Title of Rule: Revision to the Executive Director of the Department of Health Care Policy and
Financing Rule Concerning All-Payers Claims Database. 10 CCR 2505-5, Sections 1.200.1 - 1.200.2
Rule Number: ED   20-01-13-A
Division / Contact / Phone: HCPF- Chris Underwood, 303-866-4766 / CIVHC Vinita Bahl 720-583-2095

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

    As the Colorado All Payer Claims Database (CO APCD) Administrator, CIVHC began conversations with the submitters regarding the rule change in the fall of 2019. The goals of the proposed updates to the data submissions guide are outlined below:

    •   Improve the quality and completeness of the submitted alternative payment model (APM) data to overcome current obstacles for reporting progress toward adoption of APMs and investment in primary care in Colorado.

    •   Improve the quality and completeness of submitted data about manufacturer drug rebates and other compensation conferred to payers. And, obtain data regarding the contractual arrangement between the payer and its pharmacy benefit manager, including the percentage of rebates and other compensation that are passed through from the pharmacy benefit manager to the payer.

    CIVHC sent the proposed Rule language and revised Data Submission Guide (DSG) to all data submitters on January 22, 2020. CIVHC hosted a webinar that same day and presented a the proposed changes to DSG v11.5. More than 100 representatives from over 20 data submitters attended the webinar and had opportunity to ask questions and discuss the proposed changes with CIVHC. Submitters did not raise questions regarding the substance of the proposed changes. The only topic raised by one representative was a question about the timeline and when CIVHC expects feedback on the proposed changes.

2. An emergency rule-making is imperatively necessary

    ☐ to comply with state or federal law or federal regulation and/or
    ☐ for the preservation of public health, safety and welfare.

    Explain:

3. Federal authority for the Rule, if any:
4. State Authority for the Rule:

    Section 25.5-1-108, C.R.S. (2019);
    § 25.5-1-204(9), C.R.S.

Initial Review		Final Adoption	**04/15/2020**
Proposed Effective Date	**05/30/2020**	Emergency Adoption	

DOCUMENT #01

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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including
    classes that will bear the costs of the proposed rule and classes that will benefit
    from the proposed rule.

    Private and public payers who submit data to the CO APCD using Data Submission
    Guide Version 11.5 will need to modify their current file formats to accommodate
    the proposed changes. CIVHC and stakeholders requesting data from the CO APCD
    will benefit from more comprehensive data that supports the Triple Aim: better
    health, better care, lower costs.

2. To the extent practicable, describe the probable quantitative and qualitative impact
    of the proposed rule, economic or otherwise, upon affected classes of persons.

    43 payers will need to commit time and resources to amend their file submissions.
    However, the state would benefit from this rule change because the additional
    information would improve analysis and contribute to a better understanding of
    health costs and population health.

3. Discuss the probable costs to the Department and to any other agency of the
    implementation and enforcement of the proposed rule and any anticipated effect on
    state revenues.

    This amendment will have no impact on state appropriations.

4. Compare the probable costs and benefits of the proposed rule to the probable costs
    and benefits of inaction.

    The state will not incur any costs due to action or inaction. The state would benefit
    from this rule change because the additional information would improve analysis
    and contribute to a better understanding of health costs and population health.

5. Determine whether there are less costly methods or less intrusive methods for
    achieving the purpose of the proposed rule.

    There are no less costly or intrusive strategies to achieve the purpose of the
    proposed rule.

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6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

None.

1   **1.200   ALL-PAYERS CLAIMS DATABASE**

2   **1.200.1   Definitions**

3   "administrator" means the administrator of the APCD appointed by the director of the department.

4   "APCD" means the Colorado All-Payer Claims Database.

5   "Alternative Payment Model (APM)" means payments made to providers outside of the traditional fee-for-
6   service model. This includes: Pay for Performance Payment/Penalty, Shared Savings/Shared Risk,
7   Global Budget, Limited Budget, Capitation – Unspecified, Bundled/Episode-Based, Integrated Delivery
8   System, Patient-Centered Medical Home, Accountable Care Organizations and Other Non-FFS
9   payments.

10   "dental claims data file" means a file that includes data about dental claims and other encounter
11   information, according to the requirements contained in the submission guide.

12   "department" means the Colorado Department of Health Care Policy and Financing.

13   "director" means the Executive Director of the department.

14   "eligibility data file" means a file that includes data about a person who receives health care coverage
15   from a payer, according to the requirements contained in the submission guide.

16   "ERISA" means the Employee Retirement Income Security Act of 1974, as codified at 29 U.S.C. ch. 18.

17   "HIPAA" means the Health Insurance Portability and Accountability Act, U.S.C. § 1320d – 1320d-8, and
18   its implementing regulations, 45 C.F.R. Parts 160, 162 and 164, as may be amended.

19   "historic data" means eligibility data file(s), medical claims data file(s), pharmacy file(s) and provider file(s)
20   for the period commencing January 1, 2009 through December 31, 2014 (except in the case of a self-
21   insured employer-sponsored health plan, in which case, "historic data" shall mean, at minimum, such data
22   file(s) for the period commencing January 1, 2015 through December 31, 2015).

23   "medical claims data file" means a file that includes data about medical claims and other encounter
24   information, according to the requirements contained in the submission guide.

25   "payer" means a private health care payer and a public health care payer.

26   "pharmacy file" means a file that includes data about prescription medications and claims filed by
27   pharmacies, according to the requirements contained in the submission guide.

28   "Prescription Drug Rebate" means aggregated information regarding the total amount of any prescription
29   drug rebates and other pharmaceutical manufacturer compensation or price concessions paid by
30   pharmaceutical manufacturers to a payer or their pharmacy benefit manager(s).

31   "private health care payer" means an insurance carrier as defined in C.R.S. § 10-16-102(8) covering an
32   aggregate of 1,000 or more enrolled lives in health coverage plans as defined in C.R.S. § 10-16-102(34).
33   For purposes, of this regulation, "private health care payer" includes carriers offering health benefits plans
34   under C.R.S. § 10-16-102(32)(a) and dental, vision, limited benefit health insurance, and short-term
35   limited-duration health insurance. For the purposes of this regulation, a "private health care payer" also
36   means a self-insured employer-sponsored health plan covering an aggregate of 100 or more enrolled
37   lives in Colorado. It does not include a self-insured employer-sponsored health plan, if such health plan is

1 administered by a third-party administrator or administrative services only organization ("TPA/ASO") that
2 services less than an aggregate of 1,000 enrolled lives in Colorado; carriers offering accident only; credit;
3 benefits for long term care, home health care, community-based care, or any combination thereof under
4 Article 19 of Title 10; disability income insurance; liability insurance including general liability insurance
5 and automobile liability insurance; coverage issued as a supplement to liability insurance; worker's
6 compensation or similar insurance; or automobile medical payment insurance, specified disease, or
7 hospital indemnity and other fixed indemnity insurance.

8 "protected health information" shall have the same meaning as in the HIPAA Privacy Rule in 45 C.F.R. §
9 160.103.

10 "provider file" means a file that includes additional information about the individuals and entities that
11 submitted claims that are included in the medical claims file; and is submitted according to the
12 requirements contained in the submission guide.

13 "public health care payer" means the Colorado Medicaid program established under articles 4, 5 and 6 of
14 title 25.5, C.R.S., the children's basic health plan established under article 8 of title 25.5, C.R.S. and
15 Cover Colorado established under part 5 article 8 of title 10, C.R.S.

16 "submission guide" means the document entitled "Colorado All-Payer Claims Database Data Submission
17 Guide" developed by the administrator that sets forth the required schedules, data file format, record
18 specifications, data elements, definitions, code tables and edit specifications for payer submission of
19 eligibility data files, medical, dental and pharmacy claims data files and provider data files to the APCD
20 dated Version 11.5 ~~November 2019~~April 2020, which document is hereby incorporated by reference.

21 **1.200.2   Reporting Requirements**

22 1.200.2.A   Payers shall submit complete and accurate eligibility data files, medical claims data files,
23   pharmacy claims data files, dental claims data files, alternative payment model data files,
24   prescription drug rebate data files and provider files to the APCD pursuant to the submission
25   guide. The administrator may amend the submission guide and shall provide notice of the
26   revisions to payers. Any revision to the submission guide will be effective only when incorporated
27   into this rule and issued in compliance with the requirements of C.R.S. § 24-4-103 (12.5). Reports
28   submitted 120 days following the effective date of the revision of this rule and the submission
29   guide shall follow the revised submission guide.

30 1.200.2.B.   A private health care payer subject to the provisions of ERISA is not required under this
31   rule to submit claims data to the APCD but may continue to submit claims data or elect to submit
32   claims data at any time in accordance with the procedures described in Sections 1.200.2.A and
33   1.200.3.

34 **1.200.3   Schedule for Mandatory Data Reporting**

35 1.200.3.A.   Payers shall submit a test file of its eligibility data, medical and pharmacy claims data and
36   provider files for a consecutive twelve month period to the administrator by no later than March
37   31, 2012 or no later than 160 calendar days after the effective date of this rule, whichever is later.

38 1.200.3.B.   Payers shall submit complete and accurate historic data to the administrator that
39   conforms to submission guide requirements by no later than June 30, 2012, or no later than 250
40   calendar days after the effective date of this rule, whichever is later.

41 1.200.3.C.   Payers will transmit complete and accurate eligibility data, medical claims data, pharmacy
42   claims data, dental claims data and provider files covering the period from January 1, 2012 and
43   ending June 30, 2012 to the administrator by no later than August 15, 2012, or for the period as

1 specified by the administrator no later than 305 days after the effective date of this rule,
2 whichever is later.

3 1.200.3.D.　　　On a monthly basis thereafter, payers will transmit complete and accurate monthly
4 eligibility data, medical claims data, pharmacy claims data, dental claims data and provider files
5 to the administrator. These data files for the period ending July 31, 2012, shall be submitted no
6 later than September 15, 2012, or for the period as specified by the administrator, no later than
7 305 days after the effective date of this rule, whichever is later. For each month thereafter, files
8 shall be submitted no later than 30 days after the end of the reporting month. Any time extension
9 shall be provided to payers in writing by administrator at least 30 days prior to established
10 deadlines.

11 **1.200.4　　　APCD Reports**

12 1.200.4.A.　　　The administrator shall, at a minimum, issue reports from the APCD data at an aggregate
13 level to describe patterns of incidence and variation of targeted medical conditions, state and
14 regional cost patterns and utilization of services.

15 1.200.4.B.　　　The APCD reports shall be available to the public on consumer facing websites and shall
16 provide aggregate and summary reports to achieve the purposes of the APCD. Any such reports
17 shall protect patient identity in accordance with HIPAA's standard for the de-identification of
18 protected health information.

19 **1.200.5　　　Requests for Data and Reports**

20 1.200.5.A.　　　A state agency or private entity engaged in efforts to improve health care quality, value or
21 public health outcomes for Colorado residents may request a specialized report or data set from
22 the APCD by submitting to the administrator a written request detailing the purpose of the project,
23 the methodology, the qualifications of the research entity, and by executing a data use
24 agreement, to comply with the requirements of HIPAA.

25 1.200.5.B.　　　A data release review committee shall review those requests for reports or data sets
26 containing protected health information and shall advise the administrator on whether release of
27 the data is consistent with the statutory purpose of the APCD, will contribute to efforts to improve
28 health care quality, value or public health outcomes for Colorado residents and complies with the
29 requirements of HIPAA. The administrator shall include a representative of a physician
30 organization, hospital organization, non-physician provider organization and a payer organization
31 on the data release review committee.

32 1.200.5.C.　　　The administrator may charge a reasonable fee to provide the requested data.

33 **1.200.6　　　Penalties**

34 1.200.6.A.　　　If any payer fails to submit required data to the APCD in a timely basis, or fails to correct
35 submissions rejected because of errors, the administrator shall provide written notice to the
36 payer. The administrator may grant an extension of time for just cause. If the payer fails to
37 provide the required information within thirty days following receipt of said written notice, the
38 administrator shall provide the payer with notice of the failure to report and will notify the director
39 of the payer's failure to report. The director shall assess a penalty of up to $1,000 per week for
40 each week that a payer fails to provide the required data to the APCD up to a maximum penalty
41 of $50,000. In determining whether to impose a penalty, the director may consider mitigating
42 factors such as the size and sophistication of a payer, the reasons for the failure to report and the
43 detrimental impact upon the public purpose served by the APCD.

1 1.200.6.B   The penalties specified in Section 1.200.6.A shall not apply to a private health care payer
2   that is subject to the provisions of ERISA, since those payers are not required under this rule to
3   submit claims data to the APCD.

4 **1.200.7   Interagency Agreement**

5 1.200.7.A.   The director may enter into an Interagency Agreement on behalf of the APCD and the
6   administrator with the Division of Insurance in the Colorado Department of Regulatory Agencies
7   to assist in the enforcement of these regulations and under the Divisions' authority in Title 10 of
8   the Colorado Revised Statues.

9 **1.200.8   Privacy and Confidentiality**

10 1.200.8.A.   Pursuant to C.R.S. § 24-72-204(3)(a)(I) medical and other health care data on individual
11   persons is not an open record and the department shall deny any open records request for such
12   information.

13 1.200.8.B.   Certain aggregate and de-identified data reports from the APCD shall be available to the
14   public pursuant to C.R.S. § 25.5-1-204(7) when disclosed in a form and manner that ensures the
15   privacy and security of protected health information in compliance with HIPAA.

16 1.200.8.C.   The administrator shall institute appropriate administrative, physical and technical
17   safeguards to ensure that the APCD, its operations, data collection and storage, and reporting
18   disclosures are in compliance with the requirements of HIPAA. All eligibility claims data, medical,
19   dental, and pharmacy claims data shall be transmitted to the APCD and stored by the APCD in a
20   secure manner compliant with HIPAA.

21 **1.200.9   Incorporation by Reference**

22 1.200.9A   The rules incorporate by reference (as indicated within) material originally published
23   elsewhere. Such incorporation, however, excludes later amendments to or editions of the
24   referenced material. Pursuant to C.R.S. § 24-4-103(12.5), the Department of Health Care Policy
25   and Financing maintains copies of the incorporated texts in their entirety which shall be available
26   for public inspection during regular business hours at:

27   Colorado Department of Health Care Policy and Financing
28   Medical Services Board Coordinator
29   1570 Grant Street
30   Denver, CO 80203

31   Copies of material shall be provided by the department, at cost, upon request.

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