



**COLORADO**

Department of  
Regulatory Agencies

Division of Insurance

February 22, 2021

Dana Bacon  
Regional Director, Government Affairs  
The Leukemia & Lymphoma Society  
Office of Public Policy  
10 G St. NE, Suite 400  
Washington, DC 20002

Dear Mr. Bacon:

Thank you for your inquiry regarding the impact of Colorado Division of Insurance (DOI) regulation entitled “Non-discriminatory cost-sharing and tiering requirements for prescription drugs” (4-2-58).

DOI promulgated this regulation to prevent individual and small group ACA plans from using formulary designs to discriminate against Coloradans with certain health conditions. An estimated 780,000 Colorado adults under 65 (22%) have preexisting conditions, and many of these individuals require expensive medications to treat their conditions. In 2015, DOI implemented the policies that are now required by regulation 4-2-58. Among its provisions, this regulation requires 25% of a carrier's plans to have a copay-only payment structure for all drug tiers. It also allows no more than 50% of drugs that treat a particular condition from being placed in the highest cost tier.

Because of this regulation, consumers are more protected and have better choices in health insurance plans. Consumers are able to choose the plan that best balances their health care needs and personal financial situation. Coloradans are buying copay-only plans offered at the bronze, silver, and gold metal tiers statewide. Prices of these plans remain competitive relative to their non-copay counterparts. The number of consumer complaints DOI has received about prescription copay-only plans is comparable to those about other products offered on the market.

We see no evidence that this regulation has had negative impacts on the Colorado health insurance market. Colorado's individual health insurance market is as strong as ever. We have fewer counties with only one carrier offering plans on our state-based marketplace than at any time in the last five years. Consumers shopping in both rural and urban areas



across our state have dozens of plans available from which to choose. With insurance rates now declining in Colorado, there is no evidence that the business operations and negotiating leverage of Colorado health insurers has been impacted. The availability of prescription copay-only plans appears to have had no impact on the availability or affordability of health insurance products being sold on the individual and small-group markets here in Colorado.

We are committed to continuing to improve this regulation. The Division recently released a revised version that clarifies and strengthens our existing approach. It is available on our website.

Thank you again for your inquiry. Please let us know if you have any further questions.

Sincerely,

*/s/ Kyle Brown /s/*

Kyle Brown  
Deputy Commissioner, Affordability Programs  
Colorado Division of Insurance

