COST-BENEFIT ANALYSIS

In performing a cost-benefit analysis, each rulemaking entity must provide the information requested for the cost-benefit analysis to be considered a good faith effort. The cost-benefit analysis must be submitted to the Office of Policy, Research and Regulatory Reform at least ten (10) days before the administrative hearing on the proposed rule and posted on your agency's web site. For all questions, please attach all underlying data that supports the statements or figures stated in this cost-benefit analysis.

DEPARTMENT: Regulatory Agencies (DORA) **AGENCY**: Division of Insurance

CCR: 3 CCR 702-4 (4-2-91) **DATE:** 11/03/2022

RULE TITLE OR SUBJECT:

CONCERNING THE METHODOLOGY FOR CALCULATING REIMBURSEMENT RATES TO SUPPORT PREMIUM RATE REDUCTIONS FOR COLORADO OPTION STANDARDIZED HEALTH BENEFIT PLANS

Per the provisions of 24-4-103(2.5)(a), Colorado Revised Statutes, the cost-benefit analysis must include the following:

1. The reason for the rule or amendment;

This regulation is being proposed to establish a hospital and health-care provider reimbursement rate setting methodology that may be applied by the Commissioner of Insurance as part of a public hearing for the Colorado Option premium rate reduction requirements on standardized health benefits plans. In addition, this rule fulfills requests from health insurers as well as health care providers for the Division of Insurance (Division) to provide certainty and transparency about the methodology to calculate reimbursement rates.

2. The anticipated economic benefits of the rule or amendment, which shall include economic growth, the creation of new jobs, and increased economic competitiveness;

U.S. health care spending grew 9.7 percent in 2020, reaching $4.1 trillion, or $12,530 per person. As a share of the nation's Gross Domestic Product, health spending accounted for 19.7 percent,[1] nearly 50 percent more than any other high income country.[2] Per capita, the U.S. spends 67 percent more than the second highest spending nation (Germany). Locally, Coloradans spend $50 billion annually on health care.[3] The large size and rapid growth in health care spending in Colorado is unsustainable for families and small businesses. Research indicates that it is the price of individual services that drives health care spending in the U.S.[4]

Reducing health care prices and, therefore, the health care costs will increase take home pay and grow the economy.

This rule will economically benefit families and small businesses in Colorado, constraining health care spending and freeing up more income to help grow the economy and create jobs. The Colorado Option law (HB21-1232) requires health insurance companies to offer health insurance plans at premiums that decrease by 5 percent per year each year for the next three years. Health insurers and health care providers are expected to agree to

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[1]https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NationalHealthAccountsHistorical.
[2]https://www.oecd-ilibrary.org/search?value1=health+spending&option1=quicksearch&facetOptions=51&facetNames=pub_igoId_facet&operator51=AND&option51=pub_igoId_facet&value51=%27igo%2Foecd%27&publisherId=%2Fcontent%2Figo%2Foecd&searchType=quick.
[3]https://www.kff.org/other/state-indicator/health-care-expenditures-by-state-of-residence-in-millions/?activeTab=graph&currentTimeframe=0&startTimeframe=29&selectedRows=%7B%22states%22:%7B%22colorado%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D.
[4]https://www.healthaffairs.org/doi/10.1377/hlthaff.2018.05144#:~:text=A%202003%20article%20titled%20%E2%80%9CIt's,mainly%20by%20health%20care%20prices.

provider reimbursement rates that will support these premium reduction targets. If a health insurance plan fails to meet these premium reduction requirements, the Division is required by the legislation to hold hearings. This regulation sets forth the process for the Commissioner to set the provider reimbursement rates (i.e., health care prices) allowing the plan to meet the premium reduction target. This will ensure that consumers will see savings in their premiums.

Colorado Option plans are available to individuals as well as small businesses. Being able to ensure that premiums will be lower allows businesses to spend less than they otherwise would have on health care benefits for their employees. This allows these businesses to invest in higher wages for their employees, lower prices for their customers, or growth of their business overall. The same is true for people that purchase health insurance coverage on their own through the individual market. By spending less on health insurance coverage, individuals can better utilize their income however they see fit.

The Colorado Option program and this rule will increase the number of people with health insurance and studies show that health insurance coverage has broader societal and economic benefits.[5] According to the Colorado Health Access Survey, the rate of uninsured Coloradans was 6.6 percent in 2021, and the number one reason cited for not having health insurance was cost.[6] In fact, over 80 percent of respondents cited cost as a reason for not having health insurance. For individuals, insurance means better health as well as financial security. According to one analysis, private health insurance reduced poverty by 3.7 percentage points.[7] For small businesses, lower health insurance premiums means more funds to use to expand their businesses and create new jobs. By lowering costs for Coloradans, the Colorado Option program is projected to increase the number of insured individuals by approximately 20,000 over 3 years (2022 - 2025).[8]

People without insurance are more likely to put off care, and more likely to rely on the emergency departments for care. Reducing the number of uninsured will benefit all Coloradans by reducing the amount of uncompensated care. Because of the financial security that health insurance provides, individuals have more disposable income to spend in the economy. Further, workers with insurance tend to be more productive.[9]

3. The anticipated costs of the rule or amendment, which shall include the direct costs to the government to administer the rule or amendment and the direct and indirect costs to business and other entities required to comply with the rule or amendment;

First, it is important to note that HB21-1232 was passed by the legislature and requires the Division to hold hearings if health insurers fail to reduce premiums. However, it is also a market driven approach to lower health care costs. Insurers and providers have the opportunity to negotiate rates that comply with HB21-1232. Only insurers who fail to meet the premium reduction or network adequacy requirements for their Colorado Option plans, and some providers, will be expected to comply with the proposed regulation. If insurers and providers negotiate rates that comply with HB21-1232, there will be no need to set reimbursement rates and no costs to insurers, providers, or the Division.

If, however, insurers cannot meet the premium reductions, the Division is required by HB21-1232 to hold a public hearing in accordance with the proposed regulation. In passing HB21-1232, the legislature allocated approximately $1.7 million in FY 21-22 and $2 million in outyears to the Division to implement the Colorado Option. The Division

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5 https://www.aha.org/guidesreports/report-importance-health-coverage.

6 https://www.coloradohealthinstitute.org/sites/default/files/file_attachments/2021%20Colorado%20Health%20Access%20Survey%20Storybook.pdf.

7 https://www.healthaffairs.org/doi/10.1377/hlthaff.2017.0331#:~:text=Private%20health%20insurance%20benefits%20reduced,poverty%20reduction%20from%20public%20benefits.

8 https://drive.google.com/file/d/1SUy-iNz3i7IIRTPTqy2OJgNYH1oyN5mX/view.

9 https://www.semanticscholar.org/paper/Health-Insurance-as-a-Productive-Factor-Dizioli-Pinheiro/dc1e26c44340b081ca4ff1a412ac6ef1b87151e6?p2df.

anticipates that the funding as provided by the legislature, and documented in the fiscal note, will be sufficient for the Division to conduct any required public hearings.

At this time, it is unknown how many carriers will not meet the premium rate requirement and in which parts of the state.

There will be minimal costs to the insurers and providers. This proposed regulation has been structured to streamline the reimbursement rate floor setting process to minimize those cost burdens. The Division, as required by the legislation, will utilize an independent actuary to help determine the appropriate reimbursement rates to set for any given plan.

4. Any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness; and

The proposed regulation is not anticipated to have any significant adverse economic effects. The regulation allows for the Division to enforce the premium reduction targets while the law itself ensures that hospitals and other providers are paid a fair rate. The reimbursement floors set in the legislation ensure that hospitals and other providers can cover the costs of providing care and make a reasonable margin. Independent actuarial analysis indicates that hospitals can cover their costs with a reimbursement rate between 116-142 percent of Medicare payments, depending on the percentage of Medicare and Medicaid patients the hospital treats. Based on the statute and the implementing regulation, no hospital will be paid less than 165 percent of Medicare payments.

The proposed regulation provides a framework for insurers, providers, and consumers to understand how the Division will determine the provider reimbursement floors and what those mean as a percentage of Medicare payments.

As explained in response to the questions above, the underlying purpose of this regulation is to provide an opportunity, *if needed*, to set reimbursement rates fairly in a way that reduces the cost of health insurance to individuals, families, and small businesses. The resulting savings in premium rates means more disposable income and more revenues for small businesses to grow.

5. At least two alternatives to the proposed rule or amendment that can be identified by the submitting agency or a member of the public, including the costs and benefits of pursuing each of the alternatives identified.

The Division considered two different alternatives to the rule being considered here.

1.) The Division considered not promulgating a rule and relying only upon the statute. This option would have minimized Division resources and not required the Division to spend the legislatively appropriated funding allocated for this effort. However, when the Commissioner must set a reimbursement rate on an individual hospital, the statute requires that hospitals with different characteristics are entitled to higher reimbursement floors, below which the Commissioner cannot set a rate. A rule is necessary to ensure that the law is being uniformly and fairly applied.

2.) The Division considered promulgating a rule that would have applied the same hospital reimbursement floor to all hospitals in Colorado. This would have simplified the writing of the rule for the Division. However, given that the statute requires the use of a percent of Medicare as a floor and that Medicare rates vary between facilities, this approach would not have simplified the rule for hospitals as they still would need to calculate their specific Medicare percentage. Further, a uniform hospital reimbursement floor was not in keeping with the intent or plain language of the statute which clearly contemplates different floors among different hospitals. The statute intends that rural, independent hospitals that treat a larger percentage of Medicare and Medicaid patients should receive higher reimbursement floors.