

December 18, 2024

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

RE: DRAFT proposed regulation 4-2-XX: Colorado Option Standardized Health Benefit Plans in the Small Group Market.

Dear Commissioner Conway:

The Colorado Option for Health Insurance became law in 2021 with support from the small business community as a solution to unaffordable healthcare costs. Dozens of business owners across the state testified in favor of this proposal as a lifeline for their businesses during increasingly hard times. Small Business Majority was a firm supporter of the bill that established the Colorado Option, and we continue to support its effective implementation so that small businesses across Colorado have access to more affordable options for health insurance.

Yet, despite this clear need, enrollment in Colorado Option plans in the small group market has been low. According to data from the Colorado Option Advisory Board for PY24, there are only 329 participants currently covered. This represents an increase from PY23's 142 participants, but enrollment is still relatively low.

One of the major barriers curtailing the Colorado Option's enrollment process is a lack of communication and outreach about it to small businesses. We've heard from small business owners in our network that they weren't aware of it, and also that their brokers haven't informed them about the Colorado Option. DOI has also discovered that some insurance companies have prohibited brokers from sharing Colorado Option plans with small businesses if they also wanted to share non-Colorado Option plans. This may be why many brokers haven't been sharing information about Colorado Option plans with small businesses and why enrollment remains low. Brokers are, however, required to educate and inform their clients—including small business owners—about the full range of available plans and DOI must hold them accountable if they do not do so.

Therefore, we are fully supportive of Proposed Draft Regulation 4-2-XX. We commend DOI for prohibiting carriers from limiting the number of Colorado Option plans that can be offered to small businesses at the time of solicitation or sale, allowing the wide range of Colorado Option plans to be offered. Furthermore, we commend DOI for prohibiting carriers from limiting a producer's ability to offer Standardized Plans and non-Standardized Plans at the same time during a solicitation or sale. We strongly recommend that carriers should not be able to limit offering standardized plans under any circumstance. Therefore, we suggest that Section 5(C) be adapted to: "Except as otherwise provided in Federal law, a carrier must offer Standardized Plans in the same manner and under the same solicitation or sale policies and restrictions as the carrier's non-Standardized Plans in the small group

market. A carrier shall not impose additional limitations on a producer's ability to offer Standardized Plans."

Furthermore, part of the language included in Section 5(C)(1) and 5(C)(2) ("...unless the carrier has the same solicitation or sale policy or restriction regarding non-Standardized Plans") may leave room for some possible ambiguity. Carriers might find workarounds allowing them to continue imposing restrictions on brokers in order to prevent them from presenting all standardized and non-standardized plan options available to the small businesses with which they are working. The Division should make it clear in the regulation that carriers should not be imposing any limits on the plan options that brokers present to small businesses. Therefore, we suggest removing that part of the language from Sections 5(C)(1) and 5(C)(2).

We fought hard for the small group market to be included in the Colorado Option, and through its implementation, it can be successful and transformative for small businesses. Therefore, we ask that the proposed regulation be adopted as soon as possible to allow more small businesses access to more affordable healthcare options for their business. We look forward to working with the Division to help ensure the success of the Colorado Option for the small business community.

Sincerely,

Hunter Nelson  
Colorado Director, Small Business Majority