

DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Proposed New Regulation 4-2-30

CONCERNING THE RULES FOR COMPLYING WITH MANDATED COVERAGE OF HEARING AIDS AND PROSTHETICS

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Section 1 Authority

This regulation is being promulgated pursuant to the authority granted to the Commissioner of Insurance in §10-1-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to provide health carriers the guidance necessary to implement Senate Bill 57 enacted in 2008 by the Colorado General Assembly and effective on January 1, 2009. In addition, it is to clarify the coverage mandated for prosthetics by §10-16-104(14), C.R.S.

Section 3 Applicability

This regulation applies to all individual and group health benefit plans issued or renewed on or after January 1, 2009 by entities subject to Part 2, Part 3 and Part 4 of Article 16 of Title 10 of the Colorado Revised Statutes.

Section 4 Definitions

- A. "Carrier" shall have the same meaning as set forth in §10-16-102(8), C.R.S.
- B. "Health benefit plan" shall have the same meaning as set forth in §10-16-102(21), C.R.S.
- C. "Hearing aid" shall have the same meaning as set forth in §10-16-102(24.7), C.R.S.

- D. "Limited benefit health insurance" means a health policy, contract or certificate offered or marketed on an individual or group basis as supplemental health insurance that pays specified amounts according to a schedule of benefits to defray the costs of care, services, deductibles, copayments or coinsurance amounts not covered by a health benefit plan. "Limited benefit health insurance" does not include short-term limited duration health insurance policies, contracts or certificates; high deductible plans; or catastrophic health policies, contracts or certificates. Such non-supplemental plans are included under the term "health benefit plan".
- E. "Minor child" shall have the same meaning as set forth in §10-16-102(27.3), C.R.S.

Section 5 Rules

- A. Hearing aids.
1. For the purposes of §10-16-104(19), C.R.S., hearing aids do not meet the traditional definition of durable medical equipment; therefore, any benefits paid for a minor child's hearing aid(s) in accordance with the coverage mandated by Colorado law shall not be used to exhaust a health benefit plan's annual or lifetime durable medical equipment maximum, if any.
 2. The mandated coverage of hearing aids for a minor child shall be provided subject to the same annual deductible and/or copayment/coinsurance levels established for other covered benefits. Benefits shall be determined by where the hearing aid is accessed (i.e. an office visit copay will apply if the hearing aid is provided as part of an office visit). These benefits are subject to the policy's general annual and/or lifetime maximum benefit amounts. Hearing aids are subject to utilization review as provided in §§10-16-112, 10-16-113, and 10-16-113.5, C.R.S.
 3. The coverage includes the initial assessment, fitting, adjustments, and the required auditory training. Initial hearing aids and replacement hearing aids are not covered more frequently than every five (5) years; however, a new hearing aid is covered when alterations to the existing hearing aid cannot adequately meet the needs of the child. This requirement shall apply to each hearing aid if the minor child has two hearing aids.
- B. For the purposes of §10-16-104(14), C.R.S., prosthetics do not meet the traditional definition of durable medical equipment; therefore, any benefits paid for prosthetics in accordance with the coverage mandated by Colorado law shall not be used to exhaust a health benefit plan's annual or lifetime durable medical equipment maximum, if any.

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, after proper notice and hearing, 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 fines, issuance of cease and desist orders, and/or suspensions or

revocation of certificates of authority. Among others, the penalties provided for in §10-3-1108, C.R.S., may be applied.

Section 8 Effective Date

This regulation shall become effective on February 1, 2009.

Section 9 History

Emergency regulation 08-E-11 was effective January 1, 2009.
New regulation is effective February 1, 2009.