



Dora
Department of Regulatory Agencies

Division of Insurance
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February 21, 2014

The Honorable Bill Cadman and Colleagues
Senate Minority Leader
Colorado State Senate
200 East Colfax
Denver, CO 80203

Dear Senators:

Thank you for your letter of January 22, 2014 and the opportunity to address the issue of health insurance policy cancellations in recent months.

Background: Cancellation and Non-renewal

Since 1996¹, Colorado law has required carriers to provide consumers with notice if the carrier:

- Is leaving the Colorado market or a market segment (individual, small group, large group) altogether by discontinuing policies ("cancellation"). In this instance, carriers must provide 180 days notice of the cancellation to enrollees and the Commissioner.²
- Has chosen not to renew a subset of its policies ("non-renewal"). In this instance, carriers must provide 90 days notice of the cancellation to enrollees and the Commissioner.³

To simplify, we have combined 2013 information on "cancellations" and "non-renewals" and will use these terms interchangeably in this letter.

Prior to 2013, carriers sometimes left the Colorado market or a market segment, causing significant turnover in coverage. In addition, turnover has been common in employer-sponsored health coverage (aka employer self-funded or ERISA coverage) which is not regulated by the Division of Insurance. Examples of larger carriers

¹ Individual protections added April 23, 1996. Group protections added May 1, 1997 (due to HIPAA).

² CRS 10-16-201.5(1)(d) [2012] and CRS 10-16-105.1(2)(h) [2013].

³ CRS 10-16-201.5(6) [2012] for group plans and CRS 10-16-105.1(2)(g) [2013] for individual and small group plans.



leaving the Colorado market or market segments over the years illustrate that it is not atypical for carriers to cancel the coverage of tens of thousands of Coloradans:

- In 2001, Aetna pulled out of the Colorado small group market leaving over 70,000 covered persons to find other coverage.⁴ Aetna returned to this market in 2004.
- In 2009, due to its acquisition by United Healthcare, PacifiCare left the Colorado marketplace after giving notice to over 18,000 covered persons.
- In the fall of 2010, Aetna left the Colorado individual and small group markets providing 27,600 Coloradans with notice of its departure.

2013 Cancellations and Early Renewals

Despite this history, changes made under state and federal law to the health insurance market in 2013 were unique. The primary driver of these changes was the alignment, under both federal and state law, of the individual and small group markets. This alignment provides broader consumer protections to individuals, mirroring traditional practice within the small group market. Some of the significant changes are:

- Removal of pre-existing condition exclusions, and establishment of guaranteed issue and adjusted community rating (age, benefit design, geographic area and tobacco use) in the individual market. These have been features of the Colorado small group market since the 1990s.
- Creation of the "essential health benefits package," a more standard benefit package which was based on an existing Colorado small group product.
- Elimination of annual and lifetime limits on certain benefits, removal of cost sharing requirements from preventive services, and discontinuance of the small group basic and standard plans, which were, in part, duplicative of the essential health benefits package.
- Business products (e.g., business groups of one (BG-1s) and group conversion policies) that were migrated over to individual products or were eliminated due to guaranteed issue in the individual market.
- Establishment of actuarial value and medical loss ratio requirements for policies, which allow for better plan comparisons and ensure adequate spending on medical costs, respectively.

Many carriers doing business in Colorado took this opportunity to restructure their products, even if not required by law to do so. To accommodate the market changes, carriers updated their product portfolios, modified their product offerings, or, in some cases, elected to withdraw from the Colorado market or a market segment. Each of these strategies resulted in required notifications being sent to Colorado consumers.⁵

⁴ Under Colorado law, carriers are required to stay out of Colorado or a Colorado market segment for 5 years after their exit. See CRS 10-16-201.5(2)(a) [2012] and CRS 10-16-105.1(2)(h)(II)(B) [2013]. Aetna re-entered the Colorado small group market in 2004 under a special exception to the five-year rule that was in effect in from May 28, 2004 to July 1, 2006.

⁵ In recognition of the changes carriers were making, the Division issued Emergency Regulation 13-E-10 on July 5, 2013 to provide for transition of individual health benefit plans, basic and standard health benefit plans, business group of one plans, and conversion plans. The emergency rule was followed by Regulation 4-2-44 which continued the emergency rule's requirements.

With these notifications, many carriers offered consumers the additional option to continue their 2013 policy into 2014 by "early renewing" their policy. Carriers used various methodologies for early renewal, but most offered current enrollees the opportunity to continue their 2013 policy into 2014 by changing the anniversary date on the policy. Under these early renewals, the same schedule of benefits, including copayments and deductible levels, was extended for an additional period, generally covering the consumer throughout most of 2014.

To ensure the orderly transition of products, and that consumers were receiving proper notice of policy changes, the Division issued an emergency rule which required carriers to send notices to all individual market policyholders around September 15, 2013 to inform them of their options.⁶ All covered persons received notice and were informed of their options to purchase other coverage from the carrier (if the carrier remained in the market and market segment), from another carrier, or through Connect for Health Colorado.⁷ These notices were sent in addition to standard notices required for cancellations.

The Division began collecting and compiling information on cancellations in mid-2013. As of February 6, 2013, carriers reported that 335,486 Coloradans were affected by cancellation notices.⁸ Approximately 92 percent of these individuals were offered the opportunity to early renew their existing coverage, and as noted above, all impacted individuals received information on their coverage options.⁹ Based on information provided by one of the largest carriers in the small group market segment, approximately 34.8 percent accepted the offer and renewed their 2013 coverage into 2014.

Answers to the Questions Posed

1. *Updated number of how many individual and employer-provided plans have been cancelled.*

Three hundred thirty five thousand four hundred and eighty six (335,486) Coloradans have been affected by cancellation notices for plans cancelled effective December 31, 2013, as follows:

- 183,473 covered lives under individual policies; and
- 152,013 covered lives under small group employer-provided plans.¹⁰

Information about cancellations is reported by carriers directly to the Division. Any change in Division-reported numbers over time is due to a change in information from the carriers. Please note that a carrier that intends to cancel policies but fails to send timely notice to the Division and its policyholders is still required to honor the 90 day period for cancellation once the notice is submitted as required.

⁶ Emergency Rule 13-E-10 (issued July 5, 2013) which became Insurance Regulation 4-2-44 effective November 1, 2013.

⁷ See Insurance Bulletin Nos. B-4.50 issued April 1, 2013; B-4.59 issued May 10, 2013; and B-4.66 issued December 6, 2013.

⁸ This is the total carriers have reported to the Division as of February 6, 2014. Please note that the Division cannot accurately determine the total policies cancelled "due to Obamacare," as requested. The significant shift in market forces precipitated by the ACA provided carriers with the opportunity to make many changes to their lines of business not directly related to requirements of the law.

⁹ See Insurance Bulletin Nos. B-4.61 issued June 10, 2013 and B-4.66.

¹⁰ This is the total carriers have reported to the Division as of February 6, 2014.

2. *Geographic breakdown of policy cancellations by county.*

We are unable to provide county-level cancellation information in the individual market. Prior to filings for plans offered in 2014, the Division did not require carriers to report individual market cancellations by county because the Division did not prescribe geographic rating methodology in the individual market. As of 2014, because of the individual and small group market alignment, we have begun to collect this type of information by county.

For small group policies, 2013 information was collected by rating area, rather than by county. For the one of the largest carriers (which comprised 36 percent of the small group cancellations), cancellation information is displayed below:

Geographic Area	# of Cancellations
Denver (Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, Park)	23,484
Boulder (Boulder)	10,419
Colorado Springs (El Paso, Teller)	4,307
Fort Collins (Larimer)	6,491
Grand Junction (Mesa)	801
Greeley (Weld)	3,440
Pueblo (Pueblo)	1,896
Northeast (Logan, Morgan, Phillips, Sedgwick, Washington, Yuma)	211
Mountain (Eagle, Garfield, Pitkin, Grand)	232
Southeast (Alamosa, Baca, Bent, Chaffee, Cheyenne, Conejos, Costilla, Crowley, Custer, Fremont, Huerfano, Kiowa, Kit Carson, Las Animas, Lincoln, Mineral, Otero, Prowers, Rio Grande, Saguache)	2,113
West (Archuleta, Delta, Dolores, Grand, Gunnison, Hinsdale, Jackson, La Plata, Lake, Moffat, Montezuma, Montrose, Ouray, Rio Blanco, Routt, San Juan, San Miguel)	1,303

3. *Price difference between old policies and proposed replacement policies.*

Because of the variability of health insurance products offered, there is no effective way to achieve this comparison, as it would require analysis of tens of thousands – if not hundreds of thousands – of policies. Even if we could do a side-by-side analysis of cost, significant changes to coverage and benefit structures for 2014 plans make them qualitatively different than 2013 policies. As such, an “apples-to-apples” comparison with pre-2014 plans is not possible.

For plans that were “early renewed” in 2013, the Division required that consumers be notified of any premium rate increase associated with continuing their plan into 2014.¹¹ The majority of carriers offered early renewals in the individual and employer-sponsored insurance markets. The average rate increase for early renewals in the individual market was 8.63 percent (range: 5.74 to 13 percent). For comparison, the 5-year historical average annual rate increase for individual market policies is 12.1 percent.¹² The average rate increase in the small group market was 6.84 percent (range: 0.1 to 15.5 percent). The small group market 5-year historical average is 11.5 percent.¹³

4. *Request for a monthly report of individual and employer-provided plan cancellations, detailed by county.*

When the Division ascertains particular information would be helpful to inform policy decisions – or when information is requested – we work with the carriers to determine whether and how this information can be collected and compiled. We also assess the costs to carriers or the Division that may be generated by new data collection or administrative procedures, as these costs are commonly passed on to consumers as part of the administrative costs of doing business in Colorado.

Going forward, the Division will request carriers to supply the cancellation information by county for individual and employer plans. We will provide you with a monthly spreadsheet of the cancellation notifications received by the Division by county.

Again, thank you for the opportunity to address the issue of health insurance policy cancellations and the work of the Division.

Sincerely,



Marguerite Salazar
Commissioner of Insurance

¹¹ See Insurance Bulletin No. B-4.66.

¹² See Annual Report of the Commissioner of Insurance to the Colorado General Assembly on 2012 Health Insurance Costs issued April 25, 2013, p. 27. Five-year average is based on 2007-2011 data.

¹³ *Ibid.*