DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Regulation 4-2-79

CONCERNING THE REQUIREMENTS FOR PROVIDER DATA REQUESTS AND CARRIER RESPONSES CONFIRMING OUT-OF-NETWORK PAYMENT METHODOLOGY UTILIZATION

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Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109(1), 10-16-109, and 10-16-704(13), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish the requirements for provider and health care facility submitted requests for out-of-network payment methodology data from carriers pursuant to § 10-16-704(13), C.R.S., as well as the fields that must be supplied in any response provided by a carrier pursuant to that same statute.

Section 3 Applicability

This regulation applies to all provider and health care facility requests and carrier responses to data requests pursuant to § 10-16-704(13), C.R.S.

Section 4 Definitions

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

B. "Commissioner" means, for the purposes of this regulation, the Commissioner of Insurance or his or her designee.

C. "Out-of-network provider" means, for the purposes of this regulation, a provider in this state that has not entered into a contract with a carrier or with its contractor or subcontractor to provide health care services to covered persons.

D. "Provider" shall have the same meaning as found at § 10-16-102(56), C.R.S.

Section 5 Requirements for Data Requests and Carrier Responses

A. An out-of-network provider or health care facility that has received payment pursuant to § 10-16-704(13), C.R.S., and is submitting a request to the Commissioner seeking data to evaluate the carrier's compliance in paying the highest rate required in § 10-16-704(3)(d) or (5.5)(b), C.R.S. must utilize the "Out-of-Network Data Request and Response Form found in Appendix A" of this regulation.

B. A separate spreadsheet containing multiple claims must be submitted for each distinct facility or provider requesting confirmation that the appropriate payment methodology was used pursuant to § 10-16-704(3)(d) or (5.5)(b), C.R.S.

C. All provider fields in the "Out-of-Network Data Request and Response Form" must be populated by the requesting provider or health care facility prior to the form being sent to the Division. An incomplete form will not be sent to the applicable carrier until it has been completely populated by the requesting provider.

D. Upon receipt of an "Out-of-Network Data Request and Response Form" from the Division, a carrier shall populate the carrier fields and return the completed template to the Division no later than thirty (30) calendar days after receipt. Additional time to respond may be granted by the Division when the "Out-of-Network Data Request and Response Form" contains more than one hundred (100) claims. The fields populated by the carrier in response to a request from the Division must identify which out-of-network payment methodologies and amounts were considered in determining payment, clearly state which methodology and payment was selected, and include a description of how the carrier has determined its median in-network rate.

E. Upon request by the Division, the carrier shall provide a separate document containing the methodology for determining the carrier's median in-network rate or reimbursement for each service in the same geographic area, to accompany a specified completed "Out-of-Network Data Request and Response Form."

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 regulation shall become effective January 15, 2022.

Section 9 History

New regulation effective January 15, 2022.

APPENDIX A: Out-of-Network Data Request and Response Form

NAME OF REQUESTING PROVIDER/FACILITY AND CONTACT INFORMATION:																
REQUESTING PROVIDER OR FACILITY TIN:																
NAME OF CARRIER AND CONTACT INFORMATION:																
DATE OF REQUEST:																
REQUESTING PROVIDER DATA FIELDS (must be completely filled-out by requester)										**CARRIER DATA FIELDS (must be completed by carrier)***						
Carrier Member Number	Carrier Claim Number	Patient Account Number	Date of Service	CPT/ HCPCS Code	Units	Total Facility/ Provider Charges	Total Amount Paid	Date Claim Paid	CO DOI Regulated Plan? Y/N	DOI Geographic Rating Areas	Carrier Provider Methodology Calculation: 60th Percentile of Average In-network Rate – APCD Data	Carrier Provider Methodology Calculation 110% of carrier median in-network rate	Carrier Facility Methodology Calculation: Median In-network Rate – APCD Data	Carrier Facility Methodology Calculation 105% of carrier median in-network rate	Other Negotiated Amount (If applicable)	Amount Paid to Include Member Cost Sharing

* Carriers may be subject to the imposition of penalties, or any sanctions authorized by the insurance code for providing false or misleading information in completing this form.