

# INSURANCE

## Regulatory Changes

**SB 11-015** (Postponed Indefinitely)  
*Homeowner's Insurance Cancellation  
Restrictions*

**SB 11-182** (Enacted)  
*Insurable Interest Life Insurance*

**HB 11-1033** (Enacted)  
*Repeal Requirement File Unused  
Insurance Info*

**HB 11-1041** (Enacted)  
*Update Colorado Insurance Guaranty  
Association Statute*

## Workers' Compensation

**SB 11-199** (Enacted)  
*Workers' Compensation*

## Unemployment Insurance

**SB 11-010** (Enacted)  
*Unemployment Benefits During  
Training*

**HB 11-1213** (Postponed Indefinitely)  
*Unemployment Insurance Auraria  
Higher Ed*

**HB 11-1288** (Enacted)  
*Unemployment Insurance Solvency  
Reform*

## Health Insurance

**SB 11-019** (Enacted)  
*Small Employer Health Insurance  
Payments*

**SB 11-128** (Enacted)  
*Child-only Health Insurance Plans*

**SB 11-200** (Enacted)  
*Health Benefit Exchange*

**HB 11-1143** (Postponed Indefinitely)  
*Off-Label Use of Prescription Drugs*

**HB 11-1186** (Enacted)  
*Provider Reimbursement  
Acupuncture*

## Regulatory Changes

The General Assembly considered several bills relating to the regulatory structure of insurance. **Senate Bill 11-182** creates the Insurable Interest Act which requires purchasers of life insurance policies to have an insurable interest in the insured person. As defined in the bill, an individual has an insurable interest in the life of another person if such an individual has a lawful and substantial interest in the continued life of the insured, as distinguished from an interest that would arise only from, or would be enhanced in value by, the death of the individual insured. The bill specifies that an insurable interest may exist in the following situations:

- an individual is related within the fifth degree or closer, as measured by the civil law system, either by blood or marriage to the insured;
- an individual is a stepchild of the insured, or his or her descendants;
- an individual has entered into a designated beneficiary agreement with the insured;
- a party has entered into a contract for the purchase or sale of an interest in a business entity with the insurer;

- an individual is the trustee of the insured's trust, or a guardian or other fiduciary acting in a fiduciary capacity on behalf of the insured;
- an individual or entity is an employer, trustee, sponsor, or custodian of the insured if the insured has given his or her consent in writing; and
- a financial institution may have an insurable interest in an insured if the insured owes money, but only to the amount of debt owed plus reasonable interest and service charges.

A violation of the insurable interest requirement by a person regulated under the Colorado Insurance Code constitutes an unfair or deceptive act and may subject the person to an enforcement action by the Commissioner of Insurance. The bill also allows parties to file a civil action against the beneficiary to recover death benefits paid on an insurance policy that was issued in violation of the bill.

Another bill passed this session, **House Bill 11-1033**, eliminates the requirement that property and casualty insurance providers file Colorado-specific financial information with the Commissioner of Insurance.

**House Bill 11-1041** updates the statutes concerning the Colorado Insurance Guaranty Association (CIGA). CIGA is a statutory not-for-profit organization with a membership consisting of all property and casualty insurance companies legally operating in Colorado. The association pays insurance claims for insolvent insurance companies. For this purpose, CIGA charges annual fees to its members and is authorized to assess members following the insolvency of a member company. The bill clarifies that CIGA's obligations exclude losses incurred but not reported, as well as claims not timely filed. The bill also removes a \$100 deductible, raises the cap on claims from \$100,000 to \$300,000, and requires that CIGA payments be reduced by amounts recoverable from other insurance policies.

An additional bill was considered, but did not pass, related to insurance regulation. **Senate Bill 11-015** would have prohibited an insurance company from canceling or refusing to renew a homeowner's insurance policy if the homeowner had filed two claims or fewer in the previous five years.

## **Workers' Compensation**

One bill affecting workers' compensation was considered and passed during the 2011 legislative session, **Senate Bill 11-199**. The changes made by the bill include:

- requiring an employer to admit liability for medical benefits after maximum medical improvement in certain circumstances;
- repealing the condition that all parties agree to engage in discovery for a hearing;
- requiring the employer or insurer to advance the claimant's expenses for attending an examination requested by the employer or insurer; and
- clarifying that the lump-sum provision in Senate Bill 10-187, which provides that at any time after six months have elapsed from the date of injury the claimant may elect to take all or any part of the compensation awarded in a lump sum, applies to all requests for lump-sum payments, regardless of the date of a claimant's injury.

## Unemployment Insurance

The unemployment insurance program (UI) provides temporary and partial wage replacement to workers who have become unemployed through no fault of their own. The program is administered by the Unemployment Compensation Section in the Division of Employment and Training within the Colorado Department of Labor and Employment (CDLE).

The General Assembly considered a few bills related to the funding and administration of unemployment insurance. **Senate Bill 11-010** makes technical changes to current law concerning the Trade Readjustment Allowance Program (TRA) administered by the Division of Employment and Training in the Department of Labor and Employment. The federal government provides the department funds to compensate and retrain workers whose employment ceased as a result of overseas competition in various industries and trades. Conforming with recent amendments to the federal law under which Colorado's program operates, the bill prohibits the denial of TRA benefits to otherwise eligible individuals who left temporary work or on-the-job training in certain circumstances.

**House Bill 11-1288** changes the way the unemployment insurance (UI) system is financed. The bill also makes changes to the administration and monitoring of the UI program. Specifically, the bill makes the following changes:

- increases the chargeable wage base from the first \$10,000 paid to an employee to the first \$11,000;
- indexes the chargeable wage base annually to the percentage change in average weekly earnings;
- consolidates the base premium and socialized surcharges and a portion of the solvency surcharge into one combined premium and new solvency surcharge;
- creates a new set of premium surcharge rate tables and compresses employer experience ratings;
- establishes a premium credit for employers with a positive experience history when the Unemployment Compensation Fund balance is above 1.6 percent of total wages;
- requires the CDLE to provide annual reports to the General Assembly on the status of the Unemployment Compensation Fund; and
- requires that CDLE develop an on-line computer application that allows employers to review and manage their account information.

Under current law, "employment" for the purposes of unemployment insurance does not include services performed by students or their spouses, as part of financial assistance, for a school, college, or university. **House Bill 11-1213**, which did not pass, would have specified that unemployment insurance benefits are not available for students or their spouses who perform services for the Auraria Higher Education Center.

## Health Insurance

The General Assembly considered several bills concerning health insurance during the 2011 legislative session. One topic discussed was establishing the governance structure of a health benefit exchange. Other topics included mandatory child-only health insurance plans, reimbursement for acupuncturists, and allowing small employers to contribute to the cost of an employee's health insurance premium.

**Senate Bill 11-200** establishes a nonprofit organization that will oversee the establishment and operation of a competitive insurance marketplace referred to as a health insurance exchange. The exchange, which is intended to facilitate access to and enrollment in health benefit plans, will be available for individuals and small groups. The exchange is governed by a 12-member board of directors: 5 voting members to be appointed by the Governor; 4 voting members to be appointed by members of legislative leadership; and 3 nonvoting members from the Department of Health Care Policy and Financing, Division of Insurance, and Office of Economic Development and International Trade. Board duties include:

- appointing an executive director and creating an initial operational and financial plan;
- applying for gifts, grants, and donations to fund the planning, establishment, and operation of the exchange;
- creating technical and advisory groups as needed;
- preparing and presenting a written report, on or before January 15 of each year, concerning the status of the exchange;
- reviewing the Internet portal and templates for citizens to access information on health plans offered through the exchange;
- identifying the structure of the exchange, including whether to separate the individual and small employer markets and the appropriate size of the small employer market; and
- considering the unique needs of rural Coloradans.

Additionally, the law establishes a 10-member Legislative Health Benefit Exchange Implementation Review Committee to guide implementation of the exchange, make recommendations, and carry any necessary implementing legislation. The committee is to meet on or before August 1, 2011, and may meet up to five times per year thereafter to review the exchange's financial and operational plans and applications for grants.

**Senate Bill 11-128** requires all insurance carriers selling individual health benefit plans in Colorado to provide at least one child-only health benefit plan for children up to age 19, without regard to preexisting conditions, during two specified month-long enrollment periods per year.

Acupuncturists are currently licensed by the Department of Regulatory Agencies. **House Bill 11-1186** requires insurance carriers to pay for covered services provided by licensed acupuncturists. The law does not mandate health insurance companies to provide coverage for acupuncture, only to provide reimbursement for services that are covered under the plans.

Colorado law currently prohibits small employers (50 or fewer employees) from paying or reimbursing employees for the costs of health insurance premiums unless the small employer offers a small group health insurance plan. **Senate Bill 11-019** allows a small employer to reimburse an

employee through wage adjustments or health reimbursement arrangements for any portion of a premium for a health coverage plan if the small employer does not have, and in the previous 12 months has not had, a small group health benefit plan for its employees.

Last year, the General Assembly passed House Bill 10-1355, which requires prescription drug coverage for the off-label use of prescription drugs for the treatment of cancer. **House Bill 11-1143** would have prohibited a health benefit plan from limiting or excluding coverage for the off-label use of prescription drugs for the treatment of life-threatening diseases and conditions, and for the treatment of chronic and seriously debilitating conditions. The bill was postponed indefinitely.