THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revision to the Medical Assistance Rule Concerning Recipient Appeals, §8.075
Rule Number:	MSB 08-11-21-A
Division / Contact / Phone:	Office of Appeals, CLIENT SERVICES / JEAN M. HOHN / 866-5954

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 08-11-21-A, Revision to the Medical Assistance Rule Concerning Recipient Appeals, §8.075
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) 8.057.4.B.1 and 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)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Please delete text indicated at the last half of §8.057.4.B.1 through the end of §8.057.4.B.2. This change is effective 12/30/2009.

*to be completed by MSB Board Coordinator

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Title of Rule:	Revision to the Medical Assistance Rule Concerning Recipient Appeals, §8.075
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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).

   The basis and purpose of this rule is to enlarge the number of days for applicants or reciprients to request a hearing.

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 CFR 431.221(d)

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2008);
   25.5-4-207, C.R.S. (2008);

Initial Review	**10/16/2009**	Final Adoption	**11/13/2009**
Proposed Effective Date	**12/30/2009**	Emergency Adoption	

DOCUMENT #19

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Title of Rule:	Revision to the Medical Assistance Rule Concerning Recipient Appeals, §8.075
Rule Number:	MSB 08-11-21-A
Division / Contact / Phone:	Office of Appeals, CLIENT SERVICES / JEAN M. HOHN / 866-5954

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.

   All persons who currently receive medical assistance will be affected and benefit from the rule because such persons will be given additional time in which to file a request for hearing.

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

   Persons who receive adverse actions are given additional time in which to request a hearing. If the person is found ineligible for benefits, the Department is entitled to recover the cost of benefits provided. This could result in a higher amount of recovery from the client.

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 amending the language in existing appeal rights forms are not anticipated because the costs to change the language in the forms should be absorbed by personnel already in the existing budget. Giving the client an additional ten days to appeal an adverse action could result in ineligible clients remaining on Medicaid for ten (10) additional days. Additional costs could be incurred if the Department prevails in the appeal, because an additional 10 days of expenditures could be incurred for services maintained during the appeals process. Additional costs if the client prevails in the appeal could be incurred in the form of retroactive eligibility for services.

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

   There would be no additional costs to inaction. The benefits of allowing an additional ten (10) days to request a hearing will enhance the clients' rights to appeal adverse decisions.

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

   There are no less costly or intrusive methods for amending the rule to extend the deadline for filing requests for hearing.

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.

   Inaction was considered. The Department concluded that it would be in the best interest of the public if the rule enlarged the time to file appeals. There are no alternative methods for achieving the same purpose.

8.057.4 REQUEST FOR HEARING

8.057.4.A. The request for a hearing shall be in writing and contain:

1. The recipient or applicant's name, address and State Identification Number, if applicable;

2. The action, denial or failure to act promptly on which the requested appeal is based; and

3. The reason for appealing the action, denial or failure to act promptly.

8.057.4.B. The request for a hearing shall be filed with the Office of Administrative Courts:

1. Within 30 calendar days of the date of the notice of action ~~if the action concerns Medicaid eligibility; or~~

~~2. Within 20 calendar days of the date of the notice of action if the action is not related to Medicaid eligibility.~~.

8.057.4.C. The recipient or applicant or his/her authorized representative shall be entitled to examine the complete case file and any other documents to be used at hearing at a reasonable time before the hearing or during the hearing. Documents and information that are confidential as a matter of law shall be exempt from this requirement unless they are to be offered as evidence during the hearing.

8.057.4.D. If the recipient or applicant makes an oral request for a hearing to the Department or its designee, the Department or its designee shall prepare a written request for the individual's signature or have the individual prepare such a request.

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revisions to Provider Participation Rules Requiring Providers to Screen Employees and Contractors for Excluded Individuals and Entities, §8.130
Rule Number:	MSB 09-07-14-A
Division / Contact / Phone:	Legal / Bob Douglas, Legal Division / X3026

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 09-07-14-A, Revisions to Provider Participation Rules to Requireing Providers to Screen Employees and Contractors for Excluded Individuals and Entities, §8.130
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) 8.130, 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*

Please replace current text at §8.130.35.B with the new text provided. This change is effective 12/30/2009.

*to be completed by MSB Board Coordinator

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revisions to Provider Participation Rules Requiring Providers to Screen Employees and Contractors for Excluded Individuals and Entities, §8.130
Rule Number:	MSB 09-07-14-A
Division / Contact / Phone:	Legal / Bob Douglas, Legal Division / X3026

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 purpose of this rule is to revise the requirements for provider participation in the Medicaid program to include provisions outlining a provider's obligation to determine whether any of the provider's employees or contractors have been excluded from participation in the Medicaid program by the US Department of Health and Human Services Office of the Inspector General. The change is necessary to comply with instructions from the Centers for Medicare and Medicaid Services outlined in a letter to state Medicaid directors dated January 16, 2009.

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 CFR 1001.1901(b)

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2008);
   25.5-4-301(2)

Initial Review	**10/16/2009**	Final Adoption	**11/13/2009**
Proposed Effective Date	**12/30/2009**	Emergency Adoption	

DOCUMENT #20

THIS PAGE NOT FOR PUBLICATION

Title of Rule:	Revisions to Provider Participation Rules Requiring Providers to Screen Employees and Contractors for Excluded Individuals and Entities, §8.130
Rule Number:	MSB 09-07-14-A
Division / Contact / Phone:	Legal / Bob Douglas, Legal Division / X3026

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 proposed changes will affect providers enrolled in the Medicaid program. Providers will benefit from the proposed rules, as the rules outline the steps a provider can take to avoid the risk of federal civil monetary penalties for employing individuals or contractors who have been excluded from participation in Medicaid by the US Department of Health and Human Services Office of the Inspector General.

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 Department does not have data on the number of providers enrolled in the Colorado Medicaid program who have been subject to federal civil monetary penalties as a result of employing or contracting with individuals or entities that have been excluded from participation in the Medicaid program. As a result, it is not possible to estimate the amount of civil monetary penalties providers could avoid by complying with the proposed rule.

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.

   Implementation and enforcement of the proposed rule is not expected to result in any cost or have any effect on state revenues.

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

   Inaction would result in the Department not being in compliance with the instructions from the Centers for Medicare and Medicaid Services outlined in their January 16, 2009 letter to state Medicaid directors.

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

   There are no less costly or less intrusive methods for achieving the purpose of the proposed rules.

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 rules.

8.130.35 SCREENING FOR EXCLUDED EMPLOYEES AND CONTRACTORS

B. Except as otherwise provided in federal law, if the Medical Assistance program pays for any goods or services furnished, ordered, or prescribed by an excluded individual or entity that is employed by or has contracted with a provider, such payment shall constitute an overpayment, as defined at 8.076.1.8. and shall be subject to the overpayment recovery provisions of 8.076.3. ~~if the provider knew or should have known of the exclusion.~~ Such provider may also be subject to sanctions by the Department including the termination of the provider agreement, as described at 8.076.5.~~,~~ if the provider knew or should have known of the exclusion. The provider may also be subject to civil and monetary penalties imposed by the Department of Health and Human Services.