

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

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/billssummaries>.)

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) and (2), Colorado Revised Statutes,
3 are amended to read:

4 **10-3-1115. Improper denial of claims - prohibited - definitions**
5 **- severability.** (1) (a) A person engaged in the business of insurance
6 shall not:

7 (I) Unreasonably delay or deny payment of a claim for benefits
8 owed to or on behalf of any first-party claimant; OR

9 (II) UNREASONABLY DELAY OR DENY THE PAYMENT OF A CLAIM OR
10 A REQUEST FOR AUTHORIZATION FOR MEDICAL SERVICES, UNDER THE
11 CIRCUMSTANCES DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (2) OF THIS
12 SECTION, TO OR ON BEHALF OF ANY THIRD-PARTY CLAIMANT.

13 (b) For the purposes of this section and section 10-3-1116:

14 (I) "First-party claimant" means an individual, corporation,
15 association, partnership, or other legal entity asserting an entitlement to
16 benefits owed directly to or on behalf of an insured under an insurance

1 policy. "First-party claimant" includes a public entity that has paid a
2 claim for benefits due to an insurer's unreasonable delay or denial of the
3 claim.

4 (II) "First-party claimant" does not include:

5 (A) A nonparticipating provider performing services; or

6 (B) A person asserting a claim against an insured under a liability
7 policy.

8 (III) "THIRD-PARTY CLAIMANT" MEANS A PERSON ASSERTING A
9 CLAIM FOR MEDICAL BENEFITS AGAINST AN INSURED UNDER A LIABILITY
10 POLICY.

11 (2) Notwithstanding section 10-3-1113 (3), for the purposes of an
12 action brought pursuant to this section and section 10-3-1116, an insurer's
13 delay or denial ~~was~~ IS PRESUMED unreasonable if:

14 (a) FOR A CLAIM SUBMITTED BY A FIRST-PARTY CLAIMANT, the
15 insurer delayed or denied authorizing payment of a covered benefit
16 without a reasonable basis for that action; OR

17 (b) THE DECISION TO DELAY OR DENY THE PAYMENT OF A CLAIM
18 FOR MEDICAL BENEFITS OR A REQUEST FOR AUTHORIZATION FOR MEDICAL
19 SERVICES BY A FIRST-PARTY OR THIRD-PARTY CLAIMANT, WHICH DECISION
20 IS BASED ON THE MEDICAL APPROPRIATENESS, NECESSITY, OR
21 REASONABLENESS OF THE MEDICAL CLAIM, IS MADE BY A PERSON WHO IS
22 NOT LICENSED IN GOOD STANDING IN COLORADO AND IN ACTIVE CLINICAL
23 PRACTICE IN THE SAME FIELD OF HEALING ARTS OR SPECIALTY AS THE
24 FIELD OR SPECIALTY INVOLVED IN THE CLAIM OR REQUESTED MEDICAL
25 SERVICE.

26 **SECTION 2.** 10-3-1116 (1), Colorado Revised Statutes, is
27 amended to read:

1 **10-3-1116. Remedies for unreasonable delay or denial of**
2 **benefits - required contract provision - frivolous actions -**
3 **severability.** (1) A first-party claimant OR THIRD-PARTY CLAIMANT, as
4 defined in section 10-3-1115, whose claim for payment of benefits has
5 been unreasonably delayed or denied may bring an action in a district
6 court to recover reasonable attorney fees and court costs and two times
7 the covered benefit.

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