

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Emergency Regulation 21-E-01

CONCERNING THE HEALTH INSURANCE AFFORDABILITY FEE ASSESSMENT AND COLLECTION PROCESS

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Section 1 Authority

This emergency regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-108(7), 10-1-109, 10-16-109, 10-16-1205(1)(a)(I), and 10-16-1207(5), C.R.S.

Section 2 Scope and Purpose

The purpose of this emergency regulation is to establish the process by which the Health Insurance Affordability Enterprise will assess and collect the Health Insurance Affordability Fee annually from carriers, pursuant to § 10-16-1205(1)(a)(I), C.R.S.

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 to ensure that the Health Insurance Affordability Fee is calculated, assessed, and collected on a timeline that allows the Health Insurance Affordability Enterprise to implement affordable health coverage options for Colorado consumers during the 2022 benefit year. The Division of Insurance also finds, pursuant to § 24-4-103(6)(a), C.R.S., that requiring reporting of the fee amount to the Division of Insurance by March 1, 2021 is necessary to calculate and implement the allocation of funds required by § 10-16-1205(2)(b), C.R.S. On January 22, 2021, pursuant to § 10-16-1207(4)(c)(I), C.R.S., the Health Insurance Affordability Board recommended “for approval and establishment by the commissioner by rule . . . [t]he timing and methodology for assessing and collecting the fee and special assessment” articulated in this rule. As required by § 10-16-1207(5), C.R.S., the Commissioner of Insurance considered this recommendation before adopting this regulation. Therefore, compliance with the requirements of § 24-4-103, C.R.S., would be contrary to the public interest.

Section 3 Applicability

This emergency regulation applies to all carriers that issue health benefit plans in the state, including all carriers offering individual, small group, and large group plans 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. "Enterprise" shall have the same meaning as found at § 10-16-1203(3), C.R.S.
- C. "Fee" shall have the same meaning as found at § 10-16-1203(5), C.R.S.
- D. "Health Benefit Plan" shall have the same meaning as found at § 10-16-102(32)(a), C.R.S.

Section 5 Health Insurance Affordability Fee Assessment and Collection Requirements

- A. Starting in 2021, all carriers issuing health benefit plans in the state shall report to the Division of Insurance (Division) by March 1 of each year the amount they owe for the Health Insurance Affordability Fee. Carriers shall report the Fee amount through the same electronic filing method they use to report annual premium tax and fee filings required by §§ 10-3-209, 10-6-128, and 10-5-110, C.R.S. Carriers will use either the Colorado Division of Insurance Online Premium Tax System or Colorado Division of Insurance Surplus Lines Tax System to report Fee amounts owed. Starting in 2021, Health Maintenance Organizations will also report and pay all fees through the Colorado Division of Insurance Online Premium Tax System.
 - 1. The Fee amount for nonprofit carriers is 1.15 percent of gross premiums collected in the immediately preceding calendar year on all health benefit plans issued in the state.
 - 2. The Fee amount for for-profit carriers is 2.10 percent of gross premiums collected in the immediately preceding calendar year on all health benefit plans issued in the state.
- B. Starting in 2021, all carriers issuing health benefit plans in the state shall submit payments to the Division by June 15 of each year for the total amount owed for the Health Insurance Affordability Fee based on the premiums collected for the previous calendar year. Carriers shall use the same payment transaction and processing method they use for submitting annual premium tax and fee payments. The Health Insurance Affordability Fee can be paid prior to March 1, at the same time premium taxes and fees are paid. All premium taxes and fees, including the Health Insurance Affordability Fee, must be paid through the premium tax system.

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 February 5, 2021.

Section 9 History

Emergency regulation effective February 5, 2021.