

TO: Board of Directors, Colorado Health Benefit Exchange

FROM: Steve ErkenBrack, Chair Rules and Regulations Review Committee

DATE: April 18, 2012

RE: **Recommendations from Rules and Regulations Review Committee Meeting on April 17, 2012**

The Rules and Regulations subcommittee met on April 17, 2012 in order to receive and consider comments from the public and stakeholders concerning whether to take any further action on the Actuarial Value (AV) Bulletin, the response to that bulletin from the Division of Insurance (DOI), or on the interim portions of the Exchange rule.

With regard to the AV Bulletin, there was considerable discussion around what networks should be included in actuarial value. The original HHS bulletin reflects the position advocated by the Colorado Association of Health Plans (CAHP), concerning the exclusion of out-of-network providers in determining Actuarial Value. That position has been encouraged on a national level by America's Health Insurance Plans (AHIP). The DOI memorandum recommended the opposite perspective, and CAHP urged the Board to differentiate its position from that of DOI. The consensus of the Committee was that these points are complex and finely balanced, and have been well presented to HHS for its consideration. Because neither position will create a competitive disadvantage for a given plan, either within or outside of the Exchange, the Committee recommends that the Board not devote further resources to making additional recommendations.

With regard to the interim final rule, no issues were raised by the public for the Board's consideration. The Committee noted that the current language of the interim final rule gives significant discretion to state exchange boards, and felt that there were no issues in the interim final rule that warranted the allocation of resources at this time.