

Title of Proposed Rule: Revisions to Finance and Accounting Rules

CDHS Tracking #: 16-10-17-1

Office, Division, & Program:
OPSO / Audit Division

Rule Author:
Mette Boes

Phone: (303) 866-7327

E-Mail: mette.boes@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

Minor changes to remove outdated references and other minor edits for consistency, most significantly:

- Rule 5.302 will reference the new OMB Uniform Grant Guidance (2 C.F.R. Part 200), instead of the no longer applicable various OMB Circulars.
- Rule 5.401 will reference the letter informing counties about their annual allocations, instead of the no longer applicable Agency Letter.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
§26-1-108, C.R.S. (2016)	Powers and duties of the executive director – rules (1)(a) Rules governing matters of internal administration in the state department, including organization, staffing, records, reports, systems, and procedures, and also governing fiscal and personnel administration for the state department and establishing accounting and fiscal reporting rules for disbursement of federal funds, contingency funds, and proration of available appropriations except those determinations precluded by authority granted to the state board. (2) The rules issued by the executive director pertaining to this title shall be binding upon the several county departments, providers, vendors, and agents of the state department...
2 C.F.R. Part 200 §200.104 Supersession	The following OMB guidance documents and regulations under Title 2 of the Code of Federal Regulations are superseded: (a) A-21, “Cost Principles for Educational Institutions” (2 CFR part 220); (b) A-87, “Cost Principles for State, Local and Indian Tribal Governments” (2 CFR part 225) and also Federal Register notice 51 FR 552 (January 6, 1986); (c) A-89, “Federal Domestic Assistance Program Information”; (d) A-102, “Grant Awards and Cooperative Agreements with State and Local Governments”; (e) A-110, “Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations” (codified at 2 CFR 215); (f) A-122, “Cost Principles for Non-Profit Organizations” (2 CFR part 230); (g) A-133, “Audits of States, Local Governments and Non-Profit Organizations”; and (h) Those sections of A-50 related to audits performed under Subpart F - Audit Requirements of this part.

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

Rule 5.302 incorporates 2 C.F.R. Part 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.”

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REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

County departments of social/human services

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

The finance and accounting requirements contained in 11 CCR 2508-1 remain the same. The revisions presented herein are minor changes to remove outdated references and other minor edits.

3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just "no impact" answer should include "no impact because..."***

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

County Fiscal Impact

No impact because the finance and accounting requirements contained in 11 CCR 2508-1 remain the same. The revisions presented herein are minor changes to remove outdated references and other minor edits.

Federal Fiscal Impact

Other Fiscal Impact (such as providers, local governments, etc.)

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

None because the finance and accounting requirements contained in 11 CCR 2508-1 remain the same. The revisions presented herein are minor changes to remove outdated references and other minor edits.

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5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. Answer should NEVER be just “no alternative” answer should include “no alternative because...”

No alternative because the finance and accounting requirements contained in 11 CCR 2508-1 must comply with 2 C.F.R. Part 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.”

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
5.100	Added comma	These rules are the fiscal rules for county departments of social/human services concerning public assistance, social services, other forms of assistance, and the administration of the above including but not limited to internal controls, financial reporting, accounting and auditing.	These rules are the fiscal rules for county departments of social/human services concerning public assistance, social services, other forms of assistance, and the administration of the above including but not limited to internal controls, financial reporting, accounting, and auditing.		Yes
5.301	Consistent language	A county department of social/human services shall follow county procurement processes. If counties do not have procurement processes in place, State Procurement Rules shall be used pursuant to 1 CCR 101 through 1 CCR 109.	County departments of social/human services shall follow county procurement processes. If counties do not have procurement processes in place, State Procurement Rules shall be used pursuant to 1 CCR 101 through 1 CCR 109.		Yes
5.302	Outdated reference & consistent language	Counties shall comply with the applicable federal cost circulars and shall hold their sub-recipients and vendors accountable for compliance with the applicable circulars. Counties shall comply with OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments" published at 2 CFR 225, and OMB Circular A-102, "Common Rule" published at 45 CFR 92. If a county passes through federal funds to a non-profit organization, that non-profit organization shall comply with OMB Circular A-122, "Cost Principles for Non-Profit Organizations" published at 2 CFR 230. If a county passes through federal funds to an educational institution, that educational institution shall comply with OMB Circular A-21, "Cost Principles for Educational Institutions" published at 2 CFR 220. No later amendments or editions are incorporated.	County departments of social/human services shall comply with 2 C.F.R. Part 200 "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" and any other applicable federal cost circulars. When counties are a pass-through entity, they shall hold their subrecipients and contractors accountable for compliance with 2 C.F.R. Part 200 and any other applicable circulars.		Yes
5.401	Outdated reference & consistent language & added comma	The counties shall refer to an annual Colorado Department of Human Services Agency Letter which sets forth program allocations as well as procedures that counties shall follow regarding any appeal of an allocation, closeout of actual expenditures each year, as well as methodology and data used to calculate annual allocations by program.	County departments of social/human services shall refer to an annual Colorado Department of Human Services County Allocation Letter which sets forth program allocations, as well as procedures that counties shall follow regarding any appeal of an allocation, closeout of actual expenditures each year, as well as methodology and data used to calculate annual allocations by program.		Yes
5.501	Consistent language	Counties shall adhere to all county guidelines for contract processes and procedures. In the absence of county procedures, county departments of	County departments of social/human services shall adhere to all county guidelines for contract processes and procedures. In the absence of county procedures, county		Yes

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
		social/human services shall follow State contract processes and procedures pursuant to 1 CCR 101 through 1 CCR 109.	departments of social/human services shall follow State contract processes and procedures pursuant to 1 CCR 101 through 1 CCR 109.		
5.601	Consistent language & capitalize "State"	Counties shall adhere to all county guidelines for travel policies and reimbursement procedures. In the absence of county policies and procedures, county departments of social/human services shall follow state travel policies and procedures pursuant to 1 CCR 103-1.	County departments of social/human services shall adhere to all county guidelines for travel policies and reimbursement procedures. In the absence of county policies and procedures, county departments of social/human services shall follow State travel policies and procedures pursuant to 1 CCR 103-1.		Yes
5.800	Incorrect reference to State Fiscal Rule 1-9 & capitalize "State"	Any suspected theft or embezzlement of federal, state or local funds shall be immediately reported to at least one level of management above the party(s) suspected or to the county social/human services board. In addition, theft or embezzlement of state and/or federal funds or assets totaling \$5,000 or more shall be reported in writing to the county social/human service board and to the Director of the Audit Division of the Colorado Department of Human Services at 4126 South Knox Court, Denver, Colorado 80236-3102.	Any suspected theft or embezzlement of federal, State or local funds shall be immediately reported to at least one level of management above the party(s) suspected or to the county social/human services board. In addition, theft or embezzlement of State and/or federal funds or assets totaling \$5,000 or more per incident shall be reported in writing to the county social/human service board and to the Audit Division Director of the Colorado Department of Human Services at 4126 South Knox Court, Denver, Colorado 80236.		Yes
5.900	Consistent language	Counties shall maintain a written set of internal control policies and procedures that promote a sound internal control environment that ensures an adequate and appropriate segregation of duties. The same staff may not initiate, authorize, and record a transaction, if staff also has the ability to receipt or disburse monies for that same transaction.	County departments of social/human services shall maintain a written set of internal control policies and procedures that promote a sound internal control environment that ensures an adequate and appropriate segregation of duties. The same staff may not initiate, authorize, and record a transaction, if staff also has the ability to receipt or disburse monies for that same transaction.		Yes

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STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

CDHS Division of Financial Services/Controller

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

Finance Sub-PAC Committee & Colorado Human Services Directors Association (through Tracey Garchar, Executive Director, Mesa County Department of Human Services)

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes No

If yes, who was contacted and what was their input?

N/A

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

Yes No

Date presented 10/6/2016

What issues were raised? None

If not presented, explain why.

Sub-PAC

Have these rules been approved by PAC?

Yes No

Date presented N/A

Other Comments

Comments were received from stakeholders on the proposed rules:

Yes No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

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The proposed changes were presented to the Finance Sub-PAC Committee on 10/6/2016 as “housekeeping” changes in order to comply with current requirements and practices. A document with the track changes on each rule was sent to attendees ahead of time for their review.

Rules 5.302 and 5.401 were highlighted as the most significant (although still minor) proposed changes. Rule 5.302 will reference the new OMB Uniform Grant Guidance (2 C.F.R. Part 200), instead of the no longer applicable OMB Circulars. Rule 5.401 will reference the allocation letter informing counties about their annual allocations, instead of the no longer applicable Agency Letter.

One question was received from Sharon Svendsen (Douglas County Department of Human Services) who asked about the use of “contractor” in the proposed rules. Mette Boes explained that 2 C.F.R. Part 200 replaced “vendor” (old term) with “contractor” (new term); the distinction is the same, but the terminology has changed. Mette Boes and Clint Woodruff further explained that 2 C.F.R. Part 200 combined eight OMB Circulars (see 2 C.F.R. §200.104) into one comprehensive Circular that includes requirements for both contractors and subrecipients. Clint Woodruff gave the example of procurement processes that apply to both contractors and subrecipients in the new 2 C.F.R. Part 200. No other questions, comments, or edits were received on the proposed changes.

EXAMPLE OF RULES WITH SECRETARY OF STATE'S STYLE CODING

(11 CCR 2508-1)

5.000 FINANCE AND ACCOUNTING [Rev. eff. 7/1/12]

5.100 PURPOSE AND SCOPE [Rev. eff. 7/1/12]

These rules are the fiscal rules for county departments of social/human services concerning public assistance, social services, other forms of assistance, and the administration of the above including but not limited to internal controls, financial reporting, accounting, and auditing.

5.200 ROUTINE REPORTING PERIOD [Rev. eff. 7/1/12]

5.201 Monthly Reporting to the Colorado Department of Human Services [Rev. eff. 7/1/12]

The county social/human services director shall report to the Colorado Department of Human Services at such times and in such manner and form as the Colorado Department of Human Services may from time to time direct. The routine reporting period from the county to the Colorado Department of Human Services is a calendar month. The Controller of the Colorado Department of Human Services shall determine the date required to submit financial data for each monthly reporting cycle.

5.300 PROCUREMENT PROCESS [Rev. eff. 7/1/12]

5.301 Counties Shall Follow County Procurement Processes [Rev. eff. 7/1/12]

A county department of social/human services shall follow county procurement processes. If counties do not have procurement processes in place, State Procurement Rules shall be used pursuant to 1 CCR 101 through 1 CCR 109.

5.302 Compliance with Office of Management and Budget (OMB) Circulars [Eff. 7/1/12]

Counties DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall comply with 2 C.F.R. PART 200 AND ANY OTHER applicable federal cost circulars, and WHEN COUNTIES ARE A PASS-THROUGH ENTITY, THEY shall hold their sub-recipients and CONTRACTORS/vendors accountable for compliance with 2 C.F.R. PART 200 AND ANY OTHER applicable circulars. Counties shall comply with OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments" published at 2 CFR 225, and OMB Circular A-102, "Common Rule" published at 45 CFR 92. If a county passes through federal funds to a non-profit organization, that non-profit organization shall comply with OMB Circular A-122, "Cost Principles for Non-Profit Organizations" published at 2 CFR 230. If a county passes through federal funds to an educational institution, that educational institution shall comply with OMB Circular A-21, "Cost Principles for Educational Institutions" published at 2 CFR 220. No later amendments or editions are incorporated.

Copies of this material are available by contacting the Controller of the Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado, 80203, and online at <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=87f8582883b9a1bdf2ba739bee355a07&mc=true&n=pt2.1.200&r=PART&ty=HTML> www.whitehouse.gov/omb/circulars_default or <http://www.gpoaccess.gov/cfr/>. Additionally, any incorporated material in these rules may be examined at any state publications depository library.

5.400 County Allocations [Rev. eff. 7/1/12]

5.401 Counties Shall Use Colorado Department of Human Services Guidance [Rev. eff. 7/1/12]

The county DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall refer to an annual Colorado Department of Human Services COUNTY ALLOCATION LETTER/Agency Letter which sets forth program allocations, as well as procedures that counties shall follow regarding any appeal of an allocation, closeout of actual expenditures each year, as well as methodology and data used to calculate annual allocations by program.

5.500 CONTRACTS [Rev. eff. 7/1/12]

5.501 Contract Procedures [Rev. eff. 7/1/12]

Count~~ies~~ DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall adhere to all county guidelines for contract processes and procedures. In the absence of county procedures, county departments of social/human services shall follow State contract processes and procedures pursuant to 1 CCR 101 through 1 CCR 109.

5.600 TRAVEL [Rev. eff. 7/1/12]

5.601 Travel Procedures [Rev. eff. 7/1/12]

Count~~ies~~ DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall adhere to all county guidelines for travel policies and reimbursement procedures. In the absence of county policies and procedures, county departments of social/human services shall follow State travel policies and procedures pursuant to 1 CCR 103-1.

5.700 REQUIRED USE OF STATEWIDE AUTOMATED SYSTEMS [Rev. eff. 7/1/12]

County departments of social/human services shall use the Colorado Department of Human Services automated statewide client and/or provider information systems. These systems are designed to collect and store program data; assist with eligibility and payment determinations; generate forms and reports; create electronic benefit authorizations; and add to, delete, or make changes to the information on file.

5.800 REPORTING OF EMPLOYEE THEFT OR EMBEZZLEMENT [Rev. eff. 7/1/12]

Any suspected theft or embezzlement of federal, State or local funds shall be immediately reported to at least one level of management above the party(s) suspected or to the county social/human services board. In addition, theft or embezzlement of State and/or federal funds or assets totaling \$5,000 or more PER INCIDENT shall be reported in writing to the county social/human service board and to the ~~Director of the~~ Audit Division DIRECTOR of the Colorado Department of Human Services at 4126 South Knox Court, Denver, Colorado 80236-~~3402~~.

5.900 MAINTAIN INTERNAL CONTROLS AND ADEQUATE SEGREGATION OF DUTIES [Rev. eff. 7/1/12]

Count~~ies~~ DEPARTMENTS OF SOCIAL/HUMAN SERVICES shall maintain a written set of internal control policies and procedures that promote a sound internal control environment that ensures an adequate and appropriate segregation of duties. The same staff may not initiate, authorize, and record a transaction, if staff also has the ability to receipt or disburse monies for that same transaction.