

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

DRAFT Proposed Amended Regulation 4-2-103

CONCERNING TRANSPARENCY IN COVERAGE REPORTING REQUIREMENTS

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Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-16-109, 10-16-168(3)(b), 10-16-168(4)(d) and 10-16-169, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to outline the form and manner of the price transparency files required by Section 10-16-168(4), C.R.S. and the prescription drug data collection files required under Section 10-16-169, C.R.S.

Section 3 Applicability

This regulation applies to all carriers and plans subject to the Transparency in Coverage federal rule found at 45 CFR 147.212 ~~and Section 204 of the Consolidated Appropriations Act, 2021 (CAA) Public Law 116-260 (2020)~~. This regulation applies to all carriers subject to the reporting requirements related to prescription drug and health care spending found at 45 CFR § 149.10 through 45 CFR § 149.740.

Section 4 Definitions

- A. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.
- B. "HIOS identifier" or "HIOS Plan ID" means (i) the plan's 14-digit health insurance oversight system identifier; or (ii) if the 14-digit identifiers are not available, the employer identification number (EIN) associated with the plan.

- C. "JSON" means JavaScript Object Notation.
- D. "NPI" or "national provider identifier" shall have the same meaning as found at §25.5-4-420(1)(b), C.R.S.
- E. "Pharmacy benefit management firm", "pharmacy benefit manager", or "PBM" shall have the same meaning as found at § 10-16-102(49), C.R.S. and includes all PBMs doing business in the state.
- F. "Provider" shall have the same meaning as found at § 10-16-102(56), C.R.S.

Section 5 Format and Submission

- A. Beginning July 1, 2025, and January 1, 2026, and each July and January thereafter each carrier shall make publicly available and submit to the Division via secure file transfer three JSON files with information regarding:

- 1. Table of contents file in accordance with Section 6.B.;
- 2. Negotiated rates for all covered items and services between the carrier and in-network providers in accordance with the requirements of Section 6 of this regulation; and
- 3. Unique out-of-network allowed amounts and billed charges for covered items and services furnished by out-of-network providers in accordance with 45 CFR 147.212(b)(1)(ii) and filtered to only include data for Colorado.

If a carrier can demonstrate a material challenge with creating a JSON file, the carrier may request a different format for submission from the Division.

- B. Beginning July 1, 2025, and on or before each July 1 thereafter, each carrier and/or PBM shall submit to the Division via secure file transfer a plan list (P1, P2, and/or P3), eight data files (D1-D8), and a narrative response regarding prescription drugs and health care spending ~~in accordance with Section 204 of the Consolidated Appropriation Act, 2021~~, also known as the RxDC report, and accompanying templates from Centers for Medicaid and Medicare Services in accordance with the requirements in Section 7. Files D1 and D2 do not apply to PBMs.
- C. Carriers shall include with each submission where they are located on the carrier's website (if applicable) and contact email for questions regarding the data. RxDC files are not required to be posted on a carrier's website.

Section 6 Transparency in Coverage File Submission Requirements

- A. The files specified in Section 5(A) shall contain information on individual and group market coverage. Carriers may provide data on plans in which they operate as a third-party administrator, provided that carriers identify clearly to the Division when they are submitting data as a third-party administrator.
- B. The files specified in Section 5(A)(2) regarding in-network rates shall contain a Colorado specific Table of Contents file that includes the following standardized labels:
 - 1. Carrier name;
 - 2. Plan name;
 - 3. Market segment using the following categories:

- a. Individual;
 - c. Small Group;
 - d. Large Group; or
 - e. Third Party Administrator or TPA, if applicable.
 - 4. Group EIN or HIOS Plan ID;
 - 5. File size including the number of rows and file size;
 - 6. Date files were generated; and
 - 7. URL Link to plan specific file on the carrier's website.
- C. The files shall be filtered to include:
- 1. Only plans issued or delivered in Colorado;
 - 2. Only group or billing NPIs with a corresponding Colorado zip code; and
 - 3. Only negotiated rate and procedure code combinations for providers with 20 or more services performed in the last year, at the procedure code level not accounting for modifiers. Modifiers must be included but do not change the count of claims a billing provider has for each procedure code.

Section 7 Prescription Drug Data Collection (RxDC) Report

The file shall contain information on individual and group market coverage.

The data contained in the files shall be filtered to only contain data specific to plans in Colorado.

If the Centers for Medicaid and Medicare Services makes changes to the RxDC reporting template, the Division will accept files in the new format.

Section 8 Confidentiality and Open Records Requests

Information submitted by carriers and/or PBMs to the Division in accordance with this regulation are subject to public inspection only to the extent allowed under the "Colorado Open Records Act" §§ 24-72-201, et seq., C.R.S.

- A. For the files listed in Section 5(A), no files shall be labeled as confidential.
- B. For the files listed in Section 5(B), a carrier and/or PBM shall submit a "Confidentiality Index" if the carrier and/or PBM desires confidential treatment of files submitted under Section 5(B), identifying which files and columns within the files are confidential and the justification for confidentiality. Any information not marked as confidential or information provided to the Division as required by Sections 5, 6, and 7 of this regulation is presumed to be a public record and open for inspection, subject to restrictions specifically provided by law, including, but not limited to the requirements of the Colorado Open Records Act.

Section 9 Severability

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

Section 10 Incorporation by Reference

45 CFR § 147.212 published by the Government Printing Office shall mean 45 CFR § 147.212 as published on the effective date of this regulation and does not include later amendments to or editions of 45 CFR § 147.212. A copy of 45 CFR § 147.212 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of 45 CFR § 147.212 may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.ecfr.gov.

~~Public Law 116-260 (2020) published by the Government Printing Office shall mean Public Law 116-260 (2020) as published on the effective date of this regulation and does not include later amendments to or editions of Public Law 116-260 (2020). A copy of Public Law 116-260 (2020) may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of Public Law 116-260 (2020) may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.ecfr.gov.~~

45 CFR § 149.10 through 45 CFR § 149.740 published by the Government Printing Office shall mean 45 CFR § 149.10 through 45 CFR § 149.740 as published on the effective date of this regulation and does not include later amendments to or editions of 45 CFR § 149.10 through 45 CFR § 149.740~~45 CFR § 149.10 through 45 CFR § 149.740~~. A copy of 45 CFR § 149.10 through 45 CFR § 149.740~~45 CFR § 149.10 through 45 CFR § 149.740~~ may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of 45 CFR § 149.10 through 45 CFR § 149.740~~45 CFR § 149.10 through 45 CFR § 149.740~~ may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.ecfr.gov.

Section 11 Enforcement

Noncompliance with this Regulation may result 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 civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 12 Effective Date

This ~~new~~ regulation shall be effective on ~~April 14, 2025~~January 30, 2026.

Section 13 History

New regulation effective April 14, 2025.

Amended regulation effective January 30, 2026.