



2020 Report to the Legislature

October 28, 2020

Colorado Reinsurance Program Update

Authorizing Legislation: HB19-1168

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Commissioner of Insurance

Executive Summary

The Colorado Reinsurance Program was established by Colorado House Bill 19-1168 to address rising health insurance premiums in our state. HB19-1168 created a two-year program, starting in 2020, and requires the Division of Insurance (Division) in the Department of Regulatory Agencies to submit annual program updates to the Colorado General Assembly. The Division is pleased to submit this update to the members of the applicable committees of reference in the Senate and House of Representatives as required by the “State Measurement for Accountable, Responsible, and Transparent (SMART) Government Act.”

The Reinsurance Program was highly successful in its first year (2020), reducing premiums by twenty percent on average statewide for Coloradans who purchase insurance on the individual market. Approximately 150,000 Coloradans saw their premiums decrease from 2019 to 2020 as a result of reinsurance. In the second year of the program, the Division estimates that the premium savings from the program will be nearly 21% on average throughout the State.

Senate Bill 20-215, enacted in Summer 2020, allows the state to extend the Reinsurance Program for an additional five years, through 2026. The Division plans to submit a Section 1332 State Innovation Waiver extension application to the federal Centers for Medicare and Medicaid Services by May 2021 to request continued federal funding for the Reinsurance Program through 2026.

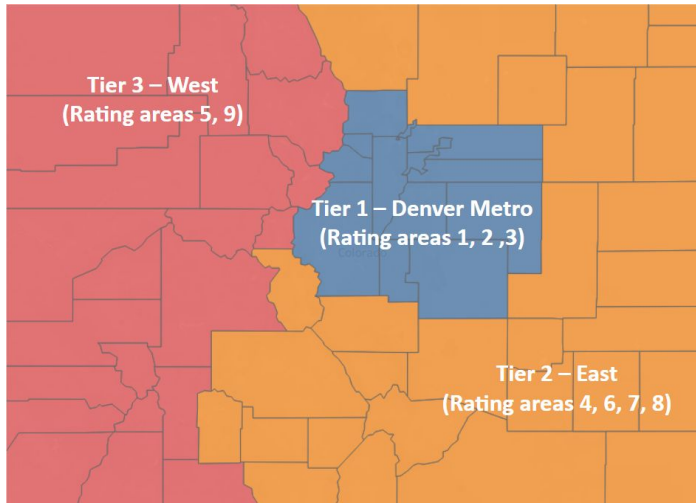
Reinsurance Program Overview

Colorado’s Reinsurance Program is designed to reduce individual market premiums statewide, and to reduce premiums the most in areas of the state that historically have had the highest rates. The program achieves these region-specific savings goals using a tiered payment parameter structure - paying consumer claims more in higher cost areas, in order to reduce premiums more in those areas. Table 1 shows the average premium savings in the state’s three reinsurance geographic tiers in 2020 and 2021.



Table 1: Premium Savings in 2020 and 2021¹

	Tier 1	Tier 2	Tier 3
	Areas 1, 2, & 3 (Denver Metro)	Areas 4, 6, 7, & 8 (East)	Areas 5 & 9 (West)
<i>Claims Cost Reduction Targets²</i>	15-20%	20-25%	30-35%
Year One (2020) Premium Savings	18.0%	23.5%	29.5%
Year Two (2021) Premium Savings	17.0%	22.9%	36.9%



In addition to reducing premiums, reinsurance also brings stability to Colorado's insurance markets. All health insurance carriers remained in the individual market from 2019 to 2021, and one new insurer (Oscar Health) entered the market in 2020. The number of plans offered across the state in the individual market also increased, from 252 in 2019 to 326 in 2021, providing Colorado consumers with more choices, and a strong and competitive insurance market.

Finally, the rate increase in the small group market for 2021 is the smallest it's been in the previous three years.

The Colorado Reinsurance Program operates in partnership with the federal government, utilizing a State Innovation Waiver under Section 1332 of the Patient Protection and Affordable Care Act (ACA). The Department of Health & Human Services and the Department of the

¹ Premium savings in the Reinsurance Program's first year were calculated as the reduction in premiums due to the introduction of reinsurance. Premium savings in years two and beyond are calculated as the differential between a given year's premium rates with reinsurance and rates without reinsurance (i.e., how much higher rates would be that year without reinsurance).

² The reinsurance statute sets goals related to claims cost reduction, §10-16-1105(2). Claims cost reduction is not synonymous with premium impact or savings. Claims cost reduction targets only include claims costs and not carrier administrative costs. Since premium impact also takes into account these other carrier costs, premium savings may be slightly less than claims cost reduction.



Treasury approved Colorado's Section 1332 waiver request on July 31, 2019, allowing Colorado to leverage federal funds to partly finance the Reinsurance Program. The federal Centers for Medicare and Medicaid Services (CMS) also provides technical assistance, programmatic support, and use of federal resources and data for reinsurance payment calculations.

The Colorado Division of Insurance administers the Reinsurance Program and has fully integrated it into regular Division operations. The Division hired a Reinsurance Program Director in Fall 2019, and has worked closely with the actuarial team and contractor staff to incorporate reinsurance into the Division's annual rate review process.

The Reinsurance Program operates on a calendar year and is seamless for consumers and health care providers. Consumers pay premium prices monthly, and providers submit claims to insurance carriers as they normally would. After the calendar year ends and all claims have been submitted, reinsurance payment amounts are calculated for each individual market carrier, based on the program's payment parameters. As required by HB19-1168, the Division will notify carriers of their reinsurance payment amounts by June 30 of the year following the applicable benefit year (e.g., June 30, 2021 for the 2020 program year) and disburse payments by August 15 of that year.

In Summer 2020, the Colorado General Assembly passed, and Governor Jared Polis signed Senate Bill 20-215, establishing the Colorado Health Insurance Affordability Enterprise. SB20-215 generates funding to make health insurance coverage more affordable for Coloradans, and it allows the state to apply for a five-year extension of our federal Section 1332 waiver. The bill also brought additional financial stability to a key state initiative.

Reinsurance Program Funding

The Reinsurance Program is funded by a combination of federal and state sources. The program's 2020 budget is \$250 million, approximately two-thirds of which comes from federal funds. Federal funding comes from savings to the federal government from reduced ACA subsidy payments due to lower individual market premiums. These savings are then passed through to the state to partially fund the Reinsurance Program. Without Colorado's 1332 State Innovation Waiver and Reinsurance Program, the state would not have access to these "pass-through" savings and they would remain with the U.S. Treasury. Colorado's federal pass-through funding amount for 2020 is \$169.4 million.

Originally, under HB19-1168, state funding sources for the Reinsurance Program were the state General Fund and a special fee on hospitals. SB20-215 changed the funding source to a fee through the new Health Insurance Affordability Enterprise. The fee will provide an amount necessary to fund the reinsurance payment parameters each year. The Health Insurance Affordability Enterprise eliminates General Fund spending for the Reinsurance Program, saving the state budget approximately \$75 million.

Regulatory Updates

The Division has issued the following rules and bulletins to fully operationalize the Reinsurance Program and meet the statutory requirements in HB19-1168:

- Payment Parameter Rules (3/15/19, 3/15/20)
The Division publishes the reinsurance payment parameters by March 15 of the year prior to the benefit year for each reinsurance program year. The Division published the 2020 payment parameters in March 2019 and the 2021 parameters in March 2020. An update to the 2021 payment parameters was published in June 2020, to reflect changes in health care utilization and expenditures resulting from the COVID-19 pandemic.
- Hospital Fee Rule (12/25/19) - Repealed 10/1/20
Prior to the passage of SB20-215, the Division adopted a rule regarding hospital special fee payments under HB19-1168. This rule has since been repealed, as the hospital fee payments under HB19-1168 have been replaced by hospital fee payments under SB20-215.
- Carrier and Hospital Reporting Bulletin (4/30/20)
This bulletin informed carriers and hospitals that they are not required to report data to the Division for reinsurance payment calculation or hospital fee calculation purposes. The Division has instead established agreements with CMS and the Colorado Department of Health Care Policy and Financing (HCPF), respectively, to perform these calculations, using claims data and hospital revenue data. This programmatic update is expected to streamline reporting processes and reduce administrative burden on carriers, hospitals, and the Division.
- Care Management Protocol Rule (8/15/20)
HB19-1168 requires all carriers participating in Colorado's Reinsurance Program to implement care management protocols to promote more cost-effective health care and to restrain growth in federal and state health care spending commitments. The Division adopted the Reinsurance Care Management Protocol rule, requiring carriers to complete a Reinsurance Care Management Protocol assessment as part of their annual rate filings. This document provides details regarding carriers' care management and cost containment strategies for their highest cost members.
- Reinsurance Payment Process Rule (forthcoming)
The Division will notice and adopt a rule in 2021 that provides details regarding the reinsurance payment disbursement process to carriers. The first reinsurance payments to carriers will be made in August 2021 for the 2020 program year.

Stakeholder Engagement

Starting in September 2020, the Division began hosting monthly public meetings to provide updates on the Colorado Reinsurance Program. All meetings are virtual until further notice, are open to the public, and include dedicated time for public comments. Meetings cover program updates and other reinsurance topic areas as specified. Members of the public who wish to attend may register for upcoming reinsurance meetings on the Division's Reinsurance webpage.

The Division also hosted a Reinsurance Program Public Forum on June 30, 2020. The event was held virtually, and seventy-nine members of the public attended, representing commercial payers, health care providers, state government agencies, the Colorado health insurance exchange, health care purchasing alliances, consumer advocate groups, consultants, academia, and other stakeholder groups. The Reinsurance Program Director presented slides sharing a program overview, regulatory updates, and future program plans. Attendees shared positive feedback about the Reinsurance Program during a public comment period.

Subsidized Population Study

House Bill 19-1168 instructs the Commissioner of Insurance to evaluate the effect of the Reinsurance Program on access to affordable, high-value health insurance for consumers who are eligible for premium tax credit subsidies and cost sharing reductions, and minimize any potential negative effects on those consumers. The Division held a meeting in July with representatives from the consumer advocate community to discuss the subsidized population study and gather feedback from stakeholder groups. HB19-1168 requires the Division to produce this report by March 31, 2022. However, recognizing the importance and urgency of this issue, the Division is expediting this report and plans to have it available in the new year.

1332 Waiver Extension

The Division has been in ongoing conversations with CMS regarding the extension of our Section 1332 waiver to fund the Reinsurance Program for an additional five years, as authorized by SB20-215. The Division will submit a Letter of Intent to CMS by December 31, 2021 notifying the federal government of the state's plans to apply for a 1332 waiver extension through 2026. The Division will submit the full 1332 waiver extension application to CMS by May 31, 2021, and should receive a response from CMS within ninety days of submission.

For questions regarding the information in this report, or other questions or comments about the Colorado Reinsurance Program, please contact me at michael.conway@state.co.us.

Respectfully,

Michael Conway
Commissioner of Insurance