

# DEPARTMENT OF REGULATORY AGENCIES

## Division of Insurance

### 3 CCR 702-4

#### LIFE, ACCIDENT AND HEALTH

#### Emergency Regulation 22-E-13

#### CONCERNING OCCUPATIONAL ACCIDENT INSURANCE COVERAGE

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#### **Section 1 Authority**

This emergency regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109 and 40-11.5-102(5), C.R.S.

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

The purpose of this emergency regulation is to establish the minimum coverage requirements for carriers offering occupational accident insurance coverage pursuant to § 40-11.5-102(5), 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 as having a system in place for carriers to file this new occupational accident coverage on the effective date of SB22-035. On May 17, 2022, the Governor signed SB 22-035, which becomes effective August 9, 2022. The time between the Governor signing the bill and the effective date of the new provisions is insufficient time for the Division to comply with the requirements of § 24-4-103, C.R.S. For these reasons, 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 insurers offering occupational accident insurance coverage in Colorado pursuant to § 40-11.5-102(5), C.R.S.

#### **Section 4 Definitions**

- A. "Insurer" shall have the same meaning as found at § 10-1-102(13), C.R.S.
- B. "Certification" means, for the purposes of this regulation, the form that contains the necessary elements of certification, as determined by the Commissioner, which has been signed by the designated officer of the entity.

- C. "Commercial vehicle" shall have the same meaning as found at § 42-4-235(1)(a)(I)(B), C.R.S.
- D. "Limited benefit health coverage" means, for the purposes of this regulation, any type of health coverage that is not a health benefit plan.
- E. "Motor carrier" shall have the same meaning as found at § 42-4-235(1)(c), C.R.S.
- F. "Occupational accident insurance coverage" means, for the purposes of this regulation, insurance purchased by an independent contractor or sole proprietor pursuant to § 40-11.5-102(5), C.R.S. that provides coverage at a minimum aggregate policy limit of \$1,500,000 for all benefits paid for the benefit of the operator, including medical, temporary and permanent disability, death and dismemberment, and survivor benefits.
- G. "Operator" shall have the same meaning as found at § 40-11.4-102 (6)(a)(II), C.R.S.
- H. "SERFF" means, for the purpose of this regulation, the NAIC System for Electronic Rate and Form Filing.
- I. "Signature" includes an electronic signature as found at § 24-71.3-102(8), C.R.S.

## **Section 5 Coverage and Filing Requirements**

- A. An insurer may issue occupational accident insurance coverage, with benefits payable up to a policy limit of at least \$1,500,000, if the following conditions are met:
  - 1. The occupational accident insurance coverage shall provide, at a minimum, for injuries sustained in the course of working as an independent contractor or sole proprietor under a written agreement with a motor carrier company:
    - a. Temporary and permanent disability benefits;
    - b. Death, including survivor benefits, and dismemberment benefits; and
    - c. Medical expense benefits, to cover the following services:
      - (1) Ambulatory patient services;
      - (2) Emergency services;
      - (3) Hospitalization services;
      - (4) Laboratory and radiology services;
      - (5) Behavioral health, mental health, and substance use disorder and services;
      - (6) Prescription drug coverage; and,
      - (7) Dental coverage
- B. All occupational accident insurance coverage rates shall be filed with the Division prior to such policies being marketed or issued in Colorado.
  - 1. The rate SERFF filing requirements are as follows:

- a. Type of Insurance (TOI) Code: H21 - Other;
  - b. Filing Type: Rate;
  - c. Effective Date Requested: This date must be a prospective date after the submission of the rate filing. Carriers shall submit rate filings for rate increases to the Commissioner at least sixty (60) days prior to the proposed implementation date of the rates.
  - d. Requested Filing Mode: 'File & Use' or 'Review & Approval';
  - e. Market Type: Individual or Group. All associations must be reviewed by the Division prior to issuance of coverage. The Association By-laws and Articles of Incorporation shall be submitted in a separate filing under the H21 – Other TOI code.
  - f. Filing Description shall include reference to Occupational Accident Coverage;
  - g. Form Schedule Tab: this tab shall be completed with all forms to which this filing applies, including policies, certificates, applications, etc. and
  - h. Rate/Rule Schedule tab shall be completed and shall include the rating manual and underwriting guidelines.
2. The rate filing shall also include a compliant actuarial memorandum and rate template according to Colorado Insurance Regulation 4-2-11. Additional guidance is also included in Regulation 4-2-11.
- C. All occupational accident insurance coverage form filings shall be submitted to the Division for review and shall comply with the requirements found in Colorado Insurance Regulation 4-2-40.
1. The form SERFF filing requirements are as follows:
- a. Type of Insurance (TOI) Code: H21 - Other;
  - b. Filing Type: Form;
  - c. Effective Date Requested: This date shall be a prospective date that is at least thirty-one (31) days after the filing submission date.
  - d. Requested Filing Mode: 'File & Use';
  - e. Market Type: Individual or Group. All associations must be reviewed by the Division prior to issuance of coverage. The Association By-laws and Articles of Incorporation shall be submitted in a separate filing under the H21 – Other TOI code.
  - f. Filing Description shall include reference to Occupational Accident Coverage; and
  - g. Form Schedule Tab: this tab shall be completed with all forms to which this filing applies, including policies, certificates, applications, etc. The forms shall be attached to this tab.

2. The form filing shall also include a completed form certification according to Colorado Insurance Regulation 4-2-40 Appendix A Form Health – Colorado Health Coverage Certification Form for Listings of New and/or Revised Policy Forms. Additional guidance is also included in Regulation 4-2-40. This certification shall include a 'live' or 'wet' signature of a qualified officer or comply with § 24-71.3-102(8), C.R.S.
  3. The policies and certificates shall follow the requirements found in Colorado Insurance Regulation 4-2-34. The section names in the policies and certificates shall be as stated in the regulation and in the order demonstrated in the regulation.
- D. Insurers that wish to offer occupational accident coverage shall have an accident and health line of authority.

#### **Section 6 Required Disclosure**

- A. All occupational accident insurance coverage policies issued to comply with § 40-11.5-102(5), C.R.S. shall include the following statement in bold type on the policy's face page, and on the front page of the application:
- "THIS IS AN OCCUPATIONAL ACCIDENT INSURANCE POLICY THAT PROVIDES LIMITED BENEFIT COVERAGE FOR ONLY THOSE ACCIDENT RELATED INJURIES SUSTAINED AS AN OPERATOR OF A COMMERCIAL VEHICLE AS AN INDEPENDENT CONTRACTOR OR SOLE PROPRIETOR AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE."**
- B. Not including the required disclosure statement shall be considered a deceptive trade practice and a violation of § 10-3-1104, C.R.S.

#### **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 this regulation shall not be affected.

#### **Section 8 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 9 Effective Date**

This emergency regulation shall become effective on August 9, 2022.

#### **Section 10 History**

Emergency regulation effective August 9, 2022.