



Rule Author/Division Director: Danielle Greer/Jesse Burne

Email(s): danielle.greer@state.co.us,
jesse.burne@state.co.us

Program/Division: Colorado Child Care Assistance
 Program/Division of Early Learning Access & Quality

CDEC Tracking No.: 2023-06-014-E

CCR Number(s): 8 CCR 1403-1

SOS Tracking No.:

RULEMAKING PACKET

<p>Reason and Justification of the proposed rule or amendment(s):</p>	<p>Compliance with Federal and/or State laws, mandates, or guidelines ▾ If there are “Multiple/Other” reasons, please explain:</p>
<p>Provide a description of the proposed rule or amendment(s) that is clearly and simply stated, and what CDEC intends to accomplish:</p>	<p>Annually, the Department updates the Federal Poverty Levels and the State Median Income levels in Rule and in CHATS, the automated system used by counties to administer Colorado Child Care Assistance Program (CCCAP), to align with each federal fiscal year updates. These guidelines are used to determine eligibility for families applying to the CCCAP program.</p> <p>These updated figures must be in rule in accordance with the Administrative Procedure Act, section 24-4-103, C.R.S., which requires the state to address in rule any general standard that is applied to the public (such as income eligibility for child care assistance).</p> <p>Lastly, technical changes have been made to this proposed rule to ensure compliance with statute, correct statutory references, and the consistent use of “Department” to provide clarity for readers of the rules.</p>
<p>Statutory Authority: (Include Federal Authority, if applicable)</p>	<p>45 CFR 98.16 (h), (k): Lead Agencies must establish income eligibility thresholds that do not exceed 85% of the State Median Income but that allows for gradual increases in income, and describe the sliding fee scale for cost-sharing by families.</p> <p>26.5-1-105(1): The Executive Director is authorized to promulgate rules for the administration of the Department and for all programs and services specified in Title 26.5, which includes the Child Care Assistance Program outlined in part 1 of Article 4 of Title 26.5.</p> <p>26.5-4-111(1), C.R.S. (2022): Pursuant to Department rules, counties shall provide child care assistance to a participant or any person or family whose income is not more than one hundred eighty-five percent of the federal poverty level pursuant to Department rules. The Executive Director by rule may adjust the percentage of the federal poverty level used to determine child care assistance eligibility by promulgating a rule and shall revise income and verification requirements that promote alignment and simplification.</p>

<p>Does the proposed rule or amendment(s) impact other State Agencies or Tribal Communities?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, identify the State Agency and/or Tribal Community and describe collaboration efforts:</p>
<p>Does the proposed rule or amendment(s) have impacts or create mandates on counties or other governmental entities? (e.g., budgetary requirements or administrative burdens)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, provide description:</p>
<p>Effective Date(s) of proposed rule or amendment(s): (<u>E</u>mergency/<u>P</u>ermanent)</p>	<p><input checked="" type="checkbox"/> Mandatory <input type="checkbox"/> Discretionary</p> <p>(E) Effective Date: 10/1/2023 (P) Effective Date: 12/30/2023</p> <p>(E) Termination Date: 1/27/2024</p>
<p>Is the proposed rule or amendment(s) included on the Regulatory Agenda?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, please explain:</p>
<p>Does the proposed rule or amendment(s) conflict, or are there inconsistencies with other provisions of law?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, please explain:</p>
<p>Does the proposed rule or amendment(s) create duplication or overlapping of other rules or regulations?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If Yes, explain why: Old Colorado Child Care Assistance Program rules are still available through the Secretary of State under CDHS Volume 3. Current and effective CCCAP rules are now available under CDEC 8 CCR 1403-1.</p>
<p>Does the proposed rule or amendment(s) include</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>

material that is incorporated by reference ¹ ?	If Yes, provide source: There are several definitions and rules that incorporate Colorado Department of Human Services regulations, Colorado Revised Statutes, or federal materials for additional information and clarity.										
<p>Does the proposed rule or amendment(s) align with the department's rulemaking objectives?</p> <p>Choose all that apply.</p>	<table border="1"> <tr> <td data-bbox="487 310 568 405"><input type="checkbox"/></td> <td data-bbox="568 310 1529 405">Reduce the administrative burden on families and providers accessing, implementing, or providing programs and/or services.</td> </tr> <tr> <td data-bbox="487 405 568 499"><input type="checkbox"/></td> <td data-bbox="568 405 1529 499">Decrease duplication and conflicts with implementing programs and providing services.</td> </tr> <tr> <td data-bbox="487 499 568 594"><input checked="" type="checkbox"/></td> <td data-bbox="568 499 1529 594">Increase equity in access and outcomes to programs and services for children and families.</td> </tr> <tr> <td data-bbox="487 594 568 688"><input type="checkbox"/></td> <td data-bbox="568 594 1529 688">Increase administrative efficiencies among programs and services provided by the department.</td> </tr> <tr> <td data-bbox="487 688 568 863"><input type="checkbox"/></td> <td data-bbox="568 688 1529 863">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.</td> </tr> </table>	<input type="checkbox"/>	Reduce the administrative burden on families and providers accessing, implementing, or providing programs and/or services.	<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 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.
<input type="checkbox"/>	Reduce the administrative burden on families and providers accessing, implementing, or providing programs and/or services.										
<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 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

<p>Type of Rulemaking: Emergency or Permanent² [Permanent Tier I or Tier II]</p>	<p>Emergency and Permanent ▾</p> <p>Tier II ▾</p>
<p>Stakeholder Engagement and Data/Research:</p> <p>Examples: 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>	<p>List of activities and dates:</p> <p>Counties will be made aware of the proposed rules during monthly, statewide meetings that are held by CCCAP between July 27, 2023, and October 26, 2023, after the rules go into effect. Counties will be formally notified of the rule via Operation Memo. Because we are mandated to make these revisions, the Department will not be requesting stakeholder feedback.</p> <p>Monthly Meeting Presentation Folder: https://drive.google.com/drive/folders/1t6ZfavsMF0G5tu1BLWMx0lwpuQjO2rh4?usp=sharing</p> <p>The Public Folder for the proposed draft rules and written comments.</p>

¹ 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.

² 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.

Assistant Attorney General Review:	7/14/2023 - 8/30/2023
RAC County Subcommittee Review Date (if required):	9/7/2023
Rules Advisory Council (RAC) Review Date:	9/14/2023
Public Rulemaking Hearing Date(s): [Discussion/Adoption]	Emergency: 9/29/2023 Permanent: 10/27/2023

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?

Counties that administer Colorado Child Care Assistance Program (CCCAP) will benefit from the rule, ensuring that eligibility is correctly determined across the state. Households receiving CCCAP will have their eligibility correctly determined under the new income amounts.

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).

If income levels are not updated, the Department will not be in compliance with federal requirements. Additionally, families applying for services will not be determined eligible under the correct income guidelines if the income levels are not put into effect by October 1, 2023. Non-compliance could result in a loss of CCDF funds and would result in families being incorrectly denied for 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?

Making these required revisions ensures that families are correctly determined income eligible for CCCAP. Because the income figures have increased since October 2022, more families may be eligible for services based on these revisions.

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	No fiscal impact to the Department as the changes in CHATS are covered under standard operations.
Local Governments/ Counties	Counties may see a fiscal impact if we do <i>not</i> promulgate this rule package immediately as families that have lost benefits may be able to appeal their denial under the new income guidelines that the Department is required to implement.
Providers	The Federal Poverty Guideline and State Median Income figures do not apply to Child Care Providers for the purposes of CCCAP. Therefore, there is no direct impact on Child Care Providers.
Community Partners (e.g., School Districts, Early Childhood Councils, etc.)	The Federal Poverty Guideline and State Median Income figures do not apply to Community Partners. Therefore, there is no direct impact on this stakeholder group.
Other State Agencies	The changes to Federal Poverty Guideline and State Median Income figures do not impact other State Agencies.
Tribal Communities	Tribes have separate Child Care Development Fund (CCDF) requirements outlined in 45 CFR. As a result, there is no impact on Tribal Communities.

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).

Counties utilize the Child Care Automated Tracking System (CHATS) to determine eligibility for the Colorado Child Care Assistance Program (CCCAP). The revised figures are updated in CHATS and the new Federal Poverty Guidelines (FPG) and State Median Income (SMI) figures are automatically applied upon eligibility determination in the system. Compliance with the use of CHATS is monitored through the CCCAP County Monitoring Process, Quality Assurance Process, and other audits including those conducted by the Office of the State Auditor and the federal Office of Child Care, part of the U.S. Department of Health and Human Services.

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.

There are no alternatives to this rulemaking because the APA requires that these standards be promulgated in the rule and the numbers in regulation must be consistent with the federal guidelines.

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 alternatives to this rulemaking because the APA requires that these standards be promulgated in the rule and the numbers in regulation must be consistent with the federal guidelines.