

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule Concerning Achieving Better Life Experience (ABLE) Accounts added to Definitions and Resource Requirements as an exempt resource

Rule Number: MSB 17-05-22-B

Division / Contact / Phone: Eligibility / Eric Stricca / 4475

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 17-05-22-B, Revision to the Medical Assistance Rule Concerning Achieving Better Life Experience (ABLE) Accounts added to Definitions and Resource Requirements as an exempt resource
3. This action is an adoption of: new rules
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) 8.100.1 and 8.100.5.M.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*

Replace the current text at 8.100.1 with the proposed text beginning at 8.100.1 through the end of 8.100.1. Replace the current text at 8.100.5.M with the proposed text beginning at 8.100.5.M through the end of 8.100.5.M. This rule becomes effective September 30, 2017.

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Title of Rule: Revision to the Medical Assistance Rule Concerning Achieving Better Life Experience (ABLE) Accounts added to Definitions and Resource Requirements as an exempt resource

Rule Number: MSB 17-05-22-B

Division / Contact / Phone: Eligibility / Eric Stricca / 4475

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 amend 10 CCR 2505-10 § 8.100.1 and 8.100.5.M.2 by adding Achieving Better Life Experience (ABLE) accounts to the definitions and as an exempt asset. ABLE accounts are special savings accounts that can be set up by (or for) certain individuals with disabilities. They will not count as a resource for eligibility purposes for any Medicaid category that has an asset test. This rule adds a new exempt resource for the eligibility groups that have an asset test.

2. An emergency rule-making is imperatively necessary

- to comply with state or federal law or federal regulation and/or
- for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

26 U.S.C. § 529A; Stephen Beck Jr. ABLE Act of 2014, Pub. L. 113-295, Div B § 103(a)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);
C.R.S. 23-3.1-311 (2016); C.R.S. § 25.5-1-303(3)(b)

Initial Review
Proposed Effective Date

07/14/17
09/30/17

Final Adoption
Emergency Adoption

08/11/17

DOCUMENT #01

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Title of Rule: Revision to the Medical Assistance Rule Concerning Achieving Better Life Experience (ABLE) Accounts added to Definitions and Resource Requirements as an exempt resource

Rule Number: MSB 17-05-22-B

Division / Contact / Phone: Eligibility / Eric Stricca / 4475

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 classes of individuals who will be impacted are certain disabled individuals who are eligible under the categories that have an asset test. These individuals will be able to save money in this type of account without jeopardizing their eligibility.

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

ABLE account can be accessed for expenses made for the benefit of a disabled individual for education; housing; transportation; employment training and support; assistive technology and personal support services; health, prevention, and wellness; financial management and administrative services; legal fees; expenses for oversight and monitoring; funeral and burial expenses; and any other expenses approved under the regulations.

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 Department does not anticipate that this rule change would have a fiscal impact because there is already a provision that allows individuals with disabilities to hold assets in a pooled disability trust, which can be disregarded for purposes of Medicaid eligibility. Qualified distributions from these accounts can also be disregarded for purposes of Medicaid eligibility similar to the qualified expenses allowed by this change. Additionally, since the individual would have had a disability prior to age 26 the Department does not anticipate that this change would provide a new mechanism for older adults to shelter assets in order to become eligible for Medicaid for long term care purposes.

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

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The rule implements federal and state law. Inaction would be in violation of those laws.

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

There are not less costly methods.

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 not alternative methods.

8.100 MEDICAL ASSISTANCE ELIGIBILITY

8.100.1 Definitions

300% Institutionalized Special Income Group is a Medical Assistance category that provides Long-Term Care Services to aged or disabled individuals.

1619b is section 1619b of the Social Security Act which allows individuals who are eligible for Supplemental Security Income (SSI) to continue to be eligible for Medical Assistance coverage after they return to work.

AB - Aid to the Blind is a program which provides financial assistance to low-income blind persons.

ABD - Aged, Blind and Disabled Medical Assistance is a group of Medical Assistance categories for individuals that have been deemed to be aged, blind, or disabled by the Social Security Administration or the Department.

[Achieving a Better Life Experience \(ABLE\) accounts – Special savings accounts that are set up by \(or for\) certain individuals with disabilities in a qualified ABLE program that are exempt for eligibility. They can be established by any state's qualified ABLE Program. Colorado's ABLE program is administered by the Department of Higher Education.](#)

Adult MAGI Medical Assistance Group provides Medical Assistance to eligible adults from the age of 19 through the end of the month that the individual turns 65, who do not receive or who are ineligible for Medicare.

AND - Aid to Needy Disabled is a program which provides financial assistance to low-income persons over age 18 who have a total disability which is expected to last six months or longer and prevents them from working.

AFDC - Aid to Families with Dependent Children is the Title IV federal assistance program in effect from 1935 to 1997 which was administered by the United States Department of Health and Human Services. This program provided financial assistance to children whose families had low or no income.

AP-5615 is the form used to determine the patient payment for clients in nursing facilities receiving Long Term Care.

Alien is a person who was not born in the United States and who is not a naturalized citizen.

Ambulatory Services is any medical care delivered on an outpatient basis.

Annuity is an investment vehicle whereby an individual establishes a right to receive fixed periodic payments, either for life or a term of years.

Applicant is an individual who is seeking an eligibility determination for Medical Assistance through the submission of an application.

Application Date is the date the application is received and date-stamped by the eligibility site or the date the application was received and date-stamped by an Application Assistance site or Presumptive Eligibility site. In the absence of a date-stamp, the application date is the date that the application was signed by the client.

Application for Public Assistance is the designated application used to determine eligibility for financial assistance. It can also be used to determine eligibility for Medical Assistance.

8.100.5.M. Resource Requirements

1. Consideration of resources: Resources are defined as cash or other assets or any real or personal property that an individual or spouse owns. The resource limit for an individual is \$2,000. For a married couple, the resource limit is \$3,000. If one spouse is institutionalized, refer to Spousal Protection-Treatment of Income and Resources for Institutionalized Spouses. Effective January 1, 2011, the resource limits for the Qualified Medicare Beneficiaries (QMB), Specified Low Income Medicare Beneficiaries (SLMB), and Qualified Individuals 1 (QI-1) programs are \$8,180 for a single individual and \$13,020 for a married individual living with a spouse and no other dependents. The resource limits for the QMB, SLMB, and QI programs shall be adjusted annually by the Centers for Medicare and Medicaid Services on January 1 of each year. These resource limits are based upon the change in the annual consumer price index (CPI) as of September of the previous year. Resources are not counted for the Medicaid Buy-In Program for Working Adults with Disabilities or the Medicaid Buy-In Program for Children with Disabilities.
2. The following resources are exempt in determining eligibility:
 - a. A home, which is any property in which an individual or spouse of an individual has an ownership interest and which serves as the individual's principal place of residence. The property includes the shelter in which an individual resides, the land on which the shelter is located and related outbuildings.
 - i) Only one principal place of residence is excluded for a single individual or a married couple.
 - ii) The individual's ownership interest in the home must have an equity value that:
 - 1) From January 1, 2006 thru December 31, 2010 is \$500,000 or less, or;
 - 2) Is less than the amount that results from the year to year percentage increase to the \$500,000 limit. The increase is based upon the consumer price index for all urban consumers (all items; United States city average), rounded to the nearest \$1,000.
 - iii) If an individual or spouse of an individual owns a home of any value located outside Colorado, and if the individual intends to return to that home, then the individual does not meet the residency requirement for Colorado Medicaid eligibility.
 - iv) If an individual or spouse of an individual owns a home of any value located outside Colorado, and if the individual does not intend to return to that home, then the home is a countable resource unless the individual's spouse or dependent relative lives in the home.

- v) If an individual or spouse of an individual owns a home located inside Colorado with an equity value lower than the limit in subparagraph (1), above, and if the individual intends to return to that home, then the home is considered an exempt resource if:
 - 1) The individual is institutionalized; and
 - 2) The intent to return home is documented in writing.
- vi) If an individual or spouse of an individual owns a home with an equity value greater than the limit that is located inside Colorado, and if the individual intends to return to that home, then the home is considered to be a countable resource unless spouse or dependent relative lives in the home.
- vii) If an individual or spouse of an individual owns a home of any value located inside Colorado, and if the individual does not intend to return to that home, then the home is a countable resource unless spouse or dependent relative lives in the home.
- viii) If an individual or spouse moves out of his or her home without the intent to return, the home becomes a countable resource because it is no longer the individual's principal place of residence.
- ix) If an individual leaves his or her home to live in an institution, the home shall still be considered the principal place of residence, irrespective of the individual's intent to return as long as the individual's spouse or dependent relative continues to live there.
- x) The individual's equity in the former home becomes a countable resource effective with the first day of the month following the month it is no longer his or her principal place of residence.
- xi) The intent to return home applies to the home in which the individual or spouse of the individual was living prior to being institutionalized or to a replacement home as long as the individual's spouse or dependent relative continues to live in the home.
- xii) The intent to return home also applies if the individual is living in an assisted living facility or alternative care facility and receives HCBS while in that facility or transfers into a Long-Term Care institution to receive services.
- xiii) For an individual in a Long-Term Care institution, receiving HCBS, or enrolled in PACE, the exemption for the principal place of residence does not apply to a residence which has been transferred to a trust or other entity, such as a partnership or corporation.

1) The exemption shall be regained if the residence is transferred back into the name of the individual.

xiv) The principal place of residence, which is subject to estate recovery, becomes a countable resource upon the execution and recording of a beneficiary deed.

The exemption can be regained if a revocation of the beneficiary deed is executed and recorded.

b. Excess property will not be included in countable resources as long as reasonable efforts to sell it have been unsuccessful. Reasonable efforts to sell means:

i.) The property is listed with a professional such as a real estate agent, broker, dealer, auction house, etc, at current market value.

ii) If owner listed, the property must be for sale at current market value, advertised and shown to the public.

iii) Any reasonable offer must be accepted.

iv) If an offer is received that is at least two-thirds of the current market value, that offer is presumed reasonable.

v) The client must continue reasonable efforts to sell and must submit verification of these efforts to the Eligibility Site on a quarterly basis. Reasonable effort is at Eligibility Site discretion.

vi) If the exemption is used to become eligible under the Spousal Protection rules, the property shall continue to be viewed according to 8.100.7.L while efforts to sell it are being made.

vii) Eligibility under this exemption is conditional. Once the property sells, the client shall be ineligible until the resources are below the prescribed limit.

c. One automobile is totally excluded regardless of its value if it is used for transportation for the individual or a member of the individual's household. An automobile includes, in addition to passenger cars, other vehicles used to provide necessary transportation.

d. Household goods are not counted as a resource to an individual (and spouse, if any) if they are:

i) Items of personal property, found in or near the home, that are used on a regular basis; or

ii) Items needed by the household for maintenance, use and occupancy of the premises as a home.

- iii) Such items include but are not limited to: furniture, appliances, electronic equipment such as personal computers and television sets, carpets, cooking and eating utensils, and dishes.
- e. Personal effects are not counted as a resource to an individual (and spouse, if any) if they are:
 - i) Items of personal property ordinarily worn or carried by the individual; or
 - ii) Articles otherwise having an intimate relation to the individual.
 - iii) Such items include but are not limited to: personal jewelry including wedding and engagement rings, personal care items, prosthetic devices, and educational or recreational items such as books or musical instruments.
 - iv) Items of cultural or religious significance to the individual and items required because of an individual's impairment are also not counted as a resource.
- f. The cash surrender value of all life insurance policies owned by an individual and spouse, if any, is exempt if the total face value of all life insurance policies does not exceed \$1,500 on any person. If the total face value of all the life insurance policies exceeds \$1,500 on one person, the cash surrender value of those policies will be counted.
- g. Term life insurance having no cash surrender value, and burial insurance, the proceeds of which can be used only for burial expenses, are not countable toward the resource limit.
- h. The total value of burial spaces for the applicant/recipient, his/her spouse and any other members of his/her immediate family is exempt as a resource. If any interest is earned on the value of an agreement for the purchase of a burial space, such interest is also exempt.
- i. An applicant or recipient may own burial funds through an irrevocable trust or other irrevocable arrangement which are available for burial and are held in an irrevocable burial contract, an irrevocable burial trust, or in an irrevocable trust which is specifically identified as available for burial expenses without such funds affecting the person's eligibility for assistance.
- j. An applicant or recipient may also own up to \$1,500 in burial funds through a revocable account, trust, or other arrangement for burial expenses, without such funds affecting the person's eligibility for assistance. This exclusion only applies if the funds set aside for burial expenses are kept separate from all other resources not intended for burial of the individual or spouse's burial expenses. Interest on the burial funds is also excluded if left to accumulate in the burial fund. For a married couple, a separate \$1,500 exemption applies to each spouse.

The \$1,500 exemption is reduced by:

- i) the amount of any irrevocable burial funds such as are described in the preceding subparagraph, and
- ii) the face value of any life insurance policy whose cash surrender value is exempt.

k. Achieving a Better Life Experience (ABLE) Accounts.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Eligibility Rule Concerning the General and Citizenship Eligibility, Section 8.100.3.G

Rule Number: MSB 17-05-22-A

Division / Contact / Phone: Health Information Office / Jennifer VanCleave / 303-866-6204

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 17-05-22-A, Revision to the Medical Assistance Eligibility Rule Concerning the General and Citizenship Eligibility, Section 8.100.3.G
3. This action is an adoption of: new rules
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) § 8.100.3, 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*

Replace the current text beginning at 8.100.3.G.1 with the proposed text starting at 8.100.3.G.1 through the end of 8.100.3.G.1. This rule is effective September 30, 2017.

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Eligibility Rule Concerning the General and Citizenship Eligibility, Section 8.100.3.G

Rule Number: MSB 17-05-22-A

Division / Contact / Phone: Health Information Office / Jennifer VanCleave / 303-866-6204

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 proposed rule change will amend 10 CCR 2505-10 8.100.3.G to incorporate changes mandated by Section 431 of the PRWORA and Section 214 of CHIPRA, as detailed in the State Plan Amendment, to citizenship and non-citizen eligibility. The rule regarding children pending Special Immigrant Juvenile status must be corrected to comply with federal regulations, which clarify that only children with a pending application for Special Immigrant Juvenile status shall be eligible for Medical Assistance. Other updates will include removing the 40 qualifying quarters of work since it is not required to be eligible for Medicaid. The Colorado Benefits Management System (CBMS) is currently in alignment with federal requirements, so no updates are needed at this time.

- 2. An emergency rule-making is imperatively necessary

- to comply with state or federal law or federal regulation and/or
- for the preservation of public health, safety and welfare.

Explain:

- 3. Federal authority for the Rule, if any:

§435.406; section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA); section 431 of the Personal Responsibility and Work Opportunity Act (PRWORA).

- 4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);
25.5-5-101; 25.5-8-105, C.R.S. (2016)

Initial Review
Proposed Effective Date

07/14/17
09/30/17

Final Adoption
Emergency Adoption

07/14/17

DOCUMENT #02

DO NOT PUBLISH

Title of Rule: Revision to the Medical Assistance Eligibility Rule Concerning the General and Citizenship Eligibility, Section 8.100.3.G

Rule Number: MSB 17-05-22-A

Division / Contact / Phone: Health Information Office / Jennifer VanCleave / 303-866-6204

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.

With the proposed rule, the 40 qualified work quarter requirement will be removed for the eligibility of qualified non-citizens. Children pending Special Immigrant Juvenile status will also be eligible to receive Medical Assistance and do not need to meet the 5-year bar.

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 proposed rule will remove the 40 qualifying work quarter requirement for eligibility determination of qualified non-citizens to align with federal policy. Currently, 8.100.3.G states that children that are pending or receiving Special Immigrant Juvenile status are eligible for medical assistance. Additional clarification was received from the Centers for Medicare and Medicaid Services (CMS) that only children who are pending Special Immigrant Juvenile status are eligible to receive benefits, and the change is needed to comply with our current State Plan Amendment.

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 changes to this rule involve editing rule language to align with current policy and practices, so there are no costs to the Department or any other agency based on the implementation and enforcement of the proposed rule, or any anticipated effect on state revenues.

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

DO NOT PUBLISH

There are no costs to the rule change, but the benefit of the proposed rule is that the rule would align with actual policy and procedures that are in effect. Inaction would continue misalignment between rule language and policy.

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 achieving this purpose than to update the rule language.

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 the proposed rule that were considered.

8.100.3.G. General and Citizenship Eligibility Requirements

1. To be eligible to receive Medical Assistance, an eligible person shall:

- a. Be a resident of Colorado;
- b. Meet the following requirements while being an inmate, in-patient or resident of a public institution:
 - i). The following individuals, if eligible, may be enrolled for Medical Assistance
 1. Patients in a public medical institution
 2. Residents of a Long-Term Care Institution
 3. Prior inmates who have been paroled
 4. Resident of a publicly operated community residence which serves no more than 16 residents
 5. Individuals participating in community corrections programs or residents in community corrections facilities ("halfway houses") who have freedom of movement and association which includes individuals who:
 - a) are not precluded from working outside the facility in employment available to individuals who are not under justice system supervision;
 - b) can use community resources (e.g., libraries, grocery stores, recreation, and education) at will;
 - c) can seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state; and/or
 - d) are residing at their home, such as house arrest, or another location
 - ii). Inmates who are incarcerated in a correctional institution such as a city, county, state or federal prison may be enrolled, if eligible, with benefits limited to an in-patient stay of 24 hours or longer in a medical institution.
- c. Not be a patient in an institution for tuberculosis or mental disease, unless the person is under 21 years of age or has attained 65 years of age and is eligible for the Medical Assistance Program and is receiving active treatment as an inpatient in a psychiatric facility eligible for Medical Assistance reimbursement. See section 8.100.4.H for special provisions extending Medical Assistance coverage for certain patients who attain age 21 while receiving such inpatient psychiatric services;
- d. Meet all financial eligibility requirements of the Medical Assistance Program for which application is being made;
- e. Meet the definition of disability or blindness, when applicable. Those definitions appear in this volume at 8.100.1 under Definitions;

- f. Meet all other requirements of the Medical Assistance Program for which application is being made; and
- g. Fall into one of the following categories:
 - i) 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
 - ii) Be a lawfully admitted non-citizen who entered the United States prior to August 22, 1996, or
 - iii) Be a non-citizen who entered the United States on or after August 22, 1996 and is applying for Medical Assistance 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:
 - 1) lawfully admitted for permanent residence under the Immigration and Nationality Act (hereafter referred to as the "INA");
 - 2) paroled into the United States for at least one year under 8 U.S.C. § 1182(d)(5); or
 - 3) granted conditional entry under section 203(a)(7) of the INA, as in effect prior to April 1, 1980; or
 - 4) determined by the eligibility site, 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. §1641(c), has been battered or subjected to extreme cruelty which necessitates the provision of Medical Assistance (Medicaid); or
 - ~~5) lawfully admitted for permanent residence under the INA with 40 qualifying quarters as defined under Title II of the Social Security Act. 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.~~
 - iv) Be a non-citizen who arrived in the United States on any date, who falls into one of the following categories:
 - 1) lawfully residing in Colorado and is an honorably discharged military veteran (also includes spouse, unremarried surviving spouse and unmarried, dependent children), or
 - 2) 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
 - 3) granted asylum under section 208 of the INA, or
 - 4) refugee under section 207 of the INA, or

- 5) 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, or
 - 6) Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980, or
 - 7) 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. 5304(e)(2016), or
 - 8) 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), or
 - 9) lawfully admitted permanent resident who is a Hmong or Highland Lao veteran of the Vietnam conflict, or
 - 10) a victim of a severe form of trafficking in persons, as defined in section 103 of the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386, as amended (22 U.S.C. § 7105(b) (2016)), or
 - 11) An alien who arrived in the United States on or after December 26, 2007 who is an Iraqi special immigrant under section 101(a)(27) of the INA, or
 - 12) An alien who arrived in the United States on or after December 26, 2007 who is an Afghan Special Immigrant under section 101(a)(27) of the INA.
- v) The statutes listed at sections 8.100.3.G.1.g.iii.1-5 and at 8.100.3.G.1.g.iv.3-11 are incorporated herein by reference. No amendments or later editions are incorporated. These regulations are available for public inspection at the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Pursuant to C.R.S. 24-4-103(12.5)(b)(2016), the agency shall provide certified copies of the material incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule.
- vi) Be a lawfully admitted non-citizen who is a pregnant women or a child under the age of 19 years in the United States who falls into one of the categories listed in 8.100.3.G.1.g.iii or into one of the following categories listed below. These individuals are exempt from the 5-year waiting period:
- 1) granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a,or
 - 2) granted Temporary Protected Status (TPS) in accordance with 8 U.S.C 1254a and pending applicants for TPS granted employment authorization,
 - 3) granted employment authorization under 8 CFR 274a.12(c),or
 - 4) Family Unity beneficiary in accordance with section 301 of Pub. L. 101-649, as amended.

- 5) Deferred Enforced Departure (DED), pursuant to a decision made by the President,
- 6) granted Deferred Action status (excluding Deferred Action for Childhood Arrivals (DACA)) as described in the Secretary of Homeland Security's June 15, 2012 memorandum,
- 7) granted an administrative stay of removal under 8 CFR 241.6(2016), or
- 8) Beneficiary of approved visa petition who has a pending application for adjustment of status.
- 9) Pending an application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention Against Torture who-
 - a) as been granted employment authorization; or
 - b) Is under the age of 14 and has had an application pending for at least 180 days.
- 10) granted withholding of removal under the Convention Against Torture,
- 11) A child who has a pending ~~an~~ application ~~or is a recipient of~~ Special Immigrant Juvenile status under 8 U.S.C. 1101(a)(27)(J), or
- 12) Citizens of Micronesia, the Marshall Islands, and Palau, or
- 13) is lawfully present American Samoa under the immigration of laws of American Samoa.
- 14) A non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or under 8 U.S.C. 1101(a)(17), or
- 15) A non-citizen who has been paroled into the United States for less than one year under 8 U.S.C. § 1182(d)(5), except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings.

- vii) Exception: The exception to these requirements is that persons who apply for and meet the criteria for one of the categorical Medical Assistance programs, but do not meet the criteria of citizenship shall receive Medical Assistance benefits for emergency medical care only. The rules on confidentiality prevent the Department or eligibility site from reporting to the United States Citizenship and Immigration Services persons who have applied for or are receiving assistance. These persons need not select a primary care physician as they are eligible only for emergency medical services.

For non-qualified aliens receiving Medical Assistance emergency only benefits, the following medical conditions will be covered:

An emergency medical condition (including labor and delivery) which manifests itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- 1) placing the patient's health in serious jeopardy;
- 2) serious impairment of bodily function; or
- 3) serious dysfunction of any bodily organ or part.

A physician shall make a written statement certifying the presence of an emergency medical condition when services are provided and shall indicate that services were for a medical emergency on the claim form. Coverage is limited to care and services that are necessary to treat immediate emergency medical conditions. Coverage does not include prenatal care or follow-up care.

2. For determinations of eligibility for Medical Assistance, legal immigration status must be verified. This requirement applies to a non-citizen individual who meets the criteria of any category defined at 8.100.3.G(1)(g)(ii) (iii) (iv) or (vi) and has declared that he or she has a legal immigration status.

- a. The Verify Lawful Presence (VLP) interface will be used to verify immigration status. The VLP interface connects to the Systematic Alien Verification for Entitlements (SAVE) Program. The VLP interface has three steps to verify legal immigration status.
 - i) An automated response from VLP confirms that the information submitted is consistent with VLP data for immigration status verification requirements. No further action is required for the individual and no additional documentation of immigration status is required. If Step 1 does not verify the legal immigration status of the individual and the VLP interface indicates additional information is required, Step 2 will automatically be initiated.
 - ii) Step 2: A response from the VLP interface confirms that the information submitted verifies the legal immigration status of the individual. No further action is required for the individual and no additional documentation of immigration status is required. If Step 2 does not verify the legal immigration status of the individual and the VLP interface indicates additional information is required Step 3 will be initiated.
 - iii) Step 3: The individual will be contacted by a state appointed designee with a request for additional documents and/or information needed to verify their legal immigration status through the VLP interface. A response from the VLP interface confirms that the documents and/or information received from the individual verifies their legal immigration status. No further action is required for the individual and no additional documentation of immigration status is required.

3. Reasonable Opportunity Period

- a. If the verification through Step 1 of the electronic interface is unsuccessful then the applicant will be provided a reasonable opportunity period, of 90 days, to submit documents indicating a legal immigration status. The reasonable opportunity period will begin as of the date of the Notice of Action. The required documentation must be received within the reasonable opportunity period.
- b. If the verification through Step 2 of the electronic interface is unsuccessful and Step 3 is initiated, the reasonable opportunity period will be reset to 90 calendar days which will commence on the date of the failure of Step 2.

- c. If the applicant does not provide the necessary documents within the reasonable opportunity period, then the applicant's Medical Assistance application shall be terminated.
- d. The reasonable opportunity period applies to MAGI, Adult and Buy-In Programs.
 - i) For the purpose of this section only, MAGI Programs for persons covered pursuant to 8.100.4.G or 8.100.4.I. include the following:

Commonly Used Program Name	Rule Citation
Children's Medical Assistance	8.100.4.G.2
Parent and Caretaker Relative Medical Assistance	8.100.4.G.3
Adult Medical Assistance	8.100.4.G.4
Pregnant Women Medical Assistance	8.100.4.G.5
Legal Immigrant Prenatal Medical Assistance	8.100.4.G.6
Transitional Medical Assistance	8.100.4.I.1-5

- ii) For the purpose of this section only, Adult and Buy-In Programs for persons covered pursuant to 8.100.3.F, 8.100.6.P, 8.100.6.Q, or 8.715. include the following:

Commonly Used Program Name	Rule Citation
Old Age Pension A (OAP-A)	8.100.3.F.1.c
Old Age Pension B (OAP-B)	8.100.3.F.1.c
Qualified Disabled Widow/Widower	8.100.3.F.1.e
Pickle	8.100.3.F.1.e
Long-Term Care	8.100.3.F.1.f-h
Medicaid Buy-In Program for Working Adults with Disabilities	8.100.6.P
Medicaid Buy-In Program for Children with Disabilities	8.100.6.Q
Breast and Cervical Cancer Program (BCCP)	8.715

DO NOT PUBLISH

Title of Rule: MSB 17-03-03-A, Revision to the Medical Assistance Services for Individuals with Intellectual and Developmental Disabilities Rule Concerning CCB Transparency, Section 8.603.17
Rule Number: MSB 17-03-03-A
Division / Contact / Phone: Division for Intellectual and Developmental Disabilities / James Ruden / 303-866-2016

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 17-03-03-A, Revision to the Medical Assistance Services for Individuals with Intellectual and Developmental Disabilities Rule Concerning CCB Transparency, Section 8.603.17
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) 8.601.1 and 8.603.7, 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 Yes hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.601.1 with the proposed text beginning at 8.601.1.A through the end of 8.601.1.J. Replace the current text beginning at 8.603.7 with the proposed text beginning at 8.603.7 through the end of 8.603.7. This rule is effective September 30, 2017.

DO NOT PUBLISH

Title of Rule: MSB 17-03-03-A, Revision to the Medical Assistance Services for Individuals with Intellectual and Developmental Disabilities Rule Concerning CCB Transparency, Section 8.603.17

Rule Number: MSB 17-03-03-A

Division / Contact / Phone: Division for Intellectual and Developmental Disabilities / James Ruden / 303-866-2016

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 rule adopts the requirements of SB16-038. The rule disallows staff members, employees, board members of service agencies, and independent contractors from serving on the governing board of the CCB and requires board members recuse themselves from voting in proceedings that have a direct or indirect financial interests. The rule requires documented training for all incoming board members. Additionally, the rule requires the CCB board meets quarterly. Email addresses must be provided by each board member and emails must not be filtered by any member of the CCB. Agendas for each board meeting must be posted on the CCBs website. The rule also requires the board to present the financial statements of the corporation for board approval at least once a quarter. Any documents related to functions of CCBs must be distributed at the board meetings and posted to the website. Any contracts entered into by the CCB with the Department or the Department of Human Services must be posted to the website. The rule sets up a procedure for community members to track compliance with the statutes and regulations. Members of the community are first required to notify the CCB in writing of any perceived violations and allow the CCB the opportunity to remedy the violation. The Department shall maintain a website allowing the public, after notifying the CCB, to communicate their complaints to the Department. Upon receipt of the complaint the Department will notify the CCB and give them 5 days to remedy the violation. After such time, any CCB remaining out of compliance will have to submit a plan of correction to the Department. Failure to submit a plan of correction or adhere to its terms may result in the suspension of payment or revocation of CCB designation. Finally, the CCBs shall be subject to the Local Government Audit Law. This requires the CCB to have a financial audit completed yearly and presented to the board. Audits are to be posted to the website within 30 days of acceptance by the board of directors.

- 2. An emergency rule-making is imperatively necessary

- to comply with state or federal law or federal regulation and/or
- for the preservation of public health, safety and welfare.

Explain:

Initial Review
Proposed Effective Date

07/14/17
09/30/17

Final Adoption
Emergency Adoption

08/11/17

DOCUMENT #04

DO NOT PUBLISH

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. (2015);
C.R.S. 25.5-10-209

Initial Review
Proposed Effective Date

07/14/17
09/30/17

Final Adoption
Emergency Adoption

08/11/17

DO NOT PUBLISH

Title of Rule: MSB 17-03-03-A, Revision to the Medical Assistance Services for Individuals with Intellectual and Developmental Disabilities Rule Concerning CCB Transparency, Section 8.603.17

Rule Number: MSB 17-03-03-A

Division / Contact / Phone: Division for Intellectual and Developmental Disabilities / James Ruden / 303-866-2016

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 most directly affect the Community Centered Boards and their boards of directors. It will also affect members of the public who rely on the community centered boards for services. The rule will allow for more transparency in the decision-making and budgeting processes.

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 will allow members of the public to view the budgetary and decision-making processes of the Community Centered Boards. By subjecting the boards to annual audits, the boards will be more fiscally responsible and accountable to the members they serve.

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 Department has already hired 1 FTE to monitor compliance and enforce the statute and accompanying rule. No additional costs are expected.

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

This rule is being adopted to implement the requirements of SB16-038. Without the rule, there would be no timeframes surrounding the posting requirements and no process for the public to monitor compliance. Additionally, the Department would be left with only the recourse of revoking CCB designation for non-compliance. The adoption of this rule clearly states the documents that need to be posted and the timeframes surrounding such postings. Additionally, it provides the Department with the ability to take remedial action short of revoking a CCB designation.

DO NOT PUBLISH

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

The rule adopts much of what is already in statute. No additional costs are included in the rule that are not otherwise required by the statute.

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.

By not adopting the rule, the Department would be left to enforce what is in the statute. Much of the requirements would remain, however there would be no timeframes surrounding the statutes mandates. Additionally, the Department would not have any enforcement mechanism short of revoking a CCB's designation. This would greatly impact individuals in service. All individuals receiving services through a CCB that had their designation revoked would have to be reassigned to a new CCB. This would result in a large disruption of services for these members. The Department rejected this option and instead is proposing an intermediary step of Plans of Correction for non-compliance.

8.601.1 COMMUNITY CENTERED BOARDS (CCB)

- A. Annually, any private corporation, for profit or not for profit, seeking designation as a Community Centered Board shall submit an application for designation to the Department.
1. Applications shall be submitted in a form and manner specified by the Department which shall be made available to applicants upon request.
 2. The Department shall notify all applicants by first class mail of its determination of designation or non-designation by May 15 of each year.
 3. The designation shall cover a twelve (12) month period beginning July 1 and ending June 30.
 4. Designation of a Community Centered Board shall be based on the following factors:
 - a. Utilization of existing service agencies, social networks or natural sources of support in the designated service area. This shall be determined and based on an actual count of service agencies within a designated service area and a description of utilization of such agencies as well as a description of existing social networks and natural sources of support which were utilized.
 - b. Encouragement of competition among service agencies within the designated service area to provide newly identified services or supports, the variety of service agencies available to the person receiving services within the designated service area, and the demonstrated effort to purchase new or expanded services or supports from service agencies other than those affiliated with the Community Centered Board. This shall be evaluated based on the ability of the applicant to substantiate such activities.
 - c. Utilization of state funded services and supports administered at the local level, including, but not limited to, public education, social services, public health, and rehabilitation programs. This shall be determined based on a description of local utilization of state funded services and on a review of the previous fiscal year audit, current budget submission and the designated service area plan.
 - d. Quality of services and supports provided for persons with developmental disabilities. Quality shall be measured based on compliance with federal and state licensing or program approval requirements, accreditation reports, agencies' self-evaluation efforts, and Department's quality assurance monitoring activities. Other resources to evaluate quality that may be considered include: analysis of disputes and complaints, use of grievance procedures, and measures of satisfaction by persons receiving services or supports.
 - e. The establishment of new services and supports for the prevention of institutionalization, the support of deinstitutionalization, and a commitment to innovative, effective, and inclusive services and supports for persons with developmental disabilities. This shall be determined based on past performance, documented use of innovative and inclusive service and support approaches, effectiveness measures, and a description of the Community Centered Board's future plans.
 - f. The demonstrated effort of the applicant to pursue authorized services and supports for all eligible persons within the designated service area. This shall be

determined based on both past performance and the applicant's written plan for addressing needed but unavailable services and supports.

g. ~~Compliance with the transparency requirements included in e.r.s. Ssection 25.5-10-209(6)-(8), C.R.S. and these rules.~~

5. Any applicant that has not previously functioned as a Community Centered Board shall respond to the application process with statements of intent and plans in any area where past performance cannot be documented.

B. If the Department determines that the Community Centered Board is in substantial compliance, the Community Centered Board shall receive designation. Upon designation, a Community Centered Board shall agree by contract to meet all requirements of Ssection 25.5-10, C.R.S., all rules and the following requirements:

1. In order to assure public accountability, the Community Centered Board shall be under the control and direction of a board of directors or trustees, pursuant to Ssection 25.5-10-209(2)(a), C.R.S.

2. ~~Staff members of the Community Centered Board, employees or board members of service agencies, or independent contractors to the Community Centered Board or service agencies providing services to individuals through the specific Community Centered Board or service agency may not serve on the governing board.~~

3. ~~—a.—Community Centered Board governing board members shall recuse themselves from proceedings which may affect their direct or indirect financial interests.~~

43. ~~The Community Centered Board shall notify the Department in writing within ten (10) business days of any changes in the board of directors.~~

54. ~~Each Community Centered Board shall provide to the incoming members of its board of directors training in such topics as the duties of a board member, the financial and fiduciary responsibilities assumed by board members, the intellectual and developmental disability system in the state, the overall business functions of the Community Centered Board, and any other matters that will, in the determination of the community centered board, allow the board member to better understand and fulfill his or her obligations to the board of directors and the community centered board and the role played by Community Centered Boards in the state in connection with the delivery of services for persons with intellectual and developmental disabilities.~~

a. ~~The Community Centered Board shall keep documentation indicating that each board member has received training materials. This documentation and copies of all training materials shall be provided to the department upon request.~~

65. ~~The board of directors of each designated Community Centered Board shall meet no less than once each quarter of the calendar year.~~

76. ~~Each Community Centered Community Centered Board shall provide a direct e-mail address to each member of its board of directors on the website of the community centered board. The e-mail address selected must specify the name of the individual board member and make reference to the particular community centered board for which he or she serves as a member of the board of directors.~~

a. ~~An e-mail that is sent to a member of the board of directors of a community centered board shall not be filtered by the Community Centered Board Through~~

~~by an employee of the Community Centered Board. before it is sent to the member of the board of directors.~~ The CCB shall insure that all emails addressed to a member of the board of directors are provided to that board member. All emails shall be provided to the member of the board of directors.

- ~~b.~~ In the event a board member is unable to access a computer or needs assistance with e-mail, the Community Centered Board shall provide appropriate assistance, including providing e-mails in alternative formats upon request or mailing correspondence through the U.S. postal service.

287. The board of directors or trustees shall adopt specific bylaw provisions which ensure that they are in compliance with all provisions of Section 25.5-10-209(2)(b), C.R.S., and:

- ~~a.~~ Notices of meetings of the board of directors shall be posted in an identified public place at the Community Centered Board offices, and shall be made available at no cost to service agencies and anyone who requests the notice.
- ~~b.~~ The Community Centered Board shall post the date, time, and location of each regularly scheduled meeting of its board of directors on the website of the Community Centered Board not less than fourteen business days prior to the date of the meeting.
- ~~c.~~ The Community Centered Board shall post on the website of the Community Centered Board the date, time, and location of any special or emergency meeting of the board of directors not less than twenty-four hours before the meeting.
- ~~d.~~ Each Community Centered Board shall post the agenda for each meeting of its board of directors on the website of the Community Centered Board not less than seven business days prior to the date of the meeting. Agendas shall remain posted on the website for at least three months.
- ~~e.~~ The Community Centered Board shall post on the website of the community centered board the agenda of any special or emergency meeting of the board of directors not less than twenty-four hours before the meeting. Special or emergency meeting agendas shall remain posted on the website for at least three months.
- ~~f.~~ The board of directors of each Community Centered Board shall present the financial statements of the corporation for the approval of the board at each regularly scheduled meeting of the board of directors. The financial statements must reflect accurate and current financial information and be prepared using generally accepted accounting principles. Where exigent circumstances are present that materially affect the preparation of the financial statements on a monthly basis, such statements may be presented for the approval of the board of directors at the next regularly scheduled meeting of the board but not less than at least once each quarter of the calendar year.
- ~~b.~~ Written minutes of all board meetings shall be maintained for three years as a matter of agency record and shall be available to the public on request at a reasonable cost not to exceed the costs allowed in section 24-72-205, C.R.S.
- ~~g.~~ Each Community Centered Board shall post on the website of the Community Centered Board the minutes of each meeting of its board of directors as such minutes are approved by the board of directors. Each Community Centered Board shall also post on the website of the Community Centered Board any

additional documents that were distributed to the board at such meeting that were not, as of that date, already posted on the website of the Community Centered Board unless the public distribution of such documents, or any portion of such documents, is otherwise prohibited pursuant to the privacy requirements specified in the health insurance portability and accountability act or as otherwise prohibited by law. Minutes of special meetings of the board of directors must be posted after approval by the board of the same at the board's next regular meeting.

i. Meeting minutes shall remain posted on the website of the Community Centered Board for a minimum of three calendar years.

eh. All meetings of a quorum of the board at which any public business is discussed or at which any formal action may be taken shall be open to the public for input. This does not apply to those matters covered in executive session pursuant to Section 25.5-10-209(2)(b)(IV), C.R.S.

i. Each meeting of the board must allow for public comment, and the agenda must reflect this requirement. Public comment must be reasonably permitted during the board meeting to accommodate community needs.

Dj. This section does not apply to any chance meeting or social gathering of the board at which discussion of the public business of the board is not the central purpose.

j. Any documents related to functions of the Community Centered Board to be distributed at a meeting of the board of directors that are available for public dissemination at the time the agenda is posted must also be posted on the website of the Community Centered Board at the time the agenda is posted, and written copies of such documents must be made available for public dissemination at the board meeting. Such documents shall remain posted on the website for at least three months.

k. This posting requirement does not apply to any document, or any portion of such document, the disclosure of which requires the approval of the board of directors and which approval has not been obtained as of the time the agenda is posted or any other document, or any portion of such document, containing any information that is legally prohibited from being disclosed to the public pursuant to the privacy requirements specified in the health insurance portability and accountability act, any document that has been or will be discussed by the board of directors meeting in executive session, or any other document the disclosure of which is otherwise prohibited by law.

l. Any contract that each Community Centered Board enters into with either the Department of Health Care Policy And Financing ~~created in section 25.5-1-104 (1)~~ or the Department of Human Services ~~created in section 26-1-105, c.r.s.~~, must be posted on the website of the Community Centered Board in a place on the website that allows access to the public in a clear, accessible, easily operated, and uncomplicated manner not later than thirty days following approval of the contract by the board of directors of the Community Centered Board.

i. All contracts shall remain posted on the website for at least three calendar years.

~~398.~~ Upon designation the Community Centered Board shall within available appropriations provide or arrange for services and supports which meet all the provisions of Section 25.5-10-209(2)(c) through (h), C.R.S., and:

- a. In accordance with reporting requirements of the Department's data system, maintain and update records of persons determined to be eligible for services and supports and who are receiving case management services.
- b. Provide for case management services pursuant to Section 8.607 of these rules.
- c. Notify the eligible person and, if appropriate, their parents or guardian regarding the availability of services and supports pursuant to requirements of Sections 8.607 and 8.605.2.
- d. Establish a Human Rights Committee(s) as required in Section 8.608.5 of these rules.
- e. Devise and implement a plan for monitoring the programmatic practices of the Community Centered Board and contracted service agencies, pursuant to Section 8.607.6 in these rules.

C. Each Community Centered Board shall submit annually a written long-range plan or an annual update to that plan for its designated service area pursuant to guidelines developed by the Department.

1. The long-range plan or annual updates to the plan shall be developed through collaborative community efforts, facilitated by the community centered board, and shall include an annual public forum.

At a minimum, the designated service area planning process shall include appropriate opportunities and times for participation and input for persons with developmental disabilities who are receiving or waiting for services and supports; families who are receiving or waiting for services and supports; and service agencies under contract with the Community Centered Board.

2. Copies of the written long-range plan or annual update must be available to the public during business hours at a reasonable cost not to exceed the costs allowed in Section 24-72-205, C.R.S.

D. The ~~Executive Director or designee~~ Department shall review each Community Centered Board to assure that it complies with the requirements set forth in these rules.

~~E.FE~~ The Department will maintain an ~~anonymous~~ website allowing for ~~public~~ community members to ~~make anonymous~~ complaints regarding Community Centered Board transparency.

~~F.FG~~ Community Centered Boards found to be in violation of ~~C.R.S. section 25.5-10-209, C.R.S. -or~~ these rules shall be notified by electronic mail ~~and by first class mail~~. Community Centered Boards shall have five (5) business days from the date of the notification to remedy any violation.

~~G.GH.~~ Community Centered Boards remaining out of compliance after five (5) business days, shall be required to ~~submit~~ develop a written plan of correction ~~C~~corrective aAction pPlan, upon written notification by the Department. The Community Centered Board shall submit to the Department ~~the a written plan of correction~~ ~~C~~Corrective aAction pPlan within ten (10) business days of the receipt of the written request from the Department. Compliance with ~~the plan of correction~~ the

~~c~~Corrective aAction pPlan shall be monitored by the DDepartment. Failure to timely submit or make corrections specified in the ~~a plan of correction~~ ~~c~~Corrective aAction pPlan may result in withholding of contract payments or suspension of payments or revocation of designation.

H. The Executive Director or designee may revoke the designation of a Community Centered Board upon a finding that the Community Centered Board is in violation of Section 25.5-10-101, C.R.S., et seq., as amended, other state or federal laws, or these rules.

Revocation of the designation of the Community Centered Board shall conform to the provisions and procedures specified in Section 24-4-104, C.R.S.

F.I. Once a designation has been revoked, the Executive Director or designee may designate another private corporation, for profit or not-for-profit, to perform the case management services and administrative duties of the Community Centered Board pending designation of a new Community Centered Board.

G.J. Any party may protest the decision of the Executive Director or designee to designate a Community Centered Board pursuant to provisions of Section 24-4-104(5), C.R.S.

8.603.7 AUDITS, FINANCIAL INFORMATION AND BUDGET INFORMATION

~~A. Community centered boards and program approved service agencies shall, at the end of each fiscal year, provide for an audit of each agency's financial statements, which shall be prepared in accordance with generally accepted accounting principles. Each designated Community Centered Board shall be~~ is subject to the requirements of the "Colorado Local Government Audit Law," ~~C.R.S. see section 29-1-601 et seq., C.R.S., et seq. Through sections c.r.s. 29-1-608, c.r.s.~~

1. Each Community Centered Board shall require the person or entity that performs financial audits of the Community Centered Board to present and discuss the results of the audit to the board of directors not less than once each year at a regularly scheduled meeting of the board of directors.

2. Each completed financial audit shall be posted on The Community Centered Board's website, in a place that allows access to the public in a clear, accessible, easily operated, and uncomplicated manner.

3. Each completed financial audit shall be posted on the website of the Community Centered Board within thirty days of acceptance by the corporation's board of directors. Completed audits shall remain posted on the website for no less than three fiscal years.

B. Each Community Centered Board is subject to a performance audit by the state auditor in accordance with Section 25.5-10-209(4), C.R.S. The Community Centered Board shall cooperate with the performance audit by the state auditor.

C. 4. Each Community Centered Board shall post on their website the most current Form 990 that has been filed with the internal revenue service. Form 990 shall be posted no later than thirty days following the filing of the form with the Internal Revenue Service. Each Form 990 shall remain posted on the website for a minimum of three fiscal years.

D. ~~_____~~ 5. The Community Centered Board shall make the following information available upon request, not later than five business days after the request is made:

1. ~~_____~~ a. The annual budget of the Community Centered Board for each calendar or fiscal year, as applicable, not later than thirty days after final approval of the budget by the board of directors of the Community Centered Board;

2. ~~_____~~ b. An annual summary of all revenues and expenditures of the Community Centered Board as have been appropriated by the state concerning capacity building, Family Support Services, State General Fund Supported Living Services, and State General Fund Early Intervention that is calculated by September 30 of each year for the prior year, as applicable; and

3. ~~_____~~ c. A description of the policies and procedures it follows to track, manage, and report its financial resources and transactions, which policies and procedures are also known and may be referred to as its "financial controls".

1. ~~_____~~ The audit of community centered boards shall be conducted in accordance with generally accepted auditing standards by a certified public accounting firm selected and under a contract with the Department.

2. ~~_____~~ Program approved service agencies shall cause an audit to be conducted by an independent accounting firm.

3. ~~_____~~ Program approved service agencies can request each year from the community centered board an exemption from the independent audit requirement and the community centered board can grant, with Department concurrence, the exemption request.

4. ~~_____~~ Program approved service agencies exempted from the independent audit requirement must submit to the community centered board financial and statistical information in the form and manner specified by the Department.

B. ~~_____~~ The Department may withhold the necessary funds from each community centered board contract payment or otherwise provide funds in order to make the necessary payments to the selected certified public accounting firm for the audit of the previous year's operations.

1. ~~_____~~ The Department shall determine the actual cost of conducting the audit; and,

2. ~~_____~~ Audit costs outside the scope of the normal audit as defined by the Department will be the sole responsibility of the audited organization.