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December 28, 2017

The Honorable Wayne W. Williams  
Colorado Secretary of State  
1700 Broadway, Suite 200  
Denver, Colorado 80290a

RE: Correction to Division of Insurance Rule Pertaining to Contraceptive Benefits, 3 CCR 702-4 (Regulation 4-2-38); Rule Opinion Correction, SOS Tracking No. 2017-00636.

Dear Mr. Secretary:

Pursuant to § 24-4-103(11)(I)(A), C.R.S., the Colorado Division of Insurance requests a correction to the statutory citations in Regulation 4-2-38. Since Regulation 4-2-38 was first promulgated in 2012, multiple changes to the Colorado Revised Statutes have rendered the several citations inaccurate.

Specifically, the Division of Insurance seeks to make the following changes:

- Section 3: Change citation from § 10-16-102(21)(b), C.R.S. to § 10-16-102(32)(b), C.R.S.
- Section 4(c): Change citation from § 12-22-102(30), C.R.S. to § 27-80-203(21), C.R.S.
- Section 5(b): Change citation from § 10-16-102(22), C.R.S. to § 10-16-102(33), C.R.S.
- Section 5(f): Change citation from § 10-16-102(22), C.R.S. to § 10-16-102(33), C.R.S.
- Section 5(f): Change citation from § 12-22-102(8), C.R.S. to § 27-80-203(10), C.R.S.

I submit that § 24-4-103(11)(I)(A), C.R.S., applies to these non-substantive rule changes, and request that, pursuant to § 24-4-103(11)(I)(II), C.R.S., the Secretary of State make the above changes in the Code of Colorado regulations.

Thank you for your assistance. Please contact me if I can provide you with any additional information.

Sincerely,

FOR THE ATTORNEY GENERAL



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# DEPARTMENT OF REGULATORY AGENCIES

## Division of Insurance

### 3 CCR 702-4

#### LIFE, ACCIDENT AND HEALTH

#### New Regulation 4-2-38

#### CONTRACEPTIVE BENEFITS

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 and 10-16-104(3)(a)(I) C.R.S.

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

The purpose of this regulation is to implement Colorado insurance law and ensure carriers are providing coverage for contraception in policies in the same manner as any other sickness, injury, disease or condition is otherwise covered under the policy or contract.

#### **Section 3 Applicability**

The requirements and provisions of this regulation apply to all group sickness and accident insurance policies and health service contracts issued to an employer and all individual sickness and accident, health care or indemnity contracts under parts 2, 3 or 4 of Title 10.

This regulation does not apply to supplemental policies covering a specified disease or other limited benefits under § 10-16-102(32)(b), C.R.S.

#### **Section 4 Definitions**

For purposes of this regulation, the following terms are defined:

- A. "Contraceptive" or "contraception" means a medically acceptable drug, device, or procedure used to prevent pregnancy in accordance with § 2-4-401, C.R.S.
- B. "Emergency contraception" means a drug approved by the federal food and drug administration that prevents pregnancy after sexual intercourse, including but not limited to oral contraceptive pills; except that "emergency contraception" shall not include RU-486, mifepristone, or any other drug or device that induces a medical abortion, in accordance with § 25-3-110, C.R.S.

C. "Prescription drug" shall have the same meaning as defined in § 27-80-203(21), C.R.S.

## **Section 5 Rules**

All group sickness and accident insurance policies and health service contracts issued to an employer and all individual sickness and accident insurance, health care or indemnity contracts shall provide contraceptive benefits in the same manner as any other sickness, injury, disease or condition is otherwise covered under the policy or contract.

- A. Policies or contracts with prescription drug benefits shall cover prescription contraceptive drugs in the same manner as other prescription drugs are covered under the policy or contract. However, over-the-counter contraceptive drugs or devices for which a prescription is not required and which are not otherwise covered under the policy or contract, are not required to be covered.
- B. Voluntary sterilization procedures are covered as a health care service as defined in § 10-16-102(33), C.R.S., in the same manner as any other sickness, injury, disease or condition is otherwise covered under the policy or contract.
- C. Hormone injections for contraception shall be covered in the same manner as hormone injections for any other sickness, injury, disease or condition.
- D. Emergency contraception is covered in the same manner as any other drug or device for any other sickness, injury, disease or condition is otherwise covered under the policy or contract.
- E. The drugs RU-486, mifepristone, or any other drug or device that induces a medical abortion are not contraceptives or emergency contraceptives within the definitions of such terms and are not required to be covered under a contraceptive benefit.
- F. Intrauterine devices (IUDs), subdermal implants, and the insertion, management and removal of such devices are covered in the same manner as health care services as defined in § 10-16-102(33), C.R.S. and devices as defined in § 27-80-203(10), C.R.S. to treat any other sickness, injury, disease or condition are otherwise covered under the policy or contract.

## **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 the regulation shall not be affected.

## **Section 7 Enforcement**

Noncompliance with this regulation may result, after proper notice and hearing, 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 fines, issuance of cease and desist order, and/or suspensions or revocations of certificates of authority. Among others, the penalties provided in § 10-3-1108, C.R.S., may be applied.

## **Section 8 Effective Date**

This regulation shall become effective on January 1, 2012.

## **Section 9 History**

New regulation effective January 1, 2012.