

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0782.01 Richard Sweetman x4333

SENATE BILL 21-126

SENATE SPONSORSHIP

Fields, Ginal, Moreno, Rodriguez

HOUSE SPONSORSHIP

Michaelson Jenet and Soper, Bennett, Bird, Caraveo, Duran, Hooton, Lontine, McCormick, Mullica, Ricks

Senate Committees

Health & Human Services
Appropriations

House Committees

Health & Insurance
Appropriations

HOUSE
3rd Reading Unamended
May 28, 2021

A BILL FOR AN ACT

101 **CONCERNING CREDENTIALING OF PHYSICIANS AS PARTICIPATING**
102 **PHYSICIANS IN HEALTH COVERAGE PLAN PROVIDER NETWORKS,**
103 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

HOUSE
2nd Reading Unamended
May 25, 2021

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>.)

SENATE
3rd Reading Unamended
April 28, 2021

The bill requires that when a physician applies to be credentialed as a participating physician in a health insurance carrier's (carrier's) provider network, the carrier must conclude the process of credentialing the applicant within 60 calendar days after the carrier receives the applicant's completed application. A carrier must provide each applicant

SENATE
Amended 2nd Reading
April 27, 2021

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.*

written or electronic notice of the outcome of the applicant's credentialing within 10 calendar days after the conclusion of the credentialing process.

Within 7 calendar days after a carrier receives an application, the carrier must provide the applicant a receipt. If a carrier receives an application but fails to provide the applicant a receipt within 7 calendar days, the carrier shall consider the applicant a participating physician, effective no later than 53 calendar days following the carrier's receipt of the application.

A carrier may not deny a claim for a medically necessary covered service provided to a covered person if the service:

- Is a covered benefit under the covered person's health coverage plan; and
- Is provided by a participating physician who is in the provider network for the carrier's health coverage plan and has concluded the carrier's credentialing process.

A carrier may not require a participating physician to submit an application or participate in a contracting process in order to be recredentialed.

A carrier must allow a participating physician to remain credentialed and include the participating physician in the carrier's provider network unless the carrier discovers information indicating that the participating physician no longer satisfies the carrier's guidelines for participation.

The commissioner of insurance is required to enforce the new requirements. A carrier that fails to comply with the bill or with any rules adopted pursuant to the bill is subject to such civil penalties as the commissioner may order.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-705.7 as
3 follows:

4 **10-16-705.7. Timely credentialing of physicians by carriers -**
5 **notice of receipt required - notice of incomplete applications required**
6 **- delegated credentialing agreements - discrepancies - denials of**
7 **claims prohibited - disclosures - recredentiaing - enforcement - rules**
8 **- definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
9 OTHERWISE REQUIRES:

10 (a) "APPLICANT" MEANS A PHYSICIAN WHO SUBMITS AN

1 APPLICATION TO A CARRIER TO BECOME A PARTICIPATING PHYSICIAN IN
2 THE CARRIER'S NETWORK.

3 (b) "APPLICATION" MEANS AN APPLICANT'S APPLICATION TO
4 BECOME CREDENTIALLED BY A CARRIER AS A PARTICIPATING PHYSICIAN IN
5 AT LEAST ONE OF THE CARRIER'S PROVIDER NETWORKS.

6 (c) "CARRIER CREDENTIALING ALLIANCE" MEANS AN
7 ORGANIZATION OF CARRIERS THAT SHARE ACTIVITIES OR RESPONSIBILITIES
8 PERTAINING TO CREDENTIALING.

9 (d) "CREDENTIALING" OR "CREDENTIAL" MEANS THE PROCESS BY
10 WHICH A CARRIER OR ITS DESIGNEE COLLECTS INFORMATION CONCERNING
11 AN APPLICANT; ASSESSES WHETHER THE APPLICANT SATISFIES THE
12 RELEVANT LICENSING, EDUCATION, AND TRAINING REQUIREMENTS TO
13 BECOME A PARTICIPATING PHYSICIAN; VERIFIES THE ASSESSMENT; AND
14 APPROVES OR DISAPPROVES THE APPLICANT'S APPLICATION.

15 (e) "DELEGATED CREDENTIALING AGREEMENT" MEANS AN
16 AGREEMENT BETWEEN A CARRIER AND A DESIGNEE BY WHICH THE
17 CARRIER DELEGATES TO THE DESIGNEE ACTIVITIES OR RESPONSIBILITIES
18 PERTAINING TO CREDENTIALING.

19 (f) "DESIGNEE" MEANS A THIRD PARTY TO WHICH A CARRIER
20 DELEGATES ACTIVITIES OR RESPONSIBILITIES PERTAINING TO
21 CREDENTIALING.

22 (g) "HEALTH CARE FACILITY" MEANS A FACILITY LICENSED OR
23 CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
24 PURSUANT TO SECTION 25-1.5-103.

25 (h) "PARTICIPATING PHYSICIAN" MEANS A PHYSICIAN WHO IS
26 CREDENTIALLED BY A CARRIER OR ITS DESIGNEE TO PROVIDE HEALTH CARE
27 ITEMS OR SERVICES TO COVERED PERSONS IN AT LEAST ONE OF THE

1 CARRIER'S PROVIDER NETWORKS.

2 (i) "PHYSICIAN" MEANS A PHYSICIAN WHO IS LICENSED PURSUANT
3 TO ARTICLE 240 OF TITLE 12.

4 (j) "RECREDEXTIALING" OR "RECREDEXTIAL" MEANS THE PROCESS
5 BY WHICH A CARRIER OR ITS DESIGNEE CONFIRMS THAT A PARTICIPATING
6 PHYSICIAN IS IN GOOD STANDING AND CONTINUES TO SATISFY THE
7 CARRIER'S REQUIREMENTS FOR PARTICIPATING PHYSICIANS.

8 (2) (a) WITHIN SEVEN CALENDAR DAYS AFTER A CARRIER RECEIVES
9 AN APPLICATION, THE CARRIER SHALL PROVIDE THE APPLICANT A RECEIPT
10 IN WRITTEN OR ELECTRONIC FORM.

11 (b) UPON RECEIVING AN APPLICATION, A CARRIER SHALL
12 PROMPTLY DETERMINE WHETHER THE APPLICATION IS COMPLETE. IF THE
13 CARRIER DETERMINES THAT THE APPLICATION IS INCOMPLETE, THE
14 CARRIER SHALL NOTIFY THE APPLICANT IN WRITING OR BY ELECTRONIC
15 MEANS THAT THE APPLICATION IS INCOMPLETE WITHIN TEN CALENDAR
16 DAYS AFTER THE DATE THE CARRIER RECEIVED THE APPLICATION. THE
17 NOTICE MUST DESCRIBE THE ITEMS THAT ARE REQUIRED TO COMPLETE THE
18 APPLICATION.

19 (c) IF A CARRIER RECEIVES A COMPLETED APPLICATION BUT FAILS
20 TO PROVIDE THE APPLICANT A RECEIPT IN WRITTEN OR ELECTRONIC FORM
21 WITHIN SEVEN CALENDAR DAYS AFTER RECEIVING THE APPLICATION, AS
22 REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION, THE CARRIER SHALL
23 CONSIDER THE APPLICANT A PARTICIPATING PHYSICIAN, EFFECTIVE NO
24 LATER THAN FIFTY-THREE CALENDAR DAYS FOLLOWING THE CARRIER'S
25 RECEIPT OF THE APPLICATION.

26 (3) (a) A CARRIER SHALL CONCLUDE THE PROCESS OF
27 CREDENTIALING AN APPLICANT WITHIN SIXTY CALENDAR DAYS AFTER THE

1 CARRIER RECEIVES THE APPLICANT'S COMPLETED APPLICATION.

2 (b) A CARRIER SHALL PROVIDE EACH APPLICANT WRITTEN OR
3 ELECTRONIC NOTICE OF THE OUTCOME OF THE APPLICANT'S
4 CREDENTIALING WITHIN TEN CALENDAR DAYS AFTER THE CONCLUSION OF
5 THE CREDENTIALING PROCESS.

6 (c) AFTER CONCLUDING THE CREDENTIALING PROCESS FOR AN
7 APPLICANT AND MAKING A DETERMINATION REGARDING THE APPLICANT'S
8 APPLICATION, A CARRIER SHALL PROVIDE TO THE APPLICANT, AT THE
9 APPLICANT'S REQUEST AND AS ALLOWED BY LAW, ALL NONPROPRIETARY
10 INFORMATION PERTAINING TO THE APPLICATION AND TO THE FINAL
11 DECISION REGARDING THE APPLICATION.

12 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION:

13 (a) A CARRIER THAT ENTERS INTO AND COMPLIES WITH THE
14 REQUIREMENTS OF A DELEGATED CREDENTIALING AGREEMENT WITH A
15 HEALTH CARE FACILITY, WHICH AGREEMENT IMPOSES EQUIVALENT OR
16 HIGHER REQUIREMENTS THAN THOSE DESCRIBED IN THIS SECTION, IS
17 DEEMED TO BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION
18 WITH REGARD TO AN APPLICANT WHO WORKS FOR THAT FACILITY.

19 (b) A CARRIER THAT PARTICIPATES IN AND COMPLIES WITH THE
20 REQUIREMENTS OF A CARRIER CREDENTIALING ALLIANCE THAT IMPOSES
21 EQUIVALENT OR HIGHER REQUIREMENTS THAN THOSE DESCRIBED IN THIS
22 SECTION IS DEEMED TO BE IN COMPLIANCE WITH THE REQUIREMENTS OF
23 THIS SECTION.

24 (5) A CARRIER SHALL CORRECT DISCREPANCIES IN ITS PROVIDER OR
25 NETWORK DIRECTORY WITHIN THIRTY CALENDAR DAYS AFTER RECEIVING
26 A REPORT OF THE DISCREPANCY FROM A PARTICIPATING PHYSICIAN. A
27 PARTICIPATING PHYSICIAN SHALL NOTIFY A CARRIER OF ANY CHANGE IN

1 THE PHYSICIAN'S NAME, ADDRESS, TELEPHONE NUMBER, BUSINESS
2 STRUCTURE, OR TAX IDENTIFICATION NUMBER WITHIN FIFTEEN BUSINESS
3 DAYS AFTER MAKING THE CHANGE.

4 (6) A CARRIER MAY NOT DENY A CLAIM FOR A MEDICALLY
5 NECESSARY COVERED SERVICE PROVIDED TO A COVERED PERSON IF THE
6 SERVICE:

7 (a) IS A COVERED BENEFIT UNDER THE COVERED PERSON'S HEALTH
8 COVERAGE PLAN; AND

9 (b) IS PROVIDED BY A PARTICIPATING PHYSICIAN WHO IS IN THE
10 PROVIDER NETWORK FOR THE CARRIER'S HEALTH COVERAGE PLAN AND
11 HAS CONCLUDED THE CARRIER'S CREDENTIALING PROCESS.

12 (7) A CARRIER SHALL MAKE THE FOLLOWING NONPROPRIETARY
13 INFORMATION AVAILABLE TO ALL APPLICANTS AND SHALL POST THE
14 INFORMATION ON ITS WEBSITE:

15 (a) THE CARRIER'S CREDENTIALING POLICIES AND PROCEDURES;

16 (b) A LIST OF THE INFORMATION REQUIRED TO BE INCLUDED IN AN
17 APPLICATION;

18 (c) A CHECKLIST OF MATERIALS THAT MUST BE SUBMITTED IN THE
19 CREDENTIALING PROCESS;

20 (d) DESIGNATED CONTACT INFORMATION, INCLUDING A
21 DESIGNATED POINT OF CONTACT, AN E-MAIL ADDRESS, AND A TELEPHONE
22 NUMBER, TO WHICH AN APPLICANT MAY ADDRESS ANY CREDENTIALING
23 INQUIRIES; AND

24 (e) THE REQUIREMENTS DESCRIBED IN SUBSECTION (2) OF THIS
25 SECTION AND THE AUTHORITY OF THE COMMISSIONER TO ENFORCE THE
26 REQUIREMENTS AND IMPOSE PENALTIES FOR VIOLATIONS, AS DESCRIBED
27 IN SUBSECTION (10) OF THIS SECTION.

1 (8) (a) A CARRIER OR ITS DESIGNEE MAY RECREDENTIAL A
2 PARTICIPATING PHYSICIAN IF SUCH RECREDENTIALING IS:

3 (I) REQUIRED BY FEDERAL OR STATE LAW OR BY THE CARRIER'S
4 ACCREDITATION STANDARDS; OR

5 (II) PERMITTED BY THE CARRIER'S CONTRACT WITH THE
6 PARTICIPATING PHYSICIAN.

7 (b) A CARRIER SHALL NOT REQUIRE A PARTICIPATING PHYSICIAN
8 TO SUBMIT AN APPLICATION OR PARTICIPATE IN A CONTRACTING PROCESS
9 IN ORDER TO BE RECREDENTIALLED.

10 (c) NOTHING IN THIS SUBSECTION (8) AFFECTS THE CONTRACT
11 TERMINATION RIGHTS OF A CARRIER OR A PARTICIPATING PHYSICIAN.

12 (9) EXCEPT AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION AND
13 AS MAY BE PROVIDED IN A CONTRACT BETWEEN A CARRIER AND A
14 PARTICIPATING PHYSICIAN, A CARRIER SHALL ALLOW A PARTICIPATING
15 PHYSICIAN TO REMAIN CREDENTIALLED AND INCLUDE THE PARTICIPATING
16 PHYSICIAN IN THE CARRIER'S HEALTH COVERAGE PLAN PROVIDER
17 NETWORK UNLESS THE CARRIER DISCOVERS INFORMATION INDICATING
18 THAT THE PARTICIPATING PHYSICIAN NO LONGER SATISFIES THE CARRIER'S
19 GUIDELINES FOR PARTICIPATION, IN WHICH CASE THE CARRIER SHALL
20 SATISFY THE REQUIREMENTS DESCRIBED IN SECTION 10-16-705 (5) BEFORE
21 TERMINATING THE PARTICIPATING PHYSICIAN'S PARTICIPATION IN THE
22 PROVIDER NETWORK.

23 (10) THE COMMISSIONER SHALL ENFORCE THIS SECTION AND MAY
24 PROMULGATE SUCH RULES AS ARE NECESSARY FOR THE IMPLEMENTATION
25 OF THIS SECTION. UPON RECEIVING MORE THAN ONE COMPLAINT FROM AN
26 APPLICANT OR A PARTICIPATING PHYSICIAN ALLEGING A VIOLATION OF
27 THIS SECTION BY A CARRIER, THE COMMISSIONER SHALL INVESTIGATE THE

1 COMPLAINTS. A CARRIER THAT FAILS TO COMPLY WITH THIS SECTION OR
2 WITH ANY RULES ADOPTED PURSUANT TO THIS SECTION IS SUBJECT TO
3 SUCH CIVIL PENALTIES AS THE COMMISSIONER MAY ORDER PURSUANT TO
4 SECTION 10-1-310.

5 **SECTION 2. Appropriation.** (1) For the 2021-22 state fiscal
6 year, \$52,505 is appropriated to the department of regulatory agencies.
7 This appropriation is from the division of insurance cash fund created in
8 section 10-1-103 (3), C.R.S. To implement this act, the department may
9 use this appropriation as follows:

10 (a) \$25,037 for use by the division of insurance for personal
11 services, which amount is based on an assumption that the department
12 will require an additional 0.4 FTE;

13 (b) \$6,200 for use by the division of insurance for operating
14 expenses; and

15 (c) \$21,268 for the purchase of legal services.

16 (2) For the 2021-22 state fiscal year, \$21,268 is appropriated to
17 the department of law. This appropriation is from reappropriated funds
18 received from the department of regulatory agencies under subsection
19 (1)(c) of this section and is based on an assumption that the department
20 of law will require an additional 0.1 FTE. To implement this act, the
21 department of law may use this appropriation to provide legal services for
22 the department of regulatory agencies.

23 **SECTION 3. Act subject to petition - effective date -**
24 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
25 the expiration of the ninety-day period after final adjournment of the
26 general assembly; except that, if a referendum petition is filed pursuant
27 to section 1 (3) of article V of the state constitution against this act or an

1 item, section, or part of this act within such period, then the act, item,
2 section, or part will not take effect unless approved by the people at the
3 general election to be held in November 2022 and, in such case, will take
4 effect on the date of the official declaration of the vote thereon by the
5 governor.

6 (2) This act applies to applications to become a participating
7 physician in a health coverage plan provider network that are submitted
8 on or after the applicable effective date of this act.