

November 12, 2021

Michael Conway
Commissioner, Colorado Division of Insurance
1560 Broadway, Suite 850
Denver, CO 80202

Comments on DRAFT Preliminary Emergency Regulation 21-E-XX (Concerning Colorado Standard Option Health Benefit Plan) and DRAFT Proposed New Regulation 4-2-XX (Concerning Network Adequacy Standards and Reporting Requirements for Colorado Option Standardized Health Benefit Plans)

Dear Commissioner Conway:

We appreciate the opportunity to comment on the draft regulations concerning Colorado's standard plan design and network adequacy standards. Our organizations represent millions of patients and consumers who face serious, acute, and chronic health conditions. We have a unique perspective on what individuals and families need to prevent disease, cure illness, and manage chronic health conditions. The diversity of our organizations and the populations we serve enable us to draw upon a wealth of knowledge and expertise that is an invaluable resource as we work to find solutions to expand access to high-quality coverage.

We submitted a comment letter last month on the preview version of the draft standard plan regulation, in hopes of prompting improvements in the draft plan now before us. Unfortunately, the challenges we identified still need to be addressed if the Colorado Option is going to deliver comprehensive value to our patient communities.

Our previous letter also included comments on network adequacy and data collection standards. We wish to make formal comment on that draft as well to inform your work.

DRAFT Preliminary Emergency Regulation 21-E-XX (Concerning Colorado Standard Option Health Benefit Plan)

Ensure that the out-of-pocket cost for any one prescription is manageable

We appreciate your commitment to excluding coinsurance from the draft plan's drug benefit structure, consistent with state insurance regulation 4-2-58. With that said, we are concerned that the highest copay amounts for the draft standard plans sometimes exceed the copay amounts for copay-only-compliant plans currently sold on the Colorado market. We encourage the department to explore lower copay amounts or other coverage mechanisms, such as the pre- and post-deductible coverage-cap approach introduced to New Jersey markets in 2021¹, to improve consumer access to medications.

Prescription medications, particularly those in specialty categories, are critical to the treatment of life-threatening diseases and conditions. When cost-sharing becomes a barrier to access, patients do not use their medications appropriately, skipping doses to save money or abandoning a treatment

altogether. In a survey done of people with employer-sponsored insurance, approximately half of respondents reported skipping or postponing care or prescription drugs due to cost.ⁱⁱ A cancer-specific study from 2011 found that high cost-sharing was associated with higher prescription abandonment rates.ⁱⁱⁱ

Ensure deductibles do not reduce access to care

The deductibles for the draft standard plans are also concerning to us, especially in comparison to their 2021 ACA individual market counterparts. Numerous studies have demonstrated that higher deductibles cause consumers to delay or avoid necessary care – including early screenings.^{iv,v,vi,vii} We encourage your team to push for additional reductions in deductible amounts to help consumers manage the costs of their care as fully as possible.

DRAFT Proposed New Regulation 4-2-XX (Concerning Network Adequacy Standards and Reporting Requirements for Colorado Option Standardized Health Benefit Plans)

Improve network adequacy to protect cancer patients' access to care

As you know, the benefits guaranteed to consumers through their health plans are essentially unusable if in-network providers are not available to deliver the necessary care at the right time. For example, a recently published report on access to out-of-network subspecialty cancer care in ACA marketplace plans found that while patients are often able to receive out-of-network care at in-network prices, the complex and time-intensive effort needed to make this happen often includes claims denials, difficult to navigate appeals processes, and harmful delays in treatment. This situation occurs in part because of insurers' reliance on narrow networks to control costs. One of the troubling side-effects of narrow networks is reduced patient access to specialty care at cancer centers, which can lead to higher overall costs of care over time.^{viii}

The report identified seven opportunities for state lawmakers and regulators to reduce the frequency and impact of narrow network policies. Many of these recommendations are within the scope of the standard plan development process, and we would encourage your team to review the report's findings to improve network adequacy for our patients and other Coloradans who may wish to purchase a standard plan.

Improve network standards and promote nondiscrimination standards to advance health equity

We applaud your team's efforts to improve health equity through the ACA marketplace as part of implementing the Colorado Option. We are grateful to see DOI take steps to:

- Hold insurers accountable to network adequacy standards that reduce disparities in access to care for underserved populations
- Ensure adequate access to translation services in coverage-related settings
- Expand non-discrimination compliance, including stronger data collection to help with compliance evaluation^{ix}

That said, we have concerns that setting a voluntary standard for provider data collection may reduce the quality of the data collected and thus limit the public's ability to evaluate the health equity impact

of the Colorado Option. We encourage your department to set a higher standard and require data collection to promote the highest possible data value.

Conclusion

We greatly appreciate DOI's work to promote health equity and to create standard plans that will provide Coloradans with more options for affordable, quality health coverage that works for them. Further action is needed to improve the utility of these plans for people living with chronic and life-threatening diseases, and we hope our comments will result in rule changes that reduce the challenges our constituents face in accessing care.

If you have questions or would like additional information, please contact Dana Bacon at dana.bacon@lls.org or 612.308.0479.

Sincerely,

American Cancer Society Cancer Action Network
American Lung Association
Arthritis Foundation
Chronic Care Collaborative
Epilepsy Foundation of Colorado & Wyoming
Hemophilia Federation of America
The Leukemia & Lymphoma Society
National Multiple Sclerosis Society
National Organization for Rare Disorders

ⁱ See New Jersey A2431, 2018-19 session pamphlet law: https://www.njleg.state.nj.us/2018/Bills/PL19/472_.HTM

ⁱⁱ Hamel, L., Munana, C. & Brodie, M. (May 2, 2019). Kaiser Family Foundation/LA Times Survey Of Adults With Employer-Sponsored Insurance. *Kaiser Family Foundation*. <https://www.kff.org/report-section/kaiser-family-foundation-la-times-survey-of-adults-with-employer-sponsored-insurance-section-2-affordability-of-health-care-and-insurance/>

ⁱⁱⁱ Streeter, S.B., Schwartzberg, L., Husain, N., Johnsrud, M. (May 1, 2011.) Patient and Plan Characteristics Affecting Abandonment of Oral Oncolytic Prescriptions. *Journal of Oncology Practice*. <https://ascopubs.org/doi/full/10.1200/jop.2011.000316>

^{iv} Zheng, Zhiyuan, et al. (August 8, 2019) High-Deductible Health Plans and Cancer Survivorship: What Is the Association With Access to Care and Hospital Emergency Department Use? *An American Society of Clinical Oncology Journal*. <https://ascopubs.org/doi/pdf/10.1200/JOP.18.00699>

^v Wharam, J. Frank, et al. (November 20, 2018) High-Deductible Insurance and Delay in Care for the Macrovascular Complications of Diabetes. *Annals of Internal Medicine*. <https://www.acpjournals.org/doi/10.7326/M17-3365>

^{vi} Loehrer, Andrew P. et al. (September 2021) Association of Cost Sharing With Delayed and Complicated Presentation of Acute Appendicitis or Diverticulitis. *Jama Health Forum*. <https://jamanetwork.com/journals/jama-health-forum/fullarticle/2783875>

^{vii} Wharam, J. Frank, et al. (March 2019) Vulnerable And Less Vulnerable Women In High-Deductible Health Plans Experienced Delayed Breast Cancer Care. *Health Affairs*. <https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.2018.05026>

^{viii} The Leukemia & Lymphoma Society and Manatt Health (September 2021). Accessing Out-of-Network Subspecialty Cancer Care in Marketplace Plans: Key Findings From a Scan of Four States. <https://www.lls.org/sites/default/files/2021-09/Network-Adequacy-September-2021-Final.pdf>

^{ix} Keith, K. (August 10, 2021). How Insurers Can Advance Health Equity Under the Affordable Care Act. *Commonwealth Fund*. <https://www.commonwealthfund.org/blog/2021/how-insurers-can-advance-health-equity-under-affordable-care-act>