



COLORADO

Department of Health Care
Policy & Financing

Medical Services Board

DECEMBER 2020 EMERGENCY JUSTIFICATION FOR MEDICAL ASSISTANCE RULES ADOPTED AT THE DECEMBER 11, 2020 MEDICAL SERVICES BOARD MEETING

Document 05, MSB 20-12-01-A, Revision to the Medical Assistance Rule concerning Provider Enrollment, Sections 8.125.11, 8.125.12, 8.125.13

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. This rule revision will temporarily remove current requirements for providers to comply with: Fingerprint Criminal Background Checks (10 CCR 2505-10 8.125.12), Site-Visits (10 CCR 2505-10 8.125.11) and payment of Application Fee's (10 CCR 2505-10 8.125.13), during the provider enrollment process. Alleviating these requirements will expedite the processing of provider-enrollment applications.

These proposed changes bring Colorado regulations into alignment with the approved 1135 waiver which was granted by CMS, temporarily waiving these requirements at the Federal Level. If passed, the rule will become effective on the date the board adopts it and it will expire after 120 days. However, the Department has the option to bring the rule to MSB a second time within the 120 days to reinstate or further extend the timeframe, depending on prevailing conditions and current guidance at that time.

This rule change is crucial for the preservation of public health, safety, and welfare.

Document 06, MSB 20-12-01-B - Revision to the Medical Assistance Act Rule concerning Subacute Care, Sections 8.300.3 & 8.300.5

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Due to the COVID19 pandemic, the Department must ensure that member's access to care. Therefore, the addition of subacute care to the list of the covered services for inpatient hospitals, and associated alternate care facilities, increases access to such care for the duration of the COVID-19 public health emergency and is imperatively necessary for the preservation of public health, safety, and welfare.



Document 07, MSB 20-12-02-A - Revision to the Medical Assistance Act Rule concerning Novel Corona Virus Disease (COVID-19) Rules, Section 8.6000

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The purpose of this emergency rule is to temporarily change regulatory requirements for Department of Health Care Policy and Financing rules to provide enhanced flexibility, reduction to programmatic limitations, and alignment with existing federal guidance related to processes under the COVID-19 pandemic. The temporary changes to regulatory requirements in order to provide enhanced flexibility, reduction to programmatic limitations, and alignment with existing federal guidance related to processes under the COVID-19 pandemic is imperatively necessary for the preservation of public health safety, and welfare.

Document 08, MSB 20-12-02-B, Revision to the Medical Assistance Rule concerning Medical Assistance program rule updates, Sections 8.100.1, 8.100.3, 8.100.4, 8.100.5 and 8.100.6

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The proposed rule change will amend 10 CCR 2505-10 sections 8.100.1, 8.100.3, 8.100.4, 8.100.5 and 8.100.6 based on the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Families First Coronavirus Response Act (FFCRA) and the Affordable Care Act (ACA), which includes the Maintenance of Effort (MOE) provision. All policy revisions will align with federal regulations for the state to be in compliance during the federal Coronavirus (COVID-19) Public Health Emergency. These changes will impact all Medical Assistance categories and these policy changes will stay in place until the end of the federal Coronavirus (COVID-19) Public Health Emergency. The following policy changes are: Self-attestation for most verifications will be acceptable to be in compliance with the Maintenance of Effort (MOE) provision to ensure the continuance of health coverage for all eligible members. When a member is not reasonable compatible based off income a member self-attests, documentation will not be required, and the member will remain eligible for Medical Assistance. Self-attestation of resources will be acceptable for Non-MAGI programs. Premiums for the Buy-In program will be waived. Required through the Federal CARES Act for the Maintenance of Effort (MOE), members who had a loss of employment will remain in the Buy-In program. Newly enrolled members will still need to meet the work requirements. For applicants who are not eligible for Medical Assistance but have been exposed or who are potentially infected by the COVID-19, will be eligible for Medical Assistance for related COVID testing. The economic stimulus relief package designed to provide direct assistance to individuals to help offset the financial impacts of the COVID-19 Public Health Emergency will be exempt for MAGI and Non-MAGI eligibility determinations. The economic stimulus will not be a countable resource for 12 months for any Non-MAGI financial eligibility determinations that include a resource test. Lastly, the Federal Pandemic Unemployment Compensation (FPUC) program which provides an extra \$600.00 a week is not countable unearned income for Medical Assistance categories

This rule change is crucial for the preservation of public health, safety, and welfare.



Document 10, MSB 20-12-03-A, Revision to the Medical Assistance Act Rule concerning Emergency Medical Transportation, Sections 8.018.1.F. and 8.018.4.D.1.

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Under the Department's current rule, ambulance trips may only be taken to a limited set of medical facilities, the "closest, most appropriate Facility." CMS recently issued an expanded list of allowable destinations for ambulance trips that qualify for Medicare reimbursement during the COVID-19 public health emergency. This rule will align the Department with that new CMS Medicare guidance by expanding our definition of Facility. The goal is to allow EMT providers to take members to a wider range of medical facilities that are appropriate to the member's condition but that are not necessarily hospitals. This will help prevent hospital overcrowding while also getting members the most appropriate medical care, and will allow utilization of temporary and alternative care sites.

The second change relates to interfacility transportation, which is ambulance transportation from one facility to another, provided the member requires basic or advanced life support en route. This revision suspends the life support requirement. This will allow for members to be moved from one facility to another if they need continued COVID-19-related care, but do not require life support en route.

This rule change is crucial for the preservation of public health, safety, and welfare.

Document 11, MSB 20-12-03-B, Revision to the Medical Assistance Act Rule concerning Non-Emergent Medical Transportation, Sections 8.014.1.N, 8.014.3.C.2, 8.014.3.D.1, 8.014.4.A, 8.014.6.A.3

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Permitting NEMT trips to non-covered places of service will prevent hospital overcrowding while ensuring that members receive treatment for COVID-19. The change allows flexibility and takes advantage of newly established alternative care sites that may be temporary in nature and thus not enrolled in the Colorado Medical Assistance Program. If members with COVID-19 can only receive care at covered places of service, those sites may become overcrowded and may see a shortage of available beds. Suspending multi-loading will ensure compliance with social distancing guidelines by limiting a vehicle's occupants.

This rule change is crucial for the preservation of public health, safety, and welfare.



Document 12, MSB 20-11-09-A, Revision to the Medical Assistance Act Rule concerning Federally Qualified Health Centers, Section 8.700

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The purpose of this rule revision is to adjust the FQHC rate setting process to consider the changes to utilization and cost due to COVID-19. The pandemic has caused utilization to drop at FQHCs and costs have changed as well. To avoid setting unreasonable rates, this rule revision will set rates for FQHC cost reports with fiscal year ends between May 31, 2020 and May 31, 2021 using the previous year's rates multiplied by the Medicare Economic Index (MEI). Without the emergency adoption of this rule revision, FQHC rates could skyrocket causing a serious budget on the Department's budget. This could create issues with our programs and prompt service delivery for our members.

This rule change is crucial for the preservation of public health, safety, and welfare.

Document 13, MSB 20-11-25-A, Revision to the Medical Assistance Act Rule concerning Immunization Services, Section 8.815

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. This rule revision is required for the Department to comply with section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136. Specifically, the Department must reimburse providers for COVID-19 testing services and treatments, including vaccines and the administration of such vaccines, provided to Medicaid enrollees. The Department will otherwise no longer qualify for the temporary 6.2 percentage point increase to the Federal Medical Assistance Percentage (FMAP) (the federal government's contribution toward Colorado's Medicaid expenditure) and will be subject to claw back. Current Department policy limits reimbursement for vaccine administration to members 18 and under exclusively through the Vaccines for Children (VFC) program. This revision will allow the Department to reimburse providers for pediatric administration of any and all vaccines provided free of cost by the federal government.

This rule change is crucial for the preservation of public health, safety, and welfare.

