



**COLORADO**

Department of Health Care  
Policy & Financing

# **MINUTES OF THE RULE HEARING OF THE EXECUTIVE DIRECTOR OF HEALTH CARE POLICY and FINANCING**

The Capitol Center  
303 East 17th Avenue, 7th Floor Conference Room

April 22, 2015

*Improve health care access and outcomes for the people we serve while demonstrating sound stewardship of financial resources. (Style Mission)*

## **1. Call to Order**

Executive Director Birch called the meeting to order at 8:00 a.m.

### **A. Staff Present**

Susan E. Birch, Executive Director; Robert C. Douglas Jr., Legal Division Director; Jennifer Weaver, First Assistant Attorney General; Judi Carey, Rules Coordinator; and Dan Hutchinson, Staff Support

## **2. Announcements**

Director Birch announced that it is the policy of the Department to remind everyone in attendance that this facility is private property. The capacity of the meeting room is 80. Please do not block the doors or stand around the edges of the room. Please turn cell phones off while in the meeting room as they interfere with the recording equipment.

## **3. Introduction of Rules**

1) Document 01 ED 15-02-11-A

Revision to the Executive Director of Health Care Policy and Financing Rule Concerning the All-Payer Claims Database, 10 CCR 2505-5, Sections 1.200.1,

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1.200.2 1.200.3 (Chris Underwood, Health Information Office, and Tracey Campbell, Center for Value in Health Care)

Director Birch stated that ED 15-02-11-A Revision to the Executive Director of Health Care Policy and Financing Rule Concerning the All-Payer Claims Database, 10 CCR 2505-5, Sections 1.200.1, 1.200.2 1.200.3 was up for consideration at this meeting and invited the presenters to the table.

Chris Underwood, Health Care Policy and Financing, Health Information Office Director, and Tracey Campbell, Center for Improvement in Health Care (CIVHC), All Payer Claims Database Director presented the rule and explained that the intent is to modify and expand the definition of payer to include self-insured employer sponsored plans in order to bring more transparency to health care costs and is a positive step move toward health care reform.

Mr. Underwood stated that the All Payer Claims Database is codified in the department's statute and administered by CIVCH through a contract. There is a sense that Colorado is lagging behind in the collection of data from self-insured employers. This rule will remove burdens and lower costs for self-insured employers while providing an easy opt-out for those who don't want to participate.

Ms. Campbell stated that eleven states now have authority to collect ERISA data. Seven of the states are currently collecting data and four are working on the process to begin collection of data. As an example, Boulder Valley School District wanted to provide data contractually thorough CIGNA acting as their Administrative Services Only (ASO) organization. It required 18 months for the school district to submit data due to the extensive start up requirements for CIGNA.

#### Executive Director Discussion

Executive Director discussion and questions included: that an estimate of CIVHC's costs for an employer to voluntarily submit data without the rule were likely between \$5,000 and \$10,000 excluding staff time; that there was no estimate of costs to the employer for this submission process; that it is believed that this proposed rule will provide legal protections for employers and reduce costs for submissions; that legal counsels for the department and for CIVHC are in agreement with this analysis; an explanation of how other states' processes work and how they are using the data collected; an overview of the extensive stakeholder engagement that CIVHC staff facilitated; that the rule was included in the Department's Public Rule Review Meeting process; that the only direct stakeholder input to the department was in the form of written testimony; that changes were made to the proposed rule based on stakeholder input; that,



currently, the 1000 or more threshold is sufficient because it aligns with the fully insured market and, by adding aggregate, it will include the smaller insurers; that, because the executive director has authority to make changes through rulemaking, this threshold can be revisited in the future; that CIVHC does not intend to charge for the submissions of data; an explanation of the integrity, security, and privacy of the data and how it is to be used; that the decision in the case before the 2<sup>nd</sup> Circuit Court of Appeals is not law in the 10<sup>th</sup> Circuit Court of Appeals but could be used as persuasive authority in other court cases; and that this rule is within the intent of the state statute.

Public Testimony

Sara Orange, Colorado Association of Health Plans

Virginia Morrison Love, American Health Insurance Plans

Ben Price, Colorado Association of Health Plans

Rachel Lee, Regional Director, Government Affairs, CVSHealth, Written

Phil A. Lyons, Associate General Counsel, UnitedHealthcare Group, Written

Dianne Bricker, Regional Director of State Affairs, American Health Insurance Plans, Written

Ben Price, Executive Director, Colorado Association of Health Plans, Written

Public testimony included: a request to modify the definition of "private health care payer" to raise the limit of covered employees to 200 and to update existing language with more up-to-date language; that the general business community was not included in the stakeholder process; that, because contracts require compliance with law, employers who use a Third Party Administrator (TPA) or an ASO would be covered; that other states have offered an indefinite opt out period for ERISA plans; that too much responsibility lies with the ERISA plans; that stakeholders are willing to take changed language back to their organizations for discussion; and that CIVHC staff will work with the Chamber of Commerce to put together an extensive list of employers in Colorado and work with them.

Director Birch announced that this rule hearing would be adjourned. That department staff and staff at CIVHC should work with stakeholders and come back with ideas for a revision of this rule that works for all involved.



The next meeting will be scheduled in two months or less, no later than the end of June.

#### **4. The meeting was adjourned at 9:20 a.m.**

Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Rules Administrator at 303-866-4416 or [judith.carey@state.co.us](mailto:judith.carey@state.co.us) or the 504/ADA Coordinator [hcpf504ada@state.co.us](mailto:hcpf504ada@state.co.us) at least one week prior to the meeting.

