

Title of Rule: CHP, SB 08-161 self-declaration of income. § 101 (a) (27) of the INA special status for Iraqi and Afghan immigrants.

Rule Number: MSB 08-10-13-A

Division / Contact / Phone: Children's Basic Health Plan / Kristy Wilson / (303)866-3291

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 08-10-13-A, Children's Basic Health Plan, Senate Bill 08-161 allows for self-declaration of income. Section 101 (a) (27) of the Immigration and Nationality Act allows for special immigrant status for Iraqi and Afghan immigrants.
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) Section 101 (a) (27) of the Immigration and Nationality Act, CBHP Rule 110.1 B, 4 added. Senate Bill 08-161, CBHP Rule 130.1 A, 5 added, and 150.2 , Colorado Department of Health Care Policy and Financing, Medical Assistance (10 CCR 2505-3).
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*

Please replace current text from Section 100 ELIGIBILITY through the end of section 110.1.E with the new text provided that adds two new paragraphs at 110.1.B.4 and 5. This change is effective 3/30/2009.

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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).

Senate Bill 08-161 (25.5-8-109 C.R.S. (2008)) will allow self-declaration of income for families. Section 101 (a) (27) of the Immigration and Nationality Act allows for special immigrant status for Iraqi and Afghan immigrants.

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:

8 U.S.C. § 1101, Public Law 110-161, Section 525 of Title V of Division G, and Public Law 110-181, Section 1244

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, CRS (2008)
25.5-8-101 through 25.5-8-104, C.R.S. (2008);
Senate Bill 08-161 (25.5-8-109, C.R.S. (2008))

Initial Review **01/09/2009**

Final Adoption

02/13/2009

Proposed Effective Date **04/01/2009**

Emergency Adoption

DOCUMENT # 01

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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.

The class of persons that will be affected and benefit from this proposed rule change are Children's Basic Health Plan program clients.

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 population affected by this rule change will now have less of a burden to provide income documentation. In addition, the population will expand to include a small population of immigrants that meet the special immigrant requirements.

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.

Costs associated with implementing this eligibility change for SB 08-161 have been fully addressed in the fiscal note submitted to the legislature.

Costs associated with the special immigrant status are 100% federally funded, so there is no fiscal impact to the State.

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

This rule is needed to comply with new legislation, Senate Bill 08-161 (25.5-8-109 C.R.S. (2008)) and Section 101 (a) (27) of the Immigration and Nationality Act. The Department was appropriated \$43,901 to implement SB 08-161 for CHP+ and Medicaid.

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

At this time there are no less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

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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 were no alternative methods considered for the proposed rule.

100 ELIGIBILITY

110 INDIVIDUALS ASSISTED UNDER THE PROGRAM

110.1 To be eligible for the Children's Basic Health Plan, an eligible person shall:

- A.
 - 1. Be less than 19 years of age; or
 - 2. Be a pregnant woman
- B. Meet one of the following categories:
 - 1. A citizen or national of the United States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands, American Samoa, or Swain's Island; or
 - 2. An alien or immigrant who entered the United States at least five years prior to the date of application and who is:
 - a. Lawfully admitted for permanent residence under the U.S. Immigration and Nationality Act; or
 - b. Paroled into the United States for at least one year under Section 212(d)(5) of the U.S. Immigration and Nationality Act; or
 - c. Granted conditional entry under Section 203(a)(7) of the U.S. Immigration and Nationality Act; or
 - 3. An alien who arrived in the United States on any date who is:
 - a. Lawfully residing in Colorado and is an honorably discharged military veteran; or
 - 1. A spouse of such military veteran; or
 - 2. An unremarried surviving spouse of such military veteran; or
 - 3. An unmarried dependent child of such military veteran.
 - b. Lawfully residing in Colorado and is on active duty in the United States Armed Forces, excluding military training; or
 - 1. A spouse of such individual; or
 - 2. An unremarried surviving spouse of such individual; or
 - 3. An unmarried dependent child of such individual.
 - c. Granted asylum under Section 208 of the U.S. Immigration and Nationality Act; or
 - d. Refugee under Section 207 of the U.S. Immigration and Nationality Act; or

- e. An individual with deportation withheld:
 - 1. Under Section 243(h) of the U.S. Immigration and Nationality Act, as in effect prior to September 30, 1996; or
 - 2. Under Section 241(b)(3), as amended by P.L. 104-208 of the U.S. Immigration and Nationality Act.
- f. A Cuban or Haitian entrant, as defined under Section 501(e)(2) of the U.S. Refugee Education Assistance Act of 1980; or
- g. An individual who:
 - 1. Was born in Canada and possesses at least 50 percent American Indian blood; or
 - 2. Is a member of an Indian tribe, as defined in 25 U.S.C. Section 450(b)e.
- h. Admitted into the United States as an Amerasian immigrant under Section 584 of the U.S. Foreign Operations, Export Financing, and Related Programs Appropriation Act of 1988, as amended by P.L. 100-461; or
- i. A lawfully admitted, permanent resident, who is a Hmong or Highland Lao veteran of the Vietnam conflict; ~~and/or~~

4. An alien who was admitted in the United States on or after December 26, 2007 who is an Iraqi Special Immigrant under section 101(a)(27) of the Immigration and Nationality Act (INA) within the initial 8 months of special immigrant status

5. An alien who was admitted in the United States on or after January 28, 2008 who is an Afghan Special Immigrant under section 101(a)(27) of the Immigration and Nationality Act (INA) within the initial 6 months of special immigrant status; and

- C. Be a resident of Colorado; and
- D. Have family income less than or equal to 200% of the Federal Poverty Level, adjusted for family size.
- E. Failure to complete an application or to provide required documentation in Section 130 will result in the denial of the incomplete application or individual applicant (s).