



COLORADO'S HEALTH INSURANCE MARKET

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Health insurance is a method of paying for health care services that spreads the risk and costs across a group of covered persons. In exchange for premiums and other cost-sharing mechanisms, such as deductibles and co-payments, health insurance companies pay for the costs of covered services. Health insurance carriers set premiums, deductibles, and co-payments at a level that covers the estimated health care costs incurred by all members of the group. This *issue brief* provides an overview of the private health insurance market in Colorado and federal and state health insurance regulations.

Health Insurance Markets

Health insurance plans in Colorado can be purchased in the individual, small employer group, large employer group, and self-funded markets. These health insurance markets, and options for obtaining health insurance, are described below.

Individual market. The individual market includes plans offered to individuals and families who are not purchasing health insurance through an employer or other group. In the individual market, health plans are fully insured, which means that the health insurer assumes the risk for paying health benefit claims generated by all covered persons. Individuals may choose to purchase health insurance directly from an insurer, through an insurance broker, or through [Connect for Health Colorado](#), the state's health insurance exchange. Through Connect for

Health Colorado, consumers in the individual markets can compare health plans and determine eligibility for federal tax subsidies for the purchase of health insurance or for other public health programs.

Small employer group market. This market includes fully insured health plans offered by employers that have no more than 100 employees. The health insurer bears the risk for health benefit claims under these plans. In the small employer group market, the employer typically contracts with one or more health insurance companies to provide health insurance plans to employees, who may choose among the available choices offered through the employer. Small employers often arrange for health coverage for their employees using an insurance broker, but may also purchase directly from an insurer or through Connect for Health Colorado via the Small Business Health Options Program (SHOP).

Large employer group market. This market includes fully insured plans offered by employers with more than 100 employees. The health insurer assumes the risk for health benefit claims generated by the members of the employer group. Large employers typically arrange for health insurance by using an insurance broker to offer employees a selection of health plans.

Self-funded market. Self-funded health plans are typically offered by large employers, but can be offered by employers of any size. The employer sets a pool of funds in reserve and

assumes the risk for health benefit claims. Benefits and claims are administered by either a third-party administrator or insurance company that has contracted with the employer. Employers who use self-funded health plans often purchase stop-loss insurance, which is a separate insurance policy that limits the business' overall liability if employee health costs exceed a certain amount. Self-funded plans are subject to federal law and regulations under the Employee Retirement Income Security Act (ERISA) of 1974, rather than state law.

Federal Requirements under PPACA

The federal Patient Protection and Affordable Care Act (PPACA) made numerous changes to how the insurance market works in Colorado and nationwide. Several key changes under PPACA, and how they apply to the different types of health insurance, are discussed below.

Guaranteed issue. For fully insured plans, PPACA requires health insurers to offer coverage to any individual or group that applies, and to renew coverage at the option of the plan sponsor or covered individual. Issuance of insurance may be limited by insurers to a set open enrollment period each year and special enrollment periods in the event of life change events such as a change in household size or residence, and the loss of prior insurance coverage or eligibility for public health program coverage. Prior to PPACA, ERISA required that all employees in a self-funded group be allowed to participate in the employer's health plan.

Preexisting conditions. Under PPACA, health insurers are prohibited from applying coverage limitations for preexisting conditions. Establishment of lifetime or annual limits on most benefits is also prohibited.

Rating regulations. Under PPACA, health insurers in the individual and small group markets must look at the whole population to be insured when setting premiums, and they can only use limited information about individuals to adjust the premiums of specific policy holders. This method of setting premiums, known as modified community rating, allows for individual premiums to vary only based on family size, geographic area, age, and tobacco use. Health

insurers in the large group market may take into account additional information such as the business's industry classification and claims history when setting premiums for large employer groups.

State Regulation of Health Insurance

In Colorado, the [Division of Insurance](#) the Department of Regulatory Agencies regulates all types of insurance, including health insurance. The four primary responsibilities of the Division of Insurance are:

- protecting consumers;
- ensuring financial solvency of insurers;
- regulating the market to ensure fair and reasonable insurance prices, products, and trade practices; and
- regulating the rates set by insurers to ensure premium rates are not excessive, inadequate, or unfairly discriminatory.

Authority. The Division of Insurance regulates all fully insured health plans offered in Colorado, including in the individual, small employer group, and large employer group markets. However, it does not have jurisdiction over self-funded health plans, which are subject to federal ERISA law and regulations, rather than Colorado law. To determine whether a health insurance plan is regulated by the Colorado Division of Insurance, a consumer may check his or her insurance card. All Colorado-regulated plans have "CO-DOI" printed on the insurance card.

Rate and cost reviews. Under PPACA, the Colorado Division of Insurance must conduct an annual review of insurance premiums to determine if any rate increases requested are reasonable. Further, health insurers are required to report information to the Colorado Division of Insurance on how premiums are spent. Under PPACA, health insurers are limited in the percentage of premiums that can go toward administrative and non-medical expenses. Specifically, insurers can only spend up to 15 percent in the large group market or up to 20 percent in small group and individual markets on non-health benefit-related expenses. If they exceed these thresholds, insurers must issue rebates to customers.