

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Emergency Regulation 21-E-14

CONCERNING COVERAGE AND REIMBURSEMENT FOR TRANSFER OF COVERED PERSONS BETWEEN FACILITIES AND TREATMENT OF COVERED PERSONS AT A RECEIVING FACILITY DURING THE COVID-19 RECOVERY

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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, and 10-16-708, C.R.S. Further, this emergency regulation is promulgated pursuant to the Governor's Executive Order D 2021 122, rescinding Executive Order D2020 003, as amended and extended, and ensuring that health care facilities have sufficient resources to treat COVID-19 patients.

Section 2 Scope and Purpose

The purpose of this emergency regulation is to require carriers to cover the costs of patient transfers between facilities during the state's COVID-19 recovery.

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 ensuring facilities have adequate resources and availability to treat COVID-19 patients 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 shall apply to all carriers offering individual, small group, large group plans, student health plans, and managed care plans subject to the insurance laws of Colorado. Carriers who are third-party administrators for self-funded plans are strongly encouraged to follow the requirements of this regulation in order to create uniform billing structures during the COVID-19 recovery.

Section 4 Definitions

- A. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.
- B. "Covered person" shall have the same meaning as found at § 10-16-102(15), C.R.S.

Section 5 Coverage and Reimbursement for Transfer of Covered Persons between Facilities and Treatment of Covered Persons at a Receiving Facility

A covered person receiving care in a hospital or freestanding emergency department who is transferred to another hospital or facility in order to ensure or preserve adequate capacity due to the ongoing COVID-19 situation is deemed to have an emergency medical condition, and all services for the transfer and treatment at the receiving facility are considered to be emergency services for purposes of C.R.S. § 10-16-704(5.5), including the in network cost sharing benefits and consumer protections against balance billing.

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 October 7, 2021.

Section 9 History

Emergency regulation effective October 7, 2021.