

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 10-0406.02 Christy Chase

HOUSE BILL 10-1234

HOUSE SPONSORSHIP

Primavera,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE FAIR SETTLEMENT OF CLAIMS FOR BENEFITS UNDER**
102 **AN INSURANCE POLICY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Current law authorizes double benefits, attorney fees, and costs to a first-party claimant whose claims for benefits under an insurance policy have been delayed or denied without a reasonable basis for that action. The bill establishes a presumption of unreasonableness when an insurer either:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Denies or delays a claim without a reasonable basis for the action; or
- ! Denies or delays the payment of a claim for medical benefits or a request for authorization for medical services by a first- or third-party claimant; the decision to delay or deny payment of the medical claim relates to medical necessity, appropriateness, or reasonableness; and the decision is made by a person who is not licensed in good standing in Colorado and in active clinical practice in the same field or specialty area as the field or specialty area to which the medical claim or requested medical service relates.

The bill extends the remedies available under current law to third-party claimants who assert a claim for medical benefits or request for authorization for medical services against an insured under a liability policy when the claim is denied or delayed as described in the second bullet, above.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 10-3-1115 (1) (b) and (2), Colorado Revised
 3 Statutes, are amended to read:

4 **10-3-1115. Improper denial of claims - prohibited - definitions**
 5 **- severability.** (1) (b) For the purposes of this section and section
 6 10-3-1116:

7 (I) "CARRIER" SHALL HAVE THE SAME MEANING AS SET FORTH IN
 8 SECTION 10-16-102.

9 (⊕) (II) "First-party claimant" means an individual, corporation,
 10 association, partnership, or other legal entity asserting an entitlement to
 11 benefits owed directly to or on behalf of an insured under an insurance
 12 policy. "First-party claimant" includes a public entity that has paid a
 13 claim for benefits due to an insurer's unreasonable delay or denial of the
 14 claim.

15 (⊕) (III) "First-party claimant" does not include:

16 (A) A nonparticipating provider performing services; or

1 (B) A person asserting a claim against an insured under a liability
2 policy.

3 (IV) "HEALTH COVERAGE PLAN" SHALL HAVE THE SAME MEANING
4 AS SET FORTH IN SECTION 10-16-102.

5 (2) (a) Notwithstanding section 10-3-1113 (3), for the purposes of
6 an action brought pursuant to this section and section 10-3-1116, an
7 insurer's delay or denial ~~was~~ IS unreasonable if the insurer delayed or
8 denied authorizing payment of a covered benefit without a reasonable
9 basis for that action.

10 (b) NOTWITHSTANDING SECTION 10-3-1113 (3), FOR PURPOSES OF
11 AN ACTION BROUGHT PURSUANT TO THIS SECTION AND SECTION 10-3-1116,
12 A CARRIER'S DELAY OR DENIAL OF THE PAYMENT OF A CLAIM FOR MEDICAL
13 BENEFITS OR OF A REQUEST FOR AUTHORIZATION FOR MEDICAL SERVICES
14 UNDER A HEALTH COVERAGE PLAN IS UNREASONABLE IF THE DECISION TO
15 DELAY OR DENY IS BASED ON THE MEDICAL APPROPRIATENESS, NECESSITY,
16 OR REASONABLENESS OF THE MEDICAL CLAIM AND IS NOT:

17 (I) (A) MADE BY A PERSON LICENSED IN GOOD STANDING IN ANY
18 STATE WHO IS ENGAGED IN ACTIVE CLINICAL PRACTICE WITH EXPERTISE IN
19 THE MEDICAL ISSUE INVOLVED IN THE CLAIM OR REQUESTED MEDICAL
20 SERVICE; OR

21 (B) MADE BY A PERSON LICENSED IN GOOD STANDING IN ANY
22 STATE WHO IS A PHYSICIAN EMPLOYED TO TEACH AT AN ACCREDITED
23 MEDICAL SCHOOL IN THE SAME OR SIMILAR FIELD OR SPECIALTY AS THE
24 MEDICAL ISSUE INVOLVED IN THE CLAIM OR REQUESTED MEDICAL SERVICE;

25 (II) SIGNED BY THE PERSON MAKING THE DECISION, INCLUDING
26 INDICATION OF ANY BOARD CERTIFICATIONS, SPECIALTIES, OR AREAS OF
27 EXPERTISE HELD BY THE PERSON; AND

1 (III) SIGNED BY THE MEDICAL DIRECTOR FOR THE HEALTH
2 COVERAGE PLAN, WHO IS LICENSED IN GOOD STANDING IN COLORADO.

3 **SECTION 2. Act subject to petition - effective date.** This act
4 shall take effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly (August
6 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
7 referendum petition is filed pursuant to section 1 (3) of article V of the
8 state constitution against this act or an item, section, or part of this act
9 within such period, then the act, item, section, or part shall not take effect
10 unless approved by the people at the general election to be held in
11 November 2010 and shall take effect on the date of the official
12 declaration of the vote thereon by the governor.