

**RHODE ISLAND GOVERNMENT REGISTER  
PUBLIC NOTICE OF PROPOSED RULEMAKING**

**DEPARTMENT OF BUSINESS REGULATION (INCLUDES THE OFFICE OF THE  
HEALTH INSURANCE COMMISSIONER)**

**Title of Rule:** Powers and Duties of the Office of the Health Insurance  
Commissioner

**Rule Identifier:** 230-RICR-20-30-4

**Rulemaking Action:** Proposed Amendment

**Important Dates:**

Date of Public Notice: January 23, 2023

Hearing Date: February 27, 2023

End of Public Comment: March 7, 2023

**Rulemaking Authority:**

R.I. Gen. Laws § 42-14.5-1 et seq.

42-14-5

and 42-14-17.

**Summary of Rulemaking Action:**

The Office of the Health Insurance Commissioner (OHIC) is proposing amendments to 230-RICR-20-30-4 Powers and Duties of the Office of the Health Insurance Commissioner. To facilitate the public's review of the proposed amendments OHIC has prepared a paper titled **Revisions to 230-RICR-20-30-4 Powers & Duties of the Office of the Health Insurance Commissioner**. The paper provides a discussion of the rationale and available evidence supporting adoption of the proposed amendments. (This paper has been uploaded to the SOS website and can be found under the "Rulemaking Documents" tab.)

The proposed amendments include technical modifications to § 4.3 Definitions and § 4.10 Affordable Health Insurance – Affordability Standards. Non-technical modifications to grammar and form are proposed throughout the regulation. Finally, references to dated health insurer reporting requirements are deleted. Collectively, the proposed amendments and retained provisions set forth regulatory standards for insurers to follow in their efforts to improve the affordability of their products and support quality health care and access to care. OHIC developed these standards to meet its statutory mandate under R.I.G.L § 42-14.5-2, which states:

"With respect to health insurance as defined in § 42-14-5, the health insurance commissioner shall discharge the powers and duties of office to:

- (1) Guard the solvency of health insurers;
- (2) Protect the interests of consumers;
- (3) Encourage fair treatment of health care providers;
- (4) Encourage policies and developments that improve the quality and efficiency of health care service delivery and outcomes; and
- (5) View the health care system as a comprehensive entity and encourage and direct insurers towards policies that advance the welfare of the public through overall efficiency, improved health care quality, and appropriate access."

Furthermore, in consideration of pressing behavioral health needs of the public, in 2018 the General Assembly enacted legislation that augmented OHIC's powers and duties under R.I.G.L § 42-14.5-3 with respect to the promotion of integrated behavioral health. These provisions direct OHIC:

(p) To work to ensure the health insurance coverage of behavioral health care under the same terms and conditions as other health care, and to integrate behavioral health parity requirements into the office of the health insurance commissioner insurance oversight and health care transformation efforts.

(q) To work with other state agencies to seek delivery system improvements that enhance access to a continuum of mental-health and substance-use disorder treatment in the state; and integrate that treatment with primary and other medical care to the fullest extent possible.

(r) To direct insurers toward policies and practices that address the behavioral health needs of the public and greater integration of physical and behavioral health care delivery.

The proposed amendments to § 4.10 Affordable Health Insurance – Affordability Standards are described as follows:

The proposed amendments to § 4.10(B) provide for the collection of data on behavioral health care expenditures by commercial health insurers. Additionally, the proposed amendments require a specific increase in per member per month expenditures on community-based behavioral health care for children and adolescents by January 1, 2024.

The proposed amendments to § 4.10(C) delete reference to NCQA recognition as part of the Primary Care Practice Transformation & Patient Centered Medical Home (PCMH) Financial Support Model. Commensurate with these changes, the definition of PCMH, § 4.3(A)(17), has been amended to grant practices participating in a primary care alternative payment model and an integrated system of care credit as a PCMH. Commensurate with changes to § 4.10(C) the definition of a Qualifying Integrated Behavioral Health Primary Care Practice, § 4.3(A)(21), has been amended to allow for the creation of integrated behavioral health standards by the Care Transformation Collaborative of Rhode Island as an alternative to NCQA. Proposed amendments to § 4.10(D) relate to payment reform, health equity, and provider contract terms.

Amendments to § 4.10(D)(3) recalibrate the primary care alternative payment model contracting targets by proposing to change the annual target values and shift the sequence of values into the future with the first target value to be attained by the end of 2023.

§ 4.10(D)(6) of the amended regulation modifies the hospital contracting

requirements in two ways. First, § 4.10(D)(6)(d)(3) is amended to require earned quality incentive payments to become part of base hospital payment rates. Second, § 4.10(D)(6)(e)(2) is amended to lower the minimum threshold for prior approval from 50% to 25% of the annual rate increase that is at risk for quality performance. OHIC also proposes language to specify a standard method by which the health insurance commissioner will report the US All Urban Consumer All Items Less Food and Energy CPI (“CPI-Urban”) percentage increase to be used in setting the value of the annual hospital price growth cap.

The proposed amendments are supported by evidence and sound theory and are rationally related to the statutory purposes of OHIC. The remainder of the proposed amendments are changes to grammar and form.

A public hearing will be held remotely via Zoom on Monday February 27th, 2023 at 9 AM. To join the hearing, please click on the following link on the scheduled date and time: <https://us06web.zoom.us/j/89825140158>.

### **Additional Information and Public Comments:**

All interested parties are invited to request additional information or submit written or oral comments concerning the proposed amendment until March 7, 2023 by contacting the appropriate party at the address listed below:

Cory King

Department of Business Regulation (includes the Office of the Health Insurance Commissioner)

1511 Pontiac Ave, Building 69-1

Cranston, RI 02920

[cory.king@ohic.ri.gov](mailto:cory.king@ohic.ri.gov)

### **Public Hearing:**

A public hearing, in accordance with R.I. Gen. Laws § 42-35-2.5, to consider the proposed amendment shall be held at which time and place all persons interested therein will be heard. This hearing is subject to R.I. Gen. Laws Chapter 42-46, Open Meetings.

### **Public Hearing Information:**

Date: February 27, 2023

Time: 9:00 A.M.

Location: Zoom

<https://us06web.zoom.us/j/89825140158>

Cranston, RI, 02920

The place of the public hearing is accessible to individuals with disabilities. If communication assistance (readers/interpreters/captioners) is needed, or any other accommodation to ensure equal participation, please call 401-462-9658 or RI Relay 711 at least three (3) business days prior to the meeting so arrangements can be made to provide such assistance at no cost to the person requesting. For questions regarding available parking, please contact the agency staffperson listed above.

### **Regulatory Analysis Summary and Supporting Documentation:**

Pursuant to the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.9 and Executive Order 15-07 OHIC conducted a regulatory and cost-benefit analysis of the proposed amendments. Interest parties are referred to the document **230-RICR-20-30-4 Proposed Amendments Regulatory and Cost-Benefit Analysis** for an assessment of the societal costs and benefits of the proposed amendments. OHIC believes the proposed amendments are likely to generate societal benefits which exceed the costs. The complete Cost-Benefit Analysis has been uploaded to SOS and can be found under “Rulemaking Documents.”

For full regulatory analysis or supporting documentation contact the agency staffperson listed above.