



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, January 8, 2021, 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 pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

MSB 20-09-21-A, Revisions to the Medical Assistance Rule concerning changes to income and reasonable opportunity period for sections 8.100.3.H, 8.100.3.Q, 8.100.5.B, 8.100.5.F and 8.100.4.C

Medical Assistance. The proposed rule change will amend 10 CCR 2505-10 sections 8.100.3.H, 8.100.3.Q, 8.100.5.B, 8.100.5.F and 8.100.4.C based on 42 C.F.R 435.603 as this pertains to the Modified Adjusted Gross Income (MAGI)-based methodologies. Policy is adding two new allowable deductions, net operating loss and capital losses which will help reduce an applicant's modified adjusted gross income. Policy will start counting lottery/gambling winning for MAGI programs in the month received if less than \$79,999. Winnings of \$80,000 but less than \$90,000 are counted as income over two months, with an equal amount counted in each month; and for every additional \$10,000 one month is added to the period over which total winnings are divided, in equal installments, and counted as income. For, example Justine wins the state lottery and receives a lump sum payment of \$755,000 in April. Her winnings of \$755,000 would be counted in her MAGI-based income for 69 months (or, 5 years and 9 months), beginning in the month in which she receives the winnings. That is, Justine's winnings would be counted in her MAGI-based income in April 2020 through December 2025. An equal amount of \$10,942 would be counted in each month ($\$755,000/69 \text{ months} = \$10,942 \text{ per month}$).

For Non-MAGI programs lottery/gambling winnings will be treated as income in the month received and a resource thereafter. Non-cash prizes like a boat or car will continue to be counted as lump sum income in the month in which they are received. This change applies to both MAGI and non-MAGI categories. Amount of student loan debt discharged will count as income in the month the debt is discharged unless the member is disabled or is deceased. Most of these changes were provided from Center for Medicare and Medicaid Services (CMS). The eligibility system, Colorado Benefit Management System (CBMS), will be updated to reflect these policy changes. Other revisions are based on 42 C.F.R 435.952 which will reduce the reasonable opportunity period (ROP)

from 90 days to 30 days for an income discrepancy. This change will apply to both MAGI and Non-MAGI programs.

The proposed rule will impact applicants/members who are applying or enrolled in a MAGI-Medical Assistance program. This rule update will benefit applicants/members who become eligible for benefits by helping to lower their modified adjusted gross income when determining eligibility for MAGI Medical Assistance. Reducing the timeframe for a reasonable opportunity period (ROP) will support members in submitting income information timely.

The Department expects that earnings from gambling winnings, earnings from other non-cash prizes, and deductions for net operating and capital losses do not occur frequently enough among the Medicaid eligible population to cause any changes to income that would affect clients Medicaid eligibility and therefore would not result in any costs to the Department.

The Department also expects that student loan debt discharge does not happen frequently enough for this policy change to impact clients' Medicaid eligibility and therefore would not cause any costs to the Department.

The Department does expect that reducing the reasonable opportunity period (ROP) from 90 days to 30 days will decrease the amount of time members with incomes higher than the allowable limit are enrolled, which will result in a decrease of Medicaid enrollment and a decrease in expenditures to the Department.

The authority for this rule is contained in 42 CFR 435.603, 42 CFR 435.952, 1902(e)(14)(K)(v) of the Act, section 11031 of the TCJA amended section 108(f), Section 36B(d)(2) of the Internal Revenue Code, 26 U.S.C. 62 and Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2020).

MSB 20-10-14-A, Revision to Medical Assistance Special Financing rule concerning the Colorado Dental Health Care Program for Low-Income Seniors, Section 8.960

Medical Assistance. Revisions to Medical Assistance Special Financing rule concerning the Colorado Dental Health Care Program for Low-Income Seniors. The Dental Advisory Committee has recommended adding procedure code D1354, Interim caries arresting medicament application, to Appendix A. The regulation authorizing the Colorado Dental Health Care Program for Low-Income Seniors, 10 C.C.R. 2505-10, Section 8.960.

The authority for this rule is contained in 45 C.F.R. 162-1002(a)(4); Sections 25.5-3-404(4), C.R.S. (2020) and Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2020).

MSB 20-11-30-A, Revision to the Medical Assistance Act Rule concerning Home Health Providers, Section 8.520.1.N

Medical Assistance. This rule revision aligns the home health services rule with the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, and federal regulation, by adding nurse practitioners, clinical nurse specialists, and physician assistants to the definition of "ordering physician."

The authority for this rule is contained in CARES Act, PL. 116-136 § 3708, March 27, 2020, 134 Stat 281; 42 CFR 440.70(a)(2) (2020); Section 25.5-5-202(I), C.R.S. (2019) and Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2020).