

THIS PAGE NOT FOR PUBLICATION

Title of Rule: Revisions to Immigrant Eligibility Rules, Section 8.100.53
Rule Number: MSB 06-02-02-A
Division / Contact / Phone: Client & Community Relations / 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 06-02-02-A, Revisions to Immigrant Eligibility Rules, Section 8.100.53
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) 8.100.53, 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)? No
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

In Volume **10 CCR 2505-10 at §8.100 MEDICAL ASSISTANCE PROGRAM REQUIREMENTS, §8.100.5 GROUPS ASSISTED UNDER THE PROGRAM**, please replace the current text from **§8.100.53** “to be eligible to receive . . .” to **§8.100.53.A2** (section A2 should remain in tact) with the attached new text. This change is effective October 30, 2008.

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Title of Rule: Revisions to Immigrant Eligibility Rules, Section 8.100.53
Rule Number: MSB 06-02-02-A
Division / Contact / Phone: Client & Community Relations / 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).

The Immigrant Eligibility rule revision removes the eligibility limitations imposed by SB 03-176. SB 03-176, codified at 26-4-301, C.R.S. (2006), repealed provisions that allowed specified legal immigrants to be eligible for Medicaid. HB 05-1086 reinstated Medicaid for the specified legal immigrants. The revision also clarifies regulations regarding the federal mandatory Medicaid eligibility group, legal immigrants with 40 qualifying quarters of coverage.

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:

3. Federal authority for the Rule, if any:

42 C.F.R. Section 435.2, et seq.

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2007);
25.5-5-201, C.R.S. (2006)

Initial Review

Proposed Effective Date

07/11/2008

Final Adoption

Emergency Adoption

08/08/2008

07/11/2008

DOCUMENT #02

THIS PAGE NOT FOR PUBLICATION

Title of Rule: Revisions to Immigrant Eligibility Rules, Section 8.100.53
Rule Number: MSB 06-02-02-A
Division / Contact / Phone: Client & Community Relations / Ann Clemens / (303) 866-6115

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.

There should not be any groups affected by the proposed rule. Qualifying non-citizen clients are already being covered by Medicaid in accordance with state law and the State Plan. The proposed rule updates regulations to be in conformity with current state law.

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

There should not be any impact to the covered groups included in this rule. Qualifying non-citizen clients are already being covered by Medicaid in accordance with the State Plan. The proposed rule updates regulations to be in conformity with current policies and procedures.

All groups outlined in 8.100.53 A. are eligible for mandatory Medicaid coverage with the exception of 8.100.53 A. 3. a. Immigrants lawfully admitted for permanent residence who entered the United States on or after August 22, 1996, applying after 5 years from the date of entry into the United States are eligible for optional Medicaid coverage. Any other immigrants not listed within 8.100.53 A. are eligible for emergency services only

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 should not be any new costs to the Department or any other agency to implement and enforce the proposed rule. Qualifying non-citizen clients are already being covered by Medicaid in accordance with state law and the State Plan. The proposed rule updates regulations to be in conformity with current state law.

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

The Department must amend the rule pursuant to HB 05-1086, 42 U.S.C. Sections 401; 8 U.S.C. Section 1645, and 42 C.F.R. Section 435.2.

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

N/A

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.

N/A

8.100.53 To be eligible to receive medical assistance, an eligible person shall:

A. ~~Prior to the implementation of SB 03-176, f~~all into one of the following categories:

1. Be a citizen or national of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa or Swain's Island; or

2. Be an ~~alien~~ lawfully admitted non-citizen who entered the United States prior to August 22, 1996, ~~who falls into one of the following categories: or~~

3. Be a non-citizen who entered the United States on or after August 22, 1996 and is applying for Medicaid benefits to begin no earlier than five years after the non-citizen's date of entry into the United States who falls into one of the following categories:

a. lawfully admitted for permanent residence under the Immigration and Nationality Act (hereafter referred to as the "INA") : No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library; or

b. paroled into the United States for at least one year under Section 212(d)(5) of the INA: No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library; or

c. granted conditional entry under Section 203(a)(7) of the INA, as in effect prior to April 1, 1980: No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library; or

d. determined by the county department, in accordance with guidelines issued by the U.S. Attorney General, to be a spouse, child, parent of a child, or child of a parent who, in circumstances specifically described in 8 U.S.C. sec. 1641, has been battered or subjected to extreme cruelty which necessitates the provision of medical assistance (Medicaid) : No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library; or

e. lawfully admitted for permanent residence under the INA with 40 qualifying quarters as defined under Title II of the Social Security Act: No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state

publications depository library. The 40 quarters is counted based on a combination of the quarters worked by the individual, the individual's spouse as long as they remain married or spouse is deceased, and/or the individual's parent while the individual is under age 18; or

34. Be an alien non-citizen who arrived in the United States on any date, who falls into one of the following categories:

- a. lawfully residing in Colorado and is an honorably discharged military veteran (also includes spouse, unremarried surviving spouse and unmarried, dependent children); or
- b. lawfully residing in Colorado and is on active duty (excluding training) in the U.S. Armed Forces (also includes spouse, unremarried surviving spouse and unmarried, dependent children); or
- c. granted asylum under Section 208 of the INA: No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library; or
- d. refugee under Section 207 of the INA: No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library; or
- e. deportation withheld under Section 243(h) (as in effect prior to September 30, 1996) or Section 241(b)(3) (as amended by P.L. 104-208) of the INA: No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library; or
- f. Cuban or Haitian entrant, as defined in Section 501(e)(2) of the Refugee Education Assistance Act of 1980 for seven years after the date of entry into the United States: No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library; or
- g. an individual who (1) was born in Canada and possesses at least 50 percent American Indian blood, or is a member of an Indian tribe as defined in 25 U.S.C. sec. 450b(e): No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library; or

- h. admitted to the U.S. as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as amended by P.L. 100-461) ; No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library; or
- i. lawfully admitted permanent resident who is a Hmong or Highland Lao veteran of the Vietnam conflict for seven years after the date of entry into the United States; or-
- j. a victim of a severe form of trafficking in persons, as defined in Section 103 of the Trafficking Victims Act of 2000, 22 U.S.C. 7102 for seven years after the date of entry into the United States: No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library.

~~4. Be an alien who entered the United States on or after August 22, 1996, who falls into one of the four categories described in paragraphs a-d under Section 8.100.53,A,2, and who is applying for Medicaid benefits to begin no earlier than five years after the alien's date of entry into the U.S.;~~

~~A1. Upon implementation of SB 03-176, fall into one of the following categories:~~

- ~~1. A citizen or national of the United States, the District of Columbia, Puerto Rico Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa or Swain's Island.~~
- ~~2. An alien who is an honorably discharged military veteran (also includes spouse, unremarried surviving spouse, and unmarried dependent children).~~
- ~~3. An alien who is on active duty (excluding training) in the U.S. Armed Forces (also includes spouse, unremarried surviving spouse and unmarried dependent children).~~
- ~~4. An individual who was born in Canada and possesses at least 50 percent American Indian blood or is a member of an Indian tribe as defined in 25 U.S.C. Section 450b(e).~~
- ~~5. An alien who, after five years from the date of entry into the U.S., is a legal permanent resident and has 40 qualifying quarters as defined in the Social Security Act.~~
- ~~6. An asylee granted asylum under Section 208 of the INA, for seven years after the granting of asylum status.~~
- ~~7. A refugee under Section 207 of the INA, for seven years following the date of entry into the United States.~~
- ~~8. An alien granted withholding of deportation under Section 243(h) or Section 241(b)(3) of the INA for seven years after receiving such status.~~
- ~~9. A Cuban or Haitian entrant, as defined in Section 501(e)(2) of the Refugee Education Assistance Act of 1980, for seven years after the date of entry into the United States.~~
- ~~10. An Amerasian admitted to the U.S. pursuant to Section 584 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1988(as amended by P.L. 100-461) for five years after date of entry into the United States.~~
- ~~11. A victim of a severe form of trafficking in persons, as defined in Section 103 of the Trafficking Victims Act of 2000, 22 U.S.C. 7102, for seven years after the date of entry into the United States.~~

THIS PAGE NOT FOR PUBLICATION

Title of Rule: Revisions to the Foster Care Eligibility Rules to Comply with Senate Bill 08-099, Section 8.101.2

Rule Number: MSB 08-06-06-A

Division / Contact / Phone: Client & Community Relations / 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 08-06-06-A, Revisions to the Foster Care Eligibility Rules to Comply with Senate Bill 08-099, Section 8.101.2
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) 8.101.2, 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 the current text at **8.101.2 NEEDY PERSONS UNDER 21** from **8.101.2** through **8.101.2.G** with the new text provided. This change is effective October 30, 2008.

THIS PAGE NOT FOR PUBLICATION

Title of Rule: Revisions to the Foster Care Eligibility Rules to Comply with Senate Bill 08-099, Section 8.101.2

Rule Number: MSB 08-06-06-A

Division / Contact / Phone: Client & Community Relations / 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 Foster Care eligibility rules expands Medicaid benefits to individuals who are under 21 and for whom the Department of Human Services was assuming full or partial financial responsibility on their eighteenth birthday. These individuals also must have received foster care maintenance payments or subsidized adoption payments by the State of Colorado pursuant to article 7 of title 26, C.R.S. at the time of their 18th birthday or emancipation. This revision expands the Foster Care eligibility rules to all Foster Care. This rule is in response to SB 08-099, which revised 25.5-5-201, C.R.S. (2007).

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:

3. Federal authority for the Rule, if any:

42 U.S.C. Section 1396a(a)(10)(A)(ii)(XVII) and 42 U.S.C. Section 1396d(w)(1)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2007);
25.5-5-201(1)(l), C.R.S. (2007)
25.5-4-104, C.R.S. (2007)

Initial Review

Proposed Effective Date

07/11/2008

Final Adoption

Emergency Adoption

08/08/2008

07/11/2008

DOCUMENT #03

THIS PAGE NOT FOR PUBLICATION

Title of Rule: Revisions to the Foster Care Eligibility Rules to Comply with Senate Bill 08-099, Section 8.101.2

Rule Number: MSB 08-06-06-A

Division / Contact / Phone: Client & Community Relations / Ann Clemens / (303) 866-6115

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.

Young adults between the ages of eighteen and twenty-one who were in the Foster Care system and received foster care maintenance payments or subsidized adoption payments from the State of Colorado pursuant to article 7 of title 26, C.R.S. on their eighteenth birthday will be affected because they will be eligible to continue Medicaid until their twenty-first birthday.

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 will be that additional individuals will be eligible for Medicaid during an important transition period into adult life.

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 fiscal note for SB 08-099 states that the probable cost to the department for FY 2008-09 will be \$1,430,244, increasing to \$3,589,765 in FY 2008-09.

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

The Department must add the rule pursuant to SB 08-099. Inaction would result in the Department's rules not being in full compliance with State law.

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.

8.101.2 NEEDY PERSONS UNDER 21

Medical assistance shall be provided to certain needy persons under 21 years of age, including the following:

- A. Those receiving care in an intermediate care facility eligible for Medicaid reimbursement or receiving active treatment as inpatients in a psychiatric facility eligible for Medicaid reimbursement.
- B. Those for whom the Department of Human Services is assuming full or partial financial responsibility and who are in foster care, in homes or private institutions or in subsidized adoptive homes. See Colorado Department of Human Services "Social Services Staff Manual" Section 7 for specific eligibility requirements (12 CCR 2599). A child shall be the responsibility of the county, even if the child may be in a medical institution at that time.
- C. Those for whom the Department of Human Services is assuming full or partial financial responsibility and who are in independent living situations subsequent to being in foster care.
- D. Those for whom the Department of Human Services is assuming full or partial responsibility and who are receiving services under the state's Alternatives to Foster Care Program and would be in foster care except for this program and whose family income is less than the AFDC needs standard for his/her family size excluding step-parent income.
- E. Those for whom the Department of Human Services is assuming full or partial responsibility and who are removed from their home either with or without (court ordered) parental consent, placed in the custody of the county and residing in a county approved foster home.
- F. Those for whom the Department of Human Services is assuming full or partial responsibility and who are receiving services under the state's subsidized adoption program, including a clause in the subsidized adoption agreement to provide Medicaid for the child.
- G. Those for whom the Department of Human Services is assuming full or partial financial responsibility on their 18th birthday or at the time of emancipation. These individuals also must have received foster care maintenance payments or subsidized adoption payments furnished under a program funded under Part E of title IV of the Social Security Act from the State of Colorado pursuant to article 7 of title 26, C.R.S. immediately prior to the date the individual attained 18 years of age or was emancipated. Eligibility will be extended until the individual's 21st birthday.

THIS PAGE NOT FOR PUBLICATION

Title of Rule: Colorado Indigent Care Program Allocation and Distribution of Colorado Health Care Services Payment

Rule Number: MSB 08-06-17-B

Division / Contact / Phone: Budget Div/Safety Net Programs/Cindy Arcuri / (303) 866-3996

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 08-06-17-B, Colorado Indigent Care Program Allocation and Distribution of Colorado Health Care Services Payment
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) 8.903.C.14, 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 the current text at **8.903 PROVISIONS APPLICABLE TO QUALIFIED HEALTH CARE PROVIDERS** from **8.903.C.14** to the end of that paragraph with the attached text from **8.903.C.14** through **8.903.C.14.d**. This change is effective October 30, 2008.

THIS PAGE NOT FOR PUBLICATION

Title of Rule: Colorado Indigent Care Program Allocation and Distribution of Colorado Health Care Services Payment

Rule Number: MSB 08-06-17-B

Division / Contact / Phone: Budget Div/Safety Net Programs / Cindy Arcuri/(303) 866-3996

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 establishes the allocation of funds from the Colorado Health Care Services Fund to community health clinics and primary care clinics in FY 2008-09 and FY 2009-10. In addition, the rule creates a new methodology for distributing funds to primary care clinics.

For FY 2008-09, 18% of the moneys appropriated from the Colorado Health Care Services Fund shall be allocated to Denver Health Medical Center. After the appropriation to Denver Health Medical Center, the proposed rule states that 85% of the remaining funds shall be allocated to community health clinics operated by a qualified health care provider and 15% shall be allocated to primary care clinics operated by a qualified health care provider.

For FY 2009-10, 18% of the moneys appropriated from the Colorado Health Care Services Fund shall be allocated to Denver Health Medical Center. After the appropriation to Denver Health Medical Center, the proposed rule states that 88% of the remaining funds shall be allocated to community health clinics operated by a qualified health care provider and 12% shall be allocated to primary care clinics operated by a qualified health care provider.

The proposed rule establishes a formula so that the distribution of available funds for primary care clinics will be based upon historical data for the number of unique low-income clients who received primary care services at a primary care clinic and their number of visits.

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:

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);

Initial Review

Proposed Effective Date

07/11/2008

Final Adoption

Emergency Adoption

09/12/2008

07/11/2008

DOCUMENT #04

THIS PAGE NOT FOR PUBLICATION

Title of Rule: Colorado Indigent Care Program Allocation and Distribution of Colorado Health Care Services Payment

Rule Number: MSB 08-06-17-B

Division / Contact / Phone: Budget Div/Safety Net Programs/Cindy Arcuri / (303) 866-3996

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.

Community health clinics and primary care clinics benefit from the Colorado Health Care Services Fund. This funding partially compensates them for providing primary care services to Colorado Indigent Care Program clients.

As required by statute, 18% of the annual appropriation to the fund has been allocated to Denver Health Medical Center. After the appropriation to Denver Health Medical Center, 82% of the remaining funds were allocated to community health clinics and 18% was allocated to primary care clinics. Enabling legislation for this funding requires the allocation between community health clinics and hospital primary care clinics to be based on prior utilization. Based on an analysis of prior utilization, the proposed rule establishes that, after the 18% appropriation to Denver Health Medical Center, the allocations to community health clinics and primary care clinics shall be as follows:

In FY 2008-09, 85% of the remaining funds shall be allocated to community health clinics and 15% of the remaining funds shall be allocated to primary care clinics. In FY 2009-10, 88% of the remaining funds shall be allocated to community health clinics and 12% of the remaining funds shall be allocated to primary care clinics.

The proposed rule establishes a distribution for primary care clinics in FY 2008-09 and FY 2009-10 based on the average payment derived from historical unique client count and the number of visits. Presently, the distribution of funds to primary care clinics is based only on unique client count. By also incorporating the number of visits into the distribution methodology, providers that serve Colorado Indigent Care Program clients with higher utilization needs will benefit

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

As specified in 25.5-3-112(1)(b), C.R.S. (2007), in FY 2008-09 and FY 2009-10, \$15,000,000 will be appropriated from the general fund to the Colorado Health Care Services Fund. Eighteen percent (18%) of this appropriation, which is \$2,700,000 plus federal financial participation of \$2,700,000, resulting in a total of \$5,400,000 will be paid to Denver Health Medical Center.

In FY 2008-09, after the appropriation to Denver Health Medical Center, 85% of the remaining Health Care Services funds, or \$10,455,000 in general fund plus \$10,455,000 in federal financial participation, for a total of \$20,910,000 will be allocated to community health clinics. The remaining 15%, which is \$1,845,000 in general fund plus the federal match of \$1,845,000 results in a total allocation of \$3,690,000 to primary care clinics.

In FY 2009-10, after the appropriation to Denver Health Medical Center, 88% of the remaining Health Care Services funds, which is \$10,824,000 in general fund plus \$10,824,000 in federal financial participation, for a total of \$21,648,000 will be allocated to community health clinics. The remaining 12%, which is \$1,476,000 in general fund plus the federal match of \$1,476,000 results in a total allocation of \$2,952,000 to primary care clinics.

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 measurable costs to the Department or to any other agency regarding the implementation and enforcement of the proposed rule.

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

The costs of inaction are noncompliance with State statute, which is not an option.

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

State law requires the Department to implement a rule addressing the allocation and distribution of the Health Care Services Fund based on prior utilization. Providers submit data to the Department so that the Department may calculate the allocation and distribution. The data collection process is neither costly nor intrusive.

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.

The Department examined other allocation strategies. Stakeholders were in agreement that the proposed allocations in FY 2008-09 and FY 2009-10 meet the intent of the enabling legislation. The selected allocation between the community health clinics and primary care clinics is based on cost.

The Department has also modeled other distribution methodologies. A distribution based on uncompensated costs would be highly undesirable because payments were found to be heavily skewed to one provider. The Department determined that the proposed methodology, which takes into account both unique client count and the number of visits to primary care clinics, results in the lowest variance and standard deviation of payments to primary care clinic providers.

8.903 PROVISIONS APPLICABLE TO QUALIFIED HEALTH CARE PROVIDERS

14. Colorado Health Care Services Payment. This payment is an allocation of the Colorado Health Care Services Fund and is available to community health clinics and primary care clinics operated by a qualified health care provider that provides primary care services. For this section, primary care services are defined in Section 8.930.1.A of the regulations for the Comprehensive Primary/Preventive Care Grant Program.

a. For FY 2007-08, 18% of the moneys appropriated from the Colorado Health Care Services Fund shall be allocated to Denver Health Medical Center. After the appropriation to Denver Health Medical Center, 82% of the remaining funds shall be allocated to community health clinics operated by a qualified health care provider and 18% shall be allocated to primary care clinics operated by a qualified health care provider.

For FY 2008-09, 18% of the moneys appropriated from the Colorado Health Care Services Fund shall be allocated to Denver Health Medical Center. After the appropriation to Denver Health Medical Center, 85% of the remaining funds shall be allocated to community health clinics operated by a qualified health care provider and 15% shall be allocated to primary care clinics operated by a qualified health care provider.

For FY 2009-10, 18% of the moneys appropriated from the Colorado Health Care Services Fund shall be allocated to Denver Health Medical Center. After the appropriation to Denver Health Medical Center, 88% of the remaining funds shall be allocated to community health clinics operated by a qualified health care provider and 12% shall be allocated to primary care clinics operated by a qualified health care provider.

b. In order to receive a payment from the Colorado Health Care Services Fund, the qualified health care provider who operates a primary care clinic is required to complete a Colorado Health Care Services Fund Application as issued by the Department. This application for the current state fiscal year shall be submitted to the Department by July 31 of each State fiscal year.

c. Distribution of available funds for primary care clinics operated by a qualified health care provider shall be based upon historical data for the number of unique low-income clients who received primary care services at a primary care clinic and their number of visits. A qualified health care provider's distribution is calculated based on the average of the dollar amount derived from the provider's number of unique clients who received primary care services at a primary care clinic relative to the total number of clients who received primary care services at a primary care clinic for all qualified health care providers and the dollar amount derived from the provider's number of low-income primary care services visits at a primary care clinic relative to the total number of low-income primary care services visits at a primary care clinic for all qualified health care providers. The historical data will be reported in the Colorado Health Care Services Fund Application and related to the most recently available annual report published by the Colorado Indigent Care Program prior to rate setting by the Department for each upcoming State fiscal year.

d. Distribution of available funds for community health clinics operated by a qualified health care provider shall be based upon historical uncompensated

costs for clients who received primary care services at a community health clinic. An individual community health clinic's distribution is calculated based on the community health clinic's historical uncompensated costs for clients who received primary care services at a community health clinic relative to the total historical uncompensated costs for all clients who received primary care services at community health clinics. The historical uncompensated costs shall be that as reported in the most recently available annual report published by the Colorado Indigent Care Program prior to rate setting by the Department for each upcoming State fiscal year.