

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 16-0715.01 Kristen Forrestal x4217

HOUSE BILL 16-1326

HOUSE SPONSORSHIP

Primavera and Willett, Hullinghorst

SENATE SPONSORSHIP

Crowder, Kefalas

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING CHANGES IN THE REQUIREMENTS FOR THE COVERAGE OF**
102 **HEALTH CARE BENEFITS FOR PHYSICAL REHABILITATION**
103 **SERVICES TO ALLOW FOR INCREASED CONSUMER ACCESS TO**
104 **SERVICES.**

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://www.leg.state.co.us/billsummaries>.)

The bill requires a health insurance carrier that is providing benefits for physical rehabilitation services and an intermediary who has contracted with the carrier to:

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

- ! Base coverage authorization and medical necessity determinations on generally accepted and evidence-based criteria and disclose the criteria to health care providers and policyholders;
- ! Disclose the process that must be followed to obtain coverage authorizations and medical necessity determinations to providers and policyholders;
- ! Ensure that the authorizations and determinations are made by a licensed provider in good standing in the same field or specialty as the requesting provider; and
- ! Categorize care for a recurring condition as a new episode if the same provider has not treated the policyholder within the last 30 days.

The contract between the health care provider and intermediary must not:

- ! Allow for utilization management or utilization review as direct medical care or quality improvement;
- ! Impose different or tiered authorization standards and criteria for participating providers of the same licensed profession in the same network;
- ! Require prior authorization for coverage for the evaluation and management in the initial visit; or
- ! Require a provider to discount billed charges for physical rehabilitation services or products not covered under a health coverage plan unless the carrier or intermediary has disclosed to the provider and the carrier's policyholders in writing that providers are required to give the discount.

The bill prohibits a carrier from providing incentives to an intermediary who has a contract for its coverage authorizations and medical necessity determinations for services provided to a policyholder.

The bill makes a violation of these terms an unfair or deceptive trade practice in the business of insurance.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-16-143 as
 3 follows:

4 **10-16-143. Requirements for carriers and participating**
 5 **providers - rules.** (1) A CARRIER THAT PROVIDES BENEFITS FOR
 6 PHYSICAL REHABILITATION SERVICES AND AN INTERMEDIARY THAT HAS
 7 ENTERED INTO A CONTRACT WITH ONE OR MORE SUCH CARRIERS TO

1 CONDUCT UTILIZATION MANAGEMENT, UTILIZATION REVIEW, PROVIDER
2 CREDENTIALING, ADMINISTRATION OF HEALTH INSURANCE BENEFITS,
3 SETTING OR NEGOTIATION OF REIMBURSEMENT RATES, PAYMENT TO
4 PROVIDERS, NETWORK DEVELOPMENT, OR DISEASE MANAGEMENT
5 PROGRAMS FOR THE PHYSICAL REHABILITATION SERVICES SHALL INCLUDE
6 AND ENFORCE WITHIN THEIR CONTRACT THE FOLLOWING REQUIREMENTS:

7 (a) A REQUIREMENT THAT THE INTERMEDIARY BASE COVERAGE
8 AUTHORIZATIONS AND MEDICAL NECESSITY OF HEALTH CARE
9 DETERMINATIONS ON GENERALLY ACCEPTED AND EVIDENCE-BASED
10 STANDARDS AND CRITERIA OF CLINICAL PRACTICE;

11 (b) DISCLOSURE TO A CARRIER'S POLICYHOLDERS AND PROVIDERS
12 OF THE EVIDENCE-BASED STANDARDS AND CRITERIA OF CLINICAL
13 PRACTICE THAT ARE BEING USED FOR AUTHORIZING COVERAGE OR
14 DETERMINING THE MEDICAL NECESSITY OF HEALTH CARE SERVICES;

15 (c) DISCLOSURE TO A CARRIER'S POLICYHOLDERS AND PROVIDERS
16 OF THE PROCESS THAT MUST BE FOLLOWED TO OBTAIN COVERAGE
17 AUTHORIZATIONS AND MEDICAL NECESSITY DETERMINATIONS;

18 (d) DISCLOSURE TO A CARRIER'S POLICYHOLDERS AND PROVIDERS
19 OF THE SCOPE OF COVERAGE AND COST-SHARING RESPONSIBILITIES FOR
20 COMPLEX DECONGESTIVE THERAPY AS A COVERED PHYSICAL
21 REHABILITATION SERVICE, INCLUDING FITTING FOR, REPLACEMENT OF, AND
22 COVERAGE COSTS OF COMPRESSION BANDAGES, SLEEVES, OR OTHER
23 GARMENTS; EXERCISES; MANUAL LYMPHATIC DRAINAGE; AND OTHER
24 THERAPIES;

25 (e) ENSURING THAT COVERAGE AUTHORIZATIONS AND MEDICAL
26 NECESSITY DETERMINATIONS ARE PERFORMED BY A PROVIDER WHO IS
27 LICENSED IN THE SAME HEALTH FIELD AS THE REQUESTING PROVIDER AND

1 WHOSE LICENSE IS IN GOOD STANDING;

2 (f) CATEGORIZATION OF CARE FOR A RECURRING CONDITION AS A
3 NEW EPISODE OF CARE IF THE SAME PROVIDER HAS NOT TREATED THE
4 POLICYHOLDER WITHIN THE PREVIOUS THIRTY DAYS; AND

5 (g) A REQUIREMENT THAT THERE IS A MECHANISM IN PLACE WHERE
6 THE HEALTH CARE PROVIDER WHO PROVIDES THE PHYSICAL
7 REHABILITATION SERVICES COMMUNICATES TO THE PRESCRIBING HEALTH
8 CARE PROVIDER THE SERVICES THAT ARE ACTUALLY PROVIDED TO THE
9 POLICYHOLDER.

10 (2) THE CONTRACT BETWEEN THE CARRIER AND INTERMEDIARY
11 DESCRIBED IN SUBSECTION (1) OF THIS SECTION MUST NOT:

12 [REDACTED]
13 (a) IMPOSE DIFFERENT OR TIERED AUTHORIZATION STANDARDS
14 AND CRITERIA FOR PARTICIPATING PROVIDERS OF THE SAME LICENSED
15 PROFESSION IN THE SAME NETWORK; OR

16 (b) REQUIRE PRIOR AUTHORIZATION FOR COVERAGE FOR THE
17 EVALUATION AND MANAGEMENT FOR THE INITIAL VISIT.

18 (3) THE CARRIER DESCRIBED IN SUBSECTION (1) OF THIS SECTION
19 SHALL NOT COMPENSATE AN INTERMEDIARY WHO HAS A CONTRACT IN
20 ACCORDANCE WITH SUBSECTIONS (1) AND (2) OF THIS SECTION BASED ON
21 THE INTERMEDIARY'S DETERMINATIONS FOR SERVICES PROVIDED TO A
22 POLICYHOLDER.

23 (4) THE COMMISSIONER MAY ENFORCE THE REQUIREMENTS OF THIS
24 SECTION BY ADOPTING RULES AS AUTHORIZED BY SECTION 10-1-109 AND
25 BY EXERCISING ALL OTHER POWERS CONFERRED UPON THE COMMISSIONER
26 UNDER THIS ARTICLE.

27 (5) FOR THE PURPOSES OF THIS SECTION, "PHYSICAL

1 REHABILITATION SERVICES" HAS THE SAME MEANING AS SET FORTH IN
2 SECTION 10-16-142.

3 **SECTION 2. Act subject to petition - effective date.** This act
4 takes effect January 1, 2018; except that, if a referendum petition is filed
5 pursuant to section 1 (3) of article V of the state constitution against this
6 act or an item, section, or part of this act within the ninety-day period
7 after final adjournment of the general assembly, then the act, item,
8 section, or part will not take effect unless approved by the people at the
9 general election to be held in November 2016 and, in such case, will take
10 effect on January 1, 2018, or on the date of the official declaration of the
11 vote thereon by the governor, whichever is later.