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AN ACT

SENATE BILL 21-126

BY SENATOR(S) Fields, Ginal, Moreno, Rodriguez;

also REPRESENTATIVE(S) Michaelson Jenet and Soper, Bernett, Bird, Caraveo, Duran, Hooton, Lontine, McCormick, Mullica, Ricks.

CONCERNING CREDENTIALING OF PHYSICIANS AS PARTICIPATING PHYSICIANS IN HEALTH COVERAGE PLAN PROVIDER NETWORKS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **add** 10-16-705.7 as follows:

10-16-705.7. Timely credentialing of physicians by carriers - notice of receipt required - notice of incomplete applications required - delegated credentialing agreements - discrepancies - denials of claims prohibited - disclosures - recredentialing - enforcement - rules - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "APPLICANT" MEANS A PHYSICIAN WHO SUBMITS AN APPLICATION TO A CARRIER TO BECOME A PARTICIPATING PHYSICIAN IN THE CARRIER'S NETWORK.

(b) "APPLICATION" MEANS AN APPLICANT'S APPLICATION TO BECOME CREDENTIALLED BY A CARRIER AS A PARTICIPATING PHYSICIAN IN AT LEAST ONE OF THE CARRIER'S PROVIDER NETWORKS.

(c) "CARRIER CREDENTIALING ALLIANCE" MEANS AN ORGANIZATION OF CARRIERS THAT SHARE ACTIVITIES OR RESPONSIBILITIES PERTAINING TO CREDENTIALING.

(d) "CREDENTIALING" OR "CREDENTIAL" MEANS THE PROCESS BY WHICH A CARRIER OR ITS DESIGNEE COLLECTS INFORMATION CONCERNING AN APPLICANT; ASSESSES WHETHER THE APPLICANT SATISFIES THE RELEVANT LICENSING, EDUCATION, AND TRAINING REQUIREMENTS TO BECOME A PARTICIPATING PHYSICIAN; VERIFIES THE ASSESSMENT; AND APPROVES OR DISAPPROVES THE APPLICANT'S APPLICATION.

(e) "DELEGATED CREDENTIALING AGREEMENT" MEANS AN AGREEMENT BETWEEN A CARRIER AND A DESIGNEE BY WHICH THE CARRIER DELEGATES TO THE DESIGNEE ACTIVITIES OR RESPONSIBILITIES PERTAINING TO CREDENTIALING.

(f) "DESIGNEE" MEANS A THIRD PARTY TO WHICH A CARRIER DELEGATES ACTIVITIES OR RESPONSIBILITIES PERTAINING TO CREDENTIALING.

(g) "HEALTH CARE FACILITY" MEANS A FACILITY LICENSED OR CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-1.5-103.

(h) "PARTICIPATING PHYSICIAN" MEANS A PHYSICIAN WHO IS CREDENTIALLED BY A CARRIER OR ITS DESIGNEE TO PROVIDE HEALTH CARE ITEMS OR SERVICES TO COVERED PERSONS IN AT LEAST ONE OF THE CARRIER'S PROVIDER NETWORKS.

(i) "PHYSICIAN" MEANS A PHYSICIAN WHO IS LICENSED PURSUANT TO ARTICLE 240 OF TITLE 12.

(j) "RECREREDENTIALING" OR "RECREREDENTIAL" MEANS THE PROCESS BY WHICH A CARRIER OR ITS DESIGNEE CONFIRMS THAT A PARTICIPATING PHYSICIAN IS IN GOOD STANDING AND CONTINUES TO SATISFY THE CARRIER'S REQUIREMENTS FOR PARTICIPATING PHYSICIANS.

(2) (a) WITHIN SEVEN CALENDAR DAYS AFTER A CARRIER RECEIVES AN APPLICATION, THE CARRIER SHALL PROVIDE THE APPLICANT A RECEIPT IN WRITTEN OR ELECTRONIC FORM.

(b) UPON RECEIVING AN APPLICATION, A CARRIER SHALL PROMPTLY DETERMINE WHETHER THE APPLICATION IS COMPLETE. IF THE CARRIER DETERMINES THAT THE APPLICATION IS INCOMPLETE, THE CARRIER SHALL NOTIFY THE APPLICANT IN WRITING OR BY ELECTRONIC MEANS THAT THE APPLICATION IS INCOMPLETE WITHIN TEN CALENDAR DAYS AFTER THE DATE THE CARRIER RECEIVED THE APPLICATION. THE NOTICE MUST DESCRIBE THE ITEMS THAT ARE REQUIRED TO COMPLETE THE APPLICATION.

(c) IF A CARRIER RECEIVES A COMPLETED APPLICATION BUT FAILS TO PROVIDE THE APPLICANT A RECEIPT IN WRITTEN OR ELECTRONIC FORM WITHIN SEVEN CALENDAR DAYS AFTER RECEIVING THE APPLICATION, AS REQUIRED BY SUBSECTION (2)(a) OF THIS SECTION, THE CARRIER SHALL CONSIDER THE APPLICANT A PARTICIPATING PHYSICIAN, EFFECTIVE NO LATER THAN FIFTY-THREE CALENDAR DAYS FOLLOWING THE CARRIER'S RECEIPT OF THE APPLICATION.

(3) (a) A CARRIER SHALL CONCLUDE THE PROCESS OF CREDENTIALING AN APPLICANT WITHIN SIXTY CALENDAR DAYS AFTER THE CARRIER RECEIVES THE APPLICANT'S COMPLETED APPLICATION.

(b) A CARRIER SHALL PROVIDE EACH APPLICANT WRITTEN OR ELECTRONIC NOTICE OF THE OUTCOME OF THE APPLICANT'S CREDENTIALING WITHIN TEN CALENDAR DAYS AFTER THE CONCLUSION OF THE CREDENTIALING PROCESS.

(c) AFTER CONCLUDING THE CREDENTIALING PROCESS FOR AN APPLICANT AND MAKING A DETERMINATION REGARDING THE APPLICANT'S APPLICATION, A CARRIER SHALL PROVIDE TO THE APPLICANT, AT THE APPLICANT'S REQUEST AND AS ALLOWED BY LAW, ALL NONPROPRIETARY INFORMATION PERTAINING TO THE APPLICATION AND TO THE FINAL DECISION REGARDING THE APPLICATION.

(4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION:

(a) A CARRIER THAT ENTERS INTO AND COMPLIES WITH THE REQUIREMENTS OF A DELEGATED CREDENTIALING AGREEMENT WITH A HEALTH CARE FACILITY, WHICH AGREEMENT IMPOSES EQUIVALENT OR HIGHER REQUIREMENTS THAN THOSE DESCRIBED IN THIS SECTION, IS DEEMED TO BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION WITH REGARD TO AN APPLICANT WHO WORKS FOR THAT FACILITY.

(b) A CARRIER THAT PARTICIPATES IN AND COMPLIES WITH THE REQUIREMENTS OF A CARRIER CREDENTIALING ALLIANCE THAT IMPOSES EQUIVALENT OR HIGHER REQUIREMENTS THAN THOSE DESCRIBED IN THIS SECTION IS DEEMED TO BE IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

(5) A CARRIER SHALL CORRECT DISCREPANCIES IN ITS PROVIDER OR NETWORK DIRECTORY WITHIN THIRTY CALENDAR DAYS AFTER RECEIVING A REPORT OF THE DISCREPANCY FROM A PARTICIPATING PHYSICIAN. A PARTICIPATING PHYSICIAN SHALL NOTIFY A CARRIER OF ANY CHANGE IN THE PHYSICIAN'S NAME, ADDRESS, TELEPHONE NUMBER, BUSINESS STRUCTURE, OR TAX IDENTIFICATION NUMBER WITHIN FIFTEEN BUSINESS DAYS AFTER MAKING THE CHANGE.

(6) A CARRIER MAY NOT DENY A CLAIM FOR A MEDICALLY NECESSARY COVERED SERVICE PROVIDED TO A COVERED PERSON IF THE SERVICE:

(a) IS A COVERED BENEFIT UNDER THE COVERED PERSON'S HEALTH COVERAGE PLAN; AND

(b) IS PROVIDED BY A PARTICIPATING PHYSICIAN WHO IS IN THE PROVIDER NETWORK FOR THE CARRIER'S HEALTH COVERAGE PLAN AND HAS CONCLUDED THE CARRIER'S CREDENTIALING PROCESS.

(7) A CARRIER SHALL MAKE THE FOLLOWING NONPROPRIETARY INFORMATION AVAILABLE TO ALL APPLICANTS AND SHALL POST THE INFORMATION ON ITS WEBSITE:

(a) THE CARRIER'S CREDENTIALING POLICIES AND PROCEDURES;

(b) A LIST OF THE INFORMATION REQUIRED TO BE INCLUDED IN AN APPLICATION;

(c) A CHECKLIST OF MATERIALS THAT MUST BE SUBMITTED IN THE CREDENTIALING PROCESS;

(d) DESIGNATED CONTACT INFORMATION, INCLUDING A DESIGNATED POINT OF CONTACT, AN E-MAIL ADDRESS, AND A TELEPHONE NUMBER, TO WHICH AN APPLICANT MAY ADDRESS ANY CREDENTIALING INQUIRIES; AND

(e) THE REQUIREMENTS DESCRIBED IN SUBSECTION (2) OF THIS SECTION AND THE AUTHORITY OF THE COMMISSIONER TO ENFORCE THE REQUIREMENTS AND IMPOSE PENALTIES FOR VIOLATIONS, AS DESCRIBED IN SUBSECTION (10) OF THIS SECTION.

(8) (a) A CARRIER OR ITS DESIGNEE MAY RECREDENTIAL A PARTICIPATING PHYSICIAN IF SUCH RECREDENTIALING IS:

(I) REQUIRED BY FEDERAL OR STATE LAW OR BY THE CARRIER'S ACCREDITATION STANDARDS; OR

(II) PERMITTED BY THE CARRIER'S CONTRACT WITH THE PARTICIPATING PHYSICIAN.

(b) A CARRIER SHALL NOT REQUIRE A PARTICIPATING PHYSICIAN TO SUBMIT AN APPLICATION OR PARTICIPATE IN A CONTRACTING PROCESS IN ORDER TO BE RECREDENTIALLED.

(c) NOTHING IN THIS SUBSECTION (8) AFFECTS THE CONTRACT TERMINATION RIGHTS OF A CARRIER OR A PARTICIPATING PHYSICIAN.

(9) EXCEPT AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION AND AS MAY BE PROVIDED IN A CONTRACT BETWEEN A CARRIER AND A PARTICIPATING PHYSICIAN, A CARRIER SHALL ALLOW A PARTICIPATING PHYSICIAN TO REMAIN CREDENTIALLED AND INCLUDE THE PARTICIPATING PHYSICIAN IN THE CARRIER'S HEALTH COVERAGE PLAN PROVIDER NETWORK UNLESS THE CARRIER DISCOVERS INFORMATION INDICATING THAT THE PARTICIPATING PHYSICIAN NO LONGER SATISFIES THE CARRIER'S GUIDELINES FOR PARTICIPATION, IN WHICH CASE THE CARRIER SHALL SATISFY THE REQUIREMENTS DESCRIBED IN SECTION 10-16-705 (5) BEFORE TERMINATING THE PARTICIPATING PHYSICIAN'S PARTICIPATION IN THE PROVIDER NETWORK.

(10) THE COMMISSIONER SHALL ENFORCE THIS SECTION AND MAY PROMULGATE SUCH RULES AS ARE NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION. UPON RECEIVING MORE THAN ONE COMPLAINT FROM AN APPLICANT OR A PARTICIPATING PHYSICIAN ALLEGING A VIOLATION OF THIS SECTION BY A CARRIER, THE COMMISSIONER SHALL INVESTIGATE THE COMPLAINTS. A CARRIER THAT FAILS TO COMPLY WITH THIS SECTION OR WITH ANY RULES ADOPTED PURSUANT TO THIS SECTION IS SUBJECT TO SUCH CIVIL PENALTIES AS THE COMMISSIONER MAY ORDER PURSUANT TO SECTION 10-1-310.

SECTION 2. Appropriation. (1) For the 2021-22 state fiscal year, \$52,505 is appropriated to the department of regulatory agencies. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$25,037 for use by the division of insurance for personal services, which amount is based on an assumption that the department will require an additional 0.4 FTE;

(b) \$6,200 for use by the division of insurance for operating expenses; and

(c) \$21,268 for the purchase of legal services.

(2) For the 2021-22 state fiscal year, \$21,268 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1)(c) of this section and is based on an assumption that the department of law will require an additional 0.1 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to applications to become a participating physician in a health coverage plan provider network that are submitted on or after the applicable effective date of this act.