

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0074.01 Christy Chase x2008

HOUSE BILL 20-1008

HOUSE SPONSORSHIP

Lontine,

SENATE SPONSORSHIP

Fields,

House Committees
Health & Insurance

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PROTECTIONS FOR CONSUMERS WHO PARTICIPATE IN
102 HEALTH CARE COST-SHARING ARRANGEMENTS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill defines a "health care cost-sharing arrangement" as a health care sharing ministry or medical cost-sharing community that collects funds from its members on a regular basis, at levels established by the arrangement, for purposes of sharing, covering, or defraying the medical costs of its members. A health care cost-sharing arrangement is required to:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Report specified information to the commissioner of insurance (commissioner) regarding its operations, financial statements, membership, and medical bills submitted, paid, and denied;
- ! Provide certain disclosures on its website, in marketing materials, and to potential members; and
- ! Respond to requests for payment of medical expenses from health care providers within a period specified by the commissioner by rule.

If an insurance broker offers to enroll or enrolls individuals or groups in a health care cost-sharing arrangement, the broker must provide the same disclosures that a health care cost-sharing arrangement is required to provide.

The bill also prohibits a health care cost-sharing arrangement or insurance broker from offering or enrolling participants in the arrangement during the annual open enrollment period for health benefit plans.

The commissioner is authorized to adopt rules to implement the data reporting, disclosure, and response time requirements and to impose fines for failure to comply with the requirements and prohibitions specified in the bill.

A person is prohibited from making, issuing, circulating, or causing to be made, issued, or circulated any statement or publication that misrepresents the medical cost-sharing benefits, advantages, conditions, or terms of any health care cost-sharing arrangement. The commissioner is authorized to issue an emergency, ex parte cease-and-desist order against a person the commissioner believes to be violating this prohibition if it appears to the commissioner that the alleged conduct is fraudulent, creates an immediate danger to public safety, or is causing or is reasonably expected to cause significant, imminent, and irreparable public injury. If a person violates the emergency order, the commissioner may impose a civil penalty, order restitution, or both.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-3-903.7 as
3 follows:

4 **10-3-903.7. Health care cost-sharing arrangements - reporting**
5 **requirements - disclosures - restriction on enrollment - timely**
6 **response to provider bills - rules - fines - prohibited acts -**
7 **enforcement - definitions. (1) Definitions.** AS USED IN THIS SECTION:

1 (a) "HEALTH CARE COST-SHARING ARRANGEMENT" MEANS:

2 (I) A HEALTH CARE SHARING MINISTRY, AS DEFINED IN 26 U.S.C.
3 SEC. 5000A (d)(2)(B); OR

4 (II) A MEDICAL COST-SHARING COMMUNITY OR OTHER
5 ARRANGEMENT OR ENTITY THROUGH WHICH MEMBERS OF THE COMMUNITY
6 OR ARRANGEMENT CONTRIBUTE MONEY ON A REGULAR BASIS, AT LEVELS
7 ESTABLISHED BY THE COMMUNITY OR ARRANGEMENT, THAT MAY BE USED
8 TO SHARE, COVER, OR OTHERWISE DEFRAY THE MEDICAL COSTS OF
9 MEMBERS OF THE COMMUNITY OR ARRANGEMENT.

10 (b) "PRODUCER" HAS THE SAME MEANING SET FORTH IN SECTION
11 10-2-103 (6).

12 (2) **Reporting requirements.** BY MARCH 1, 2021, AND BY EACH
13 MARCH 1 THEREAFTER, A PERSON THAT OFFERS, OPERATES, MANAGES, OR
14 ADMINISTERS A HEALTH CARE COST-SHARING ARRANGEMENT IN THIS
15 STATE SHALL FILE WITH THE COMMISSIONER, IN THE FORM AND MANNER
16 REQUIRED BY THE COMMISSIONER BY RULE, THE FOLLOWING INFORMATION
17 AND DOCUMENTATION:

18 (a) ANNUAL AUDITED FINANCIAL STATEMENTS FOR THE PREVIOUS
19 CALENDAR YEAR;

20 (b) A DETAILED LIST OF ANY COMMISSIONS OR OTHER FEES PAID TO
21 THIRD PARTIES FOR MARKETING, PROMOTING, OR ENROLLING MEMBERS IN
22 THE HEALTH CARE COST-SHARING ARRANGEMENT OR FOR OPERATING,
23 MANAGING, OR ADMINISTERING A HEALTH CARE COST-SHARING
24 ARRANGEMENT;

25 (c) A LIST AND DESCRIPTION OF MEMBERSHIP BENEFITS,
26 LIMITATIONS, AND EXCLUSIONS APPLICABLE TO THE HEALTH CARE
27 COST-SHARING ARRANGEMENT;

1 (d) A LIST OF PROVIDERS WITH WHOM THE HEALTH CARE
2 COST-SHARING ARRANGEMENT HAS A PROVIDER AGREEMENT, CONTRACT,
3 OR OTHER ARRANGEMENT;

4 (e) THE TOTAL NUMBER OF MEMBERS AND HOUSEHOLDS IN THE
5 HEALTH CARE COST-SHARING ARRANGEMENT IN THE PREVIOUS CALENDAR
6 YEAR;

7 (f) IF APPLICABLE, THE TOTAL NUMBER OF EMPLOYER GROUPS, AND
8 THE TOTAL NUMBER OF EMPLOYEES IN EACH EMPLOYER GROUP, THAT
9 PARTICIPATED IN THE HEALTH CARE COST-SHARING ARRANGEMENT IN THE
10 PREVIOUS CALENDAR YEAR;

11 (g) THE NUMBER OF APPLICATIONS OR OTHER REQUESTS TO
12 PARTICIPATE IN THE HEALTH CARE COST-SHARING ARRANGEMENT THAT
13 WERE SUBMITTED, ACCEPTED, AND DENIED IN THE PREVIOUS CALENDAR
14 YEAR;

15 (h) THE TOTAL NUMBER, IN THE PREVIOUS CALENDAR YEAR, OF:

16 (I) BILLS OR MEDICAL EXPENSES SUBMITTED TO THE HEALTH CARE
17 COST-SHARING ARRANGEMENT BY OR ON BEHALF OF MEMBERS, INCLUDING
18 THE TOTAL AMOUNT OF ALL BILLS OR MEDICAL EXPENSES THAT WERE
19 SUBMITTED;

20 (II) BILLS OR MEDICAL EXPENSES PAID WITH THE MONEY
21 COLLECTED, MANAGED, OR FACILITATED BY THE HEALTH CARE
22 COST-SHARING ARRANGEMENT FOR ITS MEMBERS, INCLUDING THE TOTAL
23 AMOUNT OF ALL BILLS OR MEDICAL EXPENSES THAT WERE PAID;

24 (III) BILLS OR MEDICAL EXPENSES THAT THE HEALTH CARE
25 COST-SHARING ARRANGEMENT DENIED IN WHOLE OR IN PART, INCLUDING
26 THE TOTAL AMOUNT OF ALL BILLS AND MEDICAL EXPENSES THAT WERE
27 DENIED;

1 (IV) RETROACTIVE MEMBERSHIP DENIALS; AND

2 (V) APPEALS OR GRIEVANCES SUBMITTED TO THE HEALTH CARE
3 COST-SHARING ARRANGEMENT, INCLUDING THE NUMBER OF APPEALS
4 APPROVED IN WHOLE OR IN PART AND THE DOLLAR AMOUNT APPROVED IN
5 THE APPEAL; AND

6 (i) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER
7 THAT IS RELATED TO THE OFFERING OR PROVISION OF MEDICAL
8 COST-SHARING BY, AND ADMINISTRATION AND OPERATIONS OF, THE
9 HEALTH CARE COST-SHARING ARRANGEMENT IN THE PREVIOUS CALENDAR
10 YEAR.

11 (3) **Disclosure requirements.** (a) ON AND AFTER JANUARY 1,
12 2021, A PERSON, INCLUDING A PRODUCER, OFFERING, OPERATING,
13 MANAGING, OR ADMINISTERING A HEALTH CARE COST-SHARING
14 ARRANGEMENT SHALL DISPLAY PROMINENTLY ON ITS WEBSITE AND IN ITS
15 MARKETING MATERIALS THE FOLLOWING INFORMATION:

16 (I) PARTICIPATION OR MEMBERSHIP IN A HEALTH CARE
17 COST-SHARING ARRANGEMENT DOES NOT GUARANTEE PAYMENT OF BILLS
18 OR MEDICAL EXPENSES;

19 (II) A MEMBER OF A HEALTH CARE COST-SHARING ARRANGEMENT
20 REMAINS PERSONALLY RESPONSIBLE FOR PAYMENT OF ALL BILLS OR
21 MEDICAL EXPENSES;

22 (III) A MEMBER OF A HEALTH CARE COST-SHARING ARRANGEMENT
23 MAY BE SUBJECT TO CERTAIN PREEXISTING CONDITION EXCLUSIONS OR
24 OTHER LIMITATIONS; AND

25 (IV) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER
26 BY RULE.

27 (b) ON AND AFTER JANUARY 1, 2021, PRIOR TO ENROLLING,

1 ACCEPTING, OR RENEWING AN INDIVIDUAL OR GROUP IN A HEALTH CARE
2 COST-SHARING ARRANGEMENT, A PERSON, INCLUDING A PRODUCER,
3 OFFERING, OPERATING, MANAGING, OR ADMINISTERING THE HEALTH CARE
4 COST-SHARING ARRANGEMENT SHALL PROVIDE A WRITTEN DISCLOSURE,
5 TO BE SIGNED BY THE PROSPECTIVE OR RENEWING MEMBER OR GROUP,
6 CONTAINING THE INFORMATION SPECIFIED IN SUBSECTION (3)(a) OF THIS
7 SECTION.

8 (4) **Limitations on enrollment.** NEITHER A HEALTH CARE
9 COST-SHARING ARRANGEMENT NOR A PRODUCER SHALL ENROLL OR
10 ACCEPT, OR OFFER TO ENROLL OR ACCEPT, AN INDIVIDUAL OR GROUP IN A
11 HEALTH CARE COST-SHARING ARRANGEMENT DURING THE ANNUAL OPEN
12 ENROLLMENT FOR HEALTH BENEFIT PLANS SPECIFIED IN ACCORDANCE
13 WITH SECTION 10-16-105.7 AND FEDERAL LAW.

14 (5) **Notice of decision on bills.** A HEALTH CARE COST-SHARING
15 ARRANGEMENT THAT RECEIVES A BILL OR REQUEST FOR PAYMENT OF
16 MEDICAL EXPENSES FROM A HEALTH CARE PROVIDER THAT PROVIDED
17 HEALTH CARE TO A MEMBER OF THE HEALTH CARE COST-SHARING
18 ARRANGEMENT SHALL PROVIDE A RESPONSE TO THE BILL OR REQUEST FOR
19 PAYMENT WITHIN A SPECIFIED NUMBER OF DAYS, AS DETERMINED BY THE
20 COMMISSIONER BY RULE, AFTER THE DATE OF SERVICE FOR WHICH THE
21 BILL IS SUBMITTED OR THE REQUEST FOR PAYMENT IS MADE. IF THE
22 HEALTH CARE COST-SHARING ARRANGEMENT FAILS TO PAY THE MEDICAL
23 EXPENSES IN FULL OR RESPOND TO THE BILL OR REQUEST FOR PAYMENT
24 WITHIN THE TIME SPECIFIED BY THE COMMISSIONER BY RULE, THE FAILURE
25 CONSTITUTES A DENIAL OF THE BILL OR REQUEST. IF THE HEALTH CARE
26 COST-SHARING ARRANGEMENT PAYS ONLY A PORTION OF THE MEDICAL
27 EXPENSES WITHIN THE SPECIFIED PERIOD, THE FAILURE TO PAY THE

1 REMAINING BALANCE OF THE MEDICAL EXPENSES WITHIN THE SPECIFIED
2 PERIOD CONSTITUTES A DENIAL OF THE PORTION OF THE MEDICAL
3 EXPENSES THAT ARE UNPAID.

4 (6) **Rules.** THE COMMISSIONER:

5 (a) SHALL ADOPT RULES TO IMPLEMENT THE DISCLOSURE AND
6 REPORTING REQUIREMENTS SPECIFIED IN THIS SECTION AND THE TIME BY
7 WHICH A HEALTH CARE COST-SHARING ARRANGEMENT IS REQUIRED TO
8 RESPOND TO A BILL OR REQUEST FOR PAYMENT OF MEDICAL EXPENSES;
9 AND

10 (b) MAY ESTABLISH A SCHEDULE FOR THE ASSESSMENT OF
11 PENALTIES AS AUTHORIZED IN SUBSECTION (7) OF THIS SECTION BASED ON
12 THE FREQUENCY AND SEVERITY OF NONCOMPLIANCE.

13 (7) **Civil penalties.** (a) (I) THE COMMISSIONER MAY ASSESS A
14 PENALTY AGAINST A HEALTH CARE COST-SHARING ARRANGEMENT FOR
15 FAILING TO:

16 (A) FILE THE INFORMATION REQUIRED BY SUBSECTION (2) OF THIS
17 SECTION;

18 (B) POST OR PROVIDE THE DISCLOSURES REQUIRED BY SUBSECTION
19 (3) OF THIS SECTION;

20 (C) COMPLY WITH THE PROHIBITION SPECIFIED IN SUBSECTION (4)
21 OF THIS SECTION; OR

22 (D) PAY OR RESPOND TO A BILL OR REQUEST FOR PAYMENT WITHIN
23 THE TIME SPECIFIED BY RULE PURSUANT TO SUBSECTION (5) OF THIS
24 SECTION.

25 (II) THE COMMISSIONER MAY ASSESS A PENALTY OF UP TO FIVE
26 HUNDRED DOLLARS FOR AN INITIAL VIOLATION OF A REQUIREMENT OR
27 PROHIBITION SPECIFIED IN THIS SUBSECTION (7)(a) AND UP TO FIVE

1 THOUSAND DOLLARS FOR ANY SUBSEQUENT FAILURE TO COMPLY WITH A
2 REQUIREMENT OR PROHIBITION SPECIFIED IN THIS SUBSECTION (7)(a).

3 (b) IF A PRODUCER FAILS TO POST OR PROVIDE THE DISCLOSURES
4 REQUIRED BY SUBSECTION (3) OF THIS SECTION OR FAILS TO COMPLY WITH
5 THE PROHIBITION SPECIFIED IN SUBSECTION (4) OF THIS SECTION, THE
6 COMMISSIONER MAY ALSO ASSESS A CIVIL PENALTY IN ACCORDANCE WITH
7 SECTION 10-2-804.

8 (8) **Prohibited acts - enforcement.** A PERSON SHALL NOT MAKE,
9 ISSUE, CIRCULATE, OR CAUSE TO BE MADE, ISSUED, OR CIRCULATED ANY
10 STATEMENT OR PUBLICATION THAT MISREPRESENTS THE MEDICAL
11 COST-SHARING BENEFITS, ADVANTAGES, CONDITIONS, OR TERMS OF ANY
12 HEALTH CARE COST-SHARING ARRANGEMENT. THE COMMISSIONER MAY
13 ENFORCE THIS SUBSECTION (8) IN ACCORDANCE WITH SECTIONS
14 10-3-904.5, 10-3-904.6, AND 10-3-904.7.

15 **SECTION 2.** In Colorado Revised Statutes, 10-3-904.5, **amend**
16 (1)(a) as follows:

17 **10-3-904.5. Emergency cease-and-desist orders - issuance.**

18 (1) The commissioner may issue an emergency cease-and-desist order ex
19 parte if:

20 (a) The commissioner believes that:

21 (I) An unauthorized person is engaging in the business of
22 insurance in violation of ~~the provisions of~~ section 10-3-105 or 10-3-903
23 or is in violation of a rule promulgated by the commissioner; ~~and~~ OR

24 (II) A PERSON, INCLUDING AN UNAUTHORIZED PERSON, IS
25 VIOLATING SECTION 10-3-903.7 (8); AND

26 **SECTION 3. Applicability.** This act applies to conduct occurring
27 on or after the effective date of this act.

1 **SECTION 4. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, or safety.