



COLORADO

Department of Health Care
Policy & Financing

Medical Services Board

NOTICE OF PROPOSED RULES

The Medical Services Board of the Colorado Department of Health Care Policy and Financing will hold a public meeting on Friday, August 11, 2017, beginning at 9:00 a.m., in the eleventh floor conference room at 303 East 17th Avenue, Denver, CO 80203. Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Board Coordinator at 303-866-4416 or chris.sykes@state.co.us or the 504/ADA Coordinator hcpf504ada@state.co.us at least one week prior to the meeting.

A copy of the full text of these proposed rule changes is available for review from the Medical Services Board Office, 1570 Grant Street, Denver, Colorado 80203, (303) 866-4416, fax (303) 866-4411. Written comments may be submitted to the Medical Services Board Office on or before close of business the Wednesday prior to the meeting. Additionally, the full text of all proposed changes will be available approximately one week prior to the meeting on the Department's website at www.colorado.gov/hcpf/medical-services-board.

This notice is submitted to you for publication, pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

MSB 17-03-03-A, Revision to the Medical Assistance Services for Individuals with Intellectual and Developmental Disabilities Rule Concerning CCB Transparency, Section 8.603.17

Medical Assistance. Pursuant to SB16-038, codified at C.R.S. 25.5-10-209, the Department is adopting rules addressing Community Centered Board (CCB) Transparency. This rule requires CCBs to maintain a website and post their meeting minutes, budgets, financial statements, contracts, and documents distributed at any board meeting. Additionally, the rule addresses conflicts of interest of board members. Finally, in accordance with the statute, the rule subjects CCBs to the requirements of the Colorado Local Government Audit Law, C.R.S. 29-1-601 through C.R.S. 29-1-608.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S. (2016), 25.5-10-209 C.R.S. (2016).

MSB 17-05-22-A, Revision to the Medical Assistance Eligibility Rule Concerning the General and Citizenship Eligibility, Section 8.100.3.G

Medical Assistance. The proposed rule change will amend 10 CCR 2505-10 8.100.3.G to incorporate changes mandated by Section 431 of the PRWORA and Section 214 of CHIPRA, as detailed in the State Plan Amendment, to citizenship and non-citizen eligibility. The rule regarding children pending Special Immigrant Juvenile status must be corrected to comply with federal regulations, which clarify that only children with a pending application for Special Immigrant Juvenile status shall be eligible for Medical Assistance. Other updates will include removing the 40 qualifying quarters of work since it is not required to be eligible for Medicaid. The Colorado Benefits Management System (CBMS) is currently in alignment with federal requirements, so no updates are needed at this time.

Currently, 8.100.3.G states that children that are pending or receiving Special Immigrant Juvenile status are eligible for medical assistance. Additional clarification was received from the Centers for Medicare and Medicaid Services (CMS), that only children who are pending Special Immigrant Juvenile status are eligible to receive benefits, and the change is needed to comply with our current State Plan Amendment. The proposed rule will also remove the 40 qualifying work quarters requirement for qualified non-citizen eligibility determination.

The primary change is to edit rule language to align with current policy and practices. As such, there are no costs to the Department or any other agency, and no anticipated effect on state revenues. The benefit of the rule is to align actual policy to procedures that are currently in effect. Inaction would result in continued misalignment between rule language and policy, and language must be corrected to comply with federal regulations and the State Plan Amendment.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S. (2016), 25.5-5-101; 25.5-8-105, C.R.S. (2016), §435.406; section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA); section 431 of the Personal Responsibility and Work Opportunity Act (PRWORA).

MSB 17-05-22-B, Revision to the Medical Assistance Rule Concerning Achieving Better Life Experience (ABLE) Accounts added to Definitions and Resource Requirements as an exempt resource, Section 8.100 & 8.500.M.2

Medical Assistance. The purpose of this rule is to amend 10 CCR 2505-10 § 8.100.1 and 8.100.5.M.2 by adding Achieving Better Life Experience (ABLE) accounts to the definitions and as an exempt resource. ABLE accounts are special savings accounts that can be set up by (or for) certain individuals with disabilities. They will not count as a resource for eligibility purposes for any Medicaid category that has an asset test. This rule adds a new exempt resource for the eligibility groups that have an asset test. This rule will become effective September 30, 2017. This rule is necessary to comply with federal law.

Although ABLE accounts are required to be exempt for eligibility purposes, individuals who are eligible under the asset based categories are not required to open one. Therefore, it is difficult to predict how many of these individuals will participate. Even though this is a new exempt resource, it is not anticipated to cause an increase in members. Most individuals who are eligible to create one of these accounts already have ways to have increased assets and remain eligible. This is done through either disability or pooled trusts, or they just make sure they spend any extra money to keep below the \$2,000 limit. To be eligible, a person must be determined disabled prior to age 26, so these are not accounts that will be used for estate planning for the elderly to gain eligibility by shielding assets. Therefore Budget does not anticipate an impact. This is an additional allowance for eligibility; therefore, it is not anticipated that this rule will be contentious or have anyone testify against it.

ABLE accounts are administered out of the Department of Higher Education and they have been our main stakeholder. We have met with them several times to coordinate with them on their implementation. The legal Department and the Estate Recovery Section are aware of this rule and that any funds remaining in the account are to be recovered by HCPF. Increased assets for individuals might increase the recovery amounts over time.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S. (2016), 23-3.1-311 C.R.S. (2016) and 26 U.S.C. § 529A.