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Title of Rule: Revision to the Medical Assistance Rule Concerning the Family Support Services Program, Sections 8.613.C
Rule Number: MSB 22-02-08-A
Division / Contact / Phone: Benefits & Services Management / Courtney Montes / 303-866-5506

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 22-02-08-A Revision to the Medical Assistance Rule Concerning the Family Support Services Program, Sections 8.613.C.

3. This action is an adoption of: an amendmentan amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10 8.613.C)

5. Does this action involve any temporary or emergency rule(s)? No 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 8.613.C with the proposed text beginning at 8.613.C through the end of 8.613.C. This rule is effective June 30, 2022.

*to be completed by MSB Board Coordinator

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STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The purpose of this rule amendment is to achieve programmatic alignment between Family Support Services Program (FSSP) rules at section 8.613.C and new statutory changes outlined in SB 21-199 regarding verification of lawful presence in the United States. Effective July 1, 2022, SB21-199 repeals current laws that require a person to demonstrate the person's lawful presence in the United States to be eligible in Colorado for certain public benefits. SB 21-199 states that lawful presence is not a requirement of eligibility for state or local public benefits. This amendment will remove the lawful presence requirement for enrollment into FSSP.

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:

   N/A

4. State Authority for the Rule:

   Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021);
   SB21-199; Effective July 1, 2022: Section 24-76.5-103, C.R.S. (2022)

Initial Review	**04/08/22**	Final Adoption	**05/13/22**
Proposed Effective Date	**06/30/22**	Emergency Adoption	

DOCUMENT #13

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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

   The proposed rule amendment will affect persons enrolled in or eligible for FSSP funding, families of persons receiving funding, and Community Centered Boards. The proposed rule amendment will align programmatic eligibility requirements with statutory changes as outlined in SB21-199. The current regulation states, "All eligible individuals 18 and older must provide proof of lawful presence in the United States to receive FSSP funding." This amendment will add a provision stating that "Effective July 1, 2022, eligible individuals 18 and older are not required to provide proof of lawful presence in the U.S. to receive FSSP funding."

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

   As there is a set allocation for FSSP, there are no expected quantitative impacts. Qualitatively, the proposed rule amendment will align programmatic requirements with statutory changes as outlined in SB21-199 by removing the current regulatory language requiring proof of lawful presence in the US to receive FSSP funding. This amendment may increase the number of eligible individuals and could lead to increased waitlists for the program; however, since this rule only impacts eligible individuals over age 18, the impact to the FSSP program should be minimal as the majority of FSSP participants are under age 18. The Office of Community Living anticipates that most participants over age 18 will continue to have their needs met through State Supported Living Services (State SLS) which currently has no waitlist.

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.

   There will be no additional costs to the Department or use of state revenue. Implementing the proposed rule will not impact the amounts allocated to the FSSP or how the funding is spent.

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

   There will be no additional costs to the Department or use of state revenue related to this rule amendment. The benefit of the proposed amendment is that it will allow previously ineligible undocumented immigrants to access the FSSP. The cost of inaction would be operating a program that is in violation of current statute. There is no perceived benefit to inaction.

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

   There are no less costly or less intrusive methods. Failure to change this rule would mean operating a program that is in violation of 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.

   There are no alternative methods for achieving the purpose for the proposed rule. This rule amendment will align programmatic language with new statutory language as outlined in SB21-199.

8.613 FAMILY SUPPORT SERVICES PROGRAM (FSSP)

C. ELIGIBILITY

1. Any individual with an Intellectual and Developmental Disability (IDD) or Developmental Delay, as determined pursuant to Section 25.5-10-211, C.R.S., living with their family is eligible for the FSSP. Living with a family means that the individual's place of residence is with that family.

    a. Living with family may include periods of time from one (1) day up to six (6) months during which time the individual is not in his or her primary residence because of transition into or out of the home.

    b. The CCB, in cooperation with the local FSC, shall determine what constitutes a transition.

2. The family and eligible individual shall reside in the State of Colorado.

3. All eligible individuals 18 and older must provide proof of lawful presence in the United States to receive FSSP funding.

    a. Effective July 1, 2022, eligible individuals 18 and older are not required to provide proof of lawful presence in the U.S. to receive FSSP funding.

4. Eligibility for the FSSP does not guarantee the availability of services or supports under this program.