

INSURANCE

Workers' Compensation

SB 14-137 (*Enacted*)
Certification of Compliance of
Workers' Compensation

SB 14-172 (*Enacted*) Cardiac
Events for Firefighters

SB 14-191 (*Enacted*)
Annual Workers' Compensation
Clean Up

HB 14-1278 (*Enacted*)
Workers' Compensation Physician
Accreditation

SB 14-1383 (*Enacted*) Concerning
Workers' Compensation
Reforms

Unemployment Insurance

SB 14-057 (*Postponed Indefinitely*)
Continuation of Enhanced
Unemployment Insurance

HB 14-1318 (*Postponed Indefinitely*)
Continuation of Enhanced
Unemployment Insurance

Insurance, Benefits, and Protections

HB 14-1082 (*Enacted*)
Life Insurance Company Requests
for Notification

HB 14-1185 (*Enacted*)
Travel Insurance Policy Issuance

Health Insurance

SB 14-040 (*Postponed Indefinitely*)
Interstate Sales Individual Health
Benefit Plans

SB 14-111 (*Postponed Indefinitely*)
Interstate Sale Small Employer
Health Benefit Plan

HB 14-1053 (*Enacted*) Consistent
Requirements Pediatric
Dental Benefits

HB 14-1108 (*Vetoed*)
Copayments For Physical
Rehabilitation Services

HB 14-1359 (*Enacted*)
Synchronize Multiple Prescriptions

The General Assembly heard a number of bills regarding insurance during the 2014 session, including bills related to workers' compensation; unemployment insurance; insurance, benefits, and protections; and health insurance.

Workers' Compensation

Five bills were enacted in the 2014 legislative session that modified current law relating to workers' compensation insurance.

Under current law, any policy of insurance or any endorsement, rider, letter, or other document affecting a workers' compensation carrier must receive pre-approval from the Commissioner of Insurance within the Department of Regulatory Agencies (DORA) before taking effect. As enacted, **Senate Bill 14-137** modifies the law by allowing workers' compensation carriers to file an annual report with the Division of Insurance in the DORA listing any policy documents affecting an insurance policy or contract. The commissioner will create standardized reporting guidelines. Workers' compensation carriers must also submit a list of any new policy forms or other documents at least 31 days before the change is enacted. All annual reports and lists submitted to the DOI must be certified by an officer of the carrier. The DOI may investigate workers' compensation carriers at its discretion to confirm that forms and documents used by the workers' compensation carrier comply with the bill's requirements. A workers' compensation insurance carrier whose policy documents fail to comply with statutory mandates commits an unfair method of competition or deceptive trade practice.

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Generally, cardiac-related illnesses resulting from a firefighter's typical job duties are not considered eligible claims under the Workers' Compensation Act of Colorado. **Senate Bill 14-172** requires any municipality, special district, fire authority, or county improvement district employing one or more firefighters to provide benefits for heart and circulatory malfunctions for full-time firefighters, as long as the state provides sufficient funding to cover the cost. The employer may purchase accident insurance, self-insure, or participate in a self-insurance pool or multi-employer health trust. Employers may also provide similar insurance for volunteer firefighters. The bill establishes the amounts of minimum benefit payments, which must increase proportionally and concurrently with any benefit increases provided by the Fire and Police Pension Association (FPPA). The maximum amount that can be paid to a firefighter as a result of a heart and circulatory malfunction is \$250,000. Eligible firefighters who smoked a tobacco product within the five years preceding the work event will have their overall benefits reduced by 25 percent.

In order to receive benefits a firefighter must:

- have had a recent medical examination that found no heart or circulatory malfunction present;
- be employed for at least five continuous years as a firefighter, except for a volunteer firefighter who must have five years of continuous service with the same employer; and
- have experienced the heart and circulatory malfunction within 48 hours of a stressful or strenuous work event.

The bill does not prohibit a firefighter from receiving other benefits; however, benefits for heart and circulatory malfunction must be offset by any payments made under:

- workers' compensation;
- FPPA;
- social security or other qualified retirement plans; or
- as a part of any other employer-paid income benefit made as a result of heart and circulatory malfunction.

The bill also creates the Firefighter Benefits Cash Fund. The fund receives annual appropriations from the General Fund to the Department of Local Affairs (DOLA). The DOLA will use moneys from this cash fund to reimburse employers for the direct costs of maintaining accident insurance under the bill. If funding for the benefits required under the bill is insufficient to cover the costs of the benefits, then maintaining benefits becomes optional for employers.

Senate Bill 14-191 makes numerous changes to the current procedures for resolving workers' compensation claims. The bill authorizes the presiding officer at a workers' compensation hearing to consider the current legal medical guidelines when investigating claims, summon an out-of-state party to testify either in person or by telephone, and issue an order within 30 days of the receipt of the remand. Claimants who must travel to receive a medical examination will receive \$75 per day in addition to transportation and lodging. The bill requires that physicians who refuse to treat a workers' compensation claimant must provide a written notice with an explanation to both the claimant and the employer. Claimants may be eligible to receive an increased aggregate lump sum payment in a range of between \$80,868.10 and \$161,734.15, an increase from the current limitation of \$60,000. The bill extends the deadline for claim hearings from 100 days to 120 days, and allows for annual adjustments to the lump-sum limits. Finally, the Colorado Department of Labor and Employment (CDLE) is allowed to adopt rules to review and approve settlement documents.

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The Workers' Compensation Accreditation Program (WCAP) educates physicians about the medical, administrative, and legal impacts of providing medical care in the workers' compensation system. Impairment is based on a worker's ability to use the damaged body part or organ in his or her everyday life based on a "maximum medical improvement" standard. Fees paid by physicians fund the direct costs of the program while administrative costs are funded by the Workers' Compensation Cash Fund. **House Bill 14-1278** continues the WCAP in the Division of Workers' Compensation in the CDLE until September 1, 2025, and removes the cap on registration fees for accreditation.

Under current workers' compensation law, an employer or insurer must designate at least two healthcare providers, willing to treat injured employees at two distinct locations without common ownership, for injured employees to select for treatment. There is an existing statutory exception if there are not two healthcare providers at distinct locations or without common ownership within 30 miles of each other. **House Bill 14-1383** increases the required number of designated healthcare providers to four with at least one at a location distinct from the three other designated healthcare providers. The bill adds exemptions for rural areas (within 30 miles of an employer's place of business) as follows:

- if there are more than three, but fewer than nine healthcare providers willing to treat injured employees, the employer or insurer may designate two healthcare providers at two distinct locations without common ownership; or
- if there are not two providers at two distinct locations without common ownership, then an employer may designate two healthcare providers either at the same location or with common ownership.

Unemployment Insurance

The General Assembly postponed indefinitely two identical bills related to extending certain unemployment insurance benefits.

Senate Bill 14-057 and **House Bill 14-1318**, which were both postponed indefinitely, would have extended until July 1, 2017, enhanced unemployment insurance (UI) compensation benefits for eligible unemployment insurance claimants engaged in an approved training program for entry into an occupation. Under current law, the Colorado Department of Labor and Employment (CDLE) can obligate \$8.0 million over two years, ending June 30, 2014, for enhanced UI benefits paid from the UI Trust Fund. The bills authorized the CDLE to obligate \$12.0 million General Fund over three years ending June 30, 2017, with a maximum of \$4.0 million expended per fiscal year.

Insurance, Benefits, and Protections

The General Assembly passed two bills concerning life insurance and travel insurance.

House Bill 14-1082 specifies that a notice of lapse of an individual life insurance policy for nonpayment of premium is only effective if an insurer provides proper notification. At least 25 days prior to the effective date of the lapse, the insurer must send a written notice to the policyholder's last known address by first class mail. Alternately, if a policyholder has consented to receive policy information electronically, the insurer can send the notice of lapse to the policyholder's last known

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e-mail address. An affidavit, executed under penalty of perjury by a representative of the insurer, constitutes proof of notice. The Commissioner of Insurance in the DORA may adopt rules necessary to implement the bill.

Travel insurance covers personal risks related to planned travel including coverage for trip interruption or cancellation, baggage loss, damages to accommodations or rental vehicles, as well as sickness, accident, disability, or death that occurs during travel. These businesses are licensed by the Commissioner of Insurance. **House Bill 14-1185** changes the name of travel-ticket-sales insurance to travel insurance and creates a regulatory structure for travel insurance producers (producer).

A producer is responsible for the acts of a travel agent who offers the insurance to a prospective customer and receives compensation for sales. The producer is required to:

- maintain a list of all travel agents acting on his or her behalf on a form prescribed by the commissioner;
- certify that a travel agent is not violating federal interstate commerce laws; and
- provide training to travel agents including at a minimum, instructions on the type of insurance offered, ethical sales practices, and disclosures required for prospective customers.

Disclosures required by the bill include:

- the identity and contact information of the insurer and the producer;
- an explanation that the purchase of travel insurance is not required in order to purchase any other product or service from the travel agent; and
- notification that the travel agent is not qualified or permitted to answer technical questions about the travel insurance.

Health Insurance

During the 2014 legislative session, the General Assembly considered several bills related to health insurance coverage and regulation. Bills related to federal health care reform can be found in the Summary of Major Health Care Legislation.

Prior to the enactment of **House Bill 14-1053**, health insurance plans purchased outside of the Colorado's Health Benefit Exchange were required to include pediatric dental benefits while pediatric dental benefits were optional for plans purchased inside of the exchange. The bill allows the Commissioner of Insurance in the Department of Regulatory Agencies to adopt rules to ensure that requirements for pediatric dental benefits are consistent regardless of whether the dental plan is purchased from inside or outside of the exchange.

House Bill 14-1359 requires health insurance carriers providing prescription drug coverage to offer medication synchronization services that align the refill dates for covered persons with multiple prescription medications. Carriers are allowed to develop their own medication synchronization plans as long as certain conditions regarding co-payment amounts and pharmacy dispensing fees are met.

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House Bill 14-1108, which was vetoed by the Governor, would have prohibited insurance companies that provide individual and small group health insurance policies from imposing a co-payment for physical rehabilitation services that is greater than the amount charged for a visit to the patient's primary care physician.

The General Assembly considered two bills that would have allowed insurance companies to sell individual and small group health benefit plans that were approved in other states but may not include all coverages mandated under Colorado law. **Senate Bill 14-040** and **Senate Bill 14-111**, which were postponed indefinitely, would have required the Commissioner of Insurance to approve health benefit plans and policy forms that are approved in other states if the insurance company:

- was authorized to do business in Colorado and met specified solvency standards;
- had an adequate provider network;
- agreed that the commissioner may enforce the provisions of the plan and resolve disputes, that contested cases were subject to the State Administrative Procedure Act, and that appeals could be resolved in Colorado courts; and
- notified the commissioner whether the plan would be priced the same as in the other state.