

**Title of Proposed Rule: Additional Actions when a County Department has had Prior/Current Involvement**

**CDHS Tracking #:** 18-02-05-01

Office, Division, & Program:  
OPSO

Rule Author:  
Allison Gonzales

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**STATEMENT OF BASIS AND PURPOSE**

**Summary of the basis and purpose for new rule or rule change.**

*Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.*

A county department's internal review process is an integral part of the overall review process, as it is intended to include: an assessment/evaluation of the county departments prior child welfare services delivery, identified strengths and areas needing improvement in practice and service delivery, case coordination with other community agencies, as well as recommendations for staff training and/or recommendations for changes in the system that may help mitigate future situations from occurring.

Through the review team process, it has been determined that the current timeframes set forth by Volume 7 for completing the internal review and written report pose challenges to county departments, as the timeframes coincide with the completion of the assessment of the egregious, near fatal, and/or fatal incident. Oftentimes, when county departments are assessing these complex assessments, county departments will not have necessary or complete information in order to make a determination of a substantiated finding until they are well into their sixty (60) day timeframe for completing their assessment. The county has sixty (60) days to complete their assessment of the incident of egregious abuse and/or neglect, near fatality or fatality of a child.

Additionally, 7.106.121 (B) states that the actions and/or said requirements of sections (A-C) shall occur upon initial notification of the egregious incident of abuse and/or neglect, near fatality, or fatality; however, the county department(s) internal review process and written report submission to the State Department, outlined in 7.106.121 (B) (2) and (3) are only required once a county department has determined the alleged incident will be substantiated for abuse and/or neglect at the fatal, near fatal, and/or egregious severity level. The rule change in this section would serve as a technical clean-up to provide clarification that a county department need not complete an internal review for those incidents of egregious, near fatal, and/or fatal allegations that were not substantiated for child maltreatment fatal, near fatal, and/or egregious severity level.

Allowing county departments an additional thirty (30) days to hold the internal review would help alleviate the competing challenges aforementioned, as well as ensure that county departments are not unnecessarily completing internal reviews on assessments that are not substantiated for abuse and/or neglect at the egregious, near fatal, and/or fatal severity level.

DOCUMENT 5

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**State Board Authority for Rule:**

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

**Program Authority for Rule:** Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.

Code	Description
C.R.S. 26-1-139	C.R.S. 26-1-139 mandates many components of the CFRT process (e.g., membership, timelines, incidents to be reviewed, etc.). Statute (26-1-139 (7)) also provides that "The state department shall promulgate additional rules, as necessary, for the implementation of this section, including but not limited to the confidentiality of information in incidents of egregious abuse or neglect against a child, near fatalities, or child fatalities."

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

**Type of Rule:** (complete a and b, below)

a.  Board  Executive Director

b.  Regular  Emergency

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**REGULATORY ANALYSIS**

**1. List of groups impacted by this rule.**

*Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?*

County departments will be the primary beneficiaries of this rule change. Through the Child Fatality Review Team process, county departments have identified and articulated the need to have additional time in order to complete their internal review process and written report.

**2. Describe the qualitative and quantitative impact.**

*How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?*

Allowing county departments an additional thirty (30) days to hold the internal review would help alleviate the competing challenges of actively assessing an incident of egregious, near fatal, and/or fatal abuse and neglect, while simultaneously holding an internal review. Additionally, the extended timeframe would help ensure county departments are not unnecessarily completing internal reviews on assessments that are not substantiated for abuse and/or neglect at the egregious, near fatal, and/or fatal severity level.

**3. Fiscal Impact**

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

There is no identified fiscal impact associated with this proposed rule change as it would allow counties additional time to complete already existing requirements.

County Fiscal Impact

There is no identified fiscal impact associated with this proposed rule change. County departments are currently required to complete an internal review and written report for those substantiated incidents of egregious, near fatal, or fatal abuse or neglect when they have had prior history with the child, family, and/or alleged perpetrator within the last three years.

Federal Fiscal Impact

There is no identified fiscal impact associated with this proposed rule change.

Other Fiscal Impact *(such as providers, local governments, etc.)*

There is no identified fiscal impact associated with this proposed rule change.

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**4. Data Description**

*List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?*

The request to expand the timeframe for completing internal reviews and written reports came directly from the county departments whom are responsible for completing such reviews and reports. Through the review team process, it has been determined that the current timeframes set forth by Volume 7 for completing the internal review and written report pose challenges to county departments, as the timeframes coincide with the completion of the assessment of the egregious, near fatal, and/or fatal incident. Oftentimes, when county departments are assessing these complex assessments, county departments will not have necessary or complete information in order to make a determination of a substantiated finding until they are well into their sixty (60) day timeframe for completing their assessment. The county has sixty (60) days to complete their assessment of the incident of egregious abuse and/or neglect, near fatality or fatality of a child.

The county's internal review process is a critical component of the overall review process as they are intended for the county to evaluate the following: an assessment/evaluation of the county departments prior child welfare services delivery, identified strengths and areas needing improvement in practice and service delivery, case coordination with other community agencies, as well as recommendations for staff training and/or recommendations for changes in the system that may help mitigate future situations from occurring.

**5. Alternatives to this Rule-making**

The Administrative Review Division agrees with the recommendation that the timeframes associated with the internal review process and written report be extended by 30 days.

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**OVERVIEW OF PROPOSED RULE**

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.106.121		<p>2. Ensure that the county department conducts a complete internal administrative review of any child welfare involvement in the case prior to the egregious incident of abuse and/or neglect, near fatality or fatality. This review shall be referred to as the county department's internal review and shall be completed whenever the county department has had current or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect, within the last three (3) years. The review shall include, at a minimum:</p> <ul style="list-style-type: none"> <li>a. Assessment of the interventions made by the county department.</li> <li>b. Evaluation of the case plan.</li> <li>c. Identified areas of strengths and/or weaknesses in the casework process.</li> <li>d. Analysis of any systemic issues that may have led to delays or oversights.</li> <li>e. Evaluation of the role played by other community agencies and the overall case coordination.</li> <li>f. Recommendations for staff training or changes in the system that would avoid other similar occurrences.</li> </ul> <p>3. Submit a written report of the county department's internal review within sixty (60) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality to the State Department.</p>	<p>Add "WHEN A COUNTY DEPARTMENT DETERMINES THAT AN INCIDENT OF EGREGIOUS ABUSE AND/OR NEGLECT, NEAR FATALITY, OR FATALITY OF A CHILD IS FOUNDED FOR CHILD ABUSE AND/OR NEGLECT, THE DIRECTOR SHALL"</p> <p>Change "sixty (60)" to "NINETY (90)"</p>	<p>A county is not required to complete an internal review unless the egregious, near fatal, and/or fatal incident is determined to be the result of abuse and/or neglect, AND the county holds prior child welfare involvement with the child, family and/or alleged perpetrator within the last three years.</p> <p>THE PURPOSE OF THE PROPOSED RULE IS TO EXTEND THE TIMEFRAME IN WHICH COUNTY DEPARTMENTS HAVE TO COMPLETE AND SUBMIT THEIR INTERNAL REVIEW REPORT. THE TIMEFRAME IS BEING EXTENDED BY THIRTY CALENDAR DAYS, WHICH CHANGES 60 TO 90 DAYS.</p>	

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.106.13		<p>C. The county department shall provide the following information to the State Department within sixty (60) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality, to the extent possible, and no longer than sixty (60) calendar days without a written request from the county department for an extension and subsequent State Department approval granting an extension:</p> <ol style="list-style-type: none"> <li>1. The completed referral/assessment summary in the state automated case management system;</li> <li>2. Copies of any pertinent social, medical, and mental health evaluations of all involved subjects (child(ren), family, caregivers, etc.);</li> <li>3. Coroner's records, including autopsy report;</li> <li>4. Police reports of present investigation as well as any prior criminal history of all subjects;</li> <li>5. A copy of any of the case record not obtainable in the state automated case management system;</li> <li>6. When applicable, a written report of the county department internal review;</li> <li>7. A statement of any human services and Medicaid assistance or services that were being provided to the child and are recorded in the state automated case management system, the Colorado Benefits Management System, or the Colorado child care automated tracking system, any member of the child's family, or the person alleged to be responsible for the abuse and/or neglect; and,</li> <li>8. The age, income level, and education of the legal caregiver at the time of the fatality.</li> </ol>	<p>Delete "6. When applicable, a written report of the county department internal review;"</p> <p>Change "7." to "6."</p> <p>Change "8." to "7."</p>	<p>7.106.121 (3) ALREADY PROVIDES GUIDANCE RELATED TO THE PROCESS AND TIMEFRAME IN WHICH COUNTIES NEED TO SUBMIT THEIR WRITTEN INTERNAL REPORT, WHEN APPLICABLE. THE COUNTIES INTERNAL REVIEW AND WRITTEN REPORT IS NOT BEYOND THEIR CONTROL AND THEREFORE SHOULD NOT BE GRANTED AN EXTENSION, SO THIS SHOULD BE REMOVED FROM THIS SECTION, AND ONLY CAPTURED IN 7.106.121.</p> <p>TECHNICAL CLEAN UP OF NUMBERING, SINCE # 6 WILL BE DELETED FROM THE RULE.</p>	

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**STAKEHOLDER COMMENT SUMMARY**

**Development**

*The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):*

This rule change was precipitated by county department's requests and recommendations through the Child Fatality Review Team Process. As a result, the recommendation and proposal to extend the internal review timeframes were discussed at the Administrative Review Division Steering Committee and Child Protection Task Group. The Department presented the draft rules to Sub-Pac in February 2018.

**This Rule-Making Package**

*The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:*

This rule change was precipitated by county department's requests and recommendations through the Child Fatality Review Team Process. As a result, the recommendation and proposal to extend the internal review timeframes were discussed at the Administrative Review Division Steering Committee and Child Protection Task Group. Child Welfare Sub-PAC and PAC groups have also been notified of the proposed rule change.

**Other State Agencies**

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes  No

If yes, who was contacted and what was their input?

N/A

**Sub-PAC**

Have these rules been reviewed by the appropriate Sub-PAC Committee?

Yes  No

Name of Sub-PAC	Child Welfare Sub-PAC
Date presented	April 5, 2018
What issues were raised?	A county department staff raised a concern regarding having to track two different sets of due dates/deadlines for submission of documents to the State Department (ARD), when an incident of egregious abuse or neglect, near fatality, or fatality of a child is substantiated for abuse or neglect. For example, before the proposed rule change, all documents had an initial due date of 60 days from the date of the initial notification of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or neglect. Now, given the CFRT recommendation and proposed rule change, the county department's internal review and written report will be due 90 days from the date of the initial notification of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or neglect. All other required documents will continue to have a sixty day deadline from the date of the initial notification of the egregious, near fatal, and/or fatal incident which was

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suspicious for abuse or neglect, and the county department may request thirty day extensions, for those documents which are outside of their direct control (i.e. coroners reports, autopsy, law enforcement). Based upon the ARD's current customer service model, we project and provide due dates and deadlines to county departments via email, phone calls, and friendly reminders after receipt of the initial notification of the of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or neglect.

Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	x		
If not presented, explain why.	NA		

**PAC**

Have these rules been approved by PAC?

Yes  No

Date presented April 5, 2018

What issues were raised?

NA

Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	X		
If not presented, explain why.	NA		

**Other Comments**

Comments were received from stakeholders on the proposed rules:

Yes  No

*If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.*



## (12 CCR 2509-2)

### 7.106.121 Additional Actions When County Department has had Prior/Current Involvement

- A. When a county department has custody of the child and/or protective supervision, it shall immediately take the following actions:
1. Notify the parents, guardians, and/or legal custodians of the incident. If the parents, guardians, and/or legal custodians reside in another county or state, the county department shall coordinate with the county department of residence for the parents, guardians, and/or legal custodians to provide personal notification, whenever possible.
  2. Notify the director of the county department of the incident. The county director shall also be immediately notified if the department has had prior child welfare involvement within the last three (3) years that was directly related to the egregious incident of abuse and/or neglect, near fatality or fatality to include referrals that have been screened out. A complete copy of the child's case record shall be made available to the director of the county department.
  3. Notify the court, the attorney for the county department, and the Guardian Ad Litem (when one has been assigned) of the incident involving any child who is under the court's jurisdiction.
- B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality in which the county department has had prior child welfare involvement within the last three (3) years with the child, family, or person alleged to be responsible for abuse and/or neglect, the director of the county department shall take the following actions:
1. Designate an individual(s) who will be responsible for assessing the egregious incident of abuse and/or neglect, near fatality or fatality. The assigned individual(s) shall not have had prior involvement with the family during a referral, assessment, case or other services with the county department. In the event of a conflict of interest, the county department shall arrange for the assessment to be conducted by another county department with personnel having appropriate training and skill.
  2. **WHEN A COUNTY DEPARTMENT DETERMINES THAT AN INCIDENT OF EGREGIOUS ABUSE AND/OR NEGLECT, NEAR FATALITY, OR FATALITY OF A CHILD IS FOUNDED FOR CHILD ABUSE AND/OR NEGLECT, THE DIRECTOR SHALL** Ensure that the county department conducts a complete internal administrative review of any child welfare involvement in the case prior to the egregious incident of abuse and/or neglect, near fatality or fatality. This review shall be referred to as the county department's internal review and shall be completed whenever the county department has had current or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect, within the last three (3) years. The review shall include, at a minimum:
    - a. Assessment of the interventions made by the county department.
    - b. Evaluation of the case plan.
    - c. Identified areas of strengths and/or weaknesses in the casework process.
    - d. Analysis of any systemic issues that may have led to delays or oversights.
    - e. Evaluation of the role played by other community agencies and the overall case coordination.

- f. Recommendations for staff training or changes in the system that would avoid other similar occurrences.
3. Submit a written report of the county department's internal review ~~within sixty (60)~~ **NINETY (90)** calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality to the State Department.
- C. If another county department also has current and/or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect within the three (3) year period of the incident of egregious abuse and/or neglect, near fatality or fatality (including referrals that were screened out), the State Department shall decide whether a county department internal review report will be required.

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**7.106.13 Reporting to the State**

- A. Within twenty-four (24) hours (excluding weekends and holidays) of a county department becoming aware of an egregious incident of abuse and/or neglect, or near fatality or fatality of any child, which is suspicious for abuse and/or neglect, the county department shall call or email the following known information to the State Department which shall also be documented on the state prescribed form:
- 1. Name and age of victim;
  - 2. The referral identification number generated by the state automated case management system;
  - 3. Known circumstances around the egregious incident of abuse and/or neglect, near fatality or fatality;
  - 4. A description of physical injuries or medical condition of the child(ren) at the time of receipt of the information;
  - 5. The names and ages of surviving or non-injured child(ren) who may be at risk;
  - 6. A brief description of family/caregiver's prior involvement with child welfare, if any;
  - 7. The actions taken by the county department to date and future actions to be taken;
  - 8. The involvement of other professionals in the case;
  - 9. Whether the child was in out-of-home placement at the time of the incident; and,
  - 10. For fatal incidents, the county shall enter the child's date of death in the state automated case management system.
- B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality, the county department shall take the required steps to restrict access to the state automated case management system to the current assessment of the egregious incident of abuse and/or neglect, near fatality or fatality, and any prior involvement in the state automated case management system regarding this child, the child's family members, and the person(s) suspected of the abuse and/or neglect. Access shall remain restricted until the conclusion of the state child fatality review, at such time the county department shall determine whether the records shall be unrestricted.

- C. The county department shall provide the following information to the State Department within sixty (60) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality, to the extent possible, and no longer than sixty (60) calendar days without a written request from the county department for an extension and subsequent State Department approval granting an extension:
1. The completed referral/assessment summary in the state automated case management system;
  2. Copies of any pertinent social, medical, and mental health evaluations of all involved subjects (child(ren), family, caregivers, etc.);
  3. Coroner's records, including autopsy report;
  4. Police reports of present investigation as well as any prior criminal history of all subjects;
  5. A copy of any of the case record not obtainable in the state automated case management system;
  - ~~6. When applicable, a written report of the county department internal review;~~
  7. A statement of any human services and Medicaid assistance or services that were being provided to the child and are recorded in the state automated case management system, the Colorado Benefits Management System, or the Colorado child care automated tracking system, any member of the child's family, or the person alleged to be responsible for the abuse and/or neglect; and,
  8. The age, income level, and education of the legal caregiver at the time of the fatality.