

Title of Proposed Rule: Qualified Residential Treatment Program Placement Reviews

CDHS Tracking #: 21-02-25-01

Office, Division, & Program: Rule Author: Tim Russell
OAS, ARD

Phone: 303-562-8200

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RULEMAKING PACKET

Type of Rule: *(complete a and b, below)*

a. Board Executive Director

b. Regular Emergency

This package is submitted to State Board Administration as: *(check all that apply)*

AG Initial
Review

Initial Board
Reading

AG 2nd Review

Second Board Reading
/ Adoption

This package contains the following types of rules: *(check all that apply)*

Number

_____ Amended Rules

X _____ New Rules

_____ Repealed Rules

_____ Reviewed Rules

What month is being requested for this rule to first go before the State Board?	September 2021
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What date is being requested for this rule to be effective?	12/1/2021
Is this date legislatively required?	No; however the state must be in compliance with Family First Prevention Services Act (FFPSA) as of 10/1/21 per the Federal Budget Act of 2018. The QRTP placement reviews detailed in these rules are a component of that Act.

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

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STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

*Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. **1500 Char max***

The federal Family First Prevention Services Act (FFPSA), with mandatory implementation in October 2021, created a new level of care for states to utilize. These programs are designated as Qualified Residential Treatment Programs (QRTPs). QRTPs are similar to currently utilized Residential Child Care Facilities (RCCF); however, they have an increased emphasis on intensive treatment and stabilization. When a child or youth is placed in a Qualified Residential Treatment Program (QRTP), the law requires initial and ongoing assessments and reviews at specified time intervals to ensure that the high level of service provision and restrictive environment are appropriate. The proposed rules would create guidelines for the QRTP Placement Review process. These rules would guide both the Administrative Review Division (ARD) and County Departments of Human Services in multiple areas related to the QRTP Placement Reviews. Section 19-1-115(4)(e), C.R.S. designates the ARD as the administrative review body, in addition to the courts, responsible for conducting these placement reviews. ARD will conduct reviews for all Division of Youth Services cases that no longer have ongoing court reviews, voluntary cases, and court-involved cases where all parties consent to an ARD review instead of a court review. It will be each county's responsibility to document consent from the parties for the ARD to conduct the placement review instead of the court in court involved cases, collaborate with the ARD to schedule the review, identify invitees, identify the most appropriate venue, send out invitations, and submit the required documentation for review. QRTP Placement Reviews must occur no less than every 90 days for the duration of a child or youth's placement in the QRTP.

The goal of the placement review is to ensure appropriate placements for children/youth. These reviews encourage consistent collaboration among professionals and those who care most about the child. They have the potential to shorten the length of time a child or youth stays in one of the most restrictive levels of care. These reviews have the potential to increase the efficacy of services provided to children or youth by engaging the child's or youth's extended community.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- to comply with state/federal law and/or
- to preserve public health, safety and welfare

Justification for emergency:

State Board Authority for Rule:

Code	Description
26-1-107(5)(b), C.R.S. (2020)	State Board to promulgate rules for programs administered and services provided by the state department
26-1-109(1), C.R.S. (2020)	State department rules to coordinate with federal programs

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Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
19-1-115(4)(e),(f), C.R.S. (2020)	Timeframes and processes for administrative review division or court with ongoing jurisdiction to review and assess the appropriateness of QRTP placements
26-6-106(1)(a), C.R.S. (2020)	State Department to promulgate rules for child care facility licensing
26-1-111(1), (2)(h),C.R.S. (2020)	State Department administers or supervises child welfare services; act as agent of federal government in public assistance and welfare activities.
42 U.S.C.A. § 675a	Family First Prevention Services Act case review system requirements

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

C.R.S. 19-1-115 (4)(f)(I-III) outlines the documentation required to be reviewed by the ARD. These rules reiterate that it is the county department of child welfare's responsibility to supply that required documentation.

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REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Children and youth in out of home placements and families of children in care will benefit. County departments will bear the burden. This includes scheduling, identifying invitees, identifying appropriate venues, sending invitations, and submitting the required documentation for the review. Additionally, county caseworkers will be impacted in that this is a new review/meeting that they will have to attend.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

FFPSA is major and historic child welfare system reform. These rules are intended to provide clarity for counties by identifying specific processes involved in scheduling and holding the reviews. Funding for children and youth who require the level of care provided by QRTPs is directly tied to the successful implementation of QRTP placement reviews. Without establishing these rules there will be no process for placement reviews. Children/youth may have their placements reviewed late or not at all. These children/youth may stay in inappropriate and restrictive levels of care longer than necessary. County budgets may be impacted and the ARD would be in violation of Colorado Revised Statutes.

Based on the number of court involved child welfare cases in calendar year 2019 the ARD estimated that it may review up to 90 children's/youth's cases per month. In reality this number would be lower as the court also has jurisdiction to conduct some of these placement reviews for court involved cases; however, at this time it is unknown how often courts will conduct the reviews.

Children/youth and families benefit from potentially shorter stays in restrictive levels of care.

3. Fiscal Impact

*For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. **Answer should NEVER be just "no impact" answer should include "no impact because...."***

State Fiscal Impact (Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)

Three positions within the ARD have already been funded through the Joint Budget Committee fiscal year 2020-2021. Any changes to Trails Legacy to accommodate the ARD instrument have been incorporated into existing budgets.

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County Fiscal Impact

Counties may be impacted financially from increased staff workload of scheduling, identifying invitees, sending invitations, and submitting the required documentation for the review. Additionally, county caseworkers will be impacted in that this is a new review/meeting that they will have to attend in addition to their current duties. If these reviews do not take place or do not take place timely according to statute counties are at risk of fiscal sanctions, reverting funding for the placement to 100% county dollars rather than the 80/20 split between state and county that is normally used. If the review is timely, the ARD disagrees with the level of care, and if that child is not moved within 30 days the county would also be responsible for 100% of the placement cost.

Federal Fiscal Impact

The reviews are mandated by state and federal statute. In instances of voluntary placements, the outcome of the reviews and whether procedures within federal statute are followed determines the formula used by the federal government for funding.

Other Fiscal Impact (such as providers, local governments, etc.)

None.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Stakeholder workgroups between ARD and county departments of human services were held to develop these rules.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. Answer should NEVER be just "no alternative" answer should include "no alternative because..."

Other alternatives were not considered. QRTP Placement Reviews will be an integral procedure in a child or youth's case. The reviews are targeted at those children and/or youth who require the highest level of services and treatment. Having clear processes in place around specified steps and needs for documentation helps keep our most vulnerable children and youth from potentially falling through systemic cracks.

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.000	<i>Incorrect Statutory Reference</i>	<i>Section 26.5.103 C.R.S.</i>	<i>Section 26.5-101(3) C.R.S.</i>		
7.304.651	New Rule Heading and definition		QUALIFIED RESIDENTIAL TREATMENT PROGRAM PLACEMENT REVIEWS DEFINITION: A QUALIFIED RESIDENTIAL TREATMENT PROGRAM (QRTP) PLACEMENT REVIEW MEANS A REVIEW CONDUCTED BY THE STATE DEPARTMENT'S ADMINISTRATIVE REVIEW DIVISION (ARD), THAT IS OPEN TO THE PARTICIPATION OF THE PARENTS, LEGAL GUARDIAN OR CUSTODIAN OF EACH CHILD OR YOUTH, THE CHILD OR YOUTH (IF AGE APPROPRIATE AS DETERMINED BY THE CASEWORKER), THE QRTP STAFF, AND ATTORNEYS OF RECORD; AND CONDUCTED BY A PLACEMENT REVIEWER, WHO IS NOT RESPONSIBLE FOR THE CASE MANAGEMENT OF, OR THE DELIVERY OF SERVICES TO THE CHILD OR YOUTH WHO IS SUBJECT TO THE REVIEW.		

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7.304.651 A			A. THE COUNTY DEPARTMENT SHALL PARTICIPATE IN THE QRTP PLACEMENT REVIEW FOR ALL CHILDREN IN QRTP PLACEMENTS WHO MEET THE CRITERIA FOR INCLUSION IN THE REVIEW SYSTEM.		
7.304.651 B			B. IDENTIFICATION OF YOUTH ELIGIBLE FOR AN ARD QRTP PLACEMENT REVIEW 1. CHILDREN AND YOUTH ARE ELIGIBLE FOR A REVIEW CONDUCTED BY THE ARD AT OR BEFORE 90 DAYS OF PLACEMENT IN A QRTP. 2. FOR CASES THAT ARE COURT INVOLVED, ALL PARTIES TO THE CASE MUST CONSENT TO A REVIEW BY THE ARD. IF ALL PARTIES DO NOT CONSENT THE REVIEW WILL REMAIN WITH THE COURTS. 3. THE DETERMINATION THAT		

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			<p>ALL PARTIES CONSENT THAT THE ARD WILL REVIEW THE PLACEMENT AT 90 DAYS MUST HAPPEN NO LATER THAN THE 60 DAY COURT REVIEW.</p> <p>4. FOR CASES THAT ARE COURT INVOLVED, THE COUNTY DEPARTMENT SHALL DOCUMENT THAT EACH PARTY CONSENTED TO THE QRTP PLACEMENT REVIEW TO BE CONDUCTED BY THE ARD INSTEAD OF THE COURT. THE COUNTY DEPARTMENT SHALL DOCUMENT THIS CONSENT IN THE COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM.</p> <p>5. AT EACH SUBSEQUENT REVIEW THE COUNTY DEPARTMENT WILL ASK THE PARTIES IN ATTENDANCE IF THEY CONSENT TO THE NEXT REVIEW BEING CONDUCTED</p>	
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			<p>BY THE ARD. COUNTY DEPARTMENTS WILL BE RESPONSIBLE FOR SEEKING CONSENT FOR ANY PARTIES WHO WERE NOT AT THE REVIEW NO LATER THAN 30 DAYS PRIOR TO THE NEXT REVIEW.</p> <p>6. IN INSTANCES OF A VOLUNTARY PLACEMENT, THE ARD SHALL REVIEW THE CHILD OR YOUTH'S PLACEMENT NO LATER THAN 60 DAYS AFTER PLACEMENT IN A QRTP OR WITHIN 30 DAYS AFTER PLACEMENT WHEN THE QUALIFIED INDIVIDUAL DOES NOT SUPPORT THE QRTP LEVEL OF CARE OR THE CHILD, JUVENILE, OR YOUTH, GUARDIAN AD LITEM, OR ANY PARTY OBJECTS TO THE PLACEMENT.</p>		
			C. SCHEDULING PROCESS FOR ARD		

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7.304.651 C

QRTP PLACEMENT REVIEWS

1. FOR CASES THAT ARE COURT INVOLVED THE COUNTY DEPARTMENT SHALL COORDINATE WITH THE ARD TO SCHEDULE THE REVIEW NO LATER THAN 1 BUSINESS DAY AFTER THE 60 DAY COURT REVIEW.

a. SCHEDULING SHALL INCLUDE DETERMINATION OF THE FOLLOWING:

i. DAY OF THE REVIEW.

ii. TIME OF THE REVIEW.

iii. VENUE FOR THE REVIEW.

2. IN INSTANCES OF A

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			<p>VOLUNTARY PLACEMENT THE COUNTY WILL NOTIFY THE ARD OF THE NEED FOR REVIEW NO LATER THAN TWO BUSINESS DAYS AFTER PLACEMENT AND THE SCHEDULING PROCESS SHALL COMMENCE.</p> <p>3. IF A CHILD OR YOUTH LEAVES THE QRTP LEVEL OF CARE AFTER A REVIEW HAS BEEN SCHEDULED, THE COUNTY DEPARTMENT MUST CANCEL THE REVIEW AND NOTIFY THE ARD AND ALL PARTIES AS SOON AS POSSIBLE.</p>		
7.304.651 D			<p>D. INVITATIONS</p> <p>1. THE COUNTY DEPARTMENT SHALL INVITE PARENTS OR LEGAL GUARDIAN OR CUSTODIAN, THE CHILD</p>		

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			<p>(IF AGE APPROPRIATE AT DETERMINED BY THE CASEWORKER), MEMBERS SELECTED BY THE CHILD (FOR CHILDREN 14 YEARS OF AGE AND ABOVE), KIN, OUT-OF-HOME CARE PROVIDERS, AND ATTORNEYS OF RECORD TO THE QRTP PLACEMENT REVIEW. THE COUNTY DEPARTMENT SHALL ENCOURAGE ALL INVITEES TO ATTEND.</p> <p>2. THE COUNTY DEPARTMENT SHALL SEND LETTERS OF INVITATION TO ALL REVIEW PARTICIPANTS AT LEAST TWO WEEKS PRIOR TO SCHEDULED REVIEWS, AND ENSURE THAT INVITED PARTIES ARE PROPERLY DOCUMENTED IN THE COMPREHENSIVE CHILD WELFARE INFORMATION</p>		
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			<p>SYSTEM PRIOR TO THE TIME OF THE REVIEW. THE PARENT OR INDIAN CUSTODIAN AND THE INDIAN CHILD'S TRIBE SHALL BE SENT LETTER(S) OF INVITATION AT LEAST TWO WEEKS PRIOR TO THE SCHEDULED REVIEW BY CERTIFIED OR REGISTERED MAIL WITH RETURN RECEIPT REQUESTED. ALL OTHER INVITATIONS MAY BE SENT BY ELECTRONIC MAIL. INVITATIONS SHALL INCLUDE DATE, TIME, LOCATION, AND PURPOSE OF THE REVIEW. IF THE CASE INVOLVES AN INDIAN CHILD, THE REQUIREMENTS OF THE PENDING COURT PROCEEDINGS SECTION OF THE INDIAN CHILD WELFARE ACT APPLIES. 25 U.S.C. § 1912(A) (2020) IS HEREBY</p>		
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			INCORPORATED BY REFERENCE. NO LATER AMENDMENTS OR EDITIONS ARE INCORPORATED. COPIES ARE AVAILABLE FOR PUBLIC INSPECTION BY CONTACTING THE ARD DIRECTOR DURING REGULAR BUSINESS HOURS AT COLORADO DEPARTMENT OF HUMAN SERVICES, ADMINISTRATIVE REVIEW DIVISION, 4045 S. LOWELL BLVD., DENVER, COLORADO 80236; OR AT A STATE PUBLICATIONS DEPOSITORY LIBRARY.		
7.304.651 E			E. REVIEW PROCESS 1. THE COUNTY DEPARTMENT SHALL SUBMIT EVIDENCE: a. DEMONSTRATING THAT ONGOING ASSESSMENT OF THE STRENGTHS		

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				AND NEEDS OF THE CHILD, JUVENILE, OR YOUTH CONTINUES TO SUPPORT THE DETERMINATION THAT THE NEEDS OF THE CHILD, JUVENILE, OR YOUTH CANNOT BE MET THROUGH PLACEMENT WITH A PARENT, LEGAL GUARDIAN, LEGAL CUSTODIAN, KIN CAREGIVER, OR IN A FOSTER FAMILY HOME; THAT THE PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM PROVIDES THE MOST EFFECTIVE AND APPROPRIATE LEVEL OF CARE FOR THE CHILD, JUVENILE, OR		
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				<p>YOUTH IN THE LEAST RESTRICTIVE ENVIRONMENT; AND THAT THE PLACEMENT IS CONSISTENT WITH THE SHORT- AND LONG-TERM GOALS FOR THE CHILD, JUVENILE, OR YOUTH AS SPECIFIED IN THE PERMANENCY PLAN FOR THE CHILD, JUVENILE, OR YOUTH, OR AS OUTLINED IN THE FAMILY SERVICES PLAN;</p> <p>b. DOCUMENTING THE SPECIFIC TREATMENT OR SERVICE NEEDS THAT WILL BE MET FOR THE CHILD, JUVENILE,</p>		
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				<p>OR YOUTH IN THE PLACEMENT AND THE LENGTH OF TIME THE CHILD, JUVENILE, OR YOUTH IS EXPECTED TO NEED TREATMENT OR SERVICES; AND</p> <p>c. DOCUMENTING THE EFFORTS MADE BY THE COUNTY DEPARTMENT TO PREPARE THE CHILD, JUVENILE, OR YOUTH TO RETURN HOME OR TO BE PLACED WITH A FIT AND WILLING KIN CAREGIVER, A LEGAL GUARDIAN, LEGAL CUSTODIAN, OR AN ADOPTIVE PARENT, OR IN A FOSTER FAMILY.</p>		
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7.304.651 F			<p style="text-align: center;">F. FINDINGS</p> <ol style="list-style-type: none">1. THE ARD SHALL ENTER COPIES OF THE ADMINISTRATIVE REVIEW FINDINGS IN THE DEPARTMENT'S COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM AND THE COUNTY DEPARTMENT SHALL INCLUDE A SUMMARY OF THOSE FINDINGS IN COURT REPORTS.2. IN THE EVENT THAT THE ARD DISAGREES WITH THE PLACEMENT OF A CHILD IN A QRTP, IT MAY RESULT IN THE PLACEMENT BECOMING IV-E NON-REIMBURSABLE IF THE CHILD DOES NOT STEP DOWN TO A LOWER LEVEL OF CARE WITHIN 30 DAYS OF THE ARD DETERMINATION.		
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7.304.651 G			<p style="text-align: center;">G. FISCAL SANCTIONS</p> <p style="text-align: center;">1. FISCAL SANCTIONS AND DISALLOWANCES MAY OCCUR AS A RESULT OF QRTP PLACEMENT REVIEW THAT DOES NOT IDENTIFY PLACEMENT IN A QRTP AS THE MOST EFFECTIVE AND APPROPRIATE LEVEL OF CARE FOR THE CHILD, JUVENILE, OR YOUTH. REIMBURSEMENT IS REDUCED TO THE AVERAGE COST OF THE DETERMINED LESS RESTRICTIVE TYPE OF AVAILABLE PLACEMENT, UNLESS THE CHILD IS COURT-ORDERED INTO THE MORE RESTRICTIVE PLACEMENT AGAINST THE</p>		
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			<p>RECOMMENDATION OF THE COUNTY DEPARTMENT.</p> <p>2. THE COUNTY DEPARTMENT SHALL MOVE THE CHILD, JUVENILE OR YOUTH TO A LOWER LEVEL OF CARE WITHIN THIRTY (30) CALENDAR DAYS OF THE QRTP PLACEMENT REVIEW FINDING IN ORDER FOR REIMBURSEMENT TO BE UNINTERRUPTED. THE COUNTY DEPARTMENT SHALL PROVIDE THE ARD WITH CONFIRMATION OF THE CHANGE IN PLACEMENT.</p> <p>3. IF THE COUNTY DEPARTMENT DISAGREES WITH THE FINDINGS OF THE ARD'S QRTP</p>		
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			<p>PLACEMENT REVIEW, THE COUNTY DEPARTMENT MAY APPEAL IN WRITING. AN APPEAL MUST BE RECEIVED BY THE ARD WITHIN THREE (3) WORKING DAYS OF THE RECEIPT OF WRITTEN RESULTS OF THE REVIEW.</p> <p>4. REIMBURSEMENT IS DENIED FROM THE DATE OF THE REVIEW IF THE COUNTY DEPARTMENT NEITHER CORRECTS THE NON-COMPLIANCE NOR APPEALS THE REVIEW DECISION WITHIN ALLOTTED TIMELINES.</p>		
7.304.651 H			<p>H. CONFIDENTIALITY</p> <p>1. FEDERAL CONFIDENTIALITY REQUIREMENTS AT 42</p>		

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			<p>U.S.C.A. SECTION 5106a(2)(B)(viii) RESTRICT THE USE OF, OR DISCLOSURE OF, INFORMATION CONCERNING INDIVIDUALS SERVED BY THE CHILD WELFARE AGENCY, AND THESE SAME RULES APPLY TO THE QRTP PLACEMENT REVIEW PROCESS.</p> <p>2. SECTION 19-1-307, C.R.S. REQUIRES THAT REPORTS OF CHILD ABUSE OR NEGLECT AND THE NAME AND ADDRESS OF ANY CHILD, FAMILY, OR INFORMANT OR ANY OTHER IDENTIFYING INFORMATION CONTAINED IN SUCH REPORTS SHALL BE CONFIDENTIAL AND SHALL NOT BE PUBLIC INFORMATION. TO THE EXTENT QRTP PLACEMENT REVIEWS ARE INCORPORATED IN CHILD ABUSE AND NEGLECT RECORDS, THEY SHALL BE</p>	
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			<p>CONFIDENTIAL.</p> <p>1. AUDIO AND/OR VIDEO RECORDING OF QRTP PLACEMENT REVIEWS SHALL NOT OCCUR WITHOUT RELEASES OF CONFIDENTIALITY FORMS SIGNED BY ALL PARTIES TO THE CASE PRIOR TO RECORDING.</p>		
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STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

In November 2020 county departments of human/social services were invited to participate in a stakeholder workgroup to develop these proposed rules. In addition, a draft of these rules was provided in January 2021 to an internal group comprised of representatives from Division of Youth Services (DYS), Administrative Review Division (ARD), Office of Behavioral Health (OBH), and Division of Child Welfare (DCW). These rules were also presented at the ARD Steering Committee on 3/26/21. ARD Steering Committee participation is open to all county partners.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

In November 2020 county departments of human/social services were invited to participate in a stakeholder workgroup to develop these proposed rules. In addition, a rough draft of these rules was provided in January 2021 to an internal group (DYS/ARD/OBH/DCW) related to FFPSA. These rules were presented at the ARD Steering Committee on 3/26/21. ARD Steering Committee participation is open to all county partners.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

Yes No

Name of Sub-PAC	Child Welfare Sub-PAC		
Date presented	5/6/21, 6/6/21		
What issues were raised?	5/6/21 county representatives asked for an appeal process to be added. Document was amended and presented again on 6/6/21.		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Passed with no objections, 6/6/21		
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

Yes No

Title of Proposed Rule: Qualified Residential Treatment Program Placement Reviews

CDHS Tracking #: 21-02-25-01

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Date presented	7/8/21		
What issues were raised?	None		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	Voted without objection as part of the consent agenda, 7/8/21.		
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

Yes No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

QUALIFIED RESIDENTIAL TREATMENT PROGRAM PLACEMENT REVIEWS 7.304.6521

DEFINITION:

A QUALIFIED RESIDENTIAL TREATMENT PROGRAM (QRTP) PLACEMENT REVIEW MEANS A REVIEW CONDUCTED BY THE ~~COLORADO DEPARTMENT OF HUMAN SERVICES (CDHS)~~ STATE DEPARTMENT'S ADMINISTRATIVE REVIEW DIVISION (ARD), THAT IS OPEN TO THE PARTICIPATION OF THE PARENTS, LEGAL GUARDIAN OR CUSTODIAN OF EACH CHILD OR YOUTH, THE CHILD OR YOUTH (IF AGE APPROPRIATE AS DETERMINED BY THE CASEWORKER), THE QRTP STAFF, AND ATTORNEYS OF RECORD; AND CONDUCTED BY A PLACEMENT REVIEWER, WHO IS NOT RESPONSIBLE FOR THE CASE MANAGEMENT OF, OR THE DELIVERY OF SERVICES TO THE CHILD OR YOUTH WHO IS SUBJECT TO THE REVIEW.

A. THE COUNTY DEPARTMENT SHALL PARTICIPATE IN THE QRTP PLACEMENT REVIEW FOR ALL CHILDREN IN QRTP PLACEMENTS WHO MEET THE CRITERIA FOR INCLUSION IN THE REVIEW SYSTEM.

B. IDENTIFICATION OF YOUTH ELIGIBLE FOR AN ARD QRTP PLACEMENT REVIEW

7. CHILDREN AND YOUTH ARE ELIGIBLE FOR A REVIEW CONDUCTED BY THE ARD ~~AT OR BEFORE~~ AFTER 90 DAYS OF PLACEMENT IN A QRTP.
8. FOR CASES THAT ARE COURT INVOLVED, ALL PARTIES TO THE CASE MUST CONSENT TO A REVIEW BY THE ARD. ~~IF CONSENT IS NOT GIVEN~~ IF ALL PARTIES DO NOT CONSENT THE REVIEW WILL REMAIN WITH THE COURTS.
9. THE DETERMINATION THAT ALL PARTIES CONSENT THAT THE ARD WILL REVIEW THE PLACEMENT AT 90 DAYS MUST HAPPEN NO LATER THAN THE 60 DAY COURT REVIEW.
10. FOR CASES THAT ARE COURT INVOLVED, THE COUNTY DEPARTMENT SHALL DOCUMENT EVIDENCE THAT EACH PARTY CONSENTED THAT ~~CONSENT WAS GIVEN BY EACH INDIVIDUAL FOR~~ TO THE QRTP PLACEMENT REVIEW TO BE CONDUCTED BY THE ARD INSTEAD OF THE COURT. THE COUNTY DEPARTMENT SHALL DOCUMENT THIS CONSENT THIS DOCUMENTATION SHALL BE SAVED IN THE STATEWIDE AUTOMATED CHILD WELFARE INFORMATION SYSTEM COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM.
11. AT EACH SUBSEQUENT REVIEW THE COUNTY DEPARTMENT WILL ASK THE PARTIES IN ATTENDANCE AT THE REVIEW IF THEY CONSENT TO THE NEXT REVIEW BEING CONDUCTED BY THE ARD. COUNTY DEPARTMENTS WILL BE RESPONSIBLE FOR SEEKING CONSENT FOR ANY PARTIES WHO WERE NOT AT THE REVIEW NO LATER THAN 30 DAYS PRIOR TO THE NEXT REVIEW.
12. IN INSTANCES OF A VOLUNTARY PLACEMENT, THE ARD SHALL REVIEW THE CHILD OR YOUTH'S PLACEMENT NO LATER THAN 60 DAYS AFTER

PLACEMENT IN A QRTP OR WITHIN 30 DAYS AFTER PLACEMENT WHEN THE QUALIFIED INDIVIDUAL DOES NOT SUPPORT THE **QRTP QUALIFIED RESIDENTIAL TREATMENT PROGRAM** LEVEL OF CARE OR THE CHILD, JUVENILE, OR YOUTH, GUARDIAN AD LITEM, OR ANY PARTY OBJECTS TO THE PLACEMENT.

C. SCHEDULING PROCESS FOR ARD QRTP PLACEMENT REVIEWS

1. **FOR CASES THAT ARE COURT INVOLVED**, THE COUNTY DEPARTMENT SHALL COORDINATE WITH THE ARD TO SCHEDULE THE REVIEW NO LATER THAN 1 BUSINESS DAY AFTER THE 60 DAY COURT REVIEW.
 - a. SCHEDULING SHALL INCLUDE DETERMINATION OF THE FOLLOWING:
 - i. DAY OF THE REVIEW.
 - ii. TIME OF THE REVIEW.
 - iii. VENUE FOR THE REVIEW.
2. IN INSTANCES OF A VOLUNTARY PLACEMENT THE COUNTY WILL NOTIFY THE ARD OF THE NEED FOR REVIEW NO LATER THAN TWO BUSINESS DAYS AFTER PLACEMENT AND THE SCHEDULING PROCESS SHALL COMMENCE.
3. IF A CHILD OR YOUTH LEAVES THE QRTP LEVEL OF CARE AFTER A REVIEW HAS BEEN SCHEDULED, THE COUNTY DEPARTMENT MUST CANCEL THE REVIEW AND NOTIFY THE ARD AND ALL PARTIES AS SOON AS POSSIBLE.

D. INVITATIONS

1. THE COUNTY DEPARTMENT SHALL INVITE PARENTS, **LEGAL GUARDIAN OR CUSTODIAN**, THE CHILD (IF AGE APPROPRIATE AT DETERMINED BY THE CASEWORKER), MEMBERS SELECTED BY THE CHILD (FOR CHILDREN 14 YEARS OF AGE AND ABOVE), KIN, OUT-OF-HOME CARE PROVIDERS, AND ATTORNEYS OF RECORD TO THE QRTP PLACEMENT REVIEW. **THE COUNTY DEPARTMENT SHALL ENCOURAGE ALL INVITEES TO ATTEND** ~~INVITEES SHALL BE ENCOURAGED TO ATTEND.~~
2. THE COUNTY DEPARTMENT SHALL SEND LETTERS OF INVITATION TO ALL REVIEW PARTICIPANTS AT LEAST TWO WEEKS PRIOR TO SCHEDULED REVIEWS, AND ENSURE THAT INVITED PARTIES ARE PROPERLY DOCUMENTED IN THE ~~STATEWIDE AUTOMATED SYSTEM~~ **COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM** PRIOR TO THE TIME OF THE REVIEW. THE PARENT OR INDIAN CUSTODIAN AND THE INDIAN CHILD'S TRIBE SHALL BE SENT LETTER(S) OF INVITATION AT LEAST TWO WEEKS PRIOR TO THE SCHEDULED REVIEW BY

CERTIFIED OR REGISTERED MAIL WITH RETURN RECEIPT REQUESTED. ALL OTHER INVITATIONS MAY BE SENT BY ELECTRONIC MAIL. INVITATIONS SHALL INCLUDE DATE, TIME, LOCATION, AND PURPOSE OF THE REVIEW. IF THE CASE INVOLVES AN INDIAN CHILD, THE REQUIREMENTS OF THE PENDING COURT PROCEEDINGS SECTION OF THE INDIAN CHILD WELFARE ACT APPLIES. 25 U.S.C. § 1912(A) (2020) IS HEREBY INCORPORATED BY REFERENCE. NO LATER AMENDMENTS OR EDITIONS ARE INCORPORATED. COPIES ARE AVAILABLE FOR PUBLIC INSPECTION BY CONTACTING THE ARD DIRECTOR DURING REGULAR BUSINESS HOURS AT COLORADO DEPARTMENT OF HUMAN SERVICES, ADMINISTRATIVE REVIEW DIVISION, 4045 S. LOWELL BLVD., DENVER, COLORADO 80236; OR AT A STATE PUBLICATIONS DEPOSITORY LIBRARY.

E. REVIEW PROCESS

2. THE COUNTY DEPARTMENT SHALL SUBMIT EVIDENCE:

- a. DEMONSTRATING THAT ONGOING ASSESSMENT OF THE STRENGTHS AND NEEDS OF THE CHILD, JUVENILE, OR YOUTH CONTINUES TO SUPPORT THE DETERMINATION THAT THE NEEDS OF THE CHILD, JUVENILE, OR YOUTH CANNOT BE MET THROUGH PLACEMENT WITH A PARENT, LEGAL GUARDIAN, LEGAL CUSTODIAN, KIN CAREGIVER, OR IN A FOSTER FAMILY HOME; THAT THE PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM PROVIDES THE MOST EFFECTIVE AND APPROPRIATE LEVEL OF CARE FOR THE CHILD, JUVENILE, OR YOUTH IN THE LEAST RESTRICTIVE ENVIRONMENT; AND THAT THE PLACEMENT IS CONSISTENT WITH THE SHORT- AND LONG-TERM GOALS FOR THE CHILD, JUVENILE, OR YOUTH AS SPECIFIED IN THE PERMANENCY PLAN FOR THE CHILD, JUVENILE, OR YOUTH, OR AS OUTLINED IN THE FAMILY SERVICES PLAN;
- b. ~~DEMONSTRATING THAT THE PLACEMENT IN A QUALIFIED RESIDENTIAL TREATMENT PROGRAM PROVIDES THE MOST EFFECTIVE AND APPROPRIATE LEVEL OF CARE FOR THE CHILD, JUVENILE, OR YOUTH IN THE LEAST RESTRICTIVE ENVIRONMENT; AND~~
- c. ~~DEMONSTRATING THAT THE PLACEMENT IS CONSISTENT WITH THE SHORT AND LONG TERM GOALS FOR THE CHILD, JUVENILE, OR YOUTH AS SPECIFIED IN THE PERMANENCY PLAN FOR THE CHILD, JUVENILE, OR YOUTH, OR AS OUTLINED IN THE FAMILY SERVICES PLAN; AND~~
- c. DOCUMENTING THE SPECIFIC TREATMENT OR SERVICE NEEDS THAT WILL BE MET FOR THE CHILD, JUVENILE, OR YOUTH IN THE PLACEMENT AND THE LENGTH OF TIME THE CHILD, JUVENILE, OR YOUTH IS EXPECTED TO NEED TREATMENT OR SERVICES; AND

- b. ~~DOCUMENTING THE LENGTH OF TIME THE CHILD, JUVENILE, OR YOUTH IS EXPECTED TO NEED TREATMENT OR SERVICES; AND~~
- c. DOCUMENTING THE EFFORTS MADE BY THE COUNTY DEPARTMENT TO PREPARE THE CHILD, JUVENILE, OR YOUTH TO RETURN HOME OR TO BE PLACED WITH A FIT AND WILLING KIN CAREGIVER, A LEGAL GUARDIAN, LEGAL CUSTODIAN, OR AN ADOPTIVE PARENT, OR IN A FOSTER FAMILY.

F. FINDINGS

- 1. **THE ARD SHALL ENTER COPIES** OF ADMINISTRATIVE REVIEW FINDINGS ~~SHALL BE MAINTAINED~~ IN THE DEPARTMENT'S **COMPREHENSIVE CHILD WELFARE INFORMATION SYSTEM AND THE COUNTY DEPARTMENT SHALL INCLUDE** A SUMMARY OF THOSE FINDINGS ~~SHALL BE INCLUDED~~ IN COURT REPORTS.
- 2. IN THE EVENT THAT THE ARD DISAGREES WITH THE PLACEMENT OF A CHILD IN A QRTP, IT MAY RESULT IN THE PLACEMENT BECOMING IV-E NON-REIMBURSABLE IF THE CHILD DOES NOT STEP DOWN TO A LOWER LEVEL OF CARE WITHIN 30 DAYS OF THE ARD DETERMINATION.

G. FISCAL SANCTIONS

- 1. FISCAL SANCTIONS AND DISALLOWANCES MAY OCCUR AS A RESULT OF ~~QUALIFIED RESIDENTIAL TREATMENT PROGRAM~~ **QRTP** PLACEMENT REVIEW THAT DOES NOT IDENTIFY PLACEMENT IN A QRTP AS THE MOST EFFECTIVE AND APPROPRIATE LEVEL OF CARE FOR THE CHILD, JUVENILE, OR YOUTH. REIMBURSEMENT IS REDUCED TO THE AVERAGE COST OF THE DETERMINED LESS RESTRICTIVE TYPE OF AVAILABLE PLACEMENT, UNLESS THE CHILD IS COURT-ORDERED INTO THE MORE RESTRICTIVE PLACEMENT AGAINST THE RECOMMENDATION OF THE COUNTY DEPARTMENT.
- 2. THE COUNTY **DEPARTMENT** SHALL MOVE THE CHILD, JUVENILE OR YOUTH TO A LOWER LEVEL OF CARE WITHIN THIRTY (30) CALENDAR DAYS OF THE QRTP PLACEMENT REVIEW FINDING IN ORDER FOR REIMBURSEMENT TO BE UNINTERRUPTED. THE COUNTY DEPARTMENT SHALL PROVIDE THE **ARD** ~~ADMINISTRATIVE REVIEW DIVISION~~ WITH CONFIRMATION OF THE CHANGE IN PLACEMENT.
- 3. IF THE COUNTY DEPARTMENT DISAGREES WITH THE FINDINGS OF THE ARD'S QRTP PLACEMENT REVIEW, THE COUNTY DEPARTMENT MAY APPEAL IN WRITING. AN APPEAL MUST BE RECEIVED BY THE **ARD** WITHIN THREE (3) WORKING DAYS OF THE RECEIPT OF WRITTEN RESULTS OF THE REVIEW.
- 4. REIMBURSEMENT IS DENIED FROM THE DATE OF THE REVIEW IF THE COUNTY **DEPARTMENT** NEITHER CORRECTS THE NON-

COMPLIANCE NOR APPEALS THE REVIEW DECISION WITHIN ALLOTTED TIMELINES.

H. CONFIDENTIALITY

1. **FEDERAL CONFIDENTIALITY REQUIREMENTS AT 42 U.S.C.A. SECTION 5106a(2)(B)(viii) RESTRICT THE USE OF, OR DISCLOSURE OF, INFORMATION CONCERNING INDIVIDUALS SERVED BY THE CHILD WELFARE AGENCY, AND THESE SAME RULES APPLY TO THE QRTP PLACEMENT REVIEW PROCESS.** ~~THE FEDERAL CONFIDENTIALITY REQUIREMENTS AT SECTION 471(A)(8) OF THE SOCIAL SECURITY ACT PROVIDE SAFEGUARDS WHICH RESTRICT THE USE OF, OR DISCLOSURE OF, INFORMATION CONCERNING INDIVIDUALS SERVED BY THE CHILD WELFARE AGENCY, AND THESE SAME RULES APPLY TO THE QRTP PLACEMENT REVIEW PROCESS.~~
2. SECTION 19-1-307, C.R.S. REQUIRES THAT REPORTS OF CHILD ABUSE OR NEGLECT AND THE NAME AND ADDRESS OF ANY CHILD, FAMILY, OR INFORMANT OR ANY OTHER IDENTIFYING INFORMATION CONTAINED IN SUCH REPORTS SHALL BE CONFIDENTIAL AND SHALL NOT BE PUBLIC INFORMATION. TO THE EXTENT QRTP PLACEMENT REVIEWS ARE INCORPORATED IN CHILD ABUSE AND NEGLECT RECORDS, THEY SHALL BE CONFIDENTIAL.
3. AUDIO AND/OR VIDEO RECORDING OF QRTP PLACEMENT REVIEWS SHALL NOT OCCUR WITHOUT RELEASES OF CONFIDENTIALITY FORMS SIGNED BY ALL PARTIES TO THE CASE PRIOR TO RECORDING.

[Note: Changes to rule text are identified as follows: deletions are shown as "strikethrough", additions are in "All Caps", and changes made between initial review and final adoption are in [brackets] or **highlighted yellow**]