

# **DEPARTMENT OF REGULATORY AGENCIES**

## **Division of Insurance**

### **3 CCR 702-4**

#### **LIFE, ACCIDENT AND HEALTH**

##### **Proposed Amended Regulation 4-2-27**

#### **PROCEDURES FOR REASONABLE MODIFICATIONS TO INDIVIDUAL AND SMALL GROUP HEALTH BENEFIT PLANS**

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##### **Section 1 Authority**

This regulation is promulgated under the authority of **Section§§** 10-1-109, 10-16-109, and 10-16-201.5(8)(b), C.R.S.

##### **Section 2 Background**Scope and Purpose

The purpose of this regulation is to establish procedures for the submission of reasonable modifications to individual and small group health benefit plans, as outlined in **Section§** 10-16-201.5(8), C.R.S.

##### **Section 3 Applicability** and Scope

This regulation applies to any carrier intending on making reasonable modifications to an individual or small group health benefit plan.

##### **Section 4 Definitions**

“Reasonable modification”: An alteration to the benefits of a health benefit plan that is fair and reasonable under the circumstances. The Division of Insurance (Division) determines if a modification is fair and reasonable.

##### **Section 5 Rules**

###### A. General Requirements

1. Timing and Submission: The benefit changes must be provided to the Commissioner and policyholders at least ninety **(90)** days prior to the effective date of the modification. Please note: as the modifications must be determined to be reasonable, entities are encouraged to submit the benefit modification filing to the Division thirty to sixty (30-60)

days prior to the date that the first policyholder notifications will be mailed. This will provide an opportunity for the Division and the carrier to resolve any issues that may arise.

2. ~~Duplicates and Return Postage: All filings must be submitted in duplicate, and include an envelope, with sufficient prepaid postage, large enough to contain one complete set of the material. These filings must be collated so that each copy of the filing contains all required documents. If the carrier fails to comply with these requirements, the carrier will be notified that the filing has been returned as incomplete. If a filing is returned due to lack of completeness, the modification may not be used or distributed. The Division is committed to enhancing the process of such filings and to assist in expediting such a review for reasonableness. This will only be realized through the use of electronic filings. The best way to achieve this is through SERFF (System for Electronic Rate and Form Filings).~~

~~The Rates and Forms Section of the Division will no longer accept reasonable modifications submitted by paper, as outlined in Colorado Regulation 1-1-9.~~

3. Carrier Specific: A separate filing must be submitted for each carrier. A single filing, which is made for more than one carrier or for a group of carriers, is not permitted. This applies even if a product is comprised of components from more than one carrier, such as an HMO/indemnity point-of-service plan.
4. Required Information: A ~~fully completed transmittal sheet,~~ cover letter, side-by-side comparison of the benefit change(s), an identification of the rating impact of ~~the each~~ benefit changes and a copy of the policyholder notification.

- a. Side-by-Side Comparison: Each filing must include a "side-by-side comparison" identifying the proposed change(s). The "side-by-side comparison" should include three columns:

- (1) the first containing a description of the current benefit;
- (2) the second column containing the proposed benefit change(s);
- (3) and the third column containing the amount of the rating impact for each of the proposed change(s).

All changes to the rates must be filed separately in accordance with all rating laws and regulations ~~once the Division and the carrier have resolved all issues.~~

- b. All carriers shall submit ~~a separate and fully completed transmittal sheet (the NAIC Uniform Transmittal Sheet may be used) with each benefit modification filing for each carrier. A copy of this document, including an example and the filing code list, is available on the Internet at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance). Additionally,~~ a cover letter ~~which should be provided and should~~ contain a complete explanation of what the carrier is proposing to do.

- c. Rating Impact: The filing shall discuss or provide the following:

- (1) The impact on rates ~~of for~~ each of the requested modifications ~~as well as~~ and the overall impact on rates ~~for the entire product~~.
- (2) A narrative stating how each of the rating changes was determined.

(3) A certification that the methodology used to determine the rates for these benefit modifications is consistent with the methodology used by the carrier to price similar products.

d. Policy form filings require a forms certification **and a listing of new forms** in accordance with § 10-16-107.2, C.R.S., and Colorado Insurance Regulation 1-1-6. Also, the policy form certifications **shouldshall** follow **all** requirements **any guidance** provided by a published bulletin.

## B. Specific Requirements

~~Deleting~~Removal of an **existing** benefit is generally not considered to be a reasonable modification. However, the ~~ed~~Division may determine, on a case-by-case basis, if the ~~deletion~~removal of a **n existing** benefit is a reasonable **modification** after reviewing the supporting documentation.

### Section 6 Notice and Disclosure of Reasonable Modifications

The policyholder notification **shouldshall** be provided no later than **ninety (90)** days prior to renewal of each policyholder's benefit plan. It **shouldshall** provide the policyholder an opportunity to purchase any other health benefit plan offered by the carrier in ~~each~~**that specific** market. A copy of this notification must be provided to the Division as part of the benefit modification filing.

### Section 7 Severability

~~If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision shall not be affected thereby.~~

### Section ~~7~~8 Enforcement

~~Noncompliance with this regulation may result, after notice and hearing, in the imposition of any sanctions, including the imposition of fines and suspension or revocation of license. Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist order, and/or suspensions or revocation of license. Among others, the penalties provided for in § 10-3-1108, C.R.S may be applied.~~

### Section 8 Severability

~~If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision shall not be affected thereby.~~

### Section 9 Effective Date

~~This regulation is effective January 1, 2005 and applies to all small group and individual health benefit plan modification filings made on or after this date. This regulation shall become effective on May 1, 2010.~~

### Section 10 History

Regulation 4-2-27 effective January 1, 2005.  
**Amended regulation 4-2-27, effective May 1, 2010.**