

# DEPARTMENT OF REGULATORY AGENCIES

## Division of Insurance

### 3 CCR 702-4

## LIFE, ACCIDENT AND HEALTH

### Emergency Regulation 20-E-01

### CONCERNING COVERAGE AND COST SHARING REQUIREMENTS FOR COMMERCIAL INSURANCE MARKET COVERAGE OF COVID-19 CLAIMS

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Coverage and Cost Sharing Requirements for COVID-19 Claims
Section 6	Severability
Section 7	Enforcement
Section 8	Effective Date
Section 9	History

#### **Section 1 Authority**

This emergency regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-108(7)(a), (7)(b)(II), and (7)(b)(III), 10-1-109(1), 10-16-103.4, and 10-16-109, 10-16-141(1), C.R.S.

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

The purpose of this emergency regulation is to establish the coverage and cost-sharing requirements for commercial insurance carriers related to claims arising from the testing and treatment of COVID-19.

The Division of Insurance finds, pursuant to § 24-4-103(6)(a), C.R.S., that immediate adoption of this regulation is imperatively necessary for the preservation of public health, safety, or welfare as establishing coverage and cost sharing requirements for the testing and treatment of COVID-19 is imperative to preserve the health of the citizens of Colorado. Therefore, compliance with the requirements of § 24-4-103, C.R.S., would be contrary to the public interest.

#### **Section 3 Applicability**

This regulation applies to all carriers offering individual, small group and large group health benefit plans, and managed care plans, including health-savings-account (HSA)-qualified health benefit plans, and grandfathered health benefit plans that are subject to the insurance laws of Colorado.

#### **Section 4 Definitions**

- A. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.
- B. "Commissioner" means, for the purposes of this regulation, the Commissioner of Insurance or his or her designee.
- C. "Cost share" shall, for the purposes of this regulation, include co-pays, deductibles, and co-insurance.
- D. "Covered person" shall have the same meaning as found at § 10-16-102(15), C.R.S.

- E. "Grandfathered health benefit plan" shall have the same meaning as found at § 10-16-102(31), C.R.S.
- F. "Health benefit plan" shall have the same meaning as found at § 10-16-102(32), C.R.S.
- G. "Managed care plan" shall have the same meaning as found at § 10-16-102(43), C.R.S.

#### **Section 5 Coverage and Cost Sharing Requirements for COVID-19 Claims**

- A. Carriers shall provide coverage for COVID-19-related in-network telehealth services with no cost share for the covered person.
- B. Carriers shall cover at least one (1) additional early refill of all necessary prescriptions to ensure that the covered person has access to necessary medications.
  - 1. Carriers shall not apply a different cost-sharing amount for an early refill of a prescription.
  - 2. The requirements of Section 5.C. do not apply to prescription drugs with a high likelihood of abuse, such as opioids
- C. When a covered person meets the criteria established by the Colorado Department of Public Health and Environment for COVID-19 testing:
  - 1. Carriers shall ensure that coverage is provided for COVID-19 testing with no cost share for the covered person.
  - 2. Carriers shall cover cost sharing for an in-network provider office visit, an in-network urgent care center visit, and for an emergency room visit when a covered person is seeking testing for COVID-19 and are prohibited from requiring providers to collect cost shares.
  - 3. If an in-network provider is unable to conduct testing for COVID-19, carriers must cover such testing if performed by an out-of-network provider pursuant to § 10-16-704(2)(a), C.R.S.

#### **Section 6 Severability**

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

#### **Section 7 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 8 Effective Date**

This emergency regulation shall be effective March 17, 2020.

#### **Section 9 History**

Emergency regulation effective March 17, 2020.