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Program/Division: Colorado Universal Preschool  
Program / Division of Universal Preschool

CDEC Tracking No.: 2024-10-009

CCR Number(s): 8 CCR 1404-1

SOS Tracking No.: TBD

### **RULEMAKING PACKET**

Reason for the proposed rule or amendment(s):

Compliance with Federal and/or State laws, mandates, or guidel...  
If there are "Multiple/Other" reasons, please explain:

Emergency Rule  
Justification (if applicable)

Immediate adoption of the revisions to Rule 4.105(A) concerning the low income eligibility requirements are imperatively necessary for the preservation of public health, safety, or welfare, and compliance with the rulemaking procedures in section 24-4-103, C.R.S., would be contrary to public interest. These revisions to the rule need to become effective before the application for families to enroll their children in the Colorado Universal Preschool Program (UPK) for the 2025-2026 school year is launched, which is expected in December 2024.

Provide a description of the proposed rule or amendment(s) that is clearly and simply stated, and what CDEC intends to accomplish:

The proposed revisions to the chart in Rule 4.105(A) for the Colorado Universal Preschool Program (UPK) are intended to align the low-income eligibility requirements with the current 2024 Federal Poverty Guidelines (FPG).

Statutory Authority:  
(Include Federal Authority, if applicable)

Sections 24-4-103, 26.5-1-105(1)(a), and 26.5-4-204(4)(a)(I), C.R.S.

Does the proposed rule or amendment(s) impact other State Agencies or Tribal Communities?

☐ Yes

☒ No

If Yes, identify the State Agency and/or Tribal Community and describe collaboration efforts:

Does the proposed rule or amendment(s) have

☐ Yes

☒ No

impacts or create mandates on counties or other governmental entities? (e.g., budgetary requirements or administrative burdens)	If Yes, provide description:
Effective Date(s) of proposed rule or amendment(s): ( <u>E</u> mergency/ <u>P</u> ermanent)	<input type="checkbox"/> Mandatory <input checked="" type="checkbox"/> Discretionary (E) Effective Date: 11/21/2024 (P) Effective Date: 2/14/2025 (E) Termination Date: 3/21/2025
Is the proposed rule or amendment(s) included on the Regulatory Agenda?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, please explain:
Does the proposed rule or amendment(s) conflict, or are there inconsistencies with other provisions of law?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, please explain:
Does the proposed rule or amendment(s) create duplication or overlapping of other rules or regulations?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain why:
Does the proposed rule or amendment(s) include material that is incorporated by reference <sup>1</sup> ?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, provide source: U.S. Department of Health and Human Services (HHS), Office of the Assistant Secretary for Planning and Evaluation (ASPE) <a href="https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines">https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines</a>
Does the proposed rule or amendment(s) align with the department's rulemaking objectives?	<div style="border: 1px solid black; padding: 5px;"> <input type="checkbox"/> Reduce the administrative burden on families and providers accessing, implementing, or providing programs and/or services. </div>

<sup>1</sup> Incorporation by Reference is all or any part of a code, standard, guideline, or rule that has been adopted by an agency of the United States, this state, or another state, or adopted or published by a nationally recognized organization or association, pursuant to section 24-4-103(12.5), C.R.S.

Choose all that apply.	<input type="checkbox"/>	Decrease duplication and conflicts with implementing programs and providing services.
	<input checked="" type="checkbox"/>	Increase equity in access and outcomes to programs and services for children and families.
	<input type="checkbox"/>	Increase administrative efficiencies among programs and services provided by the department.
	<input checked="" type="checkbox"/>	Ensure that rules are coordinated across programs and services so that programs are implemented and services are provided with improved ease of access, quality of family/provider experience, and ease of implementation by state, local, and tribal agencies.

### Rulemaking Proceedings

Type of Rulemaking: Emergency or Permanent <sup>2</sup> [Permanent Tier I or Tier II]	<div>Emergency and Permanent ▾</div> <div>N/A (Emergency and Permanent) ▾</div>
Stakeholder Engagement:	List of activities and dates:
Public Folder: Proposed rule, webinar recordings/transcripts, written stakeholder comments, material from small/large focus groups, written petitions/requests, surveys, data, research, reports, published papers, and documents used to develop the proposed rule or amendment(s).	<p>N/A</p> <p>Public folder containing all rulemaking material:  <a href="https://drive.google.com/drive/u/0/folders/14Rd1B7DP9VA2BypznF5PMIn7pzCeIXzu">https://drive.google.com/drive/u/0/folders/14Rd1B7DP9VA2BypznF5PMIn7pzCeIXzu</a> </p>
Assistant Attorney General Review:	10/30/2024 - 11/1/2024

<sup>2</sup> Tier I is used for proposed rule or amendment(s) that have substantive changes, require substantial stakeholder engagement, and will be considered at two Public Rulemaking Hearings (PRH). The first PRH is held for discussion, and the second PRH is held to consider adoption. Tier II is used for proposed rule or amendment(s) that include technical changes, do not require substantial stakeholder engagement, and will be considered at only one Public Rulemaking Hearing (PRH) for adoption.

RAC County Subcommittee Review Date (if required):	11/7/2024 (Emergency)   12/5/2024 (Permanent)
Rules Advisory Council (RAC) Review Date:	11/14/2024 (Emergency)   12/12/2024 (Permanent)
Public Rulemaking Hearing Date(s): [Discussion/Adoption]	11/21/2024 (Emergency)   12/19/2024 (Permanent)

### **Regulatory and Cost Benefit Analysis**

1. **Community Impact:** Provide a description of the stakeholders that will be affected by the proposed rule or amendment(s), and identify which stakeholders will bear the costs, and those who will benefit. How will the proposed rule or amendment(s) impact particular populations, such as those experiencing poverty, immigrant/refugee communities, non-English speakers, and rural communities?

Children three and four years of age and their families, Providers, and Local Coordinating Organizations will benefit from the revisions to Rule 4.105(A) concerning the low-income requirements because these changes are consistent with the current (2024) Federal Poverty Guidelines (FPG) and provide clarity to determine eligibility for additional hours of preschool services. The State of Colorado will bear the costs, and the children and families will benefit. The proposed rule may positively impact particular populations, such as those experiencing poverty, immigrant/refugee communities, non-English speakers, and rural communities by expanding the criteria for low-income eligibility.

2. **Quality and Quantity:** Provide a description of the probable quantitative and qualitative impact on persons affected by the proposed rule or amendment(s), and comparison of the probable costs and benefits of implementation versus inaction. What are the short- and long-term consequences of the proposed rule or amendment(s).

The projected impact is that more children will be able to receive additional preschool hours by expanding the income limit to qualify as low-income, based on the current (FPG). The probable qualitative impact is that UPK remains nimble and continuously able to adequately serve Colorado's most vulnerable populations amidst inflation and any other influential economic factors, whereas inaction would produce the exact opposite. The short and long term consequences of this proposed rule amendment is that more low-income children and families will be able to receive additional hours of preschool services.

3. **Potential Economic Benefits/Disadvantages:** What are the anticipated economic benefits of the proposed rule or amendment(s), such as: economic growth, creation of new jobs, and/or increased economic competitiveness? Are there any adverse effects on the economy, consumers, private markets, small businesses, job creation, and economic competitiveness?

The anticipated economic benefits of the proposed amendment is a return on the State's educational investment over the next several decades when low income children are able to receive the educational support (via additional hours of preschool services) they need to thrive, become successful, and later contribute back to the community to sustain long term job creation and economic competitiveness. There are no identified adverse economic effects caused by this rule amendment.

4. **Fiscal Impacts:** What are the anticipated direct and indirect costs for the state/department to implement, administer, and enforce the proposed rule or amendment(s)? What are the direct and indirect costs to each of the following entities to comply with the proposed rule or amendment(s)? For each, describe the impact or indicate "not applicable."

Department	There are no additional projected costs to implement this proposed rule amendment, this is merely an administrative change within the scope of work for current staff.
Local Governments/ Counties	There are no additional projected costs to comply with the proposed rule amendment.
Providers	There are no additional projected costs to comply with the proposed rule amendment, as providers will continue to receive a per-child rate for each preschool student.
Community Partners (e.g., School Districts, Early Childhood Councils, etc.)	There are no additional projected costs to comply with the proposed rule amendment.
Other State Agencies	Not applicable.
Tribal Communities	Not applicable.

5. **Evaluation:** How will implementation of the proposed rule or amendment(s) be monitored and evaluated? Please include information about measures and indicators that CDEC will utilize, including information on specific populations (identified above).

Revisions to the low-income requirements are reconsidered on an annual basis and are incorporated based on calibrated data to develop the Federal Poverty Guidelines (FPG).

6. **Comparative Analysis:** Provide at least two alternatives to the proposed rule or amendment(s) that can be identified, including the costs and benefits of pursuing each of the alternatives.

The alternative to using the Federal Poverty Guideline is to base the UPK low-income eligibility on the State Median Income (SMI) for Colorado. The cost of this alternative is that it would increase the number of children eligible to receive additional preschool hours drastically, which would likely cause the program to be fiscally unsustainable, and could cause statutory issues given the law's prioritization scheme and finite amount of funding. Another cost is the inability to align with other benefit programs. The benefit of using SMI is the direct correlation of low-income determination based on the economic status of our state.

7. **Comparative Analysis:** Are there less costly or less intrusive methods for achieving the purpose of the proposed rule or amendment(s)? Explain why those options were rejected.

There are no alternative methods that appear less costly or intrusive to achieve the outcomes of establishing an appropriate low-income qualifications, therefore, none were rejected.