



# Colorado Medical Society

*"Advocating excellence in the profession of medicine"*

P.O. Box 17550 • Denver, CO 80217-0550 • 720-859-1001 or 800-654-5653 • fax 720-859-7509

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May 1, 2014

The Honorable Marguerite Salazar  
Insurance Commissioner  
Division of Insurance  
1560 Broadway, Suite 850  
Denver, CO 80202

Subject: Proposed regulation 4-2-48, concerning grace periods for policyholders receiving advance tax payments

Dear Commissioner Salazar;

The Colorado Division of Insurance has the unique opportunity to provide additional clarity to the 90-day grace period that was not addressed in the Affordable Care Act (ACA). As you are probably aware, there has been concern in the provider community regarding patients receiving the advanced premium tax credits who fail to pay their premiums and fall into the grace period. If the carrier denies the claim(s) for services rendered in the second or third months of the grace period, this will create a financial burden on physicians and other health care providers, as well as be a disincentive for participating in the health care exchange in our state.

When a patient enters into the second and third month of the grace period, the ACA requires that the carrier notify the enrollee's physician(s) and other health care provider(s), but the notification requirement is vague and does not indicate when such notification must be made. Unless physicians and other providers are notified as soon as possible that an enrollee has entered into the second or third month of the grace period, physicians and health care providers cannot anticipate or mitigate the effect of claims denials and otherwise the financial aspects of their practices. For these reasons we are asking that you use your authority under CRS 10-1-109 and 10-16-140 to add the following (or similar) language under C. 4. of the proposed rule:

#### C. 4. (a) Notice Requirements

- (i) Timing of notice to physician or provider of Grace Period status.
  - (A) When a physician or other health care provider or a representative of the physician or other health care provider requests information from a carrier

regarding an Enrollee's eligibility, an Enrollee's coverage or health plan benefits, or the status of a claim or claims for services provided to an Enrollee, or reports a claim in a remittance advice, and the request for service is for a date within the second or third month of a grace period, the carrier shall clearly identify that the applicable Enrollee is in the Grace Period and provide additional information as required by this regulation.

- (B) The carrier must provide this notice through the same medium through which the physician, other health care provider or representative sought information from the carrier concerning the Enrollee's eligibility, coverage or health plan benefits, or related claims status, or normally receives claim remittance advice information.
  - (C) The information provided about the Enrollee's Grace Period status shall be binding on the carrier.
- (ii) Specific notice requirements.
- (A) If the carrier informs the physician or other health care provider or a representative of the physician or other health care provider that the Enrollee is eligible for services, and does not inform the physician or other health care provider that the Enrollee is in the Grace Period, that determination shall be binding on the carrier, and the claim(s) for services rendered shall be paid by the carrier.
  - (B) This binding determination shall further preclude the carrier from seeking to recoup payment from the physician or other health care provider.
  - (C) If the carrier informs the physician or other health care provider that the Enrollee is in the Grace Period, then the carrier must provide further notification pursuant to Section C.4.(iii) of this regulation.
- (ii) Contents of notice. The notice to the physician or other health care provider shall include, but not be limited to the following:
- (A) Purpose of the notice;
  - (B) The Enrollee's full legal name and any unique numbers identifying the Enrollee;
  - (C) Name of the carrier;
  - (D) The carrier's unique health plan identifier;
  - (E) The specific date upon which the Grace Period for the Enrollee began, and the specific date upon which the Grace Period will expire.
- (iii) The carrier shall include in a conspicuous manner on the Exchange and the carrier web site, an explanation of the action the carrier intends to take, both during the Grace Period, and upon the Grace Period's exhaustion for the Enrollee and the physician or other health care provider, including further options for the provider. This shall include:
- (A) Whether the carrier will pend any claims of the physician or other health care provider for services that the physician or other health care provider furnishes to the Enrollee during the Grace Period;
  - (B) A statement indicating that, should the carrier indicate that it will pay some or all of the claims for services provided to an Enrollee during the Grace Period, whether and how the carrier will seek to recoup claims payments

made to physicians or health care providers for services furnished during the Grace Period.

We believe that the additional clarification will not only alleviate any potential confusion for the physicians and other health care providers, but it will benefit their patients and help ensure physicians and other health care providers can remain committed to participating in the Exchange products. Please let us know if you have any questions regarding these comments.

Sincerely,

John L. Bender, M.D., FAAFP  
President Colorado Medical Society  
Diplomate, American Board of Family Medicine  
President and CEO, Miramont Family Medicine  
Past President and Board, Colorado Academy of Family Physicians  
Delegate, American Academy of Family Physicians

Aris Sophocles, MD, JD, President  
Denver Medical Society

Richard Budensiek, MD, President  
Colorado Academy of Family Physicians

Steven Summer, President and CEO  
Colorado Hospital Association

Murray Willis, MD, President  
Colorado Society of Anesthesiologists

Jane Schumaker, Executive Director  
University Physicians, Inc.

Judy Boesen, President  
Colorado Medical Group Management Association

Sandra Robben-Weber, CMM, HITCM-PP, 2014 President  
Pikes Peak Professional Association of Health Care Office Management

Theodore Stringer, President  
Colorado Orthopaedic Society

Alison Sandberg, MD, President  
Colorado Radiological Society

George Ulrich, MD, President  
Colorado Society of Eye Physicians and Surgeons

Colorado Chapter- American College of Physicians