

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Emergency Regulation 23-E-08

CONCERNING COVERAGE OF THE RESPIRATORY SYNCYTIAL VIRUS IMMUNIZATIONS AS A PREVENTIVE SERVICE

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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(1), 10-16-104(18)(b)(X), (f), and 10-16-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this emergency regulation is to require carriers to cover, without cost sharing, the cost of the respiratory syncytial virus (RSV) immunizations and administration.

On June 21, 2023, the Center for Disease Control's (CDC) Advisory Committee on Immunization Practices (ACIP) recommended coverage of the RSV vaccine for persons 60 years and over. On August 3, 2023, the ACIP recommended coverage of long-acting monoclonal antibody prophylaxis in infants and young children up to 19 months. On September 22, 2023, the ACIP recommended coverage of the RSV vaccine for pregnant people during 32-36 weeks of gestation. In September 2023, these recommendations were added to the CDC's Immunization Schedules available at <https://www.cdc.gov/vaccines/schedules/index.html>

To protect populations susceptible to RSV and minimize pressures on the health care system during the 2023-24 viral respiratory season, the Division of Insurance finds, pursuant to § 24-4-103(6)(a), C.R.S., that immediate adoption of this emergency regulation is imperatively necessary to comply with state law and for the preservation of public health, safety, or welfare and 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 access and billing structures.

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 for RSV Immunizations

Carriers shall immediately cover all ACIP recommended immunizations for RSV, including all associated costs of administration, at no cost-sharing to covered persons in accordance with the CDC Immunization Schedule.

Section 6 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 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 Incorporation by Reference

The CDC Immunization Schedule shall mean the CDC Immunization Schedule as published on the effective date of this regulation and does not include later amendments to or editions of the CDC Immunization Schedule. A copy of the CDC Immunization Schedule may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of the CDC Immunization Schedule 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 <https://www.cdc.gov/vaccines/schedules/index.html>

Section 9 Effective Date

This emergency regulation shall be effective on October 16, 2023.

Section 10 History

Emergency Regulation effective October 16, 2023.