



## Bulletin No. B-4.149

### Concerning Prosthetic Devices for Recreational Activities Coverage

#### I. Background and Purpose

In 2023, the Colorado State legislature passed House Bill 23-1136 (HB23-1136) concerning coverage for prosthetic devices deemed necessary to enable the covered person to engage in physical and recreational activities. The legislation requires the Division to determine whether this benefit would be subject to state defrayal and submit its determination to the Department of Health & Human Services (“HHS”). The Division submitted a letter to HHS on December 18, 2023 regarding a determination that the requirement in HB23-1136 is not a new mandate requiring state defrayal under the Affordable Care Act, but is a clarification of the coverage requirements and is required to comply with federal antidiscrimination laws. The Division received a response from HHS on January 4, 2025. That response was more than 365 days after submittal of the Division’s December 18, 2023 letter. In addition, that response neither confirms nor refutes the Division’s submission.

The purpose of this bulletin is to clarify the Division’s position regarding coverage for prosthetic devices for a covered person in accordance with HB23-1136.

Bulletins are the Division’s interpretations of existing insurance law or general statements of Division policy. Bulletins themselves establish neither binding norms nor finally determine issues or rights.

#### II. Applicability and Scope

This bulletin is intended to provide guidance to all insurance carriers that issue health benefit plans in 2025.

#### III. Division Position

It is the Division’s position that the coverage required by Section 10-16-104(14), C.R.S., applies to all fully insured large group, small group, and individual health benefit plans in Colorado commencing in 2025. Under Section 10-16-104(14)(IV)(B), the Division is directed to implement the requirements if:

the (HHS) fails to respond to the request submitted by the Division . . . within three hundred sixty-five days after submission of the request, in which case the Division shall consider (HHS') unreasonable delay a confirmation that the coverage specified in subsection (14)(d)(ii) of this section does not require the state to defray the cost pursuant to 42 U.S.C. sec. 18031 (d)(3)(b).

The Division's determination is based on HHS' response to the Division coming more than 365 days after the Division's submission and because HHS' response fails to confirm or deny the Division's written submission.

Other states may reach different, reasonable determinations, with respect to similar legislation proposed in those states.

In the event that HHS attempts in the future to require defrayal of any additional costs from the benefit described in HB23-1136, the Division will notify the Joint Budget Committee and the relevant House and Senate Health Committees.

#### **IV. History**

Issued March 17, 2025.