

Title of Proposed Rule: Extended Foster Care & Re-Entry (12 CCR 2509-1)

CDHS Tracking #: 21-04-28-01

Office, Division, & Program: _____ Rule Author: Trevor Williams

Phone: 303-866-4539

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trevor.williams@state.co.us

RULEMAKING PACKET

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

a. Board Executive Director

b. Regular Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

AG Initial Review

Initial Board Reading

AG 2nd Review

Second Board Reading / Adoption

This package contains the following types of rules: *(check all that apply)*

Number

1 Amended Rules

2 New Rules

_____ Repealed Rules

_____ Reviewed Rules

| | |
|---|---------|
| What month is being requested for this rule to first go before the State Board? | October |
|---|---------|

| | |
|---|---------------|
| What date is being requested for this rule to be effective? | December 2021 |
| Is this date legislatively required? | No |

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated 1st Board 10/8/2021 2nd Board 11/5/2021 Effective Date 12/30/2021
Dates: _____

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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. **1500 Char max**

These rules will implement HB 21-1094, which was signed into law on 6/25/2021 and requires the State Board of Human Services to promulgate rules for implementation. HB 21-1094 establishes the Foster Youth in Transition Program, a youth-driven and developmentally appropriate approach to extended foster care. This program further establishes a pathway for eligible youth to reenter foster care between the ages of 18 and 21. HB 21-1094's extensive reforms require significant revision to the Colorado Code of Regulations, 12 CCR 2509 (Volume 7). These rules will ensure consistent statewide implementation and support counties in understanding what they are required to provide to youth who request services through the program.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

to comply with state/federal law and/or

to preserve public health, safety and welfare

Justification for emergency:

State Board Authority for Rule:

| Code | Description |
|-------------------------------|--|
| 26-1-107(5)(a), C.R.S. (2021) | State Board to promulgate rules |
| 26-1-109(3), C.R.S. (2021) | State department rules to coordinate with federal programs |
| 26-1-111(2)(a), C.R.S. (2021) | 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 |
|-------------------------|--|
| 19-7-315, C.R.S. (2021) | The state department shall promulgate rules for implementation, including but not limited to rules concerning eligibility determinations, administrative appeals of eligibility determinations, enrollment into the transition program, emancipation transition plans and roadmaps to success, and expedited procedures for securing temporary shelter for youth who are currently homeless or at imminent risk of homelessness. |

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

Some requirements of HB 21-1094 are specific and organizing the requirements into Volume 7 while maintaining the language from statute

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ensures the highest level of support to counties and fidelity to the law.

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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?

Current and former foster youth will experience the greatest benefit from these rules. Groups that will experience additional work requirements as a result of these rules include county departments. The Office of the Child's Representative and judicial partners are both impacted by HB 21-1094, but they are not directly impacted by these rules.

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?

The Division of Child Welfare estimates that approximately 59 youth per year will choose to reenter foster care as a result of HB 21-1094, which is implemented in part by these rules. These youth will constitute the new population served through the Foster Youth in Transition Program. However, the broader population of foster youth who reach the age of 18 while in care will also experience the benefits of these rules. Prior to HB 21-1094, there was little differentiation in statute or rule between minor children under age 18 and youth 18 to 21 who stayed in foster care, and as a result most youth exit and experience a cliff effect near their 18th birthdays. HB 21-1094 and these rules support the distinct developmental needs of emerging adults. Youth in foster care are not given the right to make informed choices while enjoying the types of support that a typical Colorado family provides to their own children transitioning to adulthood. By implementing HB 21-1094, these rules create the structure for a developmentally appropriate extended foster care system that respects the needs of 18- to 21-year-olds, while providing that crucial support.

Implementation of HB 21-1094 includes a workload impact for county departments, however this will be offset by an increase to the child welfare block appropriated through the general fund.

3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just "no impact" answer should include "no impact because..."***

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 are no fiscal impacts directly resulting from these rules. Some changes to the Trails system will be required; however, those costs will be covered by existing federal funds. The Office of the Child's Representative will have a small fiscal impact from the legislation, not the rules, which is funded through an appropriation to their office for implementation of HB 21-1094.

County Fiscal Impact

There are no fiscal impacts directly resulting from these rules. The legislation, however, does create a fiscal impact to counties. Those costs will be covered by an appropriation made to the Child Welfare block for implementation of HB 21-1094.

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Federal Fiscal Impact

Revisions to these rules ensure Colorado has the structure to draw down federal funds to which the state is entitled for serving this population. Because these rules comply with requirements set forth in Title IV-E of the Social Security Act, the Division of Child Welfare anticipates that the majority of youth participating in the Foster Youth in Transition Program will be eligible for Federal IV-E financial participation.

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

No impact to other providers, local governments, or other agencies is anticipated.

4. Data Description

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

Colorado's foster care system, as it has traditionally existed, is leading to negative outcomes for many youth who have made the transition from foster care to adulthood. The National Youth in Transition Database Survey, a longitudinal study of youth involved with child welfare, has shown that at least 36% of former foster youth in Colorado have experienced homelessness, 21% have been incarcerated, and 29% become parents by age 21. National data shows it is likely the true rate of early parenthood is much higher. The Midwest Study of Adult Functioning of Former Foster Youth demonstrates that developmentally appropriate extended foster care is key to improving these outcomes. A growing body of evidence demonstrates that providing youth the opportunity to reenter a developmentally appropriate foster care system during that transition, if needed, also improves outcomes for these youth. HB 21-1094 was developed using this information, as well as feedback provided by youth advocates and runaway and homeless youth providers.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. Answer should NEVER be just "no alternative" answer should include "no alternative because..."

There is no alternative because HB 21-1094 requires that rules be promulgated for implementation of the law.

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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 |
|---------------------|--------------------------------------|--|--|------------------------------------|---------------------------------|
| 7.000 | <i>Incorrect Statutory Reference</i> | <i>Section 26.5.103 C.R.S.</i> | <i>Section 26-5-101(3) C.R.S.</i> | | |
| 7.000.1(D) | Change to implement statute | <p>D. Program for Children and Families in Need of Specialized Services (PA 6)</p> <p>Program Area 6 services are to provide statutorily authorized services to specified children and families in which the reason for service is not protective services or youth in conflict. These services are limited to children and families in need of adoption assistance, relative guardianship assistance, or Medicaid only services, or to children for whom the goal is no longer reunification. The purpose of services in Program Area 6 is to fulfill statutory requirements in the interests of permanency planning for children. Children must meet specific program requirements to receive services under the target groups.</p> <p>Target Group information is</p> | <p>D. Program for Children and Families in Need of Specialized Services (PA 6)</p> <p>Program Area 6 services are to provide statutorily authorized services to specified children/YOUTH and families in which the reason for service is not protective services or youth in conflict. These services are limited to children/YOUTH and families in need of adoption assistance, relative guardianship assistance, or Medicaid only services, or to children/YOUTH for whom the goal is no longer reunification, OR YOUTH WHO OPT INTO SERVICES PROVIDED BY THE FOSTER YOUTH IN TRANSITION PROGRAM AS ESTABLISHED IN § 19-7-301, C.R.S. The purpose of services in Program Area 6 is to fulfill statutory requirements in the interests of permanency planning for children/YOUTH. Children/YOUTH must meet specific program requirements to receive services under the target groups.</p> <p>Target Group information is located at Section 7.203 (12 CCR 2509-3).</p> | This change implements HB 21-1094. | HB 21-1094 Task Group and CPTG. |

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| | | | | | |
|------------|-------------------|---|--|--|-----------------------|
| | | located at Section 7.203 (12 CCR 2509-3). | | | |
| 7.000.1(E) | Technical Fix | <p>Program for Resource Development (PA 7)</p> <p>The purpose of Program Area 7 is to develop and coordinate the external resources necessary to fulfil the objectives of the social services programs.</p> <p>Target Groups served by this program area are the individuals who will be serving children and families in such roles as volunteers, foster or kinship parents for children, adults, personal caregivers, homemakers or child care parents, or adoptive parents.</p> | <p>Program for Resource Development (PA 7)</p> <p>The purpose of Program Area 7 is to develop and coordinate the external resources necessary to fulfill the objectives of the social services programs.</p> <p>Target Groups served by this program area are the individuals who will be serving children and families in such roles as volunteers, foster or kinship parents for children, adults, personal caregivers, homemakers or child care parents, or adoptive parents.</p> | Fixes a misspelled word. | |
| 7.000.2 | Adds a definition | | <p>"HOUSING FIRST" MEANS AN APPROACH TO QUICKLY AND SUCCESSFULLY CONNECT INDIVIDUALS AND FAMILIES EXPERIENCING HOMELESSNESS TO PERMANENT HOUSING WITHOUT PRECONDITIONS AND BARRIERS TO ENTRY, SUCH AS SOBRIETY, TREATMENT OR SERVICE PARTICIPATION REQUIREMENTS. SUPPORTIVE SERVICES ARE OFFERED TO MAXIMIZE HOUSING STABILITY AND PREVENT RETURNS TO HOMELESSNESS AS OPPOSED TO ADDRESSING PREDETERMINED TREATMENT GOALS PRIOR TO PERMANENT HOUSING ENTRY.</p> | <p>This definition is needed to ensure counties know what a 'housing first strategy' is as this approach a cornerstone philosophy for the Foster Youth in Transition Program. This definition was also requested by the county departments.</p> <p>The content of this definition is consistent with the U.S. Department of Housing and Urban Development.</p> | HB 21-1094 Task Group |
| 7.000.2 | Adds a definition | | <p>"VOLUNTARY SERVICES AGREEMENT" MEANS A STANDARDIZED VOLUNTARY SERVICES AGREEMENT APPROVED BY THE STATE DEPARTMENT AND IS</p> | <p>Defines a voluntary services agreement for the purposes of the Foster Youth in</p> | HB 21-1094 Task Group |

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| | | | | | |
|--|--|--|---|--|--|
| | | | ENTERED INTO BY A PARTICIPATING YOUTH PURSUANT TO SECTION 19-7-306, C.R.S. | Transition Program and is derived from the statutory definition. | |
|--|--|--|---|--|--|

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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):

The rules were developed through a Child Welfare SubPAC approved task group and included representation from urban and rural counties across the state, runaway and homeless youth providers, the Office of the Child's Representative, foster care providers, child placement agencies, and a youth advocacy group.

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:

County departments of human/social services, Office of the Child's Representative, Colorado Network to End Youth Homelessness, Rural Collaborative for Homeless Youth, Project Foster Power.

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?

Sub-PAC

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

Yes No

| | | | |
|--------------------------------|---------------|----------------|----------------|
| Name of Sub-PAC | Child Welfare | | |
| Date presented | 8/5/2021 | | |
| What issues were raised? | None | | |
| Vote Count | <i>For</i> | <i>Against</i> | <i>Abstain</i> |
| | Unanimous | | |
| If not presented, explain why. | | | |

PAC

Have these rules been approved by PAC?

Yes No

| | | | |
|--------------------------------|------------|----------------|----------------|
| Date presented | 9/2/2021 | | |
| What issues were raised? | No | | |
| Vote Count | <i>For</i> | <i>Against</i> | <i>Abstain</i> |
| | Unanimous | | |
| If not presented, explain why. | | | |

Other Comments

Comments were received from stakeholders on the proposed rules:

Yes No

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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.

In addition to the rule drafting task group, the Child Protection Task Group (CPTG), and Child Welfare SubPAC, and Chafee Quarterly Meeting, five stakeholder feedback sessions were held. Additionally, the rule authors held one youth specific public feedback session hosted by Project Foster Power.

No specific feedback regarding the rules was received during public feedback sessions.

The rules drafting task group was comprised of county staff, runaway and homeless youth providers, and other stakeholders. The group was engaged in every step of the rule drafting process and was given input on each rule.

(12 CCR 2509-1)

<Title2> **7.000.1 PROGRAM AREAS (PA) AND TARGET GROUPS**

Services are available from county departments in the following Program Areas:

- A. Program for Prevention and Intervention Services to Children, Youth and Families at Risk of Involvement with Child Welfare (PA3)

The Program Area 3 (PA3) program provides prevention and intervention services for children, youth, and families at risk of involvement with child welfare. Services may be provided to assist families to safely care for their children.

- B. Program for Youth in Conflict (PA 4)

Program Area 4 services are provided to reduce or eliminate conflicts between a child/youth and their family members, which may include the community, when those conflicts affect the child/youth's well-being, the normal functioning of the family or the well-being of the community. The focus of services shall be on alleviating conflicts, protecting the child/youth, family, and the community, re-establishing family stability, and/or assisting the youth to emancipate successfully.

Target groups for Program Area 4 are children/youth who are youth in conflict, as defined in 7.000.2.

- C. Program for Children in Need of Protection (PA 5)

Program Area 5 services are provided to protect children, whose physical, mental or emotional well-being is threatened by the actions or omissions of parents, legal guardians or custodians, or persons responsible for providing out-of-home care, including a foster parents, an employee of a residential child care facility, and a provider of family child care or center-based child care.

Target groups for Program Area 5 are children whose physical, mental, or emotional well-being is threatened or harmed due to the abuse or neglect and children who are subjected to circumstances in which there is a reasonable likelihood that they are at risk of harm due to abuse or neglect by their parents or caretakers which shall include children who are alleged to be responsible for the abuse or neglect and are under the age of ten (10).

- D. Program for Children and Families in Need of Specialized Services (PA 6)

Program Area 6 services are to provide statutorily authorized services to specified children/YOUTH and families in which the reason for service is not protective services or youth in conflict. These services are limited to children/YOUTH and families in need of adoption assistance, relative guardianship assistance, or Medicaid only services, ~~or to children/YOUTH for whom the goal is no longer reunification,~~ OR YOUTH WHO OPT INTO SERVICES PROVIDED BY THE FOSTER YOUTH IN TRANSITION PROGRAM AS ESTABLISHED IN § 19-7-301, C.R.S. The purpose of services in Program Area 6 is to fulfill statutory requirements in the interests of permanency planning for children/YOUTH. Children/YOUTH must meet specific program requirements to receive services under the target groups.

Target Group information is located at Section 7.203 (12 CCR 2509-3).

- E. Program for Resource Development (PA 7)

The purpose of Program Area 7 is to develop and coordinate the external resources necessary to fulfill the objectives of the social services programs.

Target Groups served by this program area are the individuals who will be serving children and families in such roles as volunteers, foster or kinship parents for children, adults, personal caregivers, homemakers or child care parents, or adoptive parents.

7.000.2 DEFINITIONS [Rev. eff. 1/1/16]

“HOUSING FIRST” MEANS AN APPROACH TO QUICKLY AND SUCCESSFULLY CONNECT INDIVIDUALS AND FAMILIES EXPERIENCING HOMELESSNESS TO PERMANENT HOUSING WITHOUT PRECONDITIONS AND BARRIERS TO ENTRY, SUCH AS SOBRIETY, TREATMENT OR SERVICE PARTICIPATION REQUIREMENTS. SUPPORTIVE SERVICES ARE OFFERED TO MAXIMIZE HOUSING STABILITY AND PREVENT RETURNS TO HOMELESSNESS AS OPPOSED TO ADDRESSING PREDETERMINED TREATMENT GOALS PRIOR TO PERMANENT HOUSING ENTRY.

"VOLUNTARY SERVICES AGREEMENT" MEANS A STANDARDIZED VOLUNTARY SERVICES AGREEMENT APPROVED BY THE STATE DEPARTMENT AND IS ENTERED INTO BY A PARTICIPATING YOUTH PURSUANT TO SECTION 19-7-306, C.R.S.
