

INSURANCE

Auto Insurance		
HB 09-1113 (Postponed Indefinitely) <i>Limit Damages If No Insurance</i>	HB 09-1166 (Postponed Indefinitely) <i>Pay-as-you-drive Auto Insurance Rates</i>	HB 09-1226 (Postponed Indefinitely) <i>No-fault Motor Vehicle Insurance Act</i>
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SB 09-159 (Postponed Indefinitely) <i>Dependent Health Care Coverage</i>	SB 09-244 (Enacted) <i>Insurance Cover Autism Spectrum Disorders</i>	SB 09-250 (Postponed Indefinitely) <i>Coverage for Oral Anticancer Medication</i>
HB 09-1012 (Enacted) <i>Incentives Wellness & Prevention Program</i>	HB 09-1059 (Enacted) <i>Health Coverage During Clinical Trial</i>	HB 09-1102 (Enacted) <i>Study Health Insurance Portability</i>
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HB 09-1054 (Enacted) <i>Unemployment Insurance Award Military Death Surviving Spouse</i>	HB 09-1076 (Enacted) <i>Remuneration Form Employment Separation</i>	HB 09-1170 (Vetoed) <i>Unemployment Insurance Employee Lockout</i>
Workers' Compensation		
SB 09-168 (Enacted) <i>Workers' Compensation Procedures</i>	SB 09-243 (Enacted) <i>Workers' Compensation Benefits Payments</i>	SB 09-273 (Postponed Indefinitely) <i>Pinnacol Assurance Augment State Revenue</i>
SB 09-281 (Enacted) <i>Pinnacol Assurance</i>		

Auto Insurance

Several bills considered during the 2009 legislative session attempted to change the auto insurance structure and the types of policies that can be offered in Colorado. **House Bill 09-1166** would have allowed insurance companies to offer "pay-as-you-drive" (PAYD) policies as an option to consumers in Colorado. The insurance commissioner would have been required to adopt rules for auto insurance rate plans based on the number of miles a policyholder drives. Companies would have been eligible for a premium tax credit of \$100 per vehicle covered by a PAYD policy with a limit of \$1 million per calendar year for all companies combined. Within one year of adopting the

rules and annually thereafter, the commissioner would have been required to report on the utilization and effectiveness of the PAYD plans to the General Assembly. The bill was postponed indefinitely.

Another bill, **House Bill 09-1226**, would have returned Colorado to a no-fault auto insurance structure and created the Colorado No-fault Motor Vehicle Insurance Act. In 2003, Colorado converted from a no-fault automobile insurance system to a tort system. Under the no-fault auto insurance structure, vehicle owners were covered by their own insurance policies for reimbursement for personal injury sustained in an accident. Under the tort system, a person must prove that the other party involved was at fault in order to receive payment for damages. The bill required the following minimum coverages under no-fault insurance for all owners and operators of motor vehicles:

- legal liability coverage of \$25,000 to any one person and \$50,000 to all persons in one accident;
- property damage coverage of \$15,000 per accident;
- personal injury protection (PIP) regardless of fault up to \$25,000 per person for medical care, up to \$20,000 per person for rehabilitation services, and up to \$15,000 for payment of lost income and essential services; and
- up to \$5,000 for death benefits.

An owner or operator who failed to carry the mandatory coverage under the bill would have been subject to sanctions and held personally liable for damages in the case of an accident. Motorcycles, motor scooters, and other similar motorized vehicles would have been exempt from the mandatory PIP coverage. Finally, the bill would have required individuals aged 55 years and older who complete a driver's education course to receive a discount on their motor vehicle insurance for 3 years under certain circumstances. The bill was postponed indefinitely.

House Bill 09-1113 would have established an additional penalty for individuals without auto insurance. The bill would have prohibited an uninsured owner or operator of a motor vehicle from collecting the first \$10,000 for bodily injury and the first \$10,000 for property damages in a civil action for damages arising from an accident. The bill was postponed indefinitely.

Health Insurance

The General Assembly considered a variety of health insurance legislation during the 2009 session. Major topics addressed include mandating coverage for the treatment of autism spectrum disorder, allowing health maintenance organizations to offer limited health benefit plans under certain conditions, and reviewing significant health care reform measures.

Health insurance mandates. Several bills introduced during the 2009 legislative session mandated health insurance companies to provide coverage for specific illnesses, medications, and treatments. **Senate Bill 09-244** mandates that all health insurance plans, excluding individual plans, subject to state regulation, provide coverage to assess, diagnose, and treat autism spectrum disorder. The bill specifies the types of treatment to be covered, including applied behavior analysis (ABA) and therapeutic care. The bill specified that the annual maximum benefit for ABA therapy is \$34,000 and declines based on a child's age.

House Bill 09-1204 expands the preventative health care services required to be covered in health insurance plans in accordance with recommendations made by the U.S. Preventative Services Task Force. Preventative services include cervical cancer screenings, cholesterol screenings, colorectal cancer screenings, childhood immunizations, flu vaccination, and tobacco use and cessation programs.

House Bill 09-1059 requires all individual and group health benefit plans to provide coverage for routine patient care costs while the covered person participates in a clinical trial or study.

House Bill 09-1012 allows health insurance carriers that provide individual and small group health insurance plans to offer incentives or rewards for participation in wellness and preventative programs. Wellness and preventative programs may include:

- health screenings;
- mental health and substance abuse screenings;
- education and training about dietary habits;
- stress management;
- disease management;
- tobacco cessation programs; and
- health club memberships.

Senate Bill 09-159 would have changed the age from 25 to 30 for an individual for whom a health insurance carrier was required to offer dependant coverage. **Senate Bill 09-250** would have required a health benefit plan that covers cancer chemotherapy treatment to cover prescribed, oral anticancer medication on the same basis as injected or intravenous medications. Both bills were postponed indefinitely.

Access to Health Insurance. Several bills were introduced during the 2009 legislative session that aimed at increasing access to health insurance. **House Bill 09-1143** allows health maintenance organizations (HMOs) the option to offer basic health care services to enrollees through a limited health benefit plan. The act outlines parameters in which an HMO may offer a limited health benefit plan, such as it may only be offered to individuals who have been uninsured for at least 12 months, and that the plan may only be offered in counties with a population of less than 25,000 people. The act defines the maximum minimum benefit amount to be at least \$30,000. It also requires that health insurance carriers that offer limited benefit plans report specific data to the Colorado Division of Insurance, such as the percentage of employer groups enrolled and how many individuals and employers were uninsured for 12 to 24 months prior to applying for coverage.

House Bill 09-1256 would have required the Colorado Division of Insurance to review existing rules and laws to determine how to allow Colorado residents the ability to purchase health insurance products sold in other states. The bill was postponed indefinitely.

House Bill 09-1102 requires the Health Care Task Force, during the 2009 interim, to study the issue of portability of health insurance after a policy holder has been separated from his or her employment. In addition to studying portability of health insurance, **House Bill 09-1224** requires the Health Care Task Force, during the 2009 interim, to examine whether health insurance companies may consider gender as a factor in determining the rate for an individual health insurance policy.

Regulatory Changes to Insurance

The General Assembly considered a few bills relating to the regulatory structure of insurance. **House Bill 09-1338** conforms state law to comply with the following recently enacted federal legislation:

- ▶ *Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008* — includes language that clarifies that small group policies are required to provide a specified level of coverage for mental illness and that large group plans are to provide coverage comparable to that provided for physical illness.
- ▶ *Genetic Information Non-discrimination Act* — expands the protections that prevent genetic information from being used to deny access to insurance coverage.
- ▶ *Michelle's Law* — provides for continued eligibility for health coverage for a dependent under age 25 enrolled in post-secondary education who leaves school due to a medical condition.
- ▶ *Children's Health Insurance Program Reauthorization Act of 2009* — expands the definition of late enrollee to allow an individual who becomes eligible for premium assistance to enroll in a group health benefit plan within 60 days. This also allows an individual who becomes ineligible for Medicaid or the state Children's Basic Health Plan to enroll in a group health plan.

Senate Bill 09-061 required any internal review of claims or independent medical examination for property and casualty, workers' compensation, disability income, and health insurance benefits to be conducted by a Colorado-licensed health care professional. The bill required the health care professional conducting the reviews to be in good standing and have appropriate expertise in the same or similar specialty as would typically manage the case being reviewed, or have appropriate accreditation. In addition, written denials of benefits would have been required to identify the health care professional on whose opinion the denial was based. The bill specified that health care professionals without appropriate expertise may complete reviews related to workers' compensation, property and casualty, health, and disability claims reviews if they consulted with a professional with the appropriate expertise. The bill would have allowed health care professionals who are licensed in another state to perform reviews if a Colorado-licensed health care professional was not available, but the professional was deemed to consent to the jurisdiction and disciplinary authority of the appropriate Colorado state licensing board.

Senate Bill 09-103 would have made it an unfair claim settlement practice for an insurance company to provide compensation to induce or encourage the decision to deny or delay a claim, or to cancel or rescind an insurance policy. Additionally, in civil actions, a judge would have been allowed to instruct a jury that payment of a financial incentive for denial or delay of an insurance claim is prohibited.

Unemployment Insurance

During the 2009 session, the General Assembly considered a variety of legislation related to unemployment insurance. One bill diverted monies from the Unemployment Compensation Fund to the newly-created Employment and Training Technology Fund. Another bill altered the method used to calculate unemployment insurance (UI) benefits for eligible claimants, and several bills expanded eligibility for UI benefits.

Senate Bill 09-076 creates the Employment and Training Technology Fund for automation initiatives at the Colorado Department of Labor and Employment (CDLE). The bill diverts 20 percent of employer surcharge taxes to the technology fund, which reduces to 30 percent the amount of taxes deposited into the Unemployment Compensation Fund. Under the provisions of the bill, the executive director of the CDLE may transfer money to the trust fund from the technology fund at any time, but if the balance of the trust fund falls below \$25 million, the executive director is required to transfer money to the Unemployment Compensation Fund from the technology fund.

House Bill 09-1076 requires that all types of payments a claimant receives when leaving employment be treated the same in calculating when the claimant can begin receiving UI benefits and the maximum allowable benefit. Under the bill, any payments received are divided by the claimant's average weekly wage to calculate postponement of claim payments on a week-for-week basis. After the postponement, the claimant receives full benefits. Another provision of the bill is that benefits will not be reduced for claimants who also receive social security payments.

Several bills introduced during the 2009 session expand eligibility for UI benefits. In 2008, HB 08-1180 was signed into law to extend UI benefits to spouses of military personnel who are transferred as part of their military responsibilities. **House Bill 09-1054** further extends UI benefits to the surviving working spouses of military personnel who live in Colorado, have a spouse who is stationed in Colorado and is killed in combat operations, and who relocates to a new place of residence from which it is impractical to commute to the same job. **Senate Bill 09-178** requires the director of the Division of Employment and Training within the CLDE to waive the requirement for employees attached to regular jobs to register for work and report to an employment office as a condition of being eligible to receive UI benefits for a period of 26 weeks. The bill is directed at claimants who are unemployed due to a temporary lack of work from their most recent employer, but who anticipate returning to work with that employer.

Another bill, **Senate Bill 09-247**, expands the availability of UI benefits to certain unemployed individuals and enables the state to receive and expend funds from the federal "American Recovery and Reinvestment Act of 2009," also known as the economic stimulus package. Eligibility for benefits is expanded to include individuals who leave a job for certain compelling family reasons including:

- to accompany a spouse whose employment location has changed;
- to care for a family member who is ill or disabled; and
- domestic abuse.

These expanded benefits are to be charged to the UI Trust Fund and not affect an employer's premium. Senate Bill 09-247 includes a component that allows an unemployed individual to designate an alternative base period in order to qualify for UI benefits. The bill establishes triggers

based on the state unemployment rate that determines when the state will be eligible for federal funding for extended benefits, which are estimated to be \$67.5 million. Finally, \$15 million in enhanced UI benefits will be available to claimants participating in an approved training program for the following three fiscal years.

House Bill 09-1170, which was vetoed by the Governor, would have allowed an employee who is subject to an employer-initiated lockout to receive UI benefits in certain circumstances.

Workers' Compensation

In the 2009 session, a number of bills addressed workers' compensation procedures and Pinnacol Assurance, a provider of workers' compensation insurance and political subdivision of the state.

Workers' compensation procedures. **Senate Bill 09-168** amends procedures in the Workers' Compensation Act that relate to claims settlement, hearing, and review. The bill addresses when a matter can proceed to hearing after an insurance carrier files an admission of liability for final payment of compensation. A claimant who disputes the admission and has requested an independent medical examination (IME) is not required to file a request for hearing until the IME process is terminated for any reason. Issues for which a hearing or an application for a hearing is pending when an admission is filed are allowed to continue to the hearing without the claimant refiling an application for the hearing. Additionally, **Senate Bill 09-243** makes changes to workers' compensation insurance benefit procedures. The fee schedule for the payment of benefits is extended to services delivered after any final order, final admission, or full or partial settlement of a claim. When determining the maximum amount of temporary and permanent disability payments a claimant is eligible to receive, the claimant's mental impairment rating must be combined with the physical impairment rating. Finally, payment for health care services is authorized for claims that are found to be compensable after initially being denied.

Pinnacol Assurance. This session, the legislature also looked at Pinnacol Assurance, a workers' compensation insurance provider and political subdivision of the state. **Senate Bill 09-281** requires the State Auditor to conduct an annual financial audit of Pinnacol Assurance as well as a 2009 performance audit. The bill provides the State Auditor with continuing authority to conduct subsequent performance audits. The bill creates a 16-member interim committee to study issues related to Pinnacol Assurance. The committee is to consider the operation of Pinnacol Assurance, including, but not limited to, the feasibility of its continued operation as well as the public policy implications of its sale. Another bill, **Senate Bill 09-273**, that was postponed indefinitely, would have required the board of Pinnacol Assurance to transmit \$500 million from Pinnacol's surplus funds to the General Fund between July 1, 2009, and September 1, 2009. The bill would have removed statutory language stating Pinnacol's revenues, moneys, and assets belong solely to Pinnacol and are not available to the state.