

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 20-0074.01 Christy Chase x2008

HOUSE BILL 20-1008

HOUSE SPONSORSHIP

Lontine,

SENATE SPONSORSHIP

Fields,

House Committees

Health & Insurance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS FOR CONSUMERS WHO PARTICIPATE IN**
102 **HEALTH CARE COST-SHARING ARRANGEMENTS, AND, IN**
103 **CONNECTION THEREWITH, MAKING 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 defines a "health care cost-sharing arrangement" as a health care sharing ministry or medical cost-sharing community that collects funds from its members on a regular basis, at levels established by the arrangement, for purposes of sharing, covering, or defraying the medical costs of its members. A health care cost-sharing arrangement is

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.

required to:

- ! Report specified information to the commissioner of insurance (commissioner) regarding its operations, financial statements, membership, and medical bills submitted, paid, and denied;
- ! Provide certain disclosures on its website, in marketing materials, and to potential members; and
- ! Respond to requests for payment of medical expenses from health care providers within a period specified by the commissioner by rule.

If an insurance broker offers to enroll or enrolls individuals or groups in a health care cost-sharing arrangement, the broker must provide the same disclosures that a health care cost-sharing arrangement is required to provide.

The bill also prohibits a health care cost-sharing arrangement or insurance broker from offering or enrolling participants in the arrangement during the annual open enrollment period for health benefit plans.

The commissioner is authorized to adopt rules to implement the data reporting, disclosure, and response time requirements and to impose fines for failure to comply with the requirements and prohibitions specified in the bill.

A person is prohibited from making, issuing, circulating, or causing to be made, issued, or circulated any statement or publication that misrepresents the medical cost-sharing benefits, advantages, conditions, or terms of any health care cost-sharing arrangement. The commissioner is authorized to issue an emergency, ex parte cease-and-desist order against a person the commissioner believes to be violating this prohibition if it appears to the commissioner that the alleged conduct is fraudulent, creates an immediate danger to public safety, or is causing or is reasonably expected to cause significant, imminent, and irreparable public injury. If a person violates the emergency order, the commissioner may impose a civil penalty, order restitution, or both.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-3-903.7 as
3 follows:

4 **10-3-903.7. Health care cost-sharing arrangements - reporting**
5 **requirements - disclosures - restriction on enrollment - timely**
6 **response to provider bills - rules - fines - prohibited acts -**

1 **enforcement - definitions. (1) Definitions.** AS USED IN THIS SECTION:

2 (a) "HEALTH CARE COST-SHARING ARRANGEMENT" MEANS:

3 (I) A HEALTH CARE SHARING MINISTRY, AS DEFINED IN 26 U.S.C.
4 SEC. 5000A (d)(2)(B); OR

5 (II) A MEDICAL COST-SHARING COMMUNITY OR OTHER
6 ARRANGEMENT OR ENTITY THROUGH WHICH MEMBERS OF THE COMMUNITY
7 OR ARRANGEMENT CONTRIBUTE MONEY ON A REGULAR BASIS, AT LEVELS
8 ESTABLISHED BY THE COMMUNITY OR ARRANGEMENT, THAT MAY BE USED
9 TO SHARE, COVER, OR OTHERWISE DEFRAY THE MEDICAL COSTS OF
10 MEMBERS OF THE COMMUNITY OR ARRANGEMENT.

11 (b) "PRODUCER" HAS THE SAME MEANING SET FORTH IN SECTION
12 10-2-103 (6).

13 (2) **Reporting requirements.** BY MARCH 1, 2021, AND BY EACH
14 MARCH 1 THEREAFTER, A PERSON, OTHER THAN A PRODUCER, THAT
15 OFFERS, OPERATES, MANAGES, OR ADMINISTERS A HEALTH CARE
16 COST-SHARING ARRANGEMENT IN THIS STATE SHALL FILE WITH THE
17 COMMISSIONER, IN THE FORM AND MANNER REQUIRED BY THE
18 COMMISSIONER BY RULE, THE FOLLOWING INFORMATION AND
19 DOCUMENTATION:

20 (a) ANNUAL AUDITED FINANCIAL STATEMENTS FOR THE PREVIOUS
21 FISCAL YEAR;

22 (b) A DETAILED LIST OF ANY COMMISSIONS OR OTHER FEES PAID TO
23 THIRD PARTIES FOR MARKETING, PROMOTING, OR ENROLLING MEMBERS IN
24 THE HEALTH CARE COST-SHARING ARRANGEMENT OR FOR OPERATING,
25 MANAGING, OR ADMINISTERING A HEALTH CARE COST-SHARING
26 ARRANGEMENT IN THIS STATE;

27 (c) A LIST AND DESCRIPTION OF MEMBERSHIP BENEFITS,

1 LIMITATIONS, AND EXCLUSIONS APPLICABLE TO THE HEALTH CARE
2 COST-SHARING ARRANGEMENT IN THIS STATE;

3 (d) A LIST OF PROVIDERS WITH WHOM THE HEALTH CARE
4 COST-SHARING ARRANGEMENT HAS A PROVIDER AGREEMENT, CONTRACT,
5 OR OTHER ARRANGEMENT IN THIS STATE;

6 (e) THE TOTAL NUMBER OF MEMBERS AND HOUSEHOLDS IN THE
7 HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE IN THE
8 PREVIOUS CALENDAR YEAR;

9 (f) IF APPLICABLE, THE TOTAL NUMBER OF EMPLOYER GROUPS, AND
10 THE TOTAL NUMBER OF EMPLOYEES IN EACH EMPLOYER GROUP, THAT
11 PARTICIPATED IN THE HEALTH CARE COST-SHARING ARRANGEMENT IN THIS
12 STATE IN THE PREVIOUS CALENDAR YEAR;

13 (g) THE NUMBER OF APPLICATIONS OR OTHER REQUESTS TO
14 PARTICIPATE IN THE HEALTH CARE COST-SHARING ARRANGEMENT THAT
15 WERE SUBMITTED, ACCEPTED, AND DENIED IN THIS STATE IN THE PREVIOUS
16 CALENDAR YEAR;

17 (h) THE TOTAL NUMBER, IN THE PREVIOUS CALENDAR YEAR, OF:

18 (I) BILLS OR MEDICAL EXPENSES SUBMITTED TO THE HEALTH CARE
19 COST-SHARING ARRANGEMENT IN THIS STATE BY OR ON BEHALF OF
20 MEMBERS, INCLUDING THE TOTAL AMOUNT OF ALL BILLS OR MEDICAL
21 EXPENSES THAT WERE SUBMITTED IN THIS STATE;

22 (II) BILLS OR MEDICAL EXPENSES PAID WITH THE MONEY
23 COLLECTED, MANAGED, OR FACILITATED BY THE HEALTH CARE
24 COST-SHARING ARRANGEMENT FOR ITS MEMBERS IN THIS STATE,
25 INCLUDING THE TOTAL AMOUNT OF ALL BILLS OR MEDICAL EXPENSES THAT
26 WERE PAID IN THIS STATE;

27 (III) BILLS OR MEDICAL EXPENSES SUBMITTED IN THIS STATE THAT

1 THE HEALTH CARE COST-SHARING ARRANGEMENT, IN WHOLE OR IN PART,
2 DENIED OR DETERMINED TO BE INELIGIBLE FOR COST SHARING, INCLUDING
3 THE TOTAL AMOUNT OF ALL BILLS AND MEDICAL EXPENSES SUBMITTED IN
4 THIS STATE THAT WERE DENIED OR DETERMINED TO BE INELIGIBLE;

5 (IV) RETROACTIVE MEMBERSHIP DENIALS IN THIS STATE; AND

6 (V) APPEALS OR GRIEVANCES SUBMITTED TO THE HEALTH CARE
7 COST-SHARING ARRANGEMENT IN THIS STATE, INCLUDING THE NUMBER OF
8 APPEALS IN THIS STATE APPROVED IN WHOLE OR IN PART AND THE DOLLAR
9 AMOUNT APPROVED IN THE APPEAL; AND

10 (i) THE TOTAL AMOUNT PAID INTO THE HEALTH CARE
11 COST-SHARING ARRANGEMENT IN THE PREVIOUS CALENDAR YEAR BY
12 MEMBERS WHO ARE RESIDENTS OF THIS STATE; AND

13 (j) THE NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND
14 TELEPHONE NUMBER OF AN INDIVIDUAL SERVING AS A CONTACT PERSON
15 FOR THE HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE. THE
16 COMMISSIONER SHALL NOT MAKE THE HEALTH CARE COST-SHARING
17 ARRANGEMENT'S CONTACT PERSON INFORMATION AVAILABLE TO THE
18 PUBLIC.

19 (3) **Disclosure requirements.** (a) ON AND AFTER JANUARY 1,
20 2021, PRIOR TO ENROLLING, ACCEPTING, OR RENEWING AN INDIVIDUAL OR
21 GROUP IN A HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE,
22 A PERSON, OTHER THAN A PRODUCER, OFFERING, OPERATING, MANAGING,
23 OR ADMINISTERING THE HEALTH CARE COST-SHARING ARRANGEMENT
24 SHALL PROVIDE A WRITTEN DISCLOSURE, EITHER IN HARD COPY OR
25 ELECTRONIC FORMAT, TO BE SIGNED BY THE PROSPECTIVE OR RENEWING
26 MEMBER OR GROUP, CONTAINING THE FOLLOWING INFORMATION:

27 (I) A HEALTH CARE COST-SHARING ARRANGEMENT IS NOT A

1 QUALIFIED HEALTH PLAN, AND PARTICIPATION OR MEMBERSHIP IN A
2 HEALTH CARE COST-SHARING ARRANGEMENT DOES NOT GUARANTEE
3 PAYMENT OF BILLS OR MEDICAL EXPENSES;

4 (II) A MEMBER OF A HEALTH CARE COST-SHARING ARRANGEMENT
5 REMAINS PERSONALLY RESPONSIBLE FOR PAYMENT OF ALL BILLS OR
6 MEDICAL EXPENSES;

7 (III) A MEMBER OF A HEALTH CARE COST-SHARING ARRANGEMENT
8 MAY BE SUBJECT TO CERTAIN PREEXISTING CONDITION EXCLUSIONS OR
9 OTHER LIMITATIONS; AND

10 (IV) ANY OTHER DISCLOSURES DETERMINED BY THE
11 COMMISSIONER BY RULE TO ADDRESS CONSUMER CONFUSION OR TO
12 ENSURE CONSUMERS HAVE NECESSARY INFORMATION TO MAKE INFORMED
13 DECISIONS.

14 (b) ON AND AFTER JANUARY 1, 2021, A PERSON, OTHER THAN
15 A PRODUCER, OFFERING, OPERATING, MANAGING, OR ADMINISTERING THE
16 HEALTH CARE COST-SHARING ARRANGEMENT SHALL DISPLAY
17 PROMINENTLY ON ITS WEBSITE, IF THE PERSON HAS A WEBSITE, AND IN ITS
18 WRITTEN MARKETING MATERIALS THE INFORMATION SPECIFIED IN
19 SUBSECTION (3)(a) OF THIS SECTION.

20 (c) ON AND AFTER JANUARY 1, 2021, A PRODUCER OFFERING A
21 HEALTH CARE COST-SHARING ARRANGEMENT IN THIS STATE SHALL
22 PROVIDE A WRITTEN OR ELECTRONIC DISCLOSURE TO A PROSPECTIVE
23 CLIENT BEFORE SELLING THE ARRANGEMENT TO THE CLIENT. THE
24 DISCLOSURE MUST INCLUDE THE FOLLOWING INFORMATION:

25 (I) A HEALTH CARE COST-SHARING ARRANGEMENT IS NOT A
26 QUALIFIED HEALTH PLAN, AND PARTICIPATION OR MEMBERSHIP IN A
27 HEALTH CARE COST-SHARING ARRANGEMENT DOES NOT GUARANTEE

1 PAYMENT OF BILLS OR MEDICAL EXPENSES;

2 (II) A MEMBER OF A HEALTH CARE COST-SHARING ARRANGEMENT
3 REMAINS PERSONALLY RESPONSIBLE FOR PAYMENT OF ALL BILLS OR
4 MEDICAL EXPENSES;

5 (III) A MEMBER OF A HEALTH CARE COST-SHARING ARRANGEMENT
6 MAY BE SUBJECT TO CERTAIN PREEXISTING CONDITION EXCLUSIONS OR
7 OTHER LIMITATIONS; AND

8 (IV) ANY OTHER DISCLOSURES DETERMINED BY THE
9 COMMISSIONER BY RULE TO ADDRESS CONSUMER CONFUSION OR TO
10 ENSURE CONSUMERS HAVE NECESSARY INFORMATION TO MAKE INFORMED
11 DECISIONS.

12 (4) **Notice of decision on bills.** A HEALTH CARE COST-SHARING
13 ARRANGEMENT THAT RECEIVES A BILL OR REQUEST FOR PAYMENT OF
14 MEDICAL EXPENSES FROM A MEMBER OF THE HEALTH CARE COST-SHARING
15 ARRANGEMENT OR FROM A HEALTH CARE PROVIDER THAT PROVIDED
16 HEALTH CARE TO A MEMBER OF THE HEALTH CARE COST-SHARING
17 ARRANGEMENT SHALL PROVIDE A RESPONSE TO THE BILL OR REQUEST FOR
18 PAYMENT WITHIN A SPECIFIED NUMBER OF DAYS, AS DETERMINED BY THE
19 COMMISSIONER BY RULE, AFTER THE DATE THE BILL IS SUBMITTED OR
20 THE REQUEST FOR PAYMENT IS MADE TO THE HEALTH CARE COST-SHARING
21 ARRANGEMENT. IF THE HEALTH CARE COST-SHARING ARRANGEMENT FAILS
22 TO PAY OR FACILITATE THE PAYMENT OF THE MEDICAL EXPENSES IN
23 ACCORDANCE WITH THE HEALTH CARE COST-SHARING ARRANGEMENT
24 GUIDELINES OR FAILS TO RESPOND TO THE BILL OR REQUEST FOR PAYMENT
25 WITHIN THE TIME SPECIFIED BY THE COMMISSIONER BY RULE, THE FAILURE
26 CONSTITUTES A DENIAL OF THE BILL OR REQUEST OR A DETERMINATION
27 THAT THE EXPENSES ARE INELIGIBLE FOR COST SHARING. IF THE HEALTH

1 CARE COST-SHARING ARRANGEMENT PAYS OR FACILITATES THE PAYMENT
2 OF AN AMOUNT OR PORTION OF THE MEDICAL EXPENSES THAT IS LESS THAN
3 WHAT THE HEALTH CARE COST-SHARING ARRANGEMENT GUIDELINES
4 SPECIFY, THE FAILURE TO PAY THE REMAINING BALANCE OF THE MEDICAL
5 EXPENSES WITHIN THE SPECIFIED PERIOD CONSTITUTES A DENIAL OF THE
6 REMAINING PORTION OF THE MEDICAL EXPENSES OR A DETERMINATION
7 THAT THE REMAINING PORTION OF THE MEDICAL EXPENSES IS INELIGIBLE
8 FOR COST SHARING. IF THE MEDICAL EXPENSE IS DENIED OR DETERMINED
9 TO BE INELIGIBLE FOR COST SHARING AND THE MEMBER OF THE HEALTH
10 CARE COST-SHARING ARRANGEMENT ALSO HAS COVERAGE UNDER A
11 QUALIFIED HEALTH PLAN, A MEDICAL ASSISTANCE PROGRAM
12 ADMINISTERED PURSUANT TO ARTICLES 4, 5, AND 6 OF TITLE 25.5, OR
13 OTHER COVERAGE FOR WHICH A THIRD-PARTY PAYER MAY BE RESPONSIBLE
14 FOR PAYING FOR THE MEMBER'S MEDICAL EXPENSES, THE PROVIDER MAY
15 BILL APPROPRIATE THIRD-PARTY PAYERS FOR ANY UNPAID BALANCE OWED
16 FOR HEALTH CARE THE PROVIDER PROVIDED TO THE MEMBER.

17 (5) **Rules.** THE COMMISSIONER:

18 (a) SHALL ADOPT RULES TO IMPLEMENT THE DISCLOSURE AND
19 REPORTING REQUIREMENTS SPECIFIED IN THIS SECTION AND THE TIME BY
20 WHICH A HEALTH CARE COST-SHARING ARRANGEMENT IS REQUIRED TO
21 RESPOND TO A BILL OR REQUEST FOR PAYMENT OF MEDICAL EXPENSES;
22 AND

23 (b) MAY ESTABLISH A SCHEDULE FOR THE ASSESSMENT OF
24 PENALTIES AS AUTHORIZED IN SUBSECTION (6) OF THIS SECTION BASED ON
25 THE FREQUENCY AND SEVERITY OF NONCOMPLIANCE.

26 (6) **Civil penalties.** (a) (I) THE COMMISSIONER MAY ASSESS A
27 PENALTY AGAINST A HEALTH CARE COST-SHARING ARRANGEMENT FOR

1 FAILING TO:

2 (A) FILE THE INFORMATION REQUIRED BY SUBSECTION (2) OF THIS
3 SECTION;

4 (B) POST OR PROVIDE THE DISCLOSURES REQUIRED BY SUBSECTION
5 (3) OF THIS SECTION; OR

6

7 (C) PAY OR RESPOND TO A BILL OR REQUEST FOR PAYMENT WITHIN
8 THE TIME SPECIFIED BY RULE PURSUANT TO SUBSECTION (4) OF THIS
9 SECTION.

10 (II) THE COMMISSIONER MAY ASSESS A PENALTY OF UP TO FIVE
11 HUNDRED DOLLARS FOR AN INITIAL VIOLATION OF A REQUIREMENT OR
12 PROHIBITION SPECIFIED IN THIS SUBSECTION (6)(a) AND UP TO FIVE
13 THOUSAND DOLLARS FOR ANY SUBSEQUENT FAILURE TO COMPLY WITH A
14 REQUIREMENT OR PROHIBITION SPECIFIED IN THIS SUBSECTION (6)(a).

15 (b) IF A PRODUCER FAILS TO POST OR PROVIDE THE DISCLOSURES
16 REQUIRED BY SUBSECTION (3) OF THIS SECTION, THE COMMISSIONER MAY
17 ALSO ASSESS A CIVIL PENALTY IN ACCORDANCE WITH SECTION 10-2-804.

18 (7) **Prohibited acts - enforcement.** A PERSON SHALL NOT MAKE,
19 ISSUE, CIRCULATE, OR CAUSE TO BE MADE, ISSUED, OR CIRCULATED ANY
20 STATEMENT OR PUBLICATION THAT MISREPRESENTS THE MEDICAL
21 COST-SHARING BENEFITS, ADVANTAGES, CONDITIONS, OR TERMS OF ANY
22 HEALTH CARE COST-SHARING ARRANGEMENT. THE COMMISSIONER MAY
23 ENFORCE THIS SUBSECTION (7) IN ACCORDANCE WITH SECTIONS
24 10-3-904.5, 10-3-904.6, AND 10-3-904.7.

25 **SECTION 2.** In Colorado Revised Statutes, 10-3-904.5, **amend**
26 (1)(a) as follows:

27 **10-3-904.5. Emergency cease-and-desist orders - issuance.**

1 (1) The commissioner may issue an emergency cease-and-desist order ex
2 parte if:

3 (a) The commissioner believes that:

4 (I) An unauthorized person is engaging in the business of
5 insurance in violation of ~~the provisions of~~ section 10-3-105 or 10-3-903
6 or is in violation of a rule promulgated by the commissioner; ~~and~~ OR

7 (II) A PERSON, INCLUDING AN UNAUTHORIZED PERSON, IS
8 VIOLATING SECTION 10-3-903.7; AND

9 **SECTION 3. Applicability.** This act applies to conduct occurring
10 on or after the effective date of this act.

11 **SECTION 4. Appropriation.** For the 2020-21 state fiscal year,
12 \$28,347 is appropriated to the department of regulatory agencies for use
13 by the division of insurance. This appropriation is from the division of
14 insurance cash fund created in section 10-1-103 (3), C.R.S., and is based
15 on an assumption that the division will require an additional 0.4 FTE. To
16 implement this act, the division may use this appropriation for personal
17 services.

18 **SECTION 5. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, or safety.