



DRAFT Proposed New Bulletin No. B-4.1XX

Concerning Coverage of Biomarker Tests in Health Benefit Plans

I. Background and Purpose

In 2024, the Colorado General Assembly passed Senate Bill 24-124 (SB 24-124) concerning coverage of biomarker testing for diagnosis, treatment, appropriate management, and ongoing monitoring of a covered person's disease or condition to guide treatment decisions when the test is supported by medical and scientific evidence. The legislation requires the Division of Insurance (Division) to determine whether this benefit would be subject to state defrayal and submit its determination to the U.S. Department of Health & Human Services ("HHS").

The purpose of this bulletin is to clarify the Division's position regarding coverage for biomarker testing for a covered person in accordance with SB 24-124.

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 carriers that issue health benefit plans.

III. Division Position

Pursuant to § 10-16-104(28)(g)(II), C.R.S., carriers are reminded that coverage of biomarker testing is required for large group health benefit plans issued or renewed on or after January 1, 2025.

Section 10-16-104(28)(a), C.R.S. requires individual and small group plans to provide coverage for biomarker testing "to the extent that such coverage is not in addition to the benefits provided pursuant to the benchmark plan." The statute requires the Division to seek confirmation from HHS that the coverage does not require the state to defray the costs of coverage. The Division submitted a letter to HHS on September 6, 2024.

It is the Division's position that the biomarker testing for diagnosis, treatment, appropriate management, or ongoing monitoring of a covered person's disease or condition required by SB

24-124 is not in addition to the benefits provided by Colorado's benchmark plan. As a result, biomarker testing that is medically necessary and supported by medical and scientific evidence, as detailed in SB 24-124, must be covered in all individual and small group health benefit plans.

In the event that HHS attempts in the future to require defrayal of any additional costs because of SB 24-124, the Division will notify the Joint Budget Committee and the relevant House and Senate Health Committees.

IV. Additional Resources

Colorado Benchmark Plan:

<https://doi.colorado.gov/insurance-products/health-insurance/aca-information/aca-benchmark-health-insurance-plan-selection>

V. History

Issued Month, Day, Year.