

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Emergency Regulation 21-E-08

CONCERNING COST SHARING REDUCTION ENHANCEMENTS

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Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-108(7), 10-1-109(1), 10-16-1207(5), and 10-16-109, 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 to comply with state law and for the preservation of public health, safety, or welfare. The American Rescue Plan Act of 2021, H.R. 1319 signed into law on March 11, 2021 increased premium tax credits for 2021 available to all individuals purchasing health benefit plans through the Colorado health benefit exchange. As a result, the previous decision from the Health Insurance Affordability Enterprise Board on November 20, 2020, recommending creation of a state based premium wrap for payments pursuant to § 10-16-1205(1)(b)(II), C.R.S., would no longer be necessary to meet the objective of increasing affordability of health insurance on the individual market. Thus, on March 24, 2021, the Health Insurance Affordability Enterprise Board approved implementation of an enhanced cost sharing reduction for individual enrollees for the 2022 benefit year. Pursuant to the requirements of C.R.S. § 10-16-1207(5), the Commissioner of Insurance considered this recommendation from the Health Insurance Affordability Enterprise Board before adopting this regulation. This Division also finds that the adoption of this regulation prior to the July 6, 2021 deadline for carriers to submit rates for plans starting in benefit year 2022, pursuant to C.R.S. § 10-16-107, is necessary so that carriers may consider these payments during rate development. Therefore, compliance with the requirements of § 24-4-103, C.R.S., would be contrary to the public interest.

Section 2 Scope and Purpose

The purpose of this regulation is to provide standards for including payments to carriers pursuant to C.R.S. § 10-16-1205(1)(b)(II) in rate filings for health benefit plans regulated by the Colorado Division of Insurance

Section 3 Applicability

This regulation applies to all carriers issuing non-grandfathered individual health benefit plans starting in benefit year 2022.

Section 4 Definitions

- A. “Benefit year” shall have the same meaning as found at § 10-16-1103(2), C.R.S.
- B. “Carrier” shall have the same meaning as found at § 10-16-102(8), C.R.S.
- C. “Cost Sharing Reduction Enhancement” or “CSR Enhancement” means, for the purpose of this regulation, an increase in silver plans’ actuarial value from 87% to 94% for eligible enrollees.
- D. “CSR variant” means, for purposes of this regulation, a cost-sharing reduction plan variation defined in 45 C.F.R. § 156.420(a).
- E. “Eligible enrollee” means, for the purpose of this regulation, an individual enrolled in a CSR variant plan whose household income is from 151% to 200% of the Federal Poverty Level.
- F. “Exchange” shall have the same meaning as found at § 10-16-102(26), C.R.S.
- G. “Health benefit plan” shall have the same meaning as found at § 10-16-102(32), C.R.S.
- H. “Plans and Benefits Template” or “PBT” means, for the purpose of this regulation, the Plans & Benefits Template created by the Centers for Medicare & Medicaid Services.
- I. “Rate filing” means, for the purpose of this regulation, a carrier’s electronic submission to the Division in accordance with Colorado Insurance Regulation 4-2-39.
- J. “Standard silver plan” shall have the same meaning as found at § 10-16-103.4(2)(b), C.R.S.
- K. “URRT” means, for the purpose of this regulation, the Unified Rate Review Template created by the Centers for Medicare & Medicaid Services.

Section 5 Requirements for CSR Variant Plans

For the 2022 benefit year, carriers shall offer a CSR enhancement to all eligible enrollees in silver metal level health benefit plans.

- A. On the PBT, carriers shall file silver plans with CSR variants, according to current, standard practice.
- B. The URRT submitted with the carrier’s rate filing shall reflect expected changes in enrollment and induced utilization based on the increased uptake of the 94% AV plan variant.

Section 6 Payments to Carriers

- A. Pursuant to C.R.S. § 10-16-1205(1)(b)(II), the Colorado Health Insurance Affordability Enterprise created in C.R.S. § 10-16-1204(1)(a), through the Division, will make payments to carriers by June 30, 2023 to compensate for the difference between the 94% AV plan variant costs the carrier paid during the benefit year because of the CSR enhancement, and the 87% AV plan variant costs the carriers would have paid absent the CSR enhancement for the 2022 benefit year.
- B. The Division will calculate carrier payment amounts by determining the difference between what the carrier expects to pay in standard silver claims costs for plans with a 94% AV and the standard claims costs for plans with an 87% AV, using the following methodology. A numerical example of the application of this method can be found in Appendix A.
 - 1. A Calibrated Plan Adjusted Index Claims Rate for a standard silver plan will be calculated as follows:

$$\text{Calibrated Plan Adjusted Index Rate} \times \text{Incurred Claims as a Percent of Premium} / \text{CSR Load}$$

- a. The Calibrated Plan Adjusted Index Rate will be determined by the value entered in the carrier's URRT Worksheet 2, line 3.14.
- b. The Incurred Claims as a Percent of Premium will be calculated as the URRT Worksheet 2, Total, line 4.15 divided by URRT Worksheet 2, Total, Line 4.17.
- c. The CSR Load will be determined by the value entered in the carrier's Supplemental Template filed in the rate filing.

2. A Standard Silver Claims Cost amount will be calculated as follows:

$$\text{Age Factor} \quad \times \quad \text{Geographical Rating Factor} \quad \times \quad \text{Tobacco Factor} \quad \times \quad \text{Calibrated Plan Adjusted Index Claims Rate}$$

- a. The Age Factor will be determined based on the Colorado Age Curve, in accordance with Colorado Insurance Regulation 4-2-39, Section 7.A.3.e .
- b. The Geographic Rating Factor will be determined by the value entered in the carrier's URRT Worksheet 3.
- c. The Tobacco Factor will be determined by the value entered in the carrier's rate manual.
- d. The Calibrated Plan Adjusted Index Claims Rate will be determined by the calculation in subsection 6(B)(1).

3. A Standard Silver Claims Cost for plans with an 87% AV will be calculated as follows:

$$\text{Standard Silver Claims Cost} \quad \times \quad \frac{\text{AV of 87\% CSR Variant}}{\text{AV of Standard Silver On-Exchange Plan}} \quad \times \quad \frac{\text{Induced Utilization for 87\% CSR Variant}}{\text{Induced Utilization for Standard Silver Plan}}$$

- a. The Standard Silver Claims Cost will be determined by the calculation in subsection 6(B)(2).
- b. The AV of the 87% CSR Variant will be determined by the value entered in the carrier's PBT.
- c. The AV of the Standard Silver On-Exchange Plan will be determined by the value entered in the carrier's PBT for the standard silver plan offered on the Exchange
- d. The Induced Utilization for the 87% CSR Variant will be determined using the induced utilization factor from the risk adjustment methodology pursuant to 45 C.F.R. § 153.320(a)(1).
- e. The Induced Utilization for a Standard Silver Plan will be determined using the induced utilization factor from the risk adjustment methodology pursuant to 45 C.F.R. § 153.320(a)(1).

4. A Standard Silver Claims Cost for plans with a 94% AV will be calculated as follows:

$$\text{Standard Silver Claims Cost} \quad \times \quad \frac{\text{AV of 94\% CSR Variant}}{\text{AV of Standard Silver On-Exchange Plan}} \quad \times \quad \frac{\text{Induced Utilization for 94\% CSR Variant}}{\text{Induced Utilization for Standard Silver Plan}}$$

- a. The Standard Silver Claims Cost will be determined by the calculation in subsection 6(B)(2).

- b. The AV of the 94% CSR Variant will be determined by the value entered in the carrier's PBT.
 - c. The AV of the Standard Silver On-Exchange Plan will be determined by the value entered in the carrier's PBT for the standard silver plan offered on the Exchange.
 - d. The Induced Utilization for the 94% CSR Variant will be determined using the induced utilization factor from the risk adjustment methodology pursuant to 45 C.F.R. § 153.320(a)(1).
 - e. The Induced Utilization for a Standard Silver Plan will be determined using the induced utilization factor from the risk adjustment methodology pursuant to 45 C.F.R. § 153.320(a)(1). HHS formula.
5. The Payment to Carriers will be calculated as follows:
- $$\text{Payment to Carriers} = \text{Standard Silver Claims Cost for plans with 94\% AV} - \text{Standard Silver Claims Cost for (PMPM) plans with 87\% AV}$$
- a. The Standard Silver Claims Cost for plans with a 94% AV will be determined by the calculation in subsection 6(B)(4).
 - b. The Standard Silver Claims Cost for plans with an 87% AV will be determined by the calculation in subsection 6(B)(3).
6. The Division will apply this method consistently across carriers using values supplied in rate filings, particularly URRTs, and PBTs, Supplemental Templates, and Rate Manuals.
- a. This method provides an actuarially sound estimate of the claims cost by carrier, plan, and age for a given person insured in the Colorado individual market.
 - b. This method will also allow for a determination of total cost after the completion of the 2022 benefit year, given the actual population distribution and total member months during the benefit year.

Section 7 Severability

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

Section 8 Incorporated Materials

45 C.F.R. § 156.420 shall mean 45 CFR §156.420 as published by the Government Printing Office on the effective date of this regulation and does not include later amendments to or editions of 45 C.F.R. § 156.420. A copy of 45 C.F.R. § 156.420 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of 45 C.F.R. § 156.420 may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.ecfr.gov.

45 C.F.R. § 153.320 shall mean 45 CFR § 153.320 as published by the Government Printing Office on the effective date of this regulation and does not include later amendments to or editions of 45 CFR § 153.320. A copy of 45 CFR §153.320 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of 45 CFR § 153.320 may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.ecfr.gov.

Section 9 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 10 Effective Date

This regulation shall become effective on May 9, 2021.

Section 11 History

Regulation effective May 9, 2021.

Appendix A: Sample Calculation for a 44 year old for a given carrier, region and plan

Line	Field	Source	Sample
A	HIOS Plan ID, Standard Silver On-Exchange Metal AV	PBT "Issuer Actuarial Value"	0.713
B	HIOS Plan ID, Standard Silver On-Exchange with 87% CSR AV	PBT "Issuer Actuarial Value"	0.875
C	HIOS Plan ID, Standard Silver On-Exchange with 94% CSR AV	PBT "Issuer Actuarial Value"	0.939
D	Induced Utilization - Standard Silver	$A2 - A + 1.24$	1.035
E	Induced Utilization - Standard Silver with 87% CSR	$B2 - B + 1.24$	1.131
F	Induced Utilization – Standard Silver with 94% CSR	$C2 - C + 1.24$	1.183
G	Calibrated Plan Adjusted Index Rate	URRT Worksheet 2, line 3.14	\$331.27
H	CSR Load	Supplemental Template	1.25
I	Incurred Claims as a Percent of Premium	URRT Worksheet 2, Totals, line 4.15 / line 4.17	81.0%
J	Age Factor	Colorado Age Curve	1.397
K	Rating Area Factor	URRT Worksheet 3	0.95
L	Tobacco Factor	Rate Manual	1.00
M	Calibrated Plan Adjusted Index Claims Rate – Standard Silver	Calculate: $G \times I / H$	\$214.66
N	Claims Cost – Standard Silver	Calculate: $J \times K \times L$	\$284.89
O	Claims Cost – Standard Silver with 87% CSR	Calculate: $N \times (B / A) \times (E / D)$	\$381.79
P	Claims Cost – Standard Silver with 94% CSR	Calculate: $N \times (C / A) \times (F / D)$	\$428.59
Q	Payment to Carrier	Calculate: $P - O$	\$46.80