

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0471.01 Kristen Forrestal x4217

SENATE BILL 23-179

SENATE SPONSORSHIP

Moreno and Will,

HOUSE SPONSORSHIP

Hartsook and Daugherty,

Senate Committees

Health & Human Services
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING INSURANCE CARRIER REQUIREMENTS FOR HEALTH**
102 **COVERAGE PLANS.**

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 website or submit the information to the administrator of the all-payer

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.

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
17 insurance premium dollars pay for health-care and dental services as

1 opposed to administrative, marketing, and operational costs;

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

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

7 ==

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

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

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

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

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

24 **10-16-107. Rate filing regulation - benefits ratio - rules.**

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

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

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

27 (2) (a) (I) Rates for an individual health coverage plan issued or

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

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

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

19 **10-16-158. Dental coverage plans - dental loss ratio - rules -**
20 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
21 OTHERWISE REQUIRES:

22 (a) "DENTAL COVERAGE PLAN" MEANS A HEALTH COVERAGE PLAN
23 THAT INCLUDES COVERAGE FOR THE COSTS OF DENTAL CARE SERVICES.
24 "DENTAL COVERAGE PLAN" INCLUDES A PLAN ISSUED BY A PREPAID
25 DENTAL PLAN ORGANIZATION THAT HAS A CERTIFICATE OF AUTHORITY TO
26 OPERATE PURSUANT TO PART 5 OF THIS ARTICLE 16.

27 (b) (I) "DENTAL LOSS RATIO" MEANS THE PERCENTAGE OF

1 PREMIUM DOLLARS COLLECTED EACH YEAR FOR A DENTAL COVERAGE
2 PLAN THAT THE DENTAL COVERAGE PLAN INCURS ON DENTAL SERVICES
3 PROVIDED TO AN ENROLLEE, SEPARATE FROM OVERHEAD AND
4 ADMINISTRATIVE COSTS.

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

7 (A) THE NUMERATOR IS THE SUM OF THE AMOUNT INCURRED FOR
8 CLINICAL DENTAL SERVICES PROVIDED TO ENROLLEES, THE AMOUNT
9 INCURRED ON ACTIVITIES THAT IMPROVE DENTAL CARE QUALITY, AND THE
10 AMOUNT OF CLAIMS PAYMENTS IDENTIFIED THROUGH FRAUD REDUCTION
11 EFFORTS; AND

12 (B) THE DENOMINATOR IS THE TOTAL AMOUNT OF PREMIUM
13 REVENUE, EXCLUDING FEDERAL AND STATE TAXES, LICENSING AND
14 REGULATORY FEES PAID, AND ANY OTHER PAYMENTS REQUIRED BY
15 FEDERAL LAW.

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

17 (I) EXPENDITURES FOR CLINICAL DENTAL SERVICES;

18 (II) ACTIVITIES THAT IMPROVE DENTAL CARE QUALITY; AND

19 (III) OVERHEAD AND ADMINISTRATIVE COST EXPENDITURES.

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

26 (3) (a) ON OR BEFORE JULY 31, 2024, AND ON OR BEFORE JULY 31
27 EACH YEAR THEREAFTER, A CARRIER THAT ISSUES, SELLS, RENEWS, OR

1 OFFERS A DENTAL COVERAGE PLAN SHALL FILE A DENTAL LOSS RATIO
2 FORM ELECTRONICALLY WITH THE DIVISION FOR THE PRECEDING
3 CALENDAR YEAR IN WHICH DENTAL COVERAGE WAS PROVIDED BY THE
4 DENTAL COVERAGE PLAN. THE COMMISSIONER MAY CREATE A NEW
5 REPORTING FORM OR USE AN EXISTING REPORTING FORM TO FACILITATE
6 DATA COLLECTION. THE COMMISSIONER SHALL ENSURE THAT FIELDS ARE
7 REPORTED CONSISTENTLY BY CARRIERS. THE FILING MUST:

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

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

12 (III) REPORT NONPROFIT COMMUNITY BENEFIT EXPENDITURES, AS
13 DEFINED BY RULE OF THE COMMISSIONER, THAT ARE ALIGNED WITH
14 EXCLUSION PARAMETERS AND LIMITS OUTLINED IN 45 CFR 158.162;
15 EXCEPT THAT THE COMMISSIONER SHALL ENSURE THAT ONLY
16 EXPENDITURES THAT IMPROVE ACCESS TO DENTAL SERVICES OR ENHANCE
17 DENTAL HEALTH, AND NO OVERHEAD OR ADMINISTRATIVE COSTS, ARE
18 REPORTED UNDER THIS SUBSECTION (3);

19 (IV) REPORT ADDITIONAL DATA THAT INCLUDES THE NUMBER OF
20 ENROLLEES, THE PLAN COST-SHARING AND DEDUCTIBLE AMOUNTS, THE
21 ANNUAL MAXIMUM COVERAGE LIMIT, AND THE NUMBER OF ENROLLEES
22 WHO MEET OR EXCEED THE ANNUAL COVERAGE LIMIT;

23 (V) REPORT DATA BY MARKET SEGMENT AND PRODUCT TYPE, AS
24 DEFINED BY RULE OF THE COMMISSIONER; AND

25 (VI) BE IN A FORM AND MANNER AS PRESCRIBED BY RULE OF THE
26 COMMISSIONER.

27 (b) FOR THE REPORT TO BE SUBMITTED ON OR BEFORE JULY 31,

1 2024, A CARRIER SHALL ALSO SUBMIT THE INFORMATION REQUIRED IN
2 SUBSECTION (3)(a) OF THIS SECTION FOR THE PLAN YEARS 2021 THROUGH
3 2024.

4 (c) IF THE COMMISSIONER DEEMS THAT DATA VERIFICATION OF A
5 CARRIER'S DENTAL LOSS RATIO FOR A DENTAL COVERAGE PLAN IS
6 NECESSARY, THE COMMISSIONER SHALL GIVE THE CARRIER AT LEAST
7 THIRTY DAYS NOTIFICATION PRIOR TO BEGINNING THE VERIFICATION
8 PROCESS WITH THE CARRIER.

9 (d) (I) BY JANUARY 1 OF THE YEAR AFTER THE DIVISION RECEIVES
10 THE DENTAL LOSS RATIO INFORMATION COLLECTED PURSUANT TO
11 SUBSECTION (3)(a) OF THIS SECTION, THE DIVISION SHALL MAKE THE
12 INFORMATION, INCLUDING THE AGGREGATE DENTAL LOSS RATIO AND THE
13 DATA REPORTED PURSUANT TO SUBSECTIONS (3)(a)(II) AND (3)(a)(III) OF
14 THIS SECTION, AVAILABLE TO THE PUBLIC IN A SEARCHABLE FORMAT ON
15 A PUBLIC WEBSITE THAT ALLOWS MEMBERS OF THE PUBLIC TO COMPARE
16 DENTAL LOSS RATIOS AMONG CARRIERS BY PLAN TYPE BY:

17 (A) POSTING THE INFORMATION ON THE DIVISION'S WEBSITE; OR
18 (B) PROVIDING THE INFORMATION TO THE ADMINISTRATOR OF THE
19 ALL-PAYER HEALTH CLAIMS DATABASE ESTABLISHED PURSUANT TO
20 SECTION 25.5-1-204. IF THE DIVISION PROVIDES THE INFORMATION TO THE
21 ADMINISTRATOR, THE ADMINISTRATOR SHALL MAKE THE INFORMATION
22 AVAILABLE TO THE PUBLIC IN A FORMAT DETERMINED BY THE DIVISION.

23 (II) THE DIVISION SHALL REPORT THE DATA IN SUBSECTION (3)(a)
24 OF THIS SECTION, AND, IF AVAILABLE, SUBSECTION (4)(a) OF THIS SECTION,
25 TO THE GENERAL ASSEMBLY DURING THE "STATE MEASUREMENT FOR
26 ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT (SMART)
27 GOVERNMENT ACT" HEARINGS HELD PURSUANT TO PART 2 OF ARTICLE 7

1 OF TITLE 2.

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

8 (I) CALCULATING AN AVERAGE DENTAL LOSS RATIO FOR EACH
9 MARKET SEGMENT USING AGGREGATE DATA FOR A THREE-YEAR PERIOD,
10 CONSISTING OF DATA FOR THE DENTAL LOSS RATIO REPORTING YEAR THAT
11 IS BEING REPORTED AND THE DATA FOR THE TWO PRIOR DENTAL LOSS
12 RATIO REPORTING YEARS;

13 (II) IDENTIFYING AS OUTLIERS THE DENTAL COVERAGE PLANS
14 THAT FALL OUTSIDE OF A SET NUMBER OF STANDARD DEVIATIONS FROM
15 THE AVERAGE DENTAL LOSS RATIO, AS DETERMINED BY RULE OF THE
16 COMMISSIONER BASED ON REVIEW OF THE DATA AND CONSIDERATION OF
17 THE IMPACT OF NONPROFIT COMMUNITY BENEFIT EXPENDITURES
18 DESCRIBED IN SUBSECTION (3)(a)(III) OF THIS SECTION ON ANY OUTLIER
19 CALCULATION.

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

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

27 (b) THE COMMISSIONER MAY INVESTIGATE OR TAKE ENFORCEMENT

1 ACTIONS AGAINST CARRIERS THAT ARE DETERMINED TO BE OUTLIERS
2 PURSUANT TO SUBSECTION (4) OF THIS SECTION AND RULES ADOPTED
3 PURSUANT TO SAID SUBSECTION (4) AND IMPOSE A PENALTY OR REMEDY
4 AGAINST A PERSON WHO VIOLATES THIS SECTION.

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

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

9 10-16-135. Health coverage plan information cards - rules -
10 standardization - contents. (7) THE COMMISSIONER SHALL ADOPT RULES
11 THAT REQUIRE EACH CARRIER THAT PROVIDES A DENTAL COVERAGE PLAN,
12 AS DEFINED IN SECTION 10-16-158 (1)(a), TO ISSUE TO COVERED PERSONS
13 TO WHOM A DENTAL COVERAGE PLAN IDENTIFICATION CARD IS ISSUED A
14 STANDARDIZED WRITTEN OR VIRTUAL CARD CONTAINING PLAN
15 INFORMATION. TO THE EXTENT POSSIBLE, THE RULES MUST INCORPORATE
16 AND NOT CONFLICT WITH THE REQUIREMENTS OF SECTION 10-16-124
17 REGARDING PRESCRIPTION INFORMATION CARDS. THE COMMISSIONER
18 SHALL ADOPT RULES BY MARCH 31, 2024, THAT DESCRIBE THE FORMAT OF
19 THE STANDARDIZED CARD TO BE ISSUED BY CARRIERS. THE RULES
20 ESTABLISHING THE FORMAT FOR THE CARD MUST INCLUDE A STANDARD
21 SIZE, MUST REQUIRE THE CARD TO BE LEGIBLE AND PHOTOCOPIED, AND
22 MUST DELINEATE THE INFORMATION TO BE CONTAINED ON THE CARD,
23 INCLUDING THE FOLLOWING, AS APPLICABLE:

24 (a) THE COVERED PERSON'S NAME AND THE APPLICABLE PLAN
25 NUMBER;

26 (b) CONTACT INFORMATION FOR THE CARRIER OR DENTAL
27 COVERAGE PLAN ADMINISTRATOR; AND

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

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

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

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

14 **SECTION 6. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2024 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.