

DEPARTMENT OF HUMAN SERVICES

Human Services Administration

RULE MANUAL VOLUME 1, GENERAL POLICIES AND ADMINISTRATION

9 CCR 2501-1

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

STATEMENT OF BASIS AND PURPOSE AND SPECIFIC STATUTORY AUTHORITY OF REVISIONS MADE TO VOLUME 1

Deletion of sections 1.300 - 1.306 were adopted final following publication at the 9/9/88 State Board meeting with an effective date of 11/1/88 (CSPR# 88-5-23-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revision of sections 1.200 - 1.202.34 were adopted final following publication at the 9/7/90 State Board meeting with an effective date of 11/1/90 (CSPR# 90-3-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revision of section 1.500 was adopted final following publication at the 5/6/94 Executive Director meeting with an effective date of 7/1/94 (CSPR# 93-11-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Deletion of sections 1.100 through 1.907 and subsequent forms (the entire manual) were final adoption following publication at the 7/12/96 State Board meeting with an effective date of 9/1/96 (CSPR# 96-5-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Creation of sections 1.100 through 1.152 were final adoption following publication at the 7/9/2010 Executive Director rule-making session, with an effective date of 9/1/2010 (Rule-making# 10-3-19-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revision of sections 1.142, 1.151 and 1.152 were final adoption following publication at the 12/3/2010 Executive Director rule-making session, with an effective date of 2/1/2011 (Rule-making# 10-9-24-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

1.100 GENERAL POLICIES AND ADMINISTRATION

1.110 STATE DEPARTMENT OVERSIGHT AND CORRECTIVE ACTION PROCESS

Rule Volume 1 consists of Executive Director rules in its entirety.

Colorado Department of Human Services has a statutory responsibility to provide supervision to the county departments. This responsibility includes ensuring that the county departments comply with requirements provided by Federal laws and regulations, State statutes, Executive Director and State Board of Human Services rules, and contract and grant terms. Because of the nature of Colorado's structure being state supervised and county administered, it is critical that there is a communication protocol in place to address identified issues. CDHS promotes a collaborative and participatory model for engagement throughout the system to enhance accountability and transparency.

- A. For issues identified through a multitude of processes that are brought to the attention of the state or counties for response, there is a continuum of actions by the State Department dependent upon the county's response to the identified issue. The first and lowest level of action is informal and consultative in nature.
- B. The second level of action is technical or regulatory. This level includes any routine monitoring, quality assurance reviews, and audits conducted by the Colorado Department of Human Services. In this secondary and/or routine monitoring, existing policies and procedures will continue.
- C. The last or third level of action occurs when issues are severe in nature and/or lower level interventions have not been effective in correcting the problem or issue and shall include:
 - 1. Program Intervention.
 - 2. Corrective Action Processes as defined in Section 1.150.
 - 3. Sanctions as defined in Section 1.152. In the event these rules conflict and cannot be harmonized with existing Colorado Department of Human Services rules, these rules shall control and the applicable program area shall initiate a rule-making to modify the program area-specific rule language that is in conflict, with exception of federal requirements as found in Section 1.151.
- D. The Colorado Department of Human Services, Corrective Action Process Practice Handbook, is incorporated by reference to provide further guidance; no later editions or amendments are included. The material may be examined by contacting the Colorado Department of Human Services, Director of the Administrative Review Division, 4045 S. Lowell Blvd., Denver, Colorado; or at a state publications library.

1.120 AUTHORITY

Section 26-1-111(2)(d)(I), Colorado Revised Statutes, stipulates that the State Department shall: "Provide services to county governments including the organization and supervision of county departments for the effective administration of public assistance and welfare functions as set out in the rules of the Executive Director and the rules of the State Board pursuant to Section 26-1-107 as to program scope and content, including assistance payments, food stamps, and social services, and compilation of statistics and necessary information relative to assistance payments, food stamps, social services, child welfare services, including out-of-home placement services, rehabilitation, programs for the aging, and veterans' programs throughout the state, and obtaining federal reimbursement moneys available under the Title IV-E program created under the federal "Social Security Act", as amended, based on out-of-home placements and alternative care treatment by county departments of children eligible for Title IV-E federal assistance, which moneys shall be allocated to counties to help defray the costs of performing its functions; except that nothing in this paragraph (d) shall be construed to allow counties to continue to

receive an amount equal to the increased funding in the event the said funding is no longer available from the federal government.”

1.130 STATE DEPARTMENT OBJECTIVES

State Department objectives in implementing the Corrective Action Process are to:

- A. Improve service delivery to clients;
- B. Assure fiscal accountability; and,
- C. Strengthen the management and supervision capabilities of the State Department.

1.140 DEFINITIONS

1.141 Program Definition

The Corrective Action Process (CAP) is intended to create a process/procedure to assure county departments of human/social services bring issues of noncompliance into compliance within specified time frames. Identification of issues of noncompliance may occur through:

- A. Routine monitoring by State staff;
- B. Specially scheduled program or management reviews;
- C. Observation;
- D. Complaints or grievances.

1.142 General Definitions [Rev. eff. 2/1/11]

The following are definitions of commonly used terms in this manual:

“Corrective action” means a formal, systemic process employed to correct county department of human/social services’ noncompliance with State Department rules, Federal and State laws, contract terms and grant terms.

“Corrective Action Plan” (CAP) means a written plan to correct areas of noncompliance that clearly identifies areas needing improvement, action steps to be taken for each area, dates by which action steps are to be implemented, staff responsible for the “CAP”, indicators of progress towards compliance, outcome measures for identifying compliance, and a timeframe for achieving compliance.

“Disallowance” means to prohibit funds paid retrospective to the date the ineligibility or noncompliance occurred.

“Noncompliance” means not meeting requirements identified by State Department rules, Federal and State statutes, contract terms, and grant terms.

“Sanction” means an action taken by the State Department upon a confirmed finding of a county department’s noncompliance. State Department actions may ultimately result in financial sanctions or state operation of programs as set forth in the Human Services Code, Section 26-1-109(4)(b), (c), (d), (e), C.R.S.

“State Department” means the Colorado Department of Human Services.

1.150 CORRECTIVE ACTION PROCESS FOR THE COLORADO DEPARTMENT OF HUMAN SERVICES

1.151 Corrective Action Process Components [Rev. eff. 2/1/11]

Federal guidelines and rules would take precedence, if different than state rules.

The components of the Corrective Action Process are:

A. Schedule the Audit or Review

State Department staff shall notify the County Director in writing, through the use of certified mail, of the scheduled monitoring visit. Notification should be provided in a manner that allows the county department sufficient time to prepare, but shall not occur any closer than two (2) weeks prior to the audit/review. The notification shall include any and all information necessary for the county department to adequately prepare for the audit or review.

Emergent situations may warrant an audit or review that commences without a two-week notice. In this case, the county will still be notified.

If the county department has scheduling conflicts that would preclude it from being able to participate in the audit or review, it must immediately notify the State Department staff who are coordinating the review in order to negotiate a new audit or review date.

B. Entrance Conference

State Department staff shall schedule an entrance interview with the County Director and/or staff selected by the County Director. As warranted, State staff or the County Director may choose to invite local officials such as County Commissioners or Mayors. The purpose of the entrance interview is to introduce staff, explain the reason for the audit or review, review the process and schedule, establish procedures for gathering additional information and documentation during the review, review the tools used to monitor and evaluate compliance with the standards, and answer any questions.

C. Audit or Review

The audit or review shall be planned to minimize disruption to the normal activities of the county department. This component includes on-site review and data collection. The county department shall provide access to staff and records that the reviewer(s) determines necessary to achieve audit or review objectives, in a format that may be specified by the reviewer(s). Discrepancies identified during the audit or review shall be discussed with county staff to determine if all relevant data has been considered.

D. Presentation of Preliminary Findings

Upon completion of the on-site monitoring activities, the State staff shall, within twenty (20) state working days of the completion of the audit or review, draft a Preliminary Report and provide a copy of the report to the county department sent by certified mail to the County Director. The Preliminary Report shall include the audit or review findings based on the review instrument or tool(s) used. If a county department is found to be out of compliance in any area, such area shall be highlighted in the preliminary report.

E. County Department Response

The County Director or his/her designee shall, within twenty (20) state working days of the date the Preliminary Report was mailed, respond in writing to the State Department. The response shall include information regarding agreement or disagreement with the findings, any identified areas of non-compliance, requirements for CAPs, or any objection to specific wording. Any designee appointed by the county director to act on his/her behalf shall be a county employee approved by the county commissioners, city mayor, or city council persons as appropriate. If the county director appoints a designee to act on his/her behalf, this shall also be put in writing and submitted to the State Department.

If the county department does not respond in writing within twenty (20) state working days of the date the preliminary findings were mailed, the Preliminary Report shall be considered the Final Report.

F. Exit Conference

State Department staff will schedule an Exit Conference with the county department in order to discuss the Preliminary Report and the county department's response within twenty (20) calendar days from the end of the time frame for a county response as indicated in Section 1.151, E. The following persons, at a minimum, shall attend the exit conference: the State staff responsible for the audit or review or their designee, the County Director and/or his/her designee(s), State Department program staff with responsibility for any rules reviewed, State staff who conducted the review, and the regional Field Administrator. State staff may also invite appropriate local officials such as County Commissioners, City Mayors or Council Persons, County Administrators or others as deemed appropriate.

G. Final Report

Within twenty (20) state working days of the Exit Conference, State staff shall create a Final Report and provide a copy of the report to the county department and the County Commissioners, City Mayors or Council Persons, Council Administrators or others as deemed appropriate.

H. County Department Appeal

Upon receipt of the Final Report, the county department may appeal the findings of the Final Report to the Executive Director of the Colorado Department of Human Services. Within twenty working days of the date the Final Report was mailed (through certified mail), the County Director may request a review of the findings by the Executive Director of the State Department. The county department's request shall identify the specific findings under dispute and provide data, statements of evidence or other evidence and the documentation to support the appeal. The Executive Director of the State Department, or his/her designee, shall respond in writing to the county department within twenty (20) state working days of the date the appeal letter was received. All decisions by the Executive Director or his/her designee shall be considered the final decision. If the county department does not appeal the findings in the final report, the right to appeal is forfeited.

As applicable, the State would modify the Final Report based on the Executive Director's decision. If the Final Report requires the county department to complete a CAP, the timeline for submitting the CAP does not begin until after the appeal has been heard and formal notification of such has been mailed to the county department.

I. Corrective Action Plan

If necessary, a Corrective Action Plan shall be submitted by the county department of human/social services to the State Department.

1. Upon receiving the Final Report, and if the Report requires the submittal of a Corrective Action Plan, the county department shall prepare and return a Corrective Action Plan to the State Department within twenty (20) state working days of the date the Final Report was mailed. If the county department filed a formal appeal to the Executive Director of the Department Human Services that was denied, the CAP must be submitted within twenty (20) state working days of the date the formal notice of denial was sent by certified mail.
2. The written CAP shall be completed on the CAP form provided by the State Department and shall identify areas of non-compliance, action steps to be taken for each area, dated by which action steps are to be implemented, indicators of progress toward compliance, dates for progress reports, and a date for achieving compliance.
3. Within twenty (20) state working days from the date the state designated lead received the county CAP, the State Department shall notify the county department of acceptance or denial of the CAP and request modifications deemed necessary.
4. If a county department does not submit a CAP within the twenty (20) state working days, the State Department shall follow the sanction process as described in Section 1.152.
5. If the county department needs additional time to meet any of the deadlines provided in this Rule Volume 1, the county director may submit a request in writing to the Department, providing the reasons that an extension of time is necessary and a proposed date for the submittal of required documents or plan. The Department will respond to the request for an extension with five (5) state working days of the date the denial was mailed to the county department.

If the county department needs to modify a CAP, the county director may submit a request in writing to the Department, providing the reasons that a modification is necessary and a proposed date the Department received the request.
 - a. If the request for a modification is denied, the CAP shall remain as previously approved.
 - b. If approved, the county will be required to submit a modified CAP Form to the Department by the proposed date.
 - c. If the county does not submit the revised CAP Form within the timeline approved, the original CAP will continue to be in force.
6. At the time the State Department accepts the CAP, questioned costs and/or sanctions will be processed in accordance with accounting policy and procedures.

J. Corrective Action Plan Monitoring

Monitoring of the Corrective Action Plan shall begin within twenty (20) state working days following State approval of the plan and continues through the completion of the plan. Monitoring may include, but not be limited to, case and record reviews, onsite conferences, staff interviews, data analysis, and direct observation. At any time during the monitoring of the Corrective Action Process, the Department may provide technical assistance, training and other assistance as needed. At any time during the monitoring process, but no later than the agreed end of the Corrective Action Plan timeframe, the State Department shall notify the county department of the status for final compliance. If compliance has been achieved, written notification shall be provided to the Executive Director, the Deputy Executive Director, the County Director, Board of County Commissioners, and other as deemed appropriate. If the county department remains in noncompliance, sanctions will be imposed.

- K. The confidentiality of records audited or reviewed in the course of a program intervention or in the course of the corrective action process will be maintained as required by the statutes and rules governing the specific program area or areas being audited or reviewed. The confidentiality of a program intervention or corrective action process will be maintained as authorized under Colorado law.

Records can be disclosed as authorized under the Colorado Open Records Act or other similar federal and state laws.

1. If the county or state department receives an open records request of audited or reviewed records, the county or state department shall process the request as required by the statutes and rules governing the specific program area or areas being audited or reviewed.
2. If the county or state department receives an open records request of records specific to a program intervention for the Corrective Action Process, the county or state department shall process the request as required by the statutes and rules governing the specific program area or areas being audited or reviewed and the county department will notify the state department within twenty-four hours of the request.

1.152 Sanctions [Rev. eff. 2/1/11]

If a county department does not meet the requirements of this Rule Volume 1 or fails to comply with an approved Corrective Action Plan, the State Department may impose any financial sanction as set forth in the Human Services Code, Section 26-1-109(4)(b), (c), (d), (e), C.R.S. These sanctions may include, but not be limited by, the following:

- A. Disallowance of State funds equal to the salary of the County Director of Human/Social Services from the grant which the CAP is issued.
- B. The State Department to undertake the administration of the public assistance or welfare program for which the county department has not met the requirements of a Corrective Action Plan.

Notwithstanding the provisions of this Rule Volume 1, if the circumstances of noncompliance, as defined herein, creates or has the potential to create a risk of imminent harm to a person or damage to property, the State Department may take action, as it deems appropriate, consistent with Colorado Human Service Code, Section 26-1-101, et seq., C.R.S.

Editor's Notes

History

Entire rule eff. 09/01/2010.

Sections SB&P, 1.142, 1.151 – 1.152 eff. 02/01/2011.