2) identify additional supports and wage replacement such as access to unemployment insurance, in recognition of the likely impacts of COVID-19 on Colorado businesses and employees.

As the number of cases of COVID-19 has continued to rise nationally, internationally, and statewide, it is clear that Colorado is facing a historic public health challenge. The State is making every effort to ensure all Coloradans are safe and can access the best possible care over the next weeks and months, which requires ensuring access to health care services while this pandemic emergency remains in effect.

As businesses are closed and lay off or furlough employees, or reduce employee hours, employees may be at risk for losing access to health insurance benefits. The loss of insurance coverage, and the failure to seek testing or treatment related to COVID-19 or other health needs, will seriously impact workers in Colorado and will pose a further risk to public health.

II. Applicability and Scope

This bulletin is intended to provide guidance to all carriers offering small and large group health benefit plans, managed care plans, and grandfathered health benefit plans that are subject to the insurance laws of Colorado.

III. Division Position

Given the current public health emergency and the resulting economic implications, the Division directs carriers offering small and large group health benefit plans in Colorado to take the following actions relating to COVID-19:



A. Grace period for premium payment

Carriers are directed to make reasonable accommodations to prevent businesses and employees from losing coverage due to non-payment of premiums during this unprecedented time.

Reasonable accommodations should include, but not be limited to:

1. Extension of premium grace periods or premium deferrals;
2. Waiver of late payment fees or interest; and
3. A moratorium on cancellations for non-payment.

Carriers are directed to make such accommodations available to the policyholder for as long as the Executive Orders are in effect or until the Bulletin is rescinded, whichever is later.

To monitor the impact of COVID-19 on the small and large group health insurance market in Colorado, Carriers are directed to report the following information to the Division on the final Friday of each month while this Bulletin is in effect:

1. The number of grace periods or premium deferrals requested by employers;
2. The number of grace periods or premium deferrals granted by the carrier;
3. The amount of late payment fees waived; and
4. The number of cancellations that would have taken place for non-payment without the accommodation directed by this Bulletin and granted by the carrier.

Carriers should use the following form to report this information:

<https://docs.google.com/forms/d/e/1FAIpQLSeYPCUIUisQ75zJ0mkVsrB2hq0yNs4F4zALxi6Y16rkiylHbw/viewform>

B. Employee eligibility

Carriers are directed to make reasonable accommodations for employer requests to provide flexibility for health coverage policy provisions that would restrict or negatively impact employee eligibility and the continuation of coverage if an employee's hours are reduced, or if they are laid off or furloughed, for as long as the Executive Orders are in effect or until the Bulletin is rescinded, whichever is later.

Such flexibility should extend, but not be limited to:

1. The waiver of minimum employee participation requirements;
2. The waiver of employer and employee contribution requirements;
3. The waiver of a minimum number of employee work hours required for benefit eligibility;
4. The waiver of coverage waiting periods for employees;
5. The ability for employers to include part-time and seasonal employees; and
6. The ability for employees that initially declined coverage to enroll in coverage.

Such accommodations should be available to the policyholder for as long as the Executive Orders are in effect or until the Bulletin is rescinded, whichever is later.

As part of this flexibility, carriers should not convert contributory plans to non-contributory plans. Carriers should temporarily suspend or waive contractual requirements that would result in the automatic termination of coverage for the employer or the employee.

To monitor the impact of COVID-19 on the small and large group health insurance market in Colorado, the Division directs carriers to report the following information to the Division on the final Friday of each month while this Bulletin is in effect:

1. The number of contractual waivers or policy modifications made;
2. The nature of the waiver or modification; and
3. The number of requested modifications denied.

Carriers should use the following form to report this information:

<https://docs.google.com/forms/d/e/1FAIpQLSeYPCUIUisQ75zJ0mkVsrB2hq0yNs4F4zALxi6Y16rkiylHbw/viewform>

C. Continuation coverage

Carriers are directed to work with employers and employees to facilitate the continuation of coverage as required by current state and federal law. For employers that employ 20 or more employees, eligible employees may elect to continue coverage under COBRA through normal notice and election procedures. For employers that employ less than 20 employees, eligible employees may elect to continue coverage under state continuation coverage. Carriers should work with employers to ensure employees receive the appropriate notice of all coverage continuation options.

It is the opinion of the Commissioner that Section 10-16-108, C.R.S., constitutes the minimum necessary continuation privilege under Colorado law. In these challenging times, carriers should waive provisions that constrict an individual's continuation privileges. Specifically, carriers should waive provisions that require employees to be enrolled in the employer's health plan for a required length of time before becoming eligible for continuation, or apply only to certain classes of employees (i.e., full-time employees).

D. Special enrollment

Employees who lose coverage are eligible for a 60-day special enrollment period to enroll in individual coverage, including commercial insurance products, or if eligible, in Health First Colorado (Colorado's Medicaid Program). Premium subsidies may be available for those who qualify by purchasing plans on Connect for Health Colorado, Colorado's state exchange.

The Commissioner will not take enforcement action with respect to carriers that adjust the policies and practices submitted in their rate and form filings to provide the flexibility suggested by this bulletin.

IV. Additional Resources

For More Information on COVID-19, please see the CDPHE website here:

<https://www.colorado.gov/pacific/cdphe/2019-novel-coronavirus>

Employers with health plans should review the [FAQs regarding this directive](#).

For More Information or questions about your current coverage, please contact:

Colorado Division of Insurance
Consumer Services, Life and Health Section
1560 Broadway, Suite 850
Denver, CO 80202
Tel. 303-894-7490 Toll-free (in state): 800-930-3745
Internet: <http://www.dora.colorado.gov/insurance>

V. **History**

- Issued March 27, 2020