

## **THIS PAGE NOT FOR PUBLICATION**

Title of Rule: Revisions to the Family and Children's Medicaid Rule for Presumptive Eligibility, Section 8.101

Rule Number: MSB 07-09-05-A

Division / Contact / Phone: Program Eligibility & Implementation / Ann Clemens / (303) 866-6115

### **SECRETARY OF STATE**

### **RULES ACTION SUMMARY AND FILING INSTRUCTIONS**

#### **SUMMARY OF ACTION ON RULE(S)**

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 07-09-05-A, Revisions to the Family and Children's Medicaid Rule for Presumptive Eligibility, Section 8.101
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):  
Sections(s) 8.101.11, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? Yes  
If yes, state effective date:  
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

#### **PUBLICATION INSTRUCTIONS\***

**Please replace current text at §8.101.1 MEDICAID ELIGIBILITY FOR FAMILIES AND CHILDREN through the end of 8.101.11.L with the new text provided from 8.101 through the end of 8.101.11.L effective 03/30/2008.**

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Rule Number: MSB 07-09-05-A

Division / Contact / Phone: Program Eligibility & Implementation / Ann Clemens / (303) 866-6115

### **STATEMENT OF BASIS AND PURPOSE**

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

This revision to the Family and Children's Medicaid Rule for Presumptive Eligibility expands presumptive eligibility benefits to children under the age of 19. This rule is in response to SB 07-211, which revised 25.5-5-204 and 25.5-5-205, C.R.S. (2006).

2. An emergency rule-making is imperatively necessary

☒ to comply with state or federal regulation and/or

☐ for the preservation of public health, safety and welfare.

Explain:

SB 07-211 requires the Department to add a presumptive eligibility period for children.

3. Federal authority for the Rule, if any:

42 U.S.C. Section 1396r-1a

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2006);  
25.5-5-204, C.R.S. (2007)  
25.5-5-205, C.R.S. (2007)

Initial Review

Proposed Effective Date

**03/30/2008**

Final Adoption

Emergency Adoption

**02/08/2008**

**12/14/2007**

**DOCUMENT #**

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Rule Number: MSB 07-09-05-A

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### **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Children under the age of 19 will benefit from the proposed rule because they will be presumptively eligible for Medicaid and will be able to immediately access medical services while waiting for their application to be processed.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The qualitative impact of the proposed rule is that children will be presumptively eligible for Medicaid.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The cost to implement system changes is approximately \$304,204, of which \$59,600 was allocated under the fiscal note in SB 07-211 and appropriated by the General Assembly.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The Department must implement the proposed rule pursuant to SB 07-211.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The Department has determined that there are no less costly methods or less intrusive methods available to achieve the purpose of the proposed rule.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

There are no alternative methods for achieving the purpose of the proposed rule. The change is required by state law.

### 8.101.1 MEDICAID ELIGIBILITY FOR FAMILIES AND CHILDREN

- .11 Medical assistance shall be provided to families and children who meet the federal definition of categorically needy. All references to 1931 Medicaid apply to AFDC rules effective on July 16, 1996. The following are considered under this group.
- A. Persons who would have been eligible for AFDC (1931 Medicaid).
  - B. Children who would be eligible for 1931 Medicaid except for the consideration of income from a stepparent outside the assistance unit, or a grandparent outside the assistance unit.
  - C. Persons who would be eligible for 1931 Medicaid except for the inclusion in the assistance unit of a child/children whose income makes the unit ineligible. This also applies to parents with only one child.
  - D. Persons who would be eligible for 1931 Medicaid except for the income of a child(ren) outside the assistance unit whose income makes the unit ineligible.
  - E. A child born to a woman eligible for and receiving Medicaid at the time of the child's birth, is continuously eligible for one year as long as the child remains a member of the household. This applies to children born to undocumented aliens and certain legal aliens as outlined in Section 8.100.53. To receive Medicaid under this category, the family need not file an application nor provide a social security number or proof of application for a social security number for the newborn. Anyone can report the birth of the baby by telephone. Information provided shall include the baby's name, date of birth, and mother's name or Medicaid number. A newborn can be reported to the county department at any time. Once reported a newborn meeting the above criteria shall be put on Medicaid from date of birth.
  - F. Children up to age six whose income does not exceed their proportionate share of 133% of the federal poverty level; or whose total family income does not exceed 133% of the federal poverty level.
  - G. Children born after September 30, 1983, not 19 years of age whose income does not exceed their proportionate share of 100% of the federal poverty level; or whose total family income does not exceed 100% of the federal poverty level.
  - H. If an individual is found ineligible because his/her income exceeds their proportionate share of the federal poverty level, a recalculation shall be performed to look at the Medicaid required household as a whole. The household's total income, after the allowable Medicaid deductions, shall be compared to the maximum federal poverty level. If the individual is then eligible under this process, he/she shall be coded under the same category for which they originally were determined ineligible.
  - I. Medical assistance shall be provided to persons in a facility eligible for Medical reimbursement who, if they left the facility, would be eligible for 1931 Medicaid.
  - J. Medical assistance shall be provided to a woman:
    - a. whose pregnancy is medically verified in writing by a medical professional (a certified medial assistant or higher level position supervised by a registered nurse or doctor), if pregnancy is not observable; and
    - b. whose income does not exceed her proportionate share of 133% of the federal poverty level or whose total family income does not exceed 133% of federal poverty level; and

- c. for a period beginning with the date of application for medical assistance or as of the date the person becomes eligible for medical assistance, whichever is the later calendar date, through 60 additional days from the date the pregnancy ends.
- K. Until the implementation of SB 03-176, a pregnant legal alien is eligible for state-funded prenatal medical care if she meets the eligibility requirements for expectant mothers listed in J.
- L. A pregnant woman applicant may apply for presumptive eligibility for ambulatory services through Medicaid presumptive eligibility sites. *[Eff 08/30/2006]* A child under the age of nineteen may apply or have an adult apply on their behalf for presumptive eligibility for State Plan approved medical services through presumptive eligibility sites.

To be eligible for presumptive eligibility, a n woman shall applicant shall have a verified pregnancy, declare that her household's income shall not exceed 133% of federal poverty level and declare that she is a United States citizen or a documented immigrant. *[Eff 08/30/2006]*

To be eligible for presumptive eligibility, a child under the age of 19 shall have a declared household income that does not exceed 100% of federal poverty level for a child age 6-18 or 133% of federal poverty level for a child under the age of 6 and declare that the child is a United States citizen or a documented immigrant of at least five years.

Presumptive eligibility sites shall be certified by the Department of Health Care Policy and Financing to make presumptive eligibility determinations. Sites shall be re-certified by the Department of Health Care Policy and Financing every 2 years to remain approved presumptive eligibility sites. *[Eff 08/30/2006]*

The presumptive eligibility sites shall ~~require the applicant to provide all necessary verification attempt to obtain all necessary documentation to complete the application~~ within fourteen calendar days of application. ~~If the applicant fails to provide the necessary documentation on the fourteenth calendar day following application, the presumptive eligibility period shall terminate.~~ *[Eff 08/30/2006]*

The presumptive eligibility site shall forward the application to the county within five business days of being completed. If the application is not completed within fourteen calendar days, on the fifteenth calendar day following application, the presumptive eligibility sites shall forward the application to the appropriate county. *[Eff 08/30/2006]*

The presumptive eligibility period shall be no less than 45 days. The presumptive eligibility period ends on the last day of the month following the completion of the 45 day Presumptive Eligibility period. The county department shall make a Medicaid eligibility determination within 45 days from receipt of ~~a completed the~~ application. The effective date of Medicaid eligibility ~~will shall~~ be the date of application. *[Eff 08/30/2006]*

A Presumptive eligible woman client may not appeal the end of a presumptive eligibility period. *[Eff 08/30/2006]*

# **THIS PAGE NOT FOR PUBLICATION**

Title of Rule: HCBS-CWA Waiver Provider Qualification Changes  
Rule Number: MSB 07-10-29-A  
Division / Contact / Phone: Long Term Care Benefits / Michelle Cason / 303-866-3895

## **SECRETARY OF STATE RULES ACTION SUMMARY AND FILING INSTRUCTIONS**

### **SUMMARY OF ACTION ON RULE(S)**

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 07-10-29-A, HCBS-CWA Waiver Provider Qualification Changes
3. This action is an adoption of: an amendment
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):  
Sections(s) 8.519.6, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? Yes  
If yes, state effective date:  
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

### **PUBLICATION INSTRUCTIONS\***

Please replace current text in section 8.519.6 PROVIDER ELIGIBILITY from 8.519.6 through 8.519.6.H with the new attached text from 8.519.6 PROVIDER ELIGIBILITY through 8.519.6.I effective 03/30/2008.

# **THIS PAGE NOT FOR PUBLICATION**

Title of Rule: HCBS-CWA Waiver Provider Qualification Changes  
Rule Number: MSB 07-10-29-A  
Division / Contact / Phone: Long Term Care Benefits / Michelle Cason / 303-866-3895

## **STATEMENT OF BASIS AND PURPOSE**

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The rule changes the educational and experience requirements for behavioral therapy providers to be certified to offer waiver services to children enrolled on the HCBS - Children with Autism Waiver.

The rule is necessary to comply with changes in the federal waiver approval and will increase the number and availability of behavioral therapy providers statewide. This change will result in more children receiving waiver services across Colorado.

2. An emergency rule-making is imperatively necessary

☒ to comply with state or federal regulation and/or

☐ for the preservation of public health, safety and welfare.

Explain:

To remain in compliance with CMS HCBS-CWA waiver Control number CO-0454.01

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2007);  
25.5-6-801 through 25.5-6-805

Initial Review

Proposed Effective Date

**03/30/2008**

Final Adoption

Emergency Adoption

**02/08/2008**

**12/14/2007**

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## **THIS PAGE NOT FOR PUBLICATION**

Title of Rule: HCBS-CWA Waiver Provider Qualification Changes  
Rule Number: MSB 07-10-29-A  
Division / Contact / Phone: Long Term Care Benefits / Michelle Cason / 303-866-3895

### **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Effected parties are families and children enrolled on the HCBS-Children with Autism waiver, current and potential behavioral therapy providers, and Community Centered Boards.

There are no additional costs.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The provider qualification changes will increase the availability of providers, and all 75 of the allowed children on the Children's Autism waiver will be able to access waiver services.

Families will have more options when choosing a provider.

Currently, there are only enough providers to provide services for 64 children, and the waitlist has 88 children approved.

CWA Providers will benefit with more providers because each provider will be able to concentrate on a more local clientele, therefore decreasing travel expense.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

There are no additional anticipated costs.

The rule change does not effect the cost of the waiver program which is capped at \$25,000 per child for up to 75 children regardless of which provider the child receives services from.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

Inaction would result in the state failing to comply with federal waiver approval and would perpetuate the current provider challenges. The CWA would continue without sufficient numbers of qualified providers to enroll the full capacity of 75 children.

The probable cost of inaction would be the strain of providers and families traveling far distances to receive or provide waiver services.



**THIS PAGE NOT FOR PUBLICATION**

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

None.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

None.

## 8.519.6 PROVIDER ELIGIBILITY

8.519.6.A. Providers shall conform to all federal and state established standards for the specific service they provide under the HCBS-CWA waiver, meet the responsibilities as set forth in Section 8.519.7 and enter into an agreement with the Department as set forth in 10 C.C.R. 2505-10, Section 8.130.

8.519.6.B. Providers shall enroll individually with the fiscal agent.

8.519.6.C. Providers shall be employed by a qualified Medicaid provider agency, clinic or hospital except for a Lead Therapist who may provide services independent from a Medicaid provider agency when the Lead Therapist employs the Senior Therapist and Line Staff.

8.519.6.D. Lead Therapists shall meet one of the following requirements:

1. Have a doctoral degree with a specialty in psychiatry, medicine or clinical psychology and be actively licensed by the state board of examiners. Have completed 400 hours of training and/or have direct supervised experience in behavioral therapies that are consistent with best practice and research on effectiveness for people with autism or other developmental disabilities.
2. Have a doctoral degree in one of the behavioral or health sciences and have completed 800 hours of specific training and/or experience in behavioral therapies that are consistent with best practice and research on effectiveness for people with autism or other developmental disabilities.
3. Have a Master's degree, or higher, in behavioral sciences and be nationally certified as a "Board Certified Behavior Analyst" or certified Relationship Development Intervention (RDI) consultant or certified by a similar nationally recognized organization.
4. Have a Master's degree or higher in one of the behavior or health sciences and certification as a School Psychologist; or licensed teacher with an endorsement of special education or early childhood special education; or licensed psychotherapy provider; or credentialed as a related services provider (Physical Therapist, Occupational Therapist, or Speech Therapist) and have completed 1,000 hours of direct supervised training or experience in behavioral therapies that are consistent with best practice and research on effectiveness for people with autism or other developmental disabilities.

~~Lead Therapists shall meet all of the following requirements:~~

- ~~1. Have a doctoral degree with a specialty in psychiatry, medicine or clinical psychology and be actively licensed by the state board of examiners.~~
- ~~2. Have completed 1,500 hours of training and/or have direct supervised experience delivering behavioral therapies consistent with best practice and research on the effectiveness for children with Autism.~~
- ~~3. Have two years of experience as a behavior therapist and/or has behavior therapist supervisory experience of at least one year.~~

8.519.6.E. The Lead Therapist shall assess the child and develop the treatment plan based on the child's individual needs. The Lead Therapist shall prescribe the amount, scope and duration of the therapy, make treatment adjustments and be responsible for treatment outcomes. The Lead Therapist shall be required to provide a written progress report for the case manager and the family every six months.

~~The Lead Therapist shall prescribe the amount, scope and duration of the therapy, make treatment adjustments and be responsible for treatment outcomes.~~

8.519.6.F. Senior Therapists shall meet one of the following requirements:

1. Have a Master's degree or higher in one of the behavior or health related sciences and have completed 1,000 hours of direct supervised training in the use of behavioral therapies that are consistent with best practice and research on effectiveness for people with autism or other developmental disabilities.
2. Have a bachelor's degree or higher in a human services field and have completed at least 2,000 hours of direct supervised training in the use of behavioral therapies that are consistent with best practice and research on effectiveness for people with autism or other developmental disabilities.
- ~~1. Be a licensed psychotherapy provider with a master's degree in one of the behavior sciences and have completed 400 hours of direct supervised training in the use of behavioral therapies that are consistent with best practice and research on effectiveness for children with Autism.~~
- ~~2. Have a bachelor's degree in a human services field and have completed at least 2,000 hours of direct supervised training in the use of behavioral therapies that are consistent with best practice and research on effectiveness for children with Autism.~~

8.519.6.G. The senior therapist shall provide ongoing supervision and implementation of the treatment plan. This includes the supervision of line staff, training of the families and conducting team meetings with the family, line staff and other providers to review the child's progress. The senior therapist shall provide documentation of the location of the agency that is providing services, the time spent and the team members who participated in the delivery of services.

~~8.519.6.H.~~ Line Staff shall meet all of the following requirements:

1. Be at least 18 years of age
2. Have graduated from high school or earned a high school equivalency degree.
3. Have or acquire 20 hours or more of direct supervised experience billable under the direction of a Lead or a Senior Therapist, in the use of behavioral therapies that are consistent with best practice and research on effectiveness for people with autism or other developmental disabilities.
4. Demonstrate understanding of the services and outcomes for children with Autism as attested to by the Lead Therapist or Senior Therapist.
5. Have cleared the provider's background check at the time he/she is hired.
- ~~1. Be at least 18 years of age.~~
- ~~2. Have graduated from high school or have earned a high school equivalency degree.~~
- ~~3. Have 30 hours or more of direct supervised experience under the direction of a Lead or a Senior Therapist in the use of behavioral therapies that are consistent with best practice and research on effectiveness for children with Autism.~~

~~4. Be determined by the Lead Therapist to understand the specific services and outcomes for the child being served and for regularly reporting client activity to the Senior and Lead Therapists.~~

~~5. Have cleared the provider's background check at the time he/she is hired.~~

8.519.6.I. ~~H~~The line staff shall be trained directly by the lead and/or senior therapist. The senior therapist is responsible for the line staff supervision and shall work with the line staff to implement the treatment plan. All services provided by the line staff shall be under the direction of the senior therapist and shall be documented. ~~Line staff may be responsible for the delivery of the behavioral therapies to the client, if deemed appropriate by the Lead and Senior Therapists.~~

# **THIS PAGE NOT FOR PUBLICATION**

Title of Rule: Establishing Lawful Presence for the Colorado Indigent Care Program, Section 8.904

Rule Number: MSB 07-10-26-A

Division / Contact / Phone: Program Eligibility and Implementation / Cindy Arcuri / X3996

## **SECRETARY OF STATE RULES ACTION SUMMARY AND FILING INSTRUCTIONS**

### **SUMMARY OF ACTION ON RULE(S)**

1. Department / Agency Health Care Policy and Financing / Medical Services Board  
Name:
2. Title of Rule: MSB 07-10-26-A, Establishing Lawful Presence for the Colorado Indigent Care Program, Section 8.904
3. This action is an adoption an amendment  
of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):  
Sections(s) 8.904, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? Yes  
If yes, state effective date:  
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

### **PUBLICATION INSTRUCTIONS\***

**Please replace current text at §8.904 PROVISIONS APPLICABLE TO CLIENTS through 8.904.I with new text from §8.904 through 8.904.J effective 03/30/2008.**

# **THIS PAGE NOT FOR PUBLICATION**

Title of Rule: Establishing Lawful Presence for the Colorado Indigent Care Program, Section 8.904

Rule Number: MSB 07-10-26-A

Division / Contact / Phone: Program Eligibility and Implementation / Cindy Arcuri / X3996

## **STATEMENT OF BASIS AND PURPOSE**

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

HB 06S-1023 and HB 07-1314 directed the Department of Revenue to establish rules for evidence of lawful presence for those applying for public benefits. The Department of Revenue has promulgated such rules at 1 CCR 201-17, effective August 1, 2007. In order to comply with these requirements, the Colorado Indigent Care Program must amend its rules pertaining to the application process at Section 8.904.

2. An emergency rule-making is imperatively necessary

☒ to comply with state or federal regulation and/or

☐ for the preservation of public health, safety and welfare.

Explain:

Emergency rule-making is imperatively necessary in order to implement the evidence of lawful presence requirements, effective August 1, 2007, required by HB 06S-1023 and HB 07-1314.

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2007);  
24-76.5-101 et. al., C.R.S. (2007), also known as HB 06S-1023 and HB 07-1314.

Initial Review

Proposed Effective Date

**03/30/2008**

Final Adoption

Emergency Adoption

**02/08/2008**

**12/14/2007**

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## **THIS PAGE NOT FOR PUBLICATION**

Title of Rule: Establishing Lawful Presence for the Colorado Indigent Care Program, Section 8.904

Rule Number: MSB 07-10-26-A

Division / Contact / Phone: Program Eligibility and Implementation / Cindy Arcuri / X3996

### **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

This rule will require Colorado Indigent Care Program (CICP) applicants 18 years of age or older to execute an affidavit concerning lawful presence status and present documentation that verifies their lawful presence in the United States in order to receive discounted health care services. Applicants 18 years of age or older may also request a waiver of such documentation requirements from the Department of Revenue.

Providers participating in the Colorado Indigent Care Program are required to keep photocopies of documentation supplied in the applicant's file. Providers must verify non-citizens' documents for lawful presence through the federal Systematic Alien Verification of Entitlement Program (SAVE) within 30 days. Until verification is established, the applicant's signed affidavit is presumed to be proof of lawful presence.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

This rule may make it more difficult for some individuals to qualify for the Colorado Indigent Care Program. It is not possible to quantify the impact of this because the Department of Health Care Policy and Financing does not currently know who these individuals are.

This rule will economically impact providers who participate in the Colorado Indigent Care Program due to the additional time it will take to process an application and verify legal presence through SAVE. It is not possible for the Department of Health Care Policy and Financing to quantify the cost associated with these additional administrative responsibilities.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

On behalf of providers, the Department of Health Care Policy and Financing will pay all licensing and user fees associated with the use of SAVE, the federal Systematic Alien Verification of Entitlement Program. Verification costs are estimated to be \$6,909 per year from the approved S-4, Implementation of HB 06S-1023 and DRA, January 4, 2007. There is no effect on state revenues.

<b><u>THIS PAGE NOT FOR PUBLICATION</u></b>
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4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The implementation of this rule is required by statute, 24-76.5-101 et. al., C.R.S. (2007), also known as HB 06S-1023 and HB 07-1314, and is therefore not optional.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The Department implemented this rule as required by State law.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

No other methods were considered.



## 8.904 PROVISIONS APPLICABLE TO CLIENTS

### A. ~~Overview of Requirements~~

In order to qualify to receive discounted health care services under available CICIP funds, an applicant shall satisfy the following requirements:

1. ~~Execute an affidavit regarding citizenship status;~~
2. ~~Be a U.S. citizen or a legal immigrant, within the meaning of 26-4-103(8.5), C.R.S. lawfully present in the United States;~~
32. ~~Be a resident of Colorado;~~
43. ~~Meet all CICIP eligibility requirements as defined by state law and procedures; and~~
54. ~~Furnish a social security number (SSN) or evidence that an application for a SSN has been submitted, where required by 10 C.C.R. 2505-10, Section 8.904.E (2007.)~~

### B. ~~Affidavit~~

1. ~~Each first-time applicant, or applicant seeking to reapply, eighteen (18) years of age or older shall execute an affidavit stating:~~
  - a. ~~That he or she is a United States citizen, -or~~
  - b. ~~That he or she is a legal permanent resident, or is otherwise lawfully present in the United States pursuant to federal law.~~
2. ~~For an applicant who has executed an affidavit stating that he or she is lawfully present in the United States but is not a United States citizen, the provider shall, within 30 days of the application date, verify lawful presence through the Federal Systematic Alien Verification of Entitlement Program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security. Until verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence.~~

### CB. ~~Citizenship or Immigration Status~~Establishing Lawful Presence

~~An applicant must be a U.S. citizen or a legal immigrant.~~

#### 1. ~~U.S. Citizen~~

~~A U.S. citizen is a person who meets one of the following criteria:~~

- a. ~~Born in the United States, Puerto Rico, Guam, Virgin Islands of the United States, American Samoa, and Swain's Island. A birth certificate will prove that a person was born a U.S. citizen, OR~~
- b. ~~Received citizenship through the naturalization process. A certificate of citizenship will prove that a person is an U.S. citizen.~~

#### 2. ~~Documented Legal Immigrant~~

~~A documented legal immigrant is a person who resides in the United States and who meets the definition of "legal immigrant" in 26-4-103(8.5), C.R.S., or who possesses acceptable documentation from the Immigration and Naturalization Service (INS).~~

~~A legal immigrant shall agree to refrain from executing an affidavit of support for the purpose of sponsoring an alien on or after July 1, 1997, under rules promulgated by the immigration and naturalization service during the pendency of such legal immigrant's receipt of discount health care services under available CIGP funding.~~

~~3. Identification and Affidavit Requirements [Emer. Rule eff. 10/1/06; Perm. Rule eff. 10/30/06]~~

~~1a. Effective August 1, 2006, e~~Each first-time applicant, or applicant seeking to reapply, eighteen (18) years of age or older shall produce one of the following. Any document submitted pursuant to 8.904.C.1 shall be presumed to be genuine unless there is a reasonable basis for questioning the authenticity of the document.

~~a.~~ A valid Colorado Driver's License or a Colorado Identification Card, issued pursuant to Article 2 of Title 42, C.R.S.; A valid Colorado Driver's License or Identification Card includes only a current Driver's License, Minor Driver's License, Probationary Driver's License, Commercial Driver's License, Restricted Driver's License, Instruction Permit or Identification Card.

~~IIb.~~ A United States Military Identification Card or a Military Dependents' Identification Card;

~~IIIc.~~ A United States Coast Guard Merchant Mariner Card;

~~IVd.~~ A Native American Tribal Document; OR

~~e.~~ A driver's license or state-issued identification card issued in a state approved by the Director, Motor Vehicle Division, Department of Revenue.

~~V2. If an applicant is unable to provide a document listed in 8.904.C.1, then he/she must provide other forms of identification document or a waiver process to ensure that an individual proves lawful presence in the United States as authorized by the Executive Director of the Colorado Department of Revenue pursuant to 24-76.5-130(5)(a), C.R.S. listed in 8.904.C.2. Any document submitted pursuant to 8.904.C.2 shall be presumed to be genuine unless there is a reasonable basis for questioning the authenticity of the document.~~

a. Documents applicable to U.S. citizens and non-citizen nationals

I. Copy of applicant's birth certificate from any state, the District of Columbia and all United States territories.

II. United States Passports, except for "limited" passports, issued for less than five years.

III. Report of Birth Abroad of a United States Citizen, form FS-20.

IV. Certificate of Birth issued by a foreign service post (FS-545) or Certification of Report of Birth (DS-1350).

V. Certification of Naturalization (N-550 or N-570).

VI. Certificate of Citizenship (N-560 or N-561).

VII. U. S. Citizen Identification Card (I-97).

VIII. Northern Mariana Identification Card for an applicant born prior to November 3, 1986.

IX. Statement provided by a U.S. consular officer certifying that the individual is a U.S. citizen.

X. –American Indian Card with classification code “KIC” and a statement on the back identifying U.S. Citizen members of the Texas Band of Kickapoos.

XI. Religious records recorded in one of the fifty states, the District of Columbia or U.S. territories issued within three months after birth showing that the birth occurred in such jurisdiction and the date of the birth or the individual's age at the time the record was made.

XII. Evidence of civil Sservice employment by the U.S. government before June 1,1976.

XIII. Early school records showing the date of admission to the school, the child's date and place of birth and the names' and places of birth of the parents;

XIV. Census record showing name, U.S. citizenship or a U.S. place of birth or age of applicant;

XV. Adoption Finalization Papers showing the child's name and place of birth in one of the 50 states, D.C., or U.S. territories or where the adoption is not finalized and the State or other jurisdiction listed above in which the child was born will not release a birth certificate prior to final adoption, a statement from a state-approved adoption agency showing the child's name and place of birth in one of such jurisdictions. The source of the information must be an original birth certificate and must be indicated in the statement; or

XVI. –Any other document that establishes a U.S. place of birth or in some way indicates U.S. citizenship.

XVII. A written declaration, which shall be either:

a) A written declaration from one or more third parties made under penalty of perjury and possibly subject to later verification of status, indicating a reasonable basis for personal knowledge that the applicant is a U.S. citizen or non-citizen national, or

b) The applicant's written declaration, made under penalty of perjury and possibly subject to later verification of status that he or she is a U.S. citizen or non-citizen national.

XVIII. The following documents may be accepted as evidence of U.S. citizenship for collectively naturalized individuals:

a) Puerto Rico

- 1) Evidence of birth in PR on or after April 11, 1899 and the applicants' statement that he or she was residing in the U.S., a U.S. possession, or PR on January 13, 1941; or
- 2) Evidence that the applicant was a PR citizen and the applicant's statement that he or she was residing in PR on March 1, 1917 and that he or she did not take an oath of allegiance to Spain.

b) U.S. Virgin Islands

- 1) -Evidence of birth in the U.S. Virgin Islands (VI) and the applicant's statement of residence in the U.S., a U.S. possession, or the U.S. VI on February 25, 1927; or
- 2) The applicant's statement indicating residence in the U.S. VI as a Danish citizen on January 17, 1917 and that he or she did not make a declaration to maintain Danish citizenship; or
- 3) Evidence of birth in the U.S. VI and the applicant's statement indicating residence in the U.S., U.S. Possession or Territory or the Canal Zone on June 28, 1932.

c) Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI))

- 1) Evidence of birth in NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. territory or possession on November 3, 1986 (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); or
- 2) Evidence of TTPI citizenship in the NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975 and the applicant's statement that he or she did owe allegiance to a foreign state on November 4, 1986 (NMI local time); or
- 3) Evidence of continuous domicile in the NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time).

XIX. Derivative U.S. Citizenship may be determined as follows:

a) Applicant born abroad to two U.S. citizens:

- 1) The applicant shall present evidence of U.S. citizenship of the parents and the relationship of the applicant to the parents, and the evidence that at least one parent resided in the U.S. or an outlying possession prior to the applicant's birth.

b)- Applicant born abroad to a U.S. citizen parent and a U.S. non-citizen national parent:

1) The applicant shall present evidence that one parent is a U.S. citizen and the other is a U.S. non-citizen national, evidence of the relationship of the applicant to the U.S. citizen parent and the evidence the U.S. citizen parent resided in the U.S., a U.S. possession, American Samoa or Swain's Island for a period of at least one year prior to the applicant's birth.

c) -Applicant born out of wedlock abroad to a U.S. citizen mother:

1) The applicant shall present evidence of U.S. citizenship of the mother, evidence of the relationship to the applicant and, for births on or before December 24, 1952, evidence that the mother resided in the U.S. prior to the applicant's birth or, for births after December 24, 1952, evidence that the mother had resided, prior to the child's birth, in the U.S. or a U.S. possession for a period of one year.

d) Applicant born in the Canal Zone or the Republic of Panama:

1) The applicant shall present a birth certificate showing birth in the Canal Zone on or after February 26, 1904 and before October 1, 1979 and evidence that one parent was a U.S. citizen at the time of the applicant's birth; or

2) A birth certificate showing birth in the Republic of Panama on or after February 26, 1904 and before October 1, 1979 and evidence that at least one parent was a U.S. citizen and employed by the U.S. government or the Panama Railroad Company or its successor in title.

e) All other situations where an applicant claims to have a U.S. citizen parent and an alien parent, or claims to fall within one of the above categories but is unable to present the listed documentation:

1) If the applicant is in the U.S., refer him or her to the local Department of Homeland Security (formerly known as the Immigration and Naturalization Service, or INS) office for determination of U.S. citizenship; or

2) If the applicant is outside the U.S., refer him or her to the State Department consular office for a U.S. citizenship determination.

XX. Adoption of foreign-born child by U.S. citizen:

a) If the birth certificate shows a foreign place of birth and the applicant cannot be determined to be a naturalized citizen under any of the above criteria, refer the applicant to the local Department of Homeland Security office for a determination of U.S. citizenship.

XXI. U.S. citizenship by marriage:

- a) The applicant shall present evidence that she was married to a U.S. citizen before September 22, 1922, or
- b) If the husband was an alien at the time of their marriage, that the husband became a U.S. citizen before September 22, 1922.
- c) If the marriage was later terminated, the woman shall demonstrate that she resided in the U.S. at the time it was terminated and that she has continued to reside in the U.S.

b. Documents applicable to non-U.S. citizens

I. Alien lawfully admitted for permanent residence

- a) Department of Homeland Security Form I-551, Alien Registration Receipt Card, commonly called or known as a “green card”; or
- b) -Unexpired Temporary I-551 Stamp in foreign passport or on Department of Homeland Security Form I-94.

II. —Asylee

- a) Department of Homeland Security Form I-94 annotated with stamp showing grant of asylum under section 208 of the Immigration and Nationality Act (INA); or
- b) Department of Homeland Security Form I-688B (Employment Authorization Card) annotated “274a.12(a)(5)”; or
- c) Department of Homeland Security Form I-776 (Employment Authorization Document) annotated “A5”; or
- d) Grant Letter from the Asylum Office or U.S.C.I.S.

III. —Refugee

- a) Department of Homeland Security Form I-94 annotated with stamp showing admission under Section 207 of the INA; or
- b) Department of Homeland Security Form I-688B (Employment Authorization Card) annotated “274a.12(a)(3)”; or
- c) Department of Homeland Security Form I-766 (Employment Authorization Document) annotated “A3”; or
- d) Department of Homeland Security Form I-571(Refugee Travel Document); or
- e) I-765 Employment Authorization Document; or
- f) Grant letter from the U.S. Department of Health and Human Services granting refugee status to human trafficking victims.

IV. —. Alien paroled into the U.S. for a least one year

- a) Department of Homeland Security Form I-94 with stamp showing admission for at least one year under Section 212(d)(5) of the INA. (Applicant cannot aggregate periods of admission for less than one year to meet the one-year requirement).

V. Alien whose deportation or removal was withheld

- a) Department of Homeland Security Form I-688B (Employment Authorization Card) annotated "274a.12(a)(10)"; or
- b) Department of Homeland Security Form I-766 Employment Authorization Document annotated "A10"; or
- c) Order from an immigration Judge showing deportation withheld under Section 243(h) of the INA as in effect prior to April 1, 1997, or removal withheld under Section 241(b)(3) of the INA.

VI. Alien granted conditional entry

- a) Department of Homeland Security Form I-94 with stamp showing admission under Section 203(a)(7) of the INA; or
- b) Department of Homeland Security Form I-688B (Employment Authorization Card) annotated "A3"; or
- c) Department of Homeland Security Form I-766 (Employment Authorization Document) annotated "A3".

VII. —Cuban / Haitian entrant

- a) Department of Homeland Security Form I-551, Alien Registration Receipt Card, commonly known as the "Green Card" with the code CU6, CU7, or CH6; or
- b) Unexpired temporary I-551 stamp in foreign passport or on Department of Homeland Security Form I-94 with the code CU6, CU7, or CH6; or
- c) Department of Homeland Security Form I-94 with stamp showing parole as "Cuba/Haitian Entrant" under Section 212(d) (5) of the INA.

VIII. — Alien who has been battered or subjected to extreme cruelty

- a) See Attachment 5, Exhibit B, at U.S. Attorney General Order No. 2129-97. The documentation for Violence Against Women Act self- petitioners is the Department of Homeland Security issued "Notice of Prima Facie Determination" or "Notice of Approval".

~~bc. — Effective August 1, 2006, each applicant eighteen (18) years of age or older shall execute an affidavit stating:~~

~~I. — That he or she is a United States Citizen or legal permanent resident; OR~~

~~II.—That he or she is otherwise lawfully present in the United States pursuant to Federal Law.~~

~~ed.—For an applicant who has executed an affidavit stating that he or she is an alien lawfully present in the United States under 8.904.B.32.bc.II, the following shall apply:~~

~~I.—Verification of lawful presence shall be made through the Federal Systematic Alien Verification of Entitlement Program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.~~

~~II.—Until verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence.~~

~~III.—The qualified health care provider shall perform the verification of lawful presence within 30 days of completing the application.~~

~~de.—Photocopies of the identification listed in 8.904.B.a shall be acceptable identification if the photocopies meet the following criteria:~~

~~I.—A notary public must have certified that he or she saw the original document and that the photocopy is a true copy of that original; OR~~

~~II.—Photocopies made by the qualified health care provider who attests in writing on the photocopy that he or she saw the original documentation and that the photocopy is a true copy of that original.~~

~~e.—The qualified health care provider shall retain the documentation provided under section 8.904.B with the application.~~

3. If an individual is unable to present any of the documents listed in 8.904.C.1 and 8.904.C.2 the provider may accept a waiver. A first-time applicant or applicant seeking to reapply may demonstrate lawful presence by executing both the affidavit required in 8.904.B. and by executing a Request for Waiver. The Request for Waiver form, seeking a determination of lawful presence by the Department of Revenue, may be completed by the applicant or the applicant's representative. The Request for Waiver must be accompanied by all documents that the applicant is able to produce to assist in verification of lawful presence.

#### 4. Submission, Receipt and Retention of Documentation

a. Lawful presence documentation may be accepted from the applicant, the applicant's spouse, parent, guardian, or authorized representative in person, by mail, or facsimile.

b. Providers shall develop procedures for handling original documents to ensure that the documents are not lost, damaged or destroyed. Providers shall develop and follow procedures for returning or mailing original documents to applicants within five business days of receipt.

c. Providers shall accept copies of an applicant's lawful presence documentation that have been verified by other CACP providers, Medical Assistance sites, county departments of social services, or any other entity designated by the Department of Health Care Policy and Financing through an agency letter, provided that the



verification identifies that the copy is from an original and that the individual who reviewed the document(s) signifies such by including their name, organization, address, telephone number and signature on the copy.

d. The qualified health care provider shall retain photocopies of the affidavit and lawful presence documentation listed in 8.904.C with the application.

5. Expired or absent documentation for non-U.S. citizens

a. If an applicant presents expired documents or is unable to present any documentation evidencing his or her immigration status, refer the applicant to the local Department of Homeland Security office to obtain documentation of status.

b. In unusual circumstances involving applicants who are hospitalized or medically disabled or who can otherwise show good cause for their inability to present documentation and for whom securing such documentation would constitute undue hardship, if the applicant can provide an alien registration number, the provider may file U.S.C.I.S. Form G-845 and Supplement, along with the alien registration and a copy of any expired Department of Homeland Security document, with the local Department of Homeland Security office to verify status.

c. If an applicant presents a receipt indicating that he or she has applied to the Department of Homeland Security for a replacement document for one of the documents listed in 8.904.2.b, file U.S.C.I.S. Form G-845 and Supplement with a copy of the receipt with the local Department of Homeland Security office to verify status.

6. The provider shall not discriminate against applicants on the basis of race, national origin, gender, religion, age or disability. If an applicant has a disability that limits the applicant's ability to provide the required evidence of citizenship or lawful presence, the provider shall assist the individual to obtain the required evidence.

a. Examples of reasonable assistance that may be expected include, but are not limited to, providing contact information for the appropriate agencies that issue required documents; explaining the documentation requirements and how the applicant may provide the required documentation; or referring the client to other agencies or organizations which may be able to provide assistance.

b. Examples of additional assistance that shall be provided to applicants who are unable to comply with the documentation requirements due to physical or mental impairments or homelessness and who do not have a guardian or representative who can provide assistance include, but are not limited to, contacting any known family members who may have the required documentation; contacting any known health care providers who may have the required documentation; or contacting other social services agencies or organizations that are known to have provided assistance to the applicant.

c. The provider shall not be required to pay for the cost of obtaining required documentation.

d. The provider shall document its efforts of providing additional assistance to the client. Documentation of such shall be retained in the applicant's application file.

GD. –Residence in Colorado

An applicant must be a resident of Colorado. A Colorado resident is a person who currently lives in Colorado and intends to remain in the state.

Migrant workers and all dependent family members must meet all of the following criteria to comply with residency requirements:

1. ~~1.~~—Maintains a temporary home in Colorado for employment reasons;
2. ~~2.~~—Meet the U.S. citizen or documented legal immigrant lawful presence criteria, as defined in paragraph B of this section; and
3. ~~3.~~—Employed in Colorado.

~~DE.~~ — Social security number(s) shall be required for all clients receiving discounted health care services under available CICIP funding. If an applicant does not have a social security number, documentation that the applicant has applied for a social security number must be provided to complete the application to receive discounted health care services under available CICIP funding. This section shall not apply to unborn children or homeless individuals who are unable to provide a social security number.

~~EF.~~ —Applicants Not Eligible

1. The following individuals are not eligible to receive discounted services under available CICIP funds:

~~4a.~~ — Individuals for whom lawful presence cannot be verified. Undocumented immigrants.

~~2b.~~ — Individuals who are being held or confined involuntarily under governmental control in State or federal prisons, jails, detention facilities or other penal facilities. This includes those individuals residing in detention centers awaiting trial, at a wilderness camp, residing in half-way houses who have not been released on parole, and those persons in the custody of a law enforcement agency temporarily released for the sole purpose of receiving health care.

~~3c.~~ —College students whose residence is from outside Colorado or the United States that are in Colorado for the purpose of higher education. These students are not Colorado residents and cannot receive services under the CICIP.

~~4d.~~ —Visitors from other states or countries temporarily visiting Colorado and have primary residences outside of Colorado.

~~52.~~ —Persons who qualify for Medicaid. However, applicants whose only Medicaid benefits are the following shall not be excluded from consideration for CICIP eligibility:

- a. —QMB benefits described at section 10 C.C.R. 2505-10, Section 8.111.1 (2007) of these regulations;
- b. —SLMB benefits described at section 10 C.C.R. 2505-10, Section 8.122 (2007), or
- c. —The QI1 benefits described at section 10 C.C.R. 2505-10, Section 8.123 (2007).

~~63.~~ —Individuals who are eligible for the Children's Basic Health Plan. However, individuals who are waiting to become an enrollee in the Children's Basic Health Plan and/or have incurred charges at a participating qualified health care provider in the 90 days prior to the application date shall not be excluded from consideration for eligibility on a temporary basis. Once the applicant becomes enrolled in the Children's Basic Health Plan, the applicant is no longer eligible to receive discounted health care services under available CICIP funding.

~~FG.~~ — Application

## 1. –Regular Application Process

The applicant or an authorized representative of that applicant must sign the application to receive discounted health care services submitted to the qualified health care provider within 90 calendar days of the date of health care services. If an applicant is unable to sign the application or has died, a spouse, relative, or guardian may sign the application. Until it is signed, the application is not complete, the applicant cannot receive discounted health care services under available CICIP funding and the applicant has no appeal rights. All information needed by the provider to process the application must be submitted before the application is signed.

## 2. –Emergency Application

a. – In emergency circumstances, an applicant may be unable to provide all of the information or documentation required by the usual application process. For emergency situations, the qualified health care provider shall follow these steps in processing the application:

I. – Use the regular application to receive discounted health care services under available CICIP funding, but check emergency application on the application.

II. – Ask the applicant to give spoken answers to all questions and to sign the application to receive discounted health care services under available CICIP funding.

III. – Assign a discount rating based on the spoken information provided.

b. – An emergency application is good for only one date of service in an emergency room. If the client receives any care other than the emergency room visit, the qualified health care provider must require the client to submit documentation to support all figures on the emergency application or complete a new application. If the documentation submitted by the client does not support the earlier, spoken information, the qualified health care provider must obtain a new application to receive discounted health care services under available CICIP funding from the client.

c. – In emergency circumstances, an applicant is not required to provide identification or execute an affidavit as specified at [10 C.C.R. 2505-10, Section 8.904.B.3.a.](#) [Emer. Rule eff. 10/1/06; Perm. Rule eff. 10/30/06]

## **GH.** –Applicants

1. – Any adult, over the age of 18, may apply to receive discounted health care services under available CICIP funding on behalf of themselves and members of the applicant's family household.

2. – If an applicant is deceased, the executor of the estate or a family member may complete the application on behalf of the applicant. The family member completing the application will not be responsible for any copayments incurred on behalf of the deceased member.

3. – The application to receive discounted health care services under available CICIP funding shall include the names of all members of the applicant's family household. In determining household size, a family member of any age may be included as long as s/he receives at least 50% of his/he-r support from the household.

4. —A minor shall not be rated separately from his/her parents or guardians unless s/he is emancipated or there exists a special circumstance as outlined in the CICIP Manual. A minor is an individual under the age of 18.

H.I. —Health Insurance Information

The applicant shall submit all necessary information related to health insurance, including a copy of the insurance policy or insurance card, the address where the medical claim forms must be submitted, policy number, and any other information determined necessary.

I.J. —Subsequent Insurance Payments

If a client receives discounted health care services under available CICIP funding, and their insurance subsequently pays for services, or if the patient is awarded a settlement, the insurance company or patient shall reimburse the qualified health care provider for discounted health care services rendered to the patient.