

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-1

REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Rules
Section 6	Additional Rules for the Replacement of Health Benefit Plans
Section 7	Incorporation by Reference
Section 8	Severability
Section 9	Enforcement
Section 10	Effective Date
Section 11	History
Appendix A	Notice to Applicant Regarding Replacement of Accident and Sickness Insurance
Appendix B	Notice to Applicant Regarding Replacement of a Health Benefit Plan

Section 1 Authority

This amended regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-3-1110, and 10-16-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to reduce the opportunity for misrepresentation and other unfair practices and methods of competition in the business of insurance. The scope of this regulation includes persons covered by an individual health care coverage plan offered by a health maintenance organization and individual accident and sickness insurance policies or plans, who are considering replacement of their coverage.

Section 3 Applicability

This regulation shall apply to individual accident and sickness insurance policies and all service or indemnity contracts offered by entities subject to Part 2, Part 3 and Part 4 of Article 16 of Title 10, except conversion to an individual or family policy from a group, blanket or group type policy, or any other insurance that is covered by a separate state statute.

Section 4 Definitions

- A. "Accident and sickness insurance" means, for the purposes of this regulation, a policy, plan, contract, agreement, statement of coverage, rider or endorsement that provides accident or sickness benefits or medical, surgical or hospital benefits, whether on an indemnity, reimbursement, service or prepaid basis, except when issued in connection with another kind of insurance other than life and except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts. For the purposes of this regulation, accident and sickness insurance includes health coverage plans.

- B. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.
- C. "Direct response" means, for the purposes of this regulation, a solicitation through a sponsoring or endorsing entity or individually, solely through mail, telephone, the internet, or other mass communication media.
- D. "Health benefit plan" shall have the same meaning as found at § 10-16-102(32), C.R.S.
- E. "Health coverage plan" shall have the same meaning as found at § 10-16-102(34), C.R.S.

Section 5 Rules

A. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has an accident and sickness insurance policy or health coverage plan in force, or whether an accident and sickness insurance policy or health coverage plan is intended to replace or be in addition to any other accident and sickness insurance policy or health coverage plan presently in force. A supplementary application or other form to be signed by the applicant and producer containing such questions and statements may be used.

1. Statements

- a. You normally do not require more than one of the same type of policy.
- b. If you purchase this policy, you may want to evaluate your existing health insurance and decide if you need multiple coverages.
- c. You may be eligible for benefits under Medicaid or Medicare and may not need another health insurance policy. If you are eligible for Medicare, you may want to purchase a Medicare supplement insurance policy.
- d. If you are eligible for Medicare due to age or disability, counseling services are available in Colorado to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, Health First Colorado.

2. Questions

To the best of your knowledge:

- a. Do you have another health insurance policy or contract in force?
 - (1) If so, with which company?
 - (2) If so, do you intend to replace your current health insurance policy or contract with this policy?
- b. Do you have any other health insurance that provides benefits similar to this accident and sickness policy?
 - (1) If so, with which company?
 - (2) What kind of policy?
- c. Are you covered for medical assistance through the state Medicaid program, Health First Colorado:

- (1) As a Specified Low-Income Medicare Beneficiary (SLMB)?
 - (2) As a Qualified Medicare Beneficiary (QMB)?
 - (3) For other Medicaid medical benefits?
- B. Producers must list all other accident and sickness insurance policies or contracts they have sold to the applicant.
1. List policies and/or contracts sold which are still in force; and
 2. List policies and/or contracts sold in the past five (5) years which are no longer in force.
- C. In the case of a direct response carrier, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the carrier, shall be returned to the applicant by the carrier upon delivery of the policy.
- D. Delivery of Replacement Notice
1. Upon determining that a sale will involve replacement of an accident and sickness insurance policy or health coverage plan, a carrier, other than a direct response carrier, or its producer, shall furnish the applicant, prior to issuance or delivery of the accident and sickness insurance policy or health coverage plan, a notice regarding replacement of accident and sickness insurance. One (1) copy of such notice signed by the applicant and producer, except where the coverage is sold without a producer, shall be provided to the applicant and an additional signed copy shall be retained by the carrier.
 2. A direct response carrier shall deliver to the applicant, at the time of issuance of the policy, the appropriate notice, located in Appendix A or B of this regulation.
- E. The notices required by subsection 5.D. must be provided in the format prescribed and adopted by the Commissioner of Insurance and are provided in Appendices A and B of this regulation.
- F. Paragraph 1. of the notices provided in Appendices A and B, may be deleted by the carrier if the replacement does not involve the application of a new pre-existing condition limitation.
- G. Failure to comply with the requirements of this section 5 constitutes an unfair method of competition and an unfair or deceptive act or practice in the business of insurance which is prohibited under § 10-3-1104, C.R.S.

Section 6 Additional Rules for the Replacement of Health Benefit Plans

- A. Carriers are not required to provide the notice in Appendix B when an applicant is replacing his or her current individual health benefit plan with another individual health benefit plan during the annual open enrollment period or if the replacement is due to eligibility for a special enrollment due to one or more of the triggering events listed in Colorado Insurance Regulation 4-2-43.
- B. Carriers are required to provide the notice in Appendix B when an applicant is replacing his or her current individual health benefit plan with an accident and sickness insurance policy or health coverage plan which does not meet the definition of a health benefit plan.

Section 7 Incorporation by Reference

Colorado Insurance Regulation 4-2-43, 3 CCR 702-4 published by the Colorado Division of Insurance shall mean Colorado Insurance Regulation 4-2-43, 3 CCR 702-4 as published on the effective date of this regulation and does not include later amendments to, or editions of, Colorado Insurance Regulation 4-2-43, 3 CCR 702-4. Colorado Insurance Regulation 4-2-43, 3 CCR 702-4 may be examined during regular

business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202 or by visiting the Colorado Division of Insurance website at www.dora.colorado.gov/insurance. Certified copies of Colorado Insurance Regulation 4-2-43, 3 CCR 702-4 are available from the Division of Insurance for a fee.

Section 8 Severability

If any provision of this regulation or the application of it to any person or circumstances is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 9 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 10 Effective Date

This regulation is effective April 1, 2018.

Section 11 History

Originally issued as Regulation 74-2, effective March 15, 1974.
Amended December 22, 1975, effective January 1, 1976.
Amended effective January 14, 1977.
Renumbered on June 1, 1992.
Repealed and Repromulgated in full, effective February 1, 2001.
Amended Regulation 4-2-1, effective May 1, 2010.
Amended Regulation effective November 1, 2013.
Amended Regulation effective April 1, 2018.

Appendix A

**NOTICE TO APPLICANT
REGARDING REPLACEMENT OF
ACCIDENT AND SICKNESS INSURANCE**

**Bright Health Insurance Company
219 N 2nd St., Suite 401
Minneapolis, MN 55401**

According to your application, you intend to lapse or otherwise terminate your present policy and replace it with a policy to be issued by Bright Health Insurance Company.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find the purchase of this accident and sickness coverage is a wise decision, you should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY CARRIER OR PRODUCER:

I have reviewed your current health coverage. To the best of my knowledge, this accident and sickness policy will not duplicate your existing coverage because you intend to terminate your existing coverage. The replacement policy is being purchased for the following reason(s)(check one):

- _____ Additional benefits
- _____ No change in benefits, but lower premiums
- _____ Fewer benefits and lower premiums
- _____ Other. (Please specify.) _____

1. Health conditions which you may presently have (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in the denial or delay of a claim for benefits under the new policy, whereas a similar claim may have been payable under your present policy.
2. If you wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or contract is guaranteed issued this paragraph need not appear.]

Do not cancel your current policy until you have received your new policy and are sure that you want to keep it.

(Signature of Producer or Other Representative)

(Date)

(Applicant's Signature)

(Date)

Appendix B

**NOTICE TO APPLICANT
REGARDING REPLACEMENT OF A HEALTH BENEFIT PLAN**

**Bright Health Insurance Company
219 N 2nd St., Suite 401
Minneapolis, MN 55401**

According to your application, you intend to lapse or otherwise terminate your present policy and replace it with a policy to be issued by Bright Health Insurance Company.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. If, after due consideration, you find the purchase of this accident and sickness coverage is a wise decision, you should evaluate the need for other accident and sickness coverage you have that may duplicate this policy.

STATEMENT TO APPLICANT BY CARRIER OR PRODUCER:

I have reviewed your current accident and sickness insurance coverage, which provides comprehensive medical coverage. To the best of my knowledge, this accident and sickness policy will not duplicate your existing coverage because you intend to terminate your existing coverage. The replacement policy is being purchased for the following reason(s)(check one):

- _____ Additional benefits
- _____ No change in benefits, but lower premiums
- _____ Fewer benefits and lower premiums
- _____ Other. (Please specify.) _____

1. Health conditions which you may presently have (pre-existing conditions) may not be immediately or fully covered under the new policy. This could result in the denial or delay of a claim for benefits under the new policy, whereas a similar claim may have been payable under your present policy, which provides comprehensive coverage.
2. If you wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. [If the policy or contract is guaranteed issued this paragraph need not appear.]

Do not cancel your current policy until you have received your new policy and are sure that you want to keep it.

(Signature of Producer or Other Representative)

(Date)

(Applicant's Signature)

(Date)