

Title of Proposed Rule: Emergency Updates to Transitional Food Assistance Rules

Rule-making#: 16-4-12-1

Office/Division or Program:  
Office of Economic Security/  
Food Assistance Program

Rule Author: Amanda Dyer

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## STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for the rule or rule change. *(State what the rule says or does, explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. How do these rule changes align with the outcomes that we are trying to achieve, such as those measured in C-Stat?)*

The purpose of the proposed emergency rule is to update Food Assistance rules (10 CCR 2506-1) that implement the federal policy option called Transitional Food Assistance. The Food Assistance Program is proposing to change the implementation date from July 1, 2016, to October 1, 2016. Since Transitional Food Assistance is a federal policy option that Colorado has chosen to implement, Colorado has the discretion to set the implementation date.

The aim of Transitional Food Assistance is to help meet a family's nutritional needs for five months as they transition into self-sufficiency. The policy option allows states to provide stable Food Assistance benefits to families that receive Food Assistance and Colorado Works (CW) basic cash assistance but become ineligible for Colorado Works cash assistance during the middle of the household's certification period because changes in the family's income makes them no longer eligible for cash assistance.

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

- |   |                                               |
|---|-----------------------------------------------|
| X | to comply with state/federal law and/or       |
|   | to preserve public health, safety and welfare |

Explain: To implement Transitional Food Assistance, automated system changes are necessary to make the benefits available to prospective clients. Without the system capabilities, Transitional Food Assistance cannot be made available. This emergency proposal to change the implementation date to October 1, 2016, is necessary to implement Transitional Food Assistance in accordance with federal law and to ensure that state and county departments are not out of compliance with federal regulations.

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Authority for Rule:

State Board Authority: : 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: *(give federal and/or state citations and a summary of the language authorizing the rule-making)*

26-2-301, C.R.S. (2015), allows the state department, with the approval of the state board, to enter into an agreement with the secretary of the United States Department of Agriculture to accept federal food assistance benefits for disbursement to qualified households in accordance with federal law.

Pub.L. 113-79 – Federal program authority is found in the Agricultural Act of 2014 (2014 Farm Bill)

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7 CFR 273.26-273.32 – Federal regulations governing the administration of The Transitional Benefits Alternative

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Does the rule incorporate material by reference?

<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
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Does this rule repeat language found in statute?

<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
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If yes, please explain.

*The program has sent this proposed rule-making package to which stakeholders?*

Office of Economic Security (OES) sub-PAC  
 Colorado Department of Human Services (CDHS) Employment and Benefits Division  
 CDHS, Office of Performance and Strategic Outcomes  
 CDHS, Office of Appeals  
 Colorado Center on Law and Policy  
 Colorado Legal Services  
 Colorado Cross-Disability Coalition  
 Colorado Coalition for the Homeless  
 Hunger Free Colorado  
 Care and Share Food Bank for Southern Colorado  
 Benefit Data Trust  
 Weld Food Bank  
 Servicios de La Raza

[Note: Changes to rule text are identified as follows: deletions are shown as "strikethrough", additions are in "all caps", and changes made between initial review and final adoption are in brackets.]

Attachments:

- Regulatory Analysis
- Overview of Proposed Rule
- Stakeholder Comment Summary

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## REGULATORY ANALYSIS

*(complete each question; answers may take more than the space provided)*

### 1. List of groups impacted by this rule:

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

No groups of persons will benefit, bear the burdens or be adversely impacted by delaying the implementation date of the previously adopted rulemaking, as Transitional Food Assistance has not yet been implemented.

### 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?*

Delaying implementation of Transitional Food Assistance is necessary to ensure that automated systems are functioning properly so that Transitional Food Assistance is administered correctly in accordance with federal regulations to prevent non-compliance in administering a federal policy option.

### 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.*

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 state fiscal impact in regards to the funding of the Food Assistance benefit. All Food Assistance benefits are one hundred percent (100%) federally funded.

Changes to the Colorado Benefits Management System (CBMS) will be completed with funds already available to the program areas.

Costs to provide training will be absorbed within current state positions that currently conduct training.

County Fiscal Impact

There are no county fiscal impacts associated with this rule change.

Federal Fiscal Impact

There are no federal fiscal impacts associated with this rule change. The United States Department of Agriculture, Food Nutrition Service (USDA, FNS), has been informed of the implementation of Transitional Food Assistance and no concerns have been raised regarding the potential increase in Food Assistance benefit issuance and the associated federal fiscal costs. All Food Assistance benefits issued to households are 100% federally funded.

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FNS has been notified of the delayed implementation and has no concerns.

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

There are no other fiscal impacts associated with this rule change.

**4. Data Description:**

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

Feedback received from the system vendor was utilized in developing this rule.

**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.*

No other alternatives to rule-making are available to delay implementation of the Transitional Food Assistance federal policy option.

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### OVERVIEW OF PROPOSED RULE

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

<u>Section Numbers</u>	<u>Current Regulation</u>	<u>Proposed Change</u>	<u>Stakeholder Comment</u>		
4.609.1, A	Effective July 1, 2016, households that receive Food Assistance and Colorado Works basic cash assistance that become ineligible for continued receipt of Colorado Works as a result of changes in household income are eligible to receive Transitional Food Assistance, as provided for within this section.	Change the effective date to October 1, 2016.	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/> No

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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):

Colorado Works Program area

### 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:

Aurora Community Connection outreach partner;  
Hunger Free Colorado outreach partner;  
Weld Food Bank outreach partner;  
Care and Share outreach partner;  
Colorado Legal Services;  
The Legal Center for Persons with Disabilities and Older Persons;  
Colorado Center on Law and Policy;  
Colorado Human Services Directors Association (CHSDA);  
Office of Economic Security Sub-PAC;  
Food Assistance Performance Improvement Plan monthly meeting which consists of representatives from the ten largest counties; and,  
CDHS Colorado Works Program, Adult Financial Program, and Office of Appeals

Are other State Agencies (such as Colorado Department of Health Care Policy and Financing) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes  No

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

Yes  No

Date presented May 5, 2016. Were there any issues raised? \_\_\_ Yes X No

If not, why.

This rule change has occurred in between the April and May sub-PAC meetings. All county departments have been made aware of the delayed implementation through other stakeholder forums, and this emergency proposal will be presented at the next sub-PAC meeting.

Comments were received from stakeholders on the proposed rules:

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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.*

[10 CCR 2506-1]

**4.609 TRANSITIONAL FOOD ASSISTANCE**

**4.609.1 GENERAL ELIGIBILITY GUIDELINES [Eff. 2/1/16]**

- A. Effective ~~JULY 1, 2016~~, OCTOBER 1, 2016, households that receive Food Assistance and Colorado Works basic cash assistance that become ineligible for continued receipt of Colorado Works basic cash assistance as a result of changes in household income are eligible to receive Transitional Food Assistance (TFA), as provided for within this section. Colorado works diversion payments are not considered basic cash assistance. Colorado works basic cash assistance is defined in Section 3.601 of the Code of Colorado Regulations (9 CCR 2503-6).