



## Legislative Council Staff

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## Memorandum

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Updated April 22, 2020

**TO:** Interested Persons

**FROM:** Julia Group, Research Analyst, 303-866-4780

**SUBJECT:** Division of Insurance Changes in Response to COVID-19

### Summary

This memorandum provides an overview of temporary changes the Colorado Division of Insurance (DOI) implemented in response to the spread of COVID-19 and associated declaration of a disaster emergency by Governor Polis on March 11, 2020. The DOI in the Department of Regulatory Agencies regulates the insurance industry in Colorado, including insurance carriers selling life, health, title, and property and casualty insurance, and insurance agents. The DOI does not regulate self-funded health plans, government health plans, or health plans issued in other states. This memorandum details the emergency regulations and bulletins issued by the DOI for insurance carriers in Colorado. Emergency regulations are regulations that have been adopted by the Insurance Commissioner without going through the public rulemaking process. Bulletins are the DOI's interpretation of existing insurance law or general statements of its policy.

### Health Insurance Enrollment

**Emergency Regulation 20-E-02** established a special enrollment period outside the initial and annual enrollment periods for persons not already enrolled in an individual, group, or other health benefit plan. Individuals were permitted to enroll in an individual health benefit plan during this special enrollment period, which opened on March 20, 2020, and continued through April 3, 2020. **Emergency Regulation 20-E-06** continues the special enrollment period from April 4, 2020, through April 30, 2020. Coverage can be effective no later than May 1, 2020, for plans enrolled in during this period.<sup>1</sup>

**Bulletin No. B-4.105** advises consumers that if they lose their employer-sponsored health care, they are eligible to enroll in continuation coverage under COBRA or under state continuation coverage, options that exist under current state and federal law. This bulletin also reminds employees that if they lose their employer-sponsored health insurance, they are eligible for a 60-day special enrollment period to enroll in individual coverage, or if eligible, in Colorado's Medicaid Program.<sup>2</sup>

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<sup>1</sup><https://drive.google.com/file/d/1tonUWu8Ex9GuV89zw6EgyYob7yviE7yu/view>

<sup>2</sup>[https://drive.google.com/file/d/1VeVORK\\_6-1dEAXP6TDbKZ33gyD5vSc3D/view](https://drive.google.com/file/d/1VeVORK_6-1dEAXP6TDbKZ33gyD5vSc3D/view)

## Coverage of COVID-19 Treatment and Testing

**Bulletin No. B-4.106** reminded health insurers that they must cover certain health care services provided at home for insured persons with COVID-19 or COVID-19-like symptoms. If determined by a medical provider to be appropriate, insurers should expedite requests for these services, cover all necessary medical equipment and medications for in-home treatment, and remove prior authorization requirements to provide this care.<sup>3</sup>

**Emergency Regulation 20-E-01** includes a number of requirements related to coverage and cost-sharing for claims arising from the testing and treatment of COVID-19. The DOI instructs insurers to cover COVID-19-related in-network telehealth services without requiring cost-sharing from the covered individual. Cost-sharing includes co-pays, deductibles, and co-insurance. For individuals who meet the COVID-19 testing requirements established by the Colorado Department of Public Health and Environment, insurers should ensure testing occurs with no cost-sharing for the covered individual, cover cost-sharing for in-network health care visits for COVID-19 testing, and cover testing from an out-of-network provider if an in-network provider is unable to conduct the test. Insurers are also instructed to cover one additional early refill of prescriptions, excluding those medications with a high likelihood of abuse, without applying a different cost-sharing amount.<sup>4</sup>

## Accommodations for Premium Payments

In order to prevent businesses and employees from losing health care coverage due to nonpayment of premiums, **Bulletin B-4.105** instructs carriers to make reasonable accommodations regarding payment of premiums and health benefit eligibility requirements. Health insurance companies are instructed to, at a minimum, extend premium grace periods or allow premium deferrals, waive late payment fees or interest, and institute a moratorium on canceling coverage for nonpayment.

Bulletin B-4.105 also includes provisions directing insurance companies to allow for more employer flexibility to provide health care coverage to individuals whose hours are reduced, or who are laid off or furloughed. At a minimum, insurers are instructed to institute provisions such as: waiving requirements regarding the number of employees participating in an employer's plan; waiving employer and employee contribution requirements; waiving the minimum number of employee work hours required to be eligible for benefits; allowing employers to include part-time and seasonal employees; and allowing employees who initially declined coverage to enroll in coverage. Insurers are also instructed to waive provisions that extend continuation coverage to only certain classes of employees, for example only offering it to full-time employees, and provisions that require employees to be enrolled in the employer's health plan for a required length of time before becoming eligible for continuation.<sup>5</sup>

[Bulletin B-4.107](#), issued on April 21, 2020, directs insurance carriers providing individual health benefit plans to defer the triggering of a grace period for a policyholder's failure to pay premiums and make reasonable accommodations to prevent policyholders from losing coverage due to nonpayment or partial payment of premiums until 30 days after the disaster emergency declared by the Governor

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<sup>3</sup>[https://drive.google.com/file/d/15BnB1MNV\\_waB-tgejksasKoYD03EDCks/view](https://drive.google.com/file/d/15BnB1MNV_waB-tgejksasKoYD03EDCks/view)

<sup>4</sup>[https://drive.google.com/file/d/1vAYettZLD4ZR-3wFZ5s\\_nwo6\\_79T1n4C/view](https://drive.google.com/file/d/1vAYettZLD4ZR-3wFZ5s_nwo6_79T1n4C/view)

<sup>5</sup>[https://drive.google.com/file/d/1VeVORK\\_6-1dEAXP6TDbKZ33gyD5vSc3D/view](https://drive.google.com/file/d/1VeVORK_6-1dEAXP6TDbKZ33gyD5vSc3D/view)

ends or the bulletin is rescinded, whichever is earlier. Further, carriers should work with policyholders impacted by the COVID-19 disaster emergency to set up affordable payment plans to collect past due premiums without loss of coverage, and should not require the full payment as a balloon payment for past due premiums at the end of the COVID-19 disaster emergency. Carriers are not required to treat partial payments as full payment for any past premium due.<sup>6</sup>

**Bulletin No. B-5.38** directs insurance companies offering property and casualty insurance policies to make reasonable accommodations to prevent individuals and businesses from losing insurance coverage due to nonpayment of premiums. The reasonable accommodations should include, at a minimum, extending premium grace periods, waiving late payment fees, no longer cancelling plans for nonpayment, deferring nonrenewal underwriting actions, and continuing coverage for any expiring policies.<sup>7</sup>

**Bulletin No. B-5.39** responds to insurers asking about issuing discounts or premium relief on property and casualty insurance. The insurers shall submit a filing with the new rates to the Property & Casualty Rates & Forms Section, and may begin using the new rates the same day.<sup>8</sup>

## Telehealth

The DOI enacted a number of changes to support the use of telehealth. Telehealth enables long-distance health care and other health-related services to occur with the use of telecommunication technology. **Emergency Regulation 20-E-05** instructs carriers to reimburse for telehealth services even if the remote communication used does not fully comply with Health Insurance Portability and Accountability Act (HIPAA) requirements. The DOI also provided the following guidance for health insurers regarding telehealth: reimbursement rates should not be lower than in-person services; insurers should not limit the technology used to deliver telehealth; patients should not be required to have a previous relationship with a provider in order to receive telehealth services from that provider; insurers should not require additional certification, location, or training requirements to be able to reimburse providers; insurers shall display on a public website how providers shall bill for telehealth services, but shall not require documentation for a telehealth service beyond what is required for an in-person service; and if a covered person cannot access medically necessary telehealth services from a participating provider, the insurer shall cover telehealth services from a nonparticipating provider.<sup>9</sup>

## License Renewal

To prevent licenses regulated by the DOI from expiring, **Emergency Regulation 20-E-04** allows for the continuation of license renewal deadlines and associated procedures, including continuing education requirements and licensing fees. Licenses regulated by the DOI include insurance producer licenses for all lines of insurance, including public adjusters. A continuation of registration renewal deadlines and procedures was also granted for cash-bonding agents and professional cash-bail agents. The proctoring requirements for continuing education exams were waived.<sup>10</sup>

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<sup>6</sup>[https://drive.google.com/file/d/1s62JiPWWUXLQWYDPATS2t2lw\\_oy2PfJu/view](https://drive.google.com/file/d/1s62JiPWWUXLQWYDPATS2t2lw_oy2PfJu/view)

<sup>7</sup>[https://drive.google.com/file/d/1LkOHSK3lnHyL\\_bUXdFM7Rix5cRZ4ndt7/view](https://drive.google.com/file/d/1LkOHSK3lnHyL_bUXdFM7Rix5cRZ4ndt7/view)

<sup>8</sup><https://drive.google.com/file/d/1p1DvROi7e1YQmPYmYwH3uADGVNwUrtH-/view>

<sup>9</sup><https://drive.google.com/file/d/1RPT0thkoQv5bRU9GWh0Wr1UcVvPVjQoo/view>

<sup>10</sup>[https://drive.google.com/file/d/14ghJM0s8\\_lghHLv-mOY7T\\_D1WguTeL6y/view](https://drive.google.com/file/d/14ghJM0s8_lghHLv-mOY7T_D1WguTeL6y/view)

## Restaurant Delivery Drivers

Although a public health order closed dine-in service at restaurants, delivery and take-away from restaurants is still permitted. **Emergency Regulation 20-E-03** allows restaurants with commercial automobile policies to cover additional unnamed drivers who may be delivering food. For restaurants without commercial automobile policies, restaurant employees are permitted to use their own vehicle for delivery without the restriction from their personal insurance policy that would prevent them from using their vehicle for delivery. This regulation does not apply to workers who work for other services not impacted by the restaurant closure.<sup>11</sup>

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<sup>11</sup><https://drive.google.com/file/d/1KGtDaXjViNN2DwT2gnydbHQObXs7XoZM/view>