

Health Law and Policy Update:

October 26, 2012

This week's updates

- [New report examines rulemaking in Colorado](#)
- [New study examines emergency department use in Colorado](#)
- [Report shows lower increase in health plan cost](#)

What's New

New report examines rulemaking in Colorado

Rulemaking--the formal process of passing, or promulgating regulations--is one of the most important and least understood functions of government. A new [report](#) published by CCLP examines Colorado's rulemaking processes and procedures step by step, from an agency's initial determination that rulemaking is necessary to the rule's final, permanent adoption. The particular focus throughout is on opportunities for the public to participate in and influence the rulemaking process.

Rulemaking is one of the most critical components of lawmaking. Generally, lawmaking begins with the legislature passing broad policies in the form of statutes. The rulemaking process then allows executive agencies to clarify, refine and operationalize statutes passed by the legislature in greater detail. Every year, state executive agencies promulgate hundreds of regulations that govern everything from the delivery of health care benefits to consumer protections and public health and safety requirements.

Colorado's rulemaking processes and procedures help to ensure that there is adequate justification for rulemaking, that rulemaking is open and transparent and that rulemaking is expedient and timely. However, it is essential that advocates and concerned citizens clearly understand the rulemaking process so they may effectively engage with the development and adoption of rules. The report points out that there are multiple opportunities for public participation throughout the rulemaking process. These opportunities range from testifying on proposed rules at public hearings to serving on stakeholder groups during a rule's initial

development. Interested individuals are encouraged to take advantage of these opportunities to ensure that proposed rules are implemented in a manner that is advantageous to those affected by the rule.

Advancing the Debate

New study examines emergency department use in Colorado

Use of hospital emergency departments (EDs) is considered a leading cost driver in the health care system. With high rates of uninsured and underinsured individuals, many people turn to EDs to obtain non-urgent care. Many states and the federal government continue to develop policies to address high ED utilization. A new [report](#) from the Colorado Trust examines ED use in Colorado, concluding that high ED use is often the result of inadequate access to health care providers and insufficient care coordination for individuals with chronic conditions.

The study is based on the 2011 Colorado Health Access Survey (CHAS), which asked a random sample of 10,000 Coloradans a number of detailed questions about ED utilization. The study also compares CHAS data to 2008-2009 Colorado Household survey data. The findings from the study help to paint a picture of what circumstances lead to higher ED use. Some major findings from the study include:

- The number of Coloradans reporting at least one ED visit in the 12 month period before each survey rose from 1 million (20.2 percent of the population) in 2008-2009 to 1.2 million (22.3 percent) in 2011.
- Individuals most likely to report high ED use include young children, seniors, individuals reporting poor health status, individuals at or below the poverty line and certain minority populations.
- The top reasons given for using the ED was needing care after hours and not being able to secure an appointment with a primary care physician as soon as it was needed.
- Almost half (44.1 percent) of Coloradans that reported at least one visit to the ED claimed that the condition could have been treated by a regular doctor.
- Uninsured Coloradans do not report using the ED more than insured Coloradans.

The report states that uninsured individuals may avoid ED services because of high costs. The report refers to efforts in Colorado to address high ED costs for low-

income individuals, including the [2012 Hospital Payment Assistance Act](#), which CCLP has reported on in [previous updates](#). The report concludes by stating that it is important to understand "how and why patients arrive at the ED seeking care [in order to] point the way to better and more efficient ways to deliver health care in a fully integrated and well-functioning system."

Report shows lower increase in health plan costs

The results of a Colorado employer [survey](#) report released this week and [reported](#) in the Denver Post shows the lowest rate increase for employer based health care coverage in the past ten years. The rate increase for 2013 is expected to be 7.4 percent which is down from a 9.4 percent increase reported last year. Forty-four percent of employers said they would absorb the cost of the increase rather than pass them on to employees. The survey also shows a considerable drop in the percent of companies that report offering fully-insured plans, from 58 percent in 2011 to 46 percent in 2012. This corresponded with an increase in the percentage of respondents who offer self-insured plans or a combination of fully-insured and self-insured plans.