

# COLORADO DEPARTMENT OF REGULATORY AGENCIES

## Division of Insurance

### 3 CCR 702-4

#### LIFE ACCIDENT AND HEALTH

##### Proposed New Regulation 4-2-48

#### CONCERNING GRACE PERIODS FOR POLICYHOLDERS RECEIVING ADVANCE PAYMENT TAX CREDITS

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Rules
Section 6	Severability
Section 7	Enforcement
Section 8	Effective Date
Section 9	History

##### **Section 1 Authority**

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-16-106.5(8)(b), and 10-16-140(4), C.R.S.

##### **Section 2 Scope and Purpose**

The purpose of this regulation is to establish the requirements for grace periods for health benefit plans offered on the Exchange for policyholders that receive the federal Advance Payment Tax Credits (APTC), and where the policyholder of the plan is delinquent in the payment of monthly premiums.

##### **Section 3 Applicability**

The provisions of this regulation shall apply to all individual health benefit plans issued or renewed on or after the effective date of this regulation for policyholders that receive federal Advance Payment Tax Credits. This regulation does not apply to grandfathered health benefit plans.

##### **Section 4 Definitions**

- A. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.
- B. "Exchange" shall have the same meaning as found at § 10-16-102(26), C.R.S.
- C. "Grandfathered health benefit plan" shall have the same meaning as found at § 10-16-102(31), C.R.S.
- D. "Health benefit plan" shall have the same meaning as found at § 10-16-102(32), C.R.S.

##### **Section 5 Rules**

- A. All individual health benefit plans shall contain a provision that the policyholder is entitled to a three (3) month grace period beginning the first month premium has not been received, as long as the policyholder has previously paid at least one (1) full month's premium during the current benefit year.
- B. During the three (3) month grace period, the health benefit plan shall remain in force, and the carrier:
1. Shall pay all appropriate claims for services rendered to the policyholder during the first month of the grace period; and
  2. May pend claims for services rendered to the policyholder during the second and third month of the grace period.
  3. If a carrier is unable to pend pharmacy claims during the second and third months of the three (3) month grace period, a carrier may deny those pharmacy claims. The carrier shall be required to reimburse a policyholder directly if a claim is filed for the denied pharmacy benefits once all delinquent premium payments have been received.
- C. If the policyholder's portion of the premium payment becomes delinquent, the carrier shall provide notice:
1. To the policyholder advising of the premium payment delinquency, including a description of the three (3) month grace period, and that the delinquency applies to all persons covered under the policy;
  2. To the policyholder, at least 30 days in advance, of the carrier's intent to terminate coverage due to non-payment of premium in accordance with §§ 10-16-222, 10-16-325, and 10-16-429, C.R.S., including a statement that such a termination does not qualify as a special enrollment period during which the policyholder can enroll in another health benefit plan;
  3. To the policyholder that they may be required to pay all amounts owed for services incurred after the first month of the three (3) month grace period, including repayment of APTC received during the grace period;
  4. To providers with pended claims incurred in the second and/or third month of the policyholder's grace period that the claims may be denied if no further premium payments are received from the policyholder; and
  5. To the U.S. Department of Health and Human Services (HHS) of policyholder non-payment.
- These notices, except for the notice found in paragraph 4, shall be provided regardless of whether or not claims are incurred during the three (3) month grace period. The notice in paragraph 4 in Section 5.c. of this regulation must only be provided if claims are incurred during the three (3) month grace period.
- E. The carrier must continue to collect advance payments of the premium tax credit on behalf of the policyholder during the three (3) month grace period.
- F. The carrier shall return the advance payments of the premium tax credit collected during the second and third month of the three (3) month grace period if all delinquent premium payments have not been received by the end of the third month.

- G. If a policyholder receiving APTC does not pay all outstanding premiums during the three (3) month grace period, the carrier must terminate coverage in accordance with §§ 10-16-222, 10-16-325, and 10-16-429, C.R.S.
- H. The carrier must receive all past-due premium from the policyholder prior to making any changes to the policy, including, but not limited to, adding individuals to the policy.

#### **Section 6 Severability**

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

#### **Section 7 Enforcement**

Noncompliance with this Regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process. Among others, the penalties provided for in §10-3-1108, C.R.S. may be applied.

#### **Section 8 Effective Date**

This regulation shall become effective on July 1, 2014.

#### **Section 9 History**

New regulation effective July 1, 2014.