

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

REVISED

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

LLS NO. 23-0471.01 Kristen Forrestal x4217

SENATE BILL 23-179

SENATE SPONSORSHIP

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Appropriations

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Public & Behavioral Health & Human Services
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A BILL FOR AN ACT

101 **CONCERNING INSURANCE CARRIER REQUIREMENTS FOR HEALTH**
102 **COVERAGE PLANS, AND, IN CONNECTION THEREWITH, MAKING**
103 **AN APPROPRIATION.**

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 requires a health insurance carrier (carrier) that issues, sells, renews, or offers a dental coverage plan to file, beginning in 2024, dental loss ratio forms with the division of insurance (division) for the preceding calendar year in which dental coverage was provided.

The division is required to post dental loss ratio information on its

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

HOUSE
2nd Reading Unamended
May 3, 2023

SENATE
3rd Reading Unamended
April 14, 2023

SENATE
Amended 2nd Reading
April 13, 2023

website or submit the information to the administrator of the all-payer health claims database (APCD). If the information is submitted to the APCD administrator, the administrator is directed to make the information available to the public.

Once the division has collected dental loss ratio information for 2 years, the commissioner of insurance (commissioner) shall promulgate rules that create a process to identify any carriers that significantly deviate from average dental loss ratios and to investigate the causes of the deviation.

Current law requires the commissioner to adopt rules requiring every carrier providing a health benefit plan to issue to covered persons to whom an identification card is issued a standardized, printed card containing plan information. The bill amends this requirement to encompass health coverage plans.

The bill also requires prepaid dental plans to file rates with the division.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Access to quality dental care is an essential component of
5 every Coloradan's health and well-being, as untreated dental issues
6 contribute to a number of serious medical conditions, including chronic
7 obstructive pulmonary disease, heart disease, stroke, and preterm labor or
8 premature birth, all of which drastically increase costs to individuals and
9 to the state;

10 (b) Meaningful insurance coverage is one of the most important
11 factors behind patients utilizing dental care services;

12

13 (c) Greater transparency on how premium dollars are spent by
14 health insurance carriers provides accountability for insurance plans and
15 ensures that patients get the most value for premiums paid;

16 (d) Patients should have visibility regarding how many of their

1 insurance premium dollars pay for health-care and dental services as
2 opposed to administrative, marketing, and operational costs;

3 (e) Medical loss ratio standards have been in place for health
4 insurance for more than 10 years;

5 (f) Dental plans in this state are not required to have equivalent
6 transparency and disclosure standards, known as dental loss ratios, in
7 place;

8 ==
9 (g) When patients and employers are comparing dental plans for
10 purchase, they should have access to information that shows how much
11 coverage is actually provided relative to what they pay in premiums for
12 the coverage;

13 (h) Bringing transparency to how much care the premiums are
14 actually paying for is an important step to drive efficiencies in care and
15 ensure value in patients' dental benefits; and

16 (i) As Colorado has long been a leader in policies that increase
17 transparency, value, accountability, and access to health care for
18 consumers, Colorado should continue to lead and provide protections for
19 consumers in accessing dental care coverage.

20 (2) In order to ensure dental care is accessible for all Coloradans,
21 it is critical that Colorado establish transparency and accountability for
22 dental plans.

23 **SECTION 2.** In Colorado Revised Statutes, 10-16-107, **amend**
24 (1)(a), (1)(f), (2)(a)(I) introductory portion, and (2)(b), as follows:

25 **10-16-107. Rate filing regulation - benefits ratio - rules.**

26 (1) (a) A carrier subject to part 2, 3, ~~or~~ 4, ~~OR~~ 5 of this ~~article~~ ARTICLE 16
27 shall not establish rates for any sickness, accident, or health insurance

1 policy, contract, certificate, or other evidence of coverage OR DENTAL
2 COVERAGE PLAN, AS DEFINED IN SECTION 10-16-158 (1)(a), issued or
3 delivered to any policyholder, enrollee, subscriber, or member in
4 Colorado that are excessive, inadequate, or unfairly discriminatory. To
5 assure compliance with the requirements of this section that rates are not
6 excessive in relation to benefits, the commissioner shall promulgate rules
7 to require rate filings and, as part of the rules, may require the submission
8 of adequate documentation and supporting information, including
9 actuarial opinions or certifications and set expected benefits ratios. The
10 carrier shall submit expected rate increases to the commissioner at least
11 sixty days prior to the proposed implementation of the rates. If the
12 commissioner does not approve or disapprove the rate filings within a
13 sixty-day period, the carrier may implement and reasonably rely upon the
14 rates on the condition that the commissioner may require correction of
15 any deficiencies in the rate filing upon later review if the rate the carrier
16 charged is excessive, inadequate, or unfairly discriminatory. A
17 prospective rate adjustment is the sole remedy for rate deficiencies
18 pursuant to this subsection (1). If the commissioner finds deficiencies in
19 the rate filing after a sixty-day period, the commissioner shall provide
20 notice to the carrier, and the carrier shall correct the rate on a prospective
21 basis.

22 (f) Carriers shall file rate filings for insurance regulated under
23 parts 1 to ~~4 5~~ of this ~~article~~ ARTICLE 16 electronically in a format made
24 available by the division, unless exempted by rule for an emergency
25 situation as determined by the commissioner. The division shall post on
26 its website a rate filing summary for insurance regulated under parts 1 to
27 ~~4 5~~ of this ~~article~~ ARTICLE 16 in order to provide notice to the public.

1 (2) (a) (I) Rates for an individual health coverage plan issued or
2 delivered to any policyholder, enrollee, subscriber, or member in
3 Colorado by an insurer subject to part 2 of this article 16 or an entity
4 subject to part 3, ~~or~~ 4, OR 5 of this article 16 shall not be excessive,
5 inadequate, or unfairly discriminatory to assure compliance with the
6 requirements of this section that rates are not excessive in relation to
7 benefits. Rates are excessive if they are likely to produce a long run profit
8 that is unreasonably high for the insurance provided or if expenses are
9 unreasonably high in relation to services rendered. In determining if rates
10 are excessive, the commissioner may consider:

11 (b) Notwithstanding any other provision of this ~~article~~ ARTICLE 16,
12 a carrier subject to part 2, 3, ~~or~~ 4, OR 5 of this ~~article~~ ARTICLE 16 shall not
13 vary the premium rate for an individual health coverage plan due to the
14 gender of the individual policyholder, enrollee, subscriber, or member.
15 Any premium rate based on the gender of the individual policyholder,
16 enrollee, subscriber, or member is unfairly discriminatory and is not
17 allowed.

18 **SECTION 3.** In Colorado Revised Statutes, **add** 10-16-158 as
19 follows:

20 **10-16-158. Dental coverage plans - dental loss ratio - rules -**
21 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
22 OTHERWISE REQUIRES:

23 (a) "COMMUNITY BENEFIT EXPENDITURE" MEANS AN EXPENDITURE
24 FOR AN ACTIVITY OR PROGRAM, OR TO AN ORGANIZATION, WHICH SEEKS
25 TO ACHIEVE THE OBJECTIVES OF IMPROVING ACCESS TO DENTAL SERVICES
26 AND ENHANCING DENTAL PUBLIC HEALTH. THIS INCLUDES AN ACTIVITY
27 THAT:

1 (I) IS AVAILABLE BROADLY TO THE PUBLIC AND SERVES
2 LOW-INCOME CONSUMERS;

3 (II) REDUCES GEOGRAPHIC, FINANCIAL, OR CULTURAL BARRIERS
4 TO ACCESSING DENTAL SERVICES, AND IF THE ACTIVITY CEASED TO EXIST
5 WOULD RESULT IN ACCESS PROBLEMS;

6 (III) ADDRESSES ORAL HEALTH WORKFORCE SHORTAGES, SUCH AS
7 ADVANCING EDUCATION AND TRAINING OF ORAL HEALTH PROFESSIONALS;

8 OR

9 (IV) LEVERAGES OR ENHANCES DENTAL PUBLIC HEALTH
10 ACTIVITIES.

11 (b) "DENTAL COVERAGE PLAN" MEANS A HEALTH COVERAGE PLAN
12 THAT INCLUDES COVERAGE FOR THE COSTS OF DENTAL CARE SERVICES.
13 "DENTAL COVERAGE PLAN" INCLUDES A PLAN ISSUED BY A PREPAID
14 DENTAL PLAN ORGANIZATION THAT HAS A CERTIFICATE OF AUTHORITY TO
15 OPERATE PURSUANT TO PART 5 OF THIS ARTICLE 16.

16 (c) (I) "DENTAL LOSS RATIO" MEANS THE PERCENTAGE OF
17 PREMIUM DOLLARS COLLECTED EACH YEAR FOR A DENTAL COVERAGE
18 PLAN THAT THE DENTAL COVERAGE PLAN INCURS ON DENTAL SERVICES
19 PROVIDED TO AN ENROLLEE, SEPARATE FROM OVERHEAD AND
20 ADMINISTRATIVE COSTS.

21 (II) THE DENTAL LOSS RATIO IS CALCULATED BY DIVIDING THE
22 NUMERATOR BY THE DENOMINATOR, WHERE:

23 (A) THE NUMERATOR IS THE SUM OF THE AMOUNT INCURRED FOR
24 CLINICAL DENTAL SERVICES PROVIDED TO ENROLLEES, THE AMOUNT
25 INCURRED ON ACTIVITIES THAT IMPROVE DENTAL CARE QUALITY, AND THE
26 AMOUNT OF CLAIMS PAYMENTS IDENTIFIED THROUGH FRAUD REDUCTION
27 EFFORTS; AND

1 (B) THE DENOMINATOR IS THE TOTAL AMOUNT OF PREMIUM
2 REVENUE, EXCLUDING FEDERAL AND STATE TAXES, LICENSING AND
3 REGULATORY FEES PAID, NONPROFIT COMMUNITY BENEFIT EXPENDITURES,
4 AND ANY OTHER PAYMENTS REQUIRED BY FEDERAL LAW.

5 (2) (a) THE COMMISSIONER SHALL DEFINE BY RULE:

6 (I) EXPENDITURES FOR CLINICAL DENTAL SERVICES;

7 (II) ACTIVITIES THAT IMPROVE DENTAL CARE QUALITY;

8 (III) OVERHEAD AND ADMINISTRATIVE COST EXPENDITURES; AND

9 (IV) NONPROFIT COMMUNITY BENEFIT EXPENDITURES THAT ARE

10 ALIGNED WITH EXCLUSION PARAMETERS AND LIMITS OUTLINED IN 45 CFR

11 158.162; EXCEPT THAT THE COMMISSIONER SHALL ENSURE THAT ONLY

12 EXPENDITURES THAT IMPROVE ACCESS TO DENTAL SERVICES OR ENHANCE

13 DENTAL HEALTH, AND NO OVERHEAD OR ADMINISTRATIVE COSTS, ARE

14 REPORTED UNDER THIS SECTION.

15 (b) THE DEFINITIONS PROMULGATED BY RULE PURSUANT TO THIS
16 SECTION MUST BE CONSISTENT WITH SIMILAR DEFINITIONS THAT ARE USED
17 FOR THE REPORTING OF MEDICAL LOSS RATIOS BY CARRIERS OFFERING
18 HEALTH BENEFIT PLANS IN THE STATE. OVERHEAD AND ADMINISTRATIVE
19 COSTS MUST NOT BE INCLUDED IN THE NUMERATOR AS DESCRIBED IN
20 SUBSECTION (1)(b)(II)(A) OF THIS SECTION.

21 (3) (a) ON OR BEFORE JULY 31, 2024, AND ON OR BEFORE JULY 31
22 EACH YEAR THEREAFTER, A CARRIER THAT ISSUES, SELLS, RENEWS, OR
23 OFFERS A DENTAL COVERAGE PLAN SHALL FILE A DENTAL LOSS RATIO
24 FORM ELECTRONICALLY WITH THE DIVISION FOR THE PRECEDING
25 CALENDAR YEAR IN WHICH DENTAL COVERAGE WAS PROVIDED BY THE
26 DENTAL COVERAGE PLAN. THE COMMISSIONER MAY CREATE A NEW
27 REPORTING FORM OR USE AN EXISTING REPORTING FORM TO FACILITATE

1 DATA COLLECTION. THE COMMISSIONER SHALL ENSURE THAT FIELDS ARE
2 REPORTED CONSISTENTLY BY CARRIERS. THE FILING MUST:

3 (I) REPORT THE CALCULATED DENTAL LOSS RATIO ACCORDING TO
4 THE FORMULA IN SUBSECTION (1)(b)(II) OF THIS SECTION;

5 (II) SEPARATELY REPORT EACH DATA ELEMENT DESCRIBED IN
6 SUBSECTION (1)(b) OF THIS SECTION;

7 (III) REPORT ADDITIONAL DATA THAT INCLUDES THE NUMBER OF
8 ENROLLEES, THE PLAN COST-SHARING AND DEDUCTIBLE AMOUNTS, THE
9 ANNUAL MAXIMUM COVERAGE LIMIT, AND THE NUMBER OF ENROLLEES
10 WHO MEET OR EXCEED THE ANNUAL COVERAGE LIMIT;

11 (IV) REPORT DATA BY MARKET SEGMENT AND PRODUCT TYPE, AS
12 DEFINED BY RULE OF THE COMMISSIONER; AND

13 (V) BE IN A FORM AND MANNER AS PRESCRIBED BY RULE OF THE
14 COMMISSIONER.

15 (b) FOR THE REPORT TO BE SUBMITTED ON OR BEFORE JULY 31,
16 2024, A CARRIER SHALL ALSO SUBMIT THE INFORMATION REQUIRED IN
17 SUBSECTION (3)(a) OF THIS SECTION FOR THE PLAN YEARS 2021 THROUGH
18 2024.

19 (c) IF THE COMMISSIONER DEEMS THAT DATA VERIFICATION OF A
20 CARRIER'S DENTAL LOSS RATIO FOR A DENTAL COVERAGE PLAN IS
21 NECESSARY, THE COMMISSIONER SHALL GIVE THE CARRIER AT LEAST
22 THIRTY DAYS NOTIFICATION PRIOR TO BEGINNING THE VERIFICATION
23 PROCESS WITH THE CARRIER.

24 (d) (I) BY JANUARY 1 OF THE YEAR AFTER THE DIVISION RECEIVES
25 THE DENTAL LOSS RATIO INFORMATION COLLECTED PURSUANT TO
26 SUBSECTION (3)(a) OF THIS SECTION, THE DIVISION SHALL MAKE THE
27 INFORMATION, INCLUDING THE AGGREGATE DENTAL LOSS RATIO AND THE

1 DATA REPORTED PURSUANT TO SUBSECTIONS (3)(a)(II) AND (3)(a)(III) OF
2 THIS SECTION, AVAILABLE TO THE PUBLIC IN A SEARCHABLE FORMAT ON
3 A PUBLIC WEBSITE THAT ALLOWS MEMBERS OF THE PUBLIC TO COMPARE
4 DENTAL LOSS RATIOS AMONG CARRIERS BY PLAN TYPE BY:

5 (A) POSTING THE INFORMATION ON THE DIVISION'S WEBSITE; OR
6 (B) PROVIDING THE INFORMATION TO THE ADMINISTRATOR OF THE
7 ALL-PAYER HEALTH CLAIMS DATABASE ESTABLISHED PURSUANT TO
8 SECTION 25.5-1-204. IF THE DIVISION PROVIDES THE INFORMATION TO THE
9 ADMINISTRATOR, THE ADMINISTRATOR SHALL MAKE THE INFORMATION
10 AVAILABLE TO THE PUBLIC IN A FORMAT DETERMINED BY THE DIVISION.

11 (II) THE DIVISION SHALL REPORT THE DATA IN SUBSECTION (3)(a)
12 OF THIS SECTION, AND, IF AVAILABLE, SUBSECTION (4)(a) OF THIS SECTION,
13 TO THE GENERAL ASSEMBLY DURING THE "STATE MEASUREMENT FOR
14 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
15 GOVERNMENT ACT" HEARINGS HELD PURSUANT TO PART 2 OF ARTICLE 7
16 OF TITLE 2.

17 (4) (a) ONCE THE DIVISION HAS COLLECTED THE DATA PURSUANT
18 TO SUBSECTION (3) OF THIS SECTION FOR TWO CALENDAR YEARS, THE
19 COMMISSIONER SHALL PROMULGATE RULES THAT CREATE A PROCESS TO
20 IDENTIFY ANY CARRIERS THAT SIGNIFICANTLY DEVIATE FROM AVERAGE
21 DENTAL LOSS RATIOS AND TO INVESTIGATE THE CAUSES OF THE
22 DEVIATION. SUCH PROCESS SHALL INCLUDE:

23 (I) CALCULATING AN AVERAGE DENTAL LOSS RATIO FOR EACH
24 MARKET SEGMENT USING AGGREGATE DATA FOR A THREE-YEAR PERIOD,
25 CONSISTING OF DATA FOR THE DENTAL LOSS RATIO REPORTING YEAR THAT
26 IS BEING REPORTED AND THE DATA FOR THE TWO PRIOR DENTAL LOSS
27 RATIO REPORTING YEARS;

1 (II) IDENTIFYING AS OUTLIERS THE DENTAL COVERAGE PLANS
2 THAT FALL OUTSIDE OF A SET NUMBER OF STANDARD DEVIATIONS FROM
3 THE AVERAGE DENTAL LOSS RATIO, AS DETERMINED BY RULE OF THE
4 COMMISSIONER BASED ON REVIEW OF THE DATA AND CONSIDERATION OF
5 THE IMPACT OF NONPROFIT COMMUNITY BENEFIT EXPENDITURES ON ANY
6 OUTLIER CALCULATION.

7 (b) THE COMMISSIONER MAY APPLY MORE RESTRICTIVE STANDARD
8 DEVIATION METRICS OVER TIME TO PREVENT DECLINES IN THE AVERAGE
9 DENTAL LOSS RATIO IN A MARKET SEGMENT AND MAY ESTABLISH BY RULE
10 ADDITIONAL CRITERIA FOR USE IN IDENTIFYING OUTLIERS.

11 (5) (a) THE COMMISSIONER MAY ENFORCE COMPLIANCE WITH THE
12 REPORTING REQUIREMENTS IN THIS SECTION AND IMPOSE A PENALTY OR
13 REMEDY AGAINST A PERSON WHO VIOLATES THIS SECTION.

14 (b) THE COMMISSIONER MAY INVESTIGATE OR TAKE ENFORCEMENT
15 ACTIONS AGAINST CARRIERS THAT ARE DETERMINED TO BE OUTLIERS
16 PURSUANT TO SUBSECTION (4) OF THIS SECTION AND RULES ADOPTED
17 PURSUANT TO SAID SUBSECTION (4) AND IMPOSE A PENALTY OR REMEDY
18 AGAINST A PERSON WHO VIOLATES THIS SECTION.

19 (6) THE COMMISSIONER MAY PROMULGATE RULES TO IMPLEMENT
20 THIS SECTION.

21 SECTION 4. In Colorado Revised Statutes, 10-16-135, add
22 (7) as follows:

23 10-16-135. Health coverage plan information cards - rules -
24 standardization - contents. (7) THE COMMISSIONER SHALL ADOPT RULES
25 THAT REQUIRE EACH CARRIER THAT PROVIDES A DENTAL COVERAGE PLAN,
26 AS DEFINED IN SECTION 10-16-158 (1)(a), TO ISSUE TO COVERED PERSONS
27 TO WHOM A DENTAL COVERAGE PLAN IDENTIFICATION CARD IS ISSUED A

1 STANDARDIZED WRITTEN OR VIRTUAL CARD CONTAINING PLAN
2 INFORMATION. TO THE EXTENT POSSIBLE, THE RULES MUST INCORPORATE
3 AND NOT CONFLICT WITH THE REQUIREMENTS OF SECTION 10-16-124
4 REGARDING PRESCRIPTION INFORMATION CARDS. THE COMMISSIONER
5 SHALL ADOPT RULES BY MARCH 31, 2024, THAT DESCRIBE THE FORMAT OF
6 THE STANDARDIZED CARD TO BE ISSUED BY CARRIERS. THE RULES
7 ESTABLISHING THE FORMAT FOR THE CARD MUST INCLUDE A STANDARD
8 SIZE, MUST REQUIRE THE CARD TO BE LEGIBLE AND PHOTOCOPIED, AND
9 MUST DELINEATE THE INFORMATION TO BE CONTAINED ON THE CARD,
10 INCLUDING THE FOLLOWING, AS APPLICABLE:

11 (a) THE COVERED PERSON'S NAME AND THE APPLICABLE PLAN
12 NUMBER;

13 (b) CONTACT INFORMATION FOR THE CARRIER OR DENTAL
14 COVERAGE PLAN ADMINISTRATOR; AND

15 (c) AN INDICATION OF WHETHER THE DENTAL COVERAGE PLAN IS
16 REGULATED BY THE STATE OF COLORADO.

17 **SECTION 5.** In Colorado Revised Statutes, 25.5-1-204, **add**
18 **(5)(j)** as follows:

19 **25.5-1-204. Advisory committee to oversee the all-payer health**
20 **claims database - creation - members - duties - legislative declaration**
21 **- rules - report.** (5) If sufficient funding is received, the executive
22 director shall direct the administrator to create the database and the
23 administrator shall:

24 **(j) SUBJECT TO AVAILABLE APPROPRIATIONS AND AT THE REQUEST**
25 **OF THE COMMISSIONER OF INSURANCE, PUBLISH INFORMATION TO THE**
26 **PUBLIC CONCERNING DENTAL LOSS RATIO INFORMATION COLLECTED BY**
27 **THE DIVISION OF INSURANCE PURSUANT TO SECTION 10-16-158.**

1 **SECTION 6. Appropriation.** For the 2023-24 state fiscal year,
2 \$64,252 is appropriated to the department of regulatory agencies for use
3 by the division of insurance. This appropriation is from the division of
4 insurance cash fund created in section 10-1-103 (3), C.R.S. To implement
5 this act, the division may use this appropriation as follows:

6 (a) \$56,637 for personal services, which amount is based on an
7 assumption that the division will require an additional 0.7 FTE; and

8 (b) \$7,615 for operating expenses.

9 **SECTION 7. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2024 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.