

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
Center for Consumer Information and Insurance Oversight  
200 Independence Avenue SW  
Washington, DC 20201



October 12, 2021

**VIA ELECTRONIC MAIL:** [michael.conway@state.co.us](mailto:michael.conway@state.co.us)

Commissioner Michael Conway  
Colorado Division of Insurance  
1560 Broadway, Suite 850  
Denver, Colorado 80202

Dear Commissioner Conway:

Thank you for your submission of Colorado's application to change the Essential Health Benefit (EHB) benchmark plan for the state of Colorado for plan years (in the individual market, policy years), beginning on or after January 1, 2023. I am pleased to send this letter from the Centers for Medicare & Medicaid Services (CMS) within the Department of Health & Human Services (HHS).

This letter is to inform you that CMS, having completed the review of the application, approves Colorado's EHB-benchmark plan application under 45 CFR § 156.111(e), implementing section 1302 of the Affordable Care Act. This EHB benchmark plan will be the basis for determining EHB for non-grandfathered individual and small group health insurance coverage for plan or policy years beginning on or after January 1, 2023.

As you know, the Affordable Care Act requires non-grandfathered individual and small group health insurance coverage to cover the EHB, which include items and services in ten benefit categories. Federal regulations (45 CFR 156.100, et seq.) define EHB based on state-specific EHB-benchmark plans. A state may change its EHB-benchmark by submitting an application that complies with the requirements at § 156.111. Colorado submitted an application on May 7, 2021 that sought to add certain benefits related to gender-affirming care and opioid use disorder to the state's current EHB benchmark plan.

Upon review, CMS has determined that Colorado's application satisfies the requirements to change EHB-benchmark plans as set forth in § 156.111. In particular, Colorado has submitted the following required materials as part of an acceptable application package:

1. A document confirming that Colorado's EHB-benchmark plan definition complies with the requirements at § 156.111(a), (b), and (c).
2. An actuarial certification and an associated actuarial report from an actuary, who is a member of the American Academy of Actuaries, in accordance with generally accepted actuarial principles and methodologies, that affirms:

- a. That Colorado's EHB-benchmark plan provides a scope of benefits that is equal to the scope of benefits provided under a typical employer plan, and
  - b. That Colorado's EHB-benchmark plan does not exceed the generosity of the most generous among a set of comparison plans.
3. Colorado's new EHB-benchmark plan document that reflects the benefits and limitations, including medical management requirements, a schedule of benefits, and a formulary drug list.

In addition, from April 5, 2021 to April 30, 2021, Colorado provided opportunity for public comment on Colorado's selection of its EHB-benchmark plan.

We are particularly pleased to approve an application that, for the first time, adds benefits related to gender-affirming care to the EHB in Colorado. Research indicates that gender-affirming care can improve the health and well-being of transgender people and access to these types of medical services can help to reduce the effects of health disparities on gender diverse people.

Your state's EHB-benchmark plan selection and accompanying application documents will be posted publicly on the CMS EHB website at <https://www.cms.gov/CCIIO/Resources/Data-Resources/ehb>. In addition to this letter, you will receive an approval notification from the Plan Management Community, stating that the following documents will be posted to the CMS website: a summary of the plan's coverage of certain benefits, including a list of covered prescription drug categories and classes; supporting plan documents; and any supplementary plan documents.

Please do not hesitate to contact us if you have any questions.

Sincerely,

Ellen Montz  
Director  
Center for Consumer Information & Insurance Oversight  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services