

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-80

CONCERNING NETWORK ADEQUACY STANDARDS AND REPORTING REQUIREMENTS FOR COLORADO OPTION STANDARDIZED HEALTH BENEFIT PLANS

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Network Adequacy Requirements for Colorado Option Standardized Plans
Section 6	Essential Community Provider Standards for Colorado Option Standardized Plans
Section 7	Network Access Plan Reporting Requirements
Section 8	Required Carrier Attestations and Reporting
Section 9	Network Adequacy Action Plans
Section 10	Severability
Section 11	Incorporated Materials
Section 12	Enforcement
Section 13	Effective Date
Section 14	History

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, 10-16-1304(2)(c), 10-16-1312, and 10-16-1306(3)(c), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to provide carriers offering the Colorado Option standardized bronze, silver, and gold health benefit plans with the requirements to offer a culturally responsive network of providers and the action plan elements if the network does not meet these standards as required by § 10-16-1304(1)(g) and (2), C.R.S.

Section 3 Applicability

In addition to Colorado Regulations 4-2-53, 4-2-54, 4-2-55, and 4-2-56, the following requirements apply to all carriers offering individual and small group Colorado Option Standardized plans required by § 10-16-1304, C.R.S. Colorado Option requirements do not apply to large group health benefit and/or student health insurance coverage plans.

Section 4 Definitions

- A. "Acute inpatient hospital" means, for the purposes of this regulation, a hospital that provides inpatient medical care and other related services for surgery, acute medical conditions or injuries (usually for a short term illness or condition).

- B. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.
- C. "Colorado Option Standardized plan" or "Standardized plan" shall have the same meaning as found at § 10-16-1303(14), C.R.S.
- D. "Covered person" shall have the same meaning as found at § 10-16-102(15), C.R.S.
- E. "De-identified data" means, for the purposes of this regulation, data that cannot reasonably be used to infer information about, or otherwise be linked to, an identified or identifiable individual, or a device linked to such individual, if the carrier that possesses the data:
 - (a) Takes reasonable measures to ensure that the data cannot be associated with an individual;
 - (b) Publicly commits to maintain and use the data only in a de-identified fashion and not attempt to re-identify the data, and;
 - (c) Contractually obligates any recipients of the information to comply with these requirements.
- F. "Essential community provider" or "ECP" means, for the purposes of this regulation, a provider that serves predominantly low-income, medically underserved individuals, including health care providers defined in § 25.5-5-403(2), C.R.S., § 25.5-8-103(6), C.R.S., and at 45 C.F.R. § 156.235(c).
- G. "Health benefit plan" shall have the same meaning as found at § 10-16-102(32), C.R.S.
- H. "Individual provider" means, for the purposes of this regulation, any physician, dentist, optometrist, anesthesiologist, or other individual who is licensed or otherwise authorized in this state to furnish health-care services.
- I. "Mental health, behavioral health, and substance use disorder care providers" shall have the same meaning as found at Section 4.N. of Colorado Insurance Regulation 4-2-53.
- J. "Most restrictive network" means, for the purposes of this regulation, the carrier's nonstandardized plan network that has the smallest number of participating providers, measured by service category in Section 7.D of this regulation, within the plan's rating area of all the nonstandardized plans that the carrier offers in that rating area.
- K. "No more narrow" means, for the purposes of this regulation, a carrier's network including as many or more participating providers, measured by service category in Section 7.D of this regulation, in the plan's rating area compared to another network offered by the carrier in the rating area.
- L. "Network" shall have the same meaning as found at § 10-16-102(45), C.R.S.
- M. "Nonstandardized plan" means, for the purposes of this regulation, a health benefit plan that does not meet the definition of Standardized plan found at § 10-16-1303(14), C.R.S.
- N. "NPI" or "national provider identifier" shall have the same meaning as found at § 25.5-4-420(1)(b), C.R.S.
- O. "Obstetric and gynecological provider" means, for the purposes of this regulation, a participating health care professional designated by the carrier to supervise, coordinate, or provide initial care

or continuing obstetric or gynecological care, including physicians, physician assistants, nurse practitioners supervised by, or collaborating with, a physician.

- P. "Outpatient dialysis" shall have the same meaning as found at § 25-1.5-108(1)(a), C.R.S.
- Q. "Participating provider" shall have the same meaning as found at § 10-16-102(46), C.R.S.
- R. "Pediatric provider" means, for the purposes of this regulation, a participating health care professional designated by the carrier to supervise, coordinate, or provide initial care or continuing care to infants, children, and/or adolescents, including physicians, physician assistants, nurse practitioners supervised by, or collaborating with, a physician.
- S. "Primary care provider" or "PCP" shall have the same meaning as found at Section 4.Q. of Colorado Insurance Regulation 4-2-53.
- T. "Provider" shall have the same meaning as found at § 10-16-102(56), C.R.S.
- U. "Rating area" means, for the purposes of this regulation, a geographic area comprised of Colorado counties established pursuant to the fair health insurance premium requirements under 45 C.F.R. § 147.102. A list of the Rating Areas can be found in Colorado Insurance Regulation 4-2-39 Section 6.A.15.g.
- V. "SERFF" means, for the purposes of this regulation, the System for Electronic Rates and Forms Filing.

Section 5 Network Adequacy Requirements for the Colorado Option Standardized Plans

A. Demographic Data Collection

1. Network Provider Data:

- a. Carriers shall develop written materials for network providers and their front office staff requesting the voluntary reporting of demographic data to the carrier explaining the intended uses of the data and how such data will be shared. In their written materials, carriers shall explain that the data will be used to improve racial health equity, reduce health disparities for covered persons who experience higher rates of health disparities and inequities, and to provide aggregate information about the diversity of the providers in the carrier's network.

Carriers shall include any voluntarily reported network provider demographic data in the network access plan in the aggregate only. Personally identifiable information shall be kept confidential and will not be disclosed without the written consent of the reporting provider or office staff member.

- b. Carriers shall collect the following demographic data voluntarily submitted by network providers and their front office staff for the carriers' Colorado Option Standardized plans:
 - (1) Race and ethnicity data, collected using the racial/ethnic categories included in the U.S. Office of Budget and Management's Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting;
 - (2) Sexual orientation and gender identity data, collected using the following questions:

(a) How do you identify your sexual orientation? (Select all that apply):

- Straight
- Lesbian
- Gay
- Bisexual
- Pansexual
- Queer
- Asexual
- A sexual orientation not listed here (specify): _____
- Prefer not to answer

(b) How do you describe your current gender identity? (Select all that apply):

- Female
- Male
- Transgender Female/Transgender Woman
- Transgender Male/Transgender Man
- Non-Binary
- Two-spirit
- Intersex
- Gender Queer/Gender Fluid
- A gender identity not listed here (specify): _____
- Prefer not to answer

(c) What was your sex assigned at birth?

- Female
- Male
- Non-Binary
- Not Designated on Birth Certificate
- Prefer not to answer

(3) Ability status data, collected using the following question:

(a) Do you have a disability?

- Yes
- No
- Prefer not to answer

c. Carriers may request the data directly from network providers or use such other data sources as may be available. In collecting such data from network providers, carriers shall minimize the burden on network providers by including the request with its request for data for the provider directory.

2. Covered Person Data:

a. Carriers shall develop educational materials about the reasons for collecting covered persons' demographic data and shall post the educational materials on its website in a manner that is accessible to the public. The educational materials must clearly indicate that demographic data collected will be confidential, de-

identified, and used to improve racial health equity, reduce health disparities for covered persons who experience higher rates of health disparities and inequities and provide aggregate information regarding the demographic diversity of the insurer's covered population.

Carriers shall include any voluntarily reported covered person demographic data in the network access plan in the aggregate only and de-identified as to any individual. Personally identifiable information shall be kept confidential and will not be disclosed without the written consent of the covered person.

- b. Carriers shall collect the following demographic data from covered persons who voluntarily choose to provide such data:
- (1) Race and ethnicity data, collected using the racial/ethnic categories included in the U.S. Office of Budget and Management's Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting;
 - (2) Sexual orientation and gender identity data, collected using the following questions:
 - (a) How do you identify your sexual orientation? (Select all that apply):
 - Straight
 - Lesbian
 - Gay
 - Bisexual
 - Pansexual
 - Queer
 - Asexual
 - A sexual orientation not listed here (specify): _____
 - Prefer not to answer
 - (b) How do you describe your current gender identity? (Select all that apply):
 - Female
 - Male
 - Transgender Female/Transgender Woman
 - Transgender Male/Transgender Man
 - Non-Binary
 - Two-spirit
 - Intersex
 - Gender Queer/Gender Fluid
 - A gender identity not listed here (specify): _____
 - Prefer not to answer
 - (c) What was your sex assigned at birth?
 - Female
 - Male
 - Non-Binary
 - Not Designated on Birth Certificate

- Prefer not to answer

(3) Ability status data, collected using the following question:

(a) Do you have a disability?

- Yes
- No
- Prefer not to answer

B. Inclusion of Certified Nurse Midwives in the Colorado Option Standardized Plan Networks

To address racial health disparities and improve perinatal health care coverage, carriers shall attest that at least one certified nurse midwife is available within the maximum road travel distance of any covered person in the Colorado Option Standardized plan network based on the categories of geographic areas listed below:

	Large Metro	Metro	Micro	Rural	CEACs
Provider Type	Maximum Distance (miles)	Maximum Distance (miles)	Maximum Distance (miles)	Maximum Distance (miles)	Maximum Distance (miles)
Certified Nurse Midwives	5	10	20	30	60

C. Training requirements

1. Carrier Customer Service Representatives

- Prior to the commencement of plan year 2023 open enrollment and on an annual basis thereafter, carriers' customer service representatives who assist applicants in the enrollment process and covered persons in utilizing their Colorado Option Standardized plan benefits must complete at least one anti-bias, cultural competency, or similar training designed to educate carrier customer service representatives about the health care needs of covered persons who experience higher rates of health disparities and inequities.
- Carriers shall report on customer service representatives training using a standard reporting form created by the Division which will include, at a minimum, the duration of the training for carrier's customer service representatives, any certifications, and a description of the training.

2. Providers and Providers' Front Office Staff

- Carriers shall create a process for their Colorado Option Standardized plan network providers and providers' front office staff to annually report on the anti-bias, cultural competency, or similar training that providers and their front office staff have taken in the last year designed to assist covered persons who experience higher rates of health disparities and inequities.

- b. Carriers shall collect network providers and their front office staff training information using a standard reporting form created by the Division which will include, at a minimum, the duration of the training for network providers and their front office staff, any certifications, and a description of the training.
- c. Carriers, at a minimum, shall ensure:
 - (1) At least 50% of providers and their front office staff have undertaken such training no later than January 1, 2023;
 - (2) At least 75% of providers and their front office staff have undertaken such training no later than January 1, 2024; and
 - (3) At least 90% of providers and their front office staff have undertaken such training no later than January 1, 2025.

D. Provider Directories

- 1. In addition to the provider directory requirements in Colorado Regulation 4-2-55, carriers must include in their Colorado Option Standardized plan provider directories information regarding:
 - a. The availability of translation and interpreter services in languages other than English for individuals with limited English proficiency;
 - b. Accessibility services for people with disabilities and the procedures for requesting such services from the carrier; and
 - c. Information on how to file a complaint with the Division or with a carrier related to the accuracy of the provider directory and/or the provider experience.
- 2. The provider directories, both printed and online, shall identify the following information about network providers and their front office staff:
 - a. Providers who are multilingual or employ multilingual front office staff including the languages spoken by providers and their front office staff;
 - b. If the provider offers extended and weekend hours; and
 - c. The accessibility of the provider office and examination rooms for persons with disabilities.

E. Language Access

- 1. Carriers shall ensure that language assistance services, including American Sign Language (ASL) and other communication services for people who are Deaf, Hard of Hearing, and DeafBlind, are available to covered persons enrolled in a Colorado Option Standardized plan and develop a process for notifying covered persons of the availability of these services and how they can be accessed.
 - a. Carriers must ensure language assistance services are available for covered persons when communicating directly with the carrier (i.e., customer service representatives).

- b. Carriers must ensure language assistance services are available for covered persons when communicating with network providers.
 - c. Carriers may require covered persons to provide timely notice of the need for language assistance for communications with the carrier and/or a network provider. For the purposes of this section, “timely” means in a manner appropriate for the situation in which language assistance is needed. Language assistance services are not timely if delay results in the effective denial of the service, benefit, or right at issue.
 - d. Language assistance services shall be offered at no cost to covered persons during all points of contact when language assistance is needed and timely notice is given.
2. Carriers shall provide covered persons with written notice of the availability of interpretation and translation services for documents from the carrier in the covered person’s indicated language and make those documents available at provider offices. Carriers are required to post taglines in at least the top fifteen (15) languages spoken by individuals with limited English proficiency indicating the availability of language assistance services, including ASL and other communication services for people who are Deaf, Hard of Hearing, and DeafBlind, free of charge.

Section 6 Essential Community Provider Standards for Colorado Option Standardized Plans

Carriers must ensure that networks used for Colorado Option Standardized plans include a sufficient number of ECPs to meet one of the following Colorado Option-specific ECP standards:

- A. General ECP Standard: Carriers utilizing this standard shall have greater than 50% of the essential community providers in each service area for each of the Colorado Option Standardized plan provider networks. Carriers shall demonstrate in their “Essential Community Provider/Network Adequacy Template” that greater than 50 percent (50%) of available ECPs in each plan’s service area participate in each Colorado Option Standardized plan network. This standard applies to all carriers except those who qualify for the alternate ECP standard.
- B. Alternate ECP Standard. Carriers utilizing this standard shall demonstrate in their “Essential Community Provider/Network Adequacy Template” and justifications, that they have the same number of ECPs as defined in the general ECP standard (calculated as greater than 50 percent (50%) of the ECPs in the carrier’s service area), but the ECPs should be located within Health Professional Shortage Areas (HPSAs) or five-digit ZIP codes in which 30 percent (30%) or more of the population falls below 200 percent (200%) of the federal poverty level (FPL). An alternate ECP standard carrier is one that provides a majority of covered professional services through physicians it employs or through a single contracted medical group.

Section 7 Network Access Plan Reporting Requirements

In addition to the access plan requirements set forth in Regulation 4-2-54, a carrier offering the Colorado Option Standardized plan shall include a description of the carrier’s efforts to construct a diverse and culturally responsive network in its access plan, due with the annual network adequacy form filing. The following information shall be included:

- A. Summary of Demographic Data Collected
 - 1. Carriers shall report any demographic data voluntarily reported by network providers or covered persons in accordance with Subsections 5.A.1 and 5.A.2. in aggregate only. No

identifiable or individual network provider or covered person data should be included in the access plan.

2. Network Provider Demographic Data:

- a. A copy of the information provided to network providers on the relevance of collecting demographic data;
- b. The methods used to collect demographic data;
- c. The number of providers in the network and the number of network providers who submitted demographic data;
- d. A description of any other data sources used to assess network provider demographic data and the completeness of those data sources; and
- e. A breakdown of the demographic data, by race and ethnicity, disability, sexual orientation, and gender identity using the categories in Sections 5. A.1.b.

3. Covered Person Demographic Data:

- a. A copy of the information provided to covered persons on the relevance of collecting demographic data; and
- b. A summary of the number of covered persons who submitted demographic data and a breakdown by race and ethnicity, disability, and sexual orientation and gender identity using the categories in Section 5.A.2.b.

B. Summary of the Anti-Bias, Cultural Competency, or Similar Training Offered

1. Customer Service Training:

- a. The subject matter and duration of the training(s) offered; and
- b. The total number and the percentage of customer service representatives who completed the training in the past 12 months.

2. Provider and Provider Front Office Staff Training:

- a. A description of the type of training reported by providers and their front office staff; and
- b. The total number and the percentage of network providers and their front office staff who completed the training in the past 12 months.

C. A description of the network providers and services that are included in the Colorado Option Standardized plan networks, such as community health workers or promotoras, to assist covered persons who experience higher rates of health disparities and inequities.

D. For carriers offering plans in the individual market: Data to demonstrate that each Colorado Option Standardized plan network offered by the carrier in the individual market is no more narrow than the most restrictive network the carrier is offering for nonstandardized plans in the individual market for that rating area, by providing the following information for each of the following service categories: primary care providers, mental health, behavioral health, and

substance use disorder care providers, acute inpatient hospitals, pediatric providers, obstetric and gynecological providers, and outpatient dialysis facilities.

1. For primary care providers, mental health, behavioral health, and substance use disorder care providers, pediatric providers, and obstetric and gynecological providers:
 - a. Names, addresses, and NPIs of providers in each Standardized plan network, by rating area;
 - b. Names, addresses, and NPIs of providers in the most restrictive network, by rating area;
 - c. Total number of unique individual providers in the service categories listed above in each Standardized plan network, by rating area; and
 - d. Total number of unique individual providers in the service categories listed above in the most restrictive network, by rating area
 2. For acute inpatient hospitals and outpatient dialysis facilities ("hospitals or facilities"):
 - a. Names, addresses, and NPIs of hospitals or facilities in each Standardized plan network, by rating area;
 - b. Names, addresses, and NPIs of hospitals or facilities in the most restrictive network, by rating area;
 - c. Total number of hospitals or facilities in each Standardized plan network, by rating area; and
 - d. Total number of hospitals or facilities in the most restrictive network, by rating area.
- E. Carriers' evaluation of the efforts to create a culturally responsive network, which includes a description of how the carrier has assessed the network is adequate for the anticipated volume of demand for outpatient visits for perinatal, primary care, and behavioral health care as required in the Standardized plan.

Section 8 Required Carrier Attestations and Reporting

- A. For carriers offering plans in the individual market: In addition to the attestations required by Regulation 4-2-54, a carrier offering Colorado Option Standardized plans in the individual market shall attest that the Colorado Option Standardized plan network:
1. Is not more narrow than the most restrictive network that the carrier offers for nonstandardized plans in the individual market for the metal tier for that rating area based on the criteria in Section 7;
 2. Meets the requirements of Sections 5, 6 and 7 of this regulation or, if not, that it has made good faith efforts to build such networks and has documented those efforts in its action plan as required by Sections 8 and 9 of this Regulation; and
 3. Each attestation shall be made on the "Carrier Network Adequacy Summary and Attestation Form" submitted with the annual network adequacy form filings.

- B. Reporting required by Section 5 Network Adequacy Requirements for the Colorado Option Standardized Plans of this regulation will be completed using the Colorado Option Network Access Plan-Reporting Template, which will be submitted in annual network adequacy form filings. The template and instructions for reporting will be provided by the Division.
- C. If the carrier does not meet the Colorado Option Standardized Plans 50% ECP standards, described in Section 6 above, the carrier shall submit a copy of the “Colorado Supplementary Response: Inclusion of Essential Community Providers” form that will be generated by the Division, if necessary, during review of the “Essential Community Provider/Network Adequacy” (ECP/NA) Template in the Binder filing.

Section 9 Network Adequacy Action Plans

- A. A carrier shall file an action plan in the annual network adequacy form filing in SERFF under the following circumstances:
 - 1. If the carrier attests that it does not meet the Demographic Data Collection, Inclusion of Certified Nurse Midwives, Training, Provider Directories, and Language Access requirements in Section 5 or the Network Access Plan requirements specified in Section 7;
 - 2. If a carrier is unable to build a culturally responsive network, and one that reflects the diversity of its enrollees to the greatest extent possible in the area that the network exists, for the Colorado Option Standardized plan;
 - 3. For carriers offering plans in the individual market: If the carrier is unable to demonstrate that the Colorado Option Standardized Plan network is no more narrow than the most restrictive network the carrier is offering for nonstandardized plans in the individual market for that rating area, as required in Section 7.D; or
 - 4. If the Division notifies the carrier, after a review of the carrier's network access plan and summary and attestation form, or the carrier determines, that the network does not meet the requirements of Sections 5, 6, 7, and 8 of this regulation.
- B. The action plan shall contain the following information:
 - 1. If applicable, the reasons the carrier was unable to obtain demographic data from providers and/or covered persons;
 - 2. If applicable, the reasons the carrier was unable to build a culturally responsive network and one that reflects the diversity of its enrollees to the greatest extent possible in the area that the network exists, for the Colorado Option Standardized plan;
 - 3. A description of the outreach efforts to out-of-network providers, or providers with whom the carrier is negotiating to achieve network adequacy, including:
 - a. The types of providers that were contacted;
 - b. The method(s) by which the outreach was conducted;
 - c. The specific dates of outreach, including a summary of the communication and the provider's response;
 - d. The reasons providers did not join the network;

- e. Whether the carrier is continuing to negotiate with providers that did not join the network during previous attempts but that would contribute to a carrier meeting the network adequacy requirements of this regulation;
 4. The number and a description of the complaints that the carrier has received from covered persons regarding any network adequacy requirements in this regulation and the approach used to address issues raised in complaints; and
 5. For carriers offering plans in the individual market: If the carrier meets the circumstance in Section 9.A.3:
 - a. The providers that are included in the most restrictive nonstandardized plan network and excluded from the Colorado Option Standardized plan network;
 - b. The percentage by which the Colorado Option standardized plan network differs from the most restrictive nonstandardized plan network, by rating area, calculated using the following formula:

$$\frac{[(\text{Total Number of Individual Providers in the Colorado Option Standardized Plan Network}) - (\text{Total Number of Individual Providers in the most restrictive network})]}{(\text{Total Number of Individual Providers in the most restrictive network})} \times 100$$
 - c. The percentage by which the Colorado Option standardized plan network differs from the most restrictive nonstandardized plan network, by rating area, for each of the provider types in Section 7.D., calculated using the following formula:

$$\frac{[(\text{Number of Individual Providers in the Colorado Option Standardized Plan Network}) - (\text{Number of Individual Providers in the most restrictive network})]}{(\text{Number of Individual Providers in the most restrictive network})} \times 100$$
- C. For each circumstance in section 9.A described in the action plan, the carrier shall identify in the action plan:
1. A set of measurable steps and goals for taking necessary corrective action(s);
 2. The timelines for achieving each step or goal for each corrective action; and
 3. For carriers offering plans in the individual market: If the circumstance is that the carrier is unable to demonstrate that the Colorado Option Standardized Plan network is no more narrow than the most restrictive network the carrier is offering for nonstandardized plans in the individual market for the metal tier for that rating area, the carrier shall specifically include in the action plan:
 - a. A plan to continue negotiations with providers, including specific milestones and reimbursement rates, that will ensure the Colorado Option standardized plan is no more narrow than the most restrictive network the carrier is offering for nonstandardized plans;
 - b. Pursuant to § 10-16-1306(11)(b), C.R.S., the names and contact information for the providers that the carrier must include in the carrier's Colorado Option Standardized plan network in order for the carrier to comply with § 10-16-1304(1)(g)(II), C.R.S.; and
 - c. The timelines for providing regular status updates to the Division on the carrier's Standardized plan's network compliance with § 10-16-1304(1)(g)(II), C.R.S.,

including updates prior to the approval of the carrier's final rate. The regular status updates must include whether continued negotiations with a hospital or health-care provider would be beneficial, whether the negotiations have met the specific milestones or rates in this subsection a, and an update on the information provided to the Division in subsection b.

- D. If the Division determines the action plan's proposed corrective action(s) and/or timelines are insufficient, unreasonable, or do not comply with the requirements of this regulation, it will notify the carrier of deficiencies. The Division will work with the carrier to determine reasonable remediation steps, goals, milestones, and timelines and the carrier must resubmit a revised action plan with deficiencies corrected within 14 business days of notification from the Division unless the carrier requests additional time for good cause.
- E. If the carrier fails to resubmit a revised action plan that corrects the deficiencies within 14 business days or within the additional time allowed upon request, the action plan filing shall be deemed incomplete and rejected.
- F. An action plan shall be deemed incomplete and rejected if the carrier fails to comply with the action plan prior to the approval of the carrier's final rates, including, but not limited to, failing to comply with measurable steps, goals, milestones, and timelines.
- G. If a carrier's action plan is deemed incomplete and rejected, the carrier may be subject to imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance subject to the requirements of due process.
- H. All action plans shall be considered public and shall be open to inspection, unless the information may be considered confidential pursuant to the Colorado Open Records Act, §§ 24-72-201-05, C.R.S. A carrier may make a claim of confidentiality to the Division as to information submitted in the Network Adequacy Action Plan. Any carrier submitting information under a claim of confidentiality shall file, as part of the public record (i.e., not confidential), a confidentiality index specifying the basis(es) for the claim of confidentiality as to the information requested under a claim of confidentiality. A claim of confidentiality constitutes a representation to the Commissioner that the carrier has a reasonable and good faith belief that the subject document or information is, in fact, confidential under applicable state and federal law, including the Colorado Open Records Act. Nothing in this Section 9.H. modifies the confidentiality requirements set forth in Sections 5.A.1.a and 5.A.2.a of this regulation and carriers shall comply with the confidentiality requirements in those sections.

Section 10 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 11 Incorporated Materials

45 C.F.R. § 147.102 published by the Government Printing Office shall mean 45 C.F.R. § 147.102 as published on the effective date of this regulation and does not include later amendments to or editions of 45 C.F.R. § 147.102. A copy of 45 C.F.R. § 147.102 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. § 147.102 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. § 156.235(c) published by the Government Printing Office shall mean 45 C.F.R. § 156.235(c) as published on the effective date of this regulation and does not include later amendments to or editions

of 45 C.F.R. § 156.235(c). A copy of 45 C.F.R. § 156.235(c) 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. § 156.235(c) 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.

U.S. Office of Budget and Management Statistical Policy Directive No.15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting as published on the effective date of this regulation and does not include later amendments or editions of the Standards. A copy of the Standards 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 Standards may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202. A charge for certification or copies may apply. A copy may also be obtained online at <https://www.govinfo.gov/content/pkg/FR-1997-10-30/pdf/97-28653.pdf>.

Section 12 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 13 Effective Date

This regulation shall become effective on March 1, 2024.

Section 14 History

Regulation effective March 2, 2022.

Amended regulation effective May 30, 2023.

Amended regulation effective March 1, 2024.