

## CHAPTER 118

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**INSURANCE**

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**SENATE BILL 18-136**

BY SENATOR(S) Neville T., Lundberg, Smallwood, Tate, Aguilar, Cooke, Garcia, Guzman, Holbert, Jahn, Kefalas, Marble, Martinez Humenik, Merrifield, Scott, Todd;  
also REPRESENTATIVE(S) Kraft-Tharp and Sias, Humphrey, Beckman, Michaelson Jenet, Rosenthal, Valdez, Winkler.

**AN ACT****CONCERNING FEES FOR ADVISING CLIENTS ABOUT THE SELECTION OF AN INDIVIDUAL HEALTH BENEFIT PLAN.**

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

**SECTION 1.** In Colorado Revised Statutes, 10-16-133, **amend** (5) as follows:

**10-16-133. Health carrier information disclosure - website - insurance producer fees and disclosure requirements - legislative declaration - rules.**

(5) (a) An insurance producer licensed pursuant to part 4 of article 2 of this ~~title~~ **TITLE 10** who solicits or negotiates an application for health care insurance on behalf of a carrier shall disclose to the person purchasing the plan that the insurance producer will receive a commission from the carrier. The insurance producer shall provide the consumer with the standard compensation schedule for the product being sold. Any change to the insurance producer's compensation from the initial disclosure to the time of purchase shall be disclosed by the insurance producer to the purchaser at or before the time of sale.

(b) AN INSURANCE PRODUCER MAY CHARGE A CLIENT A FEE FOR ADVISING THE CLIENT ON THE SELECTION OF AN INDIVIDUAL HEALTH BENEFIT PLAN ONLY IF THE PRODUCER:

(I) ~~WILL NOT RECEIVE A COMMISSION FROM THE INSURER OFFERING THE INDIVIDUAL HEALTH BENEFIT PLAN SELECTED BY THE CLIENT; AND~~

(II) ~~PROVIDES A WRITTEN DISCLOSURE TO THE CLIENT IF THE PRODUCER WILL CHARGE A FEE FOR THE SERVICE.~~

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

(c) THE COMMISSIONER SHALL PROMULGATE REASONABLE RULES THAT ARE NECESSARY OR PROPER FOR IMPLEMENTING AND ADMINISTERING THIS SUBSECTION (5). THE RULES SHALL INCLUDE A PROHIBITION ON AN INSURANCE PRODUCER CHARGING A FEE TO ASSIST A CLIENT TO ENROLL IN MEDICAID, AS DEFINED IN SECTION 10-22-103 (8), OR THE CHILDREN'S BASIC HEALTH PLAN, AS DEFINED IN SECTION 25.5-8-103 (8).

**SECTION 2.** In Colorado Revised Statutes, **amend** 10-22-112 as follows:

**10-22-112. Health benefit exchange - referral to private insurance brokers - fees - rules.** (1) ~~On or before November 1, 2016,~~ The exchange shall include the following in its protocol for interacting with consumers in order to assist consumers in enrolling in health benefit plans: Upon a consumer's contact with the exchange when seeking assistance in selecting a qualified health plan, whether online OR by telephone, ~~or on the internet,~~ the exchange shall inform the consumer that he or she has the option of selecting coverage online, ~~or~~ with the assistance of a navigator, or with the assistance of a qualified insurance broker. The exchange shall inform the consumer that a navigator may assist with a health benefit plan selection but may not offer advice on a health benefit plan based on the consumer's individual situation, whereas a qualified broker may offer advice based on the consumer's personal and family situation. ~~at no additional cost to the consumer; and~~

(2) The exchange shall maintain ~~web-based~~ ONLINE tools that allow insurance brokers to develop and maintain client relationships for customers who are eligible to enroll in private health benefit plans, when appropriate, if the client requests this option.

(3) (a) AN INSURANCE BROKER MAY CHARGE A CLIENT A FEE FOR ADVISING THE CLIENT ON THE SELECTION OF AN INDIVIDUAL HEALTH BENEFIT PLAN OFFERED ON THE EXCHANGE ONLY IF THE BROKER:

(I) WILL NOT RECEIVE A COMMISSION FROM THE INSURER OFFERING THE INDIVIDUAL HEALTH BENEFIT PLAN SELECTED BY THE CLIENT; AND

(II) PROVIDES A WRITTEN DISCLOSURE TO THE CLIENT IF THE BROKER WILL CHARGE A FEE FOR THE SERVICE.

(b) THE COMMISSIONER MAY PROMULGATE RULES REGARDING THE FORM AND MANNER BY WHICH AN INSURANCE BROKER MUST PROVIDE THE DISCLOSURE REQUIRED BY THIS SUBSECTION (3). THE RULES SHALL INCLUDE A PROHIBITION ON A BROKER CHARGING A FEE TO ASSIST A CLIENT TO ENROLL IN MEDICAID OR THE CHILDREN'S BASIC HEALTH PLAN, AS DEFINED IN SECTION 25.5-8-103 (2).

**SECTION 3. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018

and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 12, 2018