[Colo. Rev. Stat. § 10-16-105.]

§ 10-16-105. Guaranteed issuance of health insurance coverage - individual and small employer health benefit plans: Colorado Health Care Coverage Act

(1) (a) (I) Subject to subsections (2) and (4) to (6) of this section, each carrier that offers an individual health benefit plan in this state shall issue any applicable health benefit plan to any eligible individual who applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan consistent with this article.

(II) During any period of open enrollment, a carrier shall offer child-only plan coverage to all applicants under twenty-one years of age on a guaranteed-issuance basis.

(b)

(I) Subject to subsections (2) to (6) of this section, each carrier that offers a small employer health benefit plan in this state shall issue any small employer health benefit plan to any eligible small employer that applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan not inconsistent with this article.

(II) A carrier offering small employer health benefit plans as described in subparagraph (I) of this paragraph (b):

(A) Shall offer coverage to all of the eligible employees of the eligible small employer and the employees' dependents, if the small employer offers dependent coverage to its employees, who apply for enrollment during the period in which the employee first becomes eligible to enroll under the terms of the plan; and

(B) Shall not offer coverage to only certain individuals or dependents in the small group or to only part of the small group.

(2) A carrier offering individual or small employer health benefit plans:

(a) May restrict enrollment in an individual or small employer health benefit plan to open or special enrollment periods; and

(b) Shall establish special enrollment periods for triggering or qualifying events consistent with section 10-16-105.7 and in accordance with rules adopted by the commissioner.

(3) A carrier offering small employer health benefit plans:

(a) Shall not apply any waiting period that exceeds ninety days;

(b) Shall apply any requirements it uses to determine whether to provide coverage to a small employer, including requirements for minimum participation of eligible employees and minimum employer contributions, uniformly among all small employers with the same number of eligible employees applying for or receiving coverage from the small employer carrier;

(c) May vary the application of minimum participation requirements and minimum employer contribution requirements based on the size of the small employer group and by product;

(d) In applying minimum participation requirements with respect to a small employer, shall not consider employees or dependents who have creditable group coverage or individual coverage that has been consistently maintained and that was in force before the individual's eligibility for group coverage under an existing group plan when determining whether the applicable percentage of participation is met. However, a small employer carrier may consider employees or dependents of the small employer who have coverage under another health benefit plan that is sponsored by the small employer.

(e) Shall not increase any requirement for minimum employee participation or for minimum employer contribution with respect to a small employer at any time after the small employer carrier accepts the small employer for coverage.

(4) (a) Subject to paragraph (c) of this subsection (4), with respect to coverage offered through a managed care plan, a carrier is not required to offer coverage under that plan or accept applications for that plan pursuant to subsection (1) of this section in the following situations:

(I) In an area outside of the carrier's established geographic service area for the managed care plan;

(II) (A) Under an individual health benefit plan, to an individual when the individual does not live or reside within the carrier's established geographic service areafor the managed care plan; or

(B) Under a small employer health benefit plan, to an employee when the employee does not live, work, or reside within the carrier's established geographic service area for the managed care plan; or

(III) Within the geographic service area for the managed care plan where the carrier reasonably anticipates, and demonstrates to the satisfaction of the commissioner, that it will not have the capacity within its established geographic service area to deliver service adequately to any additional individuals and the members of the small employer groups because of its obligations to existing covered persons.

(b) A carrier that cannot offer coverage pursuant to subparagraph (III) of paragraph (a) of this subsection (4) shall not offer coverage in the individual or small group market in the applicable geographic service area to new individuals or small employer groups until the later of:

(I) One hundred eighty days following each refusal; or

(II) The date on which the carrier notifies the commissioner that it has regained capacity to deliver services.

(c) A carrier shall apply the requirements of this subsection (4) uniformly to all individuals and small employers in this state consistent with applicable law and without regard to the claims experience of or any health-status-related factor relating to an individual and his or her dependents or the small employer and its employees and their dependents.

(5) (a) A carrier offering individual or small employer health benefit plans is not required to provide coverage if:

(I) For any period of time, the carrier demonstrates, and the commissioner determines, that the carrier does not have the financial reserves necessary to underwrite additional coverage; and

(II) The carrier is applying this subsection (5) uniformly to all individuals in the individual market and to all small employers in the small group market in this state consistent with applicable state law and without regard to the claims experience of or any health-status-related factor relating to the individual and his or her dependents or the small employer and its employees and their dependents.

(b) A carrier that denies coverage in accordance with paragraph (a) of this subsection (5) shall not offer coverage in the applicable individual market or small group market in this state until the later of:

(I) One hundred eighty days after the date the coverage is denied; or

(II) The date on which the carrier demonstrates to the commissioner that it has sufficient financial reserves to underwrite additional coverage.

(6) This section does not require a carrier:

(a) Offering health benefit plans only in connection with group health plans to offer coverage in the individual market;

(b) Offering health benefit plans only in connection with individual health plans to offer coverage in the small group market;

(c) Offering health benefits plans only through one or more bona fide associations to offer coverage in the individual market. However, if the carrier offers bona fide association health benefit plan coverage in the individual market, the health carrier shall offer the coverage to eligible individuals in the individual market as required under paragraph (a) of subsection (1) of this section; or

(d) Offering only student health insurance coverage to otherwise offer coverage in the individual market, as long as the carrier is offering student health insurance coverage consistent with the provisions of federal law.

(7) Issuance of coverage to members of military. (a) All sickness and accident insurance policies and all service or indemnity contracts issued by any entity subject to part 3 or 4 of this article shall not refuse to provide coverage to an individual, refuse to continue to cover an individual, or limit the amount or extent of coverage available to an individual solely based on that individual's membership in the uniformed services of the United States. Nothing in this section prohibits a carrier from excluding or limiting coverage for some other factor permitted by law.

(b) As used in this subsection (7), unless the context otherwise requires:

(I) "Membership" means active duty, National Guard, or reserve duty in or retirement from the uniformed services of the United States.

(II) "Uniformed services of the United States" means the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, national oceanic and atmospheric administration commissioned officer corps, and United States public health service commissioned corps.

(8) Domestic partner coverage. Notwithstanding any provision of law to the contrary, a small employer carrier may offer, and a small employer may accept or reject, coverage for employees' domestic partners and their dependents or for employees' designated beneficiaries and their dependents.