



COLORADO
Department of Public
Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

To: Members of the State Board of Health

From: Eric Schmidt, EMTS Funding Section Manager

Through: D. Randy Kuykendall, Division Director, D.R.K

Date: July 20, 2016

Subject: **Request for Rulemaking Hearing**
Proposed Amendments to 6 CCR 1015-1, Emergency Medical Services Account
with a request for the rulemaking hearing to occur in September of 2016

The department has distributed grant funds to improve emergency medical and trauma services (EMTS) systems across the state of Colorado since the program was created by the legislature in 1989. For the fiscal year running from July 1, 2015 to June 30, 2016, the department awarded approximately \$6.7 million in grant funding, resulting in 116 projects being funded. This money comes from the Emergency Medical Services Account created under Section 25-3.5-603, C.R.S. and is used for grants that fall into four major categories: (1) EMTS education grants, (2) emergency grants for EMTS providers experiencing an unexpected emergency that seriously degrades the provision of emergency medical and trauma services, (3) system improvement funding requests, and (4) EMTS provider grants to assist EMTS providers with the purchase of ambulances/EMTS vehicles, communications, data collection, EMTS equipment, injury prevention projects, personnel/services, and recruitment/retention.

The rules governing the Emergency Medical Services Account have not been updated since 2002. In the proposed amendments to the rules, the department is seeking to clarify and update language used throughout the rule. The most substantive change is the removal of an appeals process. This change will bring the Emergency Medical Services Account in line with other grant processes in the department. This appeal process has only been used twice in the history of the grant program, and there has been no negative feedback from stakeholders concerning its removal.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to
6 CCR 1015-1, Emergency Medical Services Account

Basis and Purpose.

The proposed amendments modify rules that have not been revised since 2002. The vast majority of changes are to clarify the existing process by improving and cleaning up language, improving formatting, and ensuring consistency throughout the rules. The only substantive change being proposed is the removal of an appeals process. This removal will ensure that the Emergency Medical Services Account grant process is in line with other grant issuing programs within the department.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes:

Section 25-3.5-603, C.R.S

Section 25-3.5-604(1), C.R.S.

SUPPLEMENTAL QUESTIONS

Is this rulemaking due to a change in state statute?

_____ Yes, the bill number is _____; rules are ___ authorized ___ required.

X _____ No

Is this rulemaking due to a federal statutory or regulatory change?

_____ Yes

X _____ No

Does this rule incorporate materials by reference?

_____ Yes

X _____ No

Does this rule create or modify fines or fees?

_____ Yes

X _____ No

REGULATORY ANALYSIS
for Amendments to
6 CCR 1015-1, Emergency Medical Services Account

1. **A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

Grant funds from the Emergency Medical Services Account are available to any organization whose primary purpose is providing emergency medical and trauma services. This includes:

- EMS agencies,
- Hospitals
- Fire agencies,
- Training centers,
- Community colleges, and
- Other public and private providers of emergency medical and trauma services.

There is no cost associated with the proposed amendments. Administration and the Emergency Medical Services Account grants are funded through the Highway Users Tax Fund (43-4-201, C.R.S). The changes being proposed are to ensure that language is consistent and clear as to the grant process, as well as remove the appeals process currently in place. Since the inception of the grant process in 1989, the appeals process has only been invoked twice. In both instances, the department has been found to have acted properly and the original decision has held.

2. **To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.**

There will be no impact upon affected classes. The changes being proposed do not affect the amount of funds available for distribution or how the funds are distributed through the department. The changes are to clarify language and ensure consistency throughout the chapter. The only substantive change will be the removal of the appeals process, which has only been used twice since the grants process was introduced in 1989. Currently, grants obtained through the Emergency Medical Services Account are the only grants administered through the department with an appeal process. This change will bring the Emergency Medical Service Account grants program in line with other department offered grants.

3. **The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

There will be no additional cost to the department to implement this rule change.

4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The Emergency Medical Services Account rules have not been updated since they were adopted in 2002. The proposed amendments seek to clean up and clarify language to provide consistency throughout the rule. These changes will ensure the grant program is consistent with current practices. The removal of the appeals process will also bring certainty to the annual distribution of funds and align the Emergency Medical Services Account grants with other department grant programs.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The proposed rules are the least costly and least intrusive methods. There is no change to the grant application process. However, clearer language and a consistent format with other rules make the rules easier to understand and reduce the time required for interpretation. Removal of the appeals process reduces the potential for lengthy delays in the award process and decreases the potential costs borne by other applicants for projects that may be put on hold awaiting a final decision on the appeal.

6. Alternative Rules or Alternatives to Rulemaking Considered and Why Rejected.

The changes being proposed are predominately administrative in nature and were undertaken by the department over several months. The appeals process was determined to be unnecessary as it has been only used twice in the history of the Emergency Medical Services Account grant program, and is out of step with other department grant programs.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The appeals process has only been used twice in the history of the Emergency Medical Services Account grants program. The appeals process was written so that any decision that was adverse to the applicant could be appealed, by citing the statute, rule or written guideline that was not followed in the review of the application. The actual outcome of a non-funded grant application is not appealable. This broad language and the several steps involved in which the department is making decisions regarding the applicant could result in the grant process being mired in second guessing. The long term consequences of keeping the appeals process in place are unknown, while the removal of the appeals process gives certainty to the whole process.

**STAKEHOLDER COMMENTS
for Amendments to
6 CCR 1015-1, Emergency Medical Services Account**

The following individuals and/or entities were included in the development of these proposed rules:

As the amendments being proposed are primarily administrative in nature, providing clarity and structure, the department developed these rules internally and then notified interested and relevant parties. The removal of the appeal process was determined to be appropriate after discussion with department senior management.

The department presented to the Public Policy and Finance (PP&F) committee of the State Emergency Medical and Trauma Services Advisory Council (SEMTAC) on January 13, 2016 and April 13, 2016. PP&F is made up of the following individuals:

- Thomas Davidson, county commissioner from a rural county
- David Dreitlein, licensed physician who is a prehospital medical director
- Jim Felmlee, county emergency manager
- Lew Gaiter, county commissioner from an urban county
- Thomas Gronow, administrator of an urban trauma center
- John Hall, regional council chair
- Rob Hudgens, member of the public from an urban area
- Randy Leshner, government provider of prehospital care
- Fred Morrison, officer or employee of a public provider of prehospital care
- Kim Muramoto, trauma nurse coordinator
- Buddy Schmaltz, county commissioner from a rural county
- Carl Smith, member of the public from a rural area

The department also presented this information to Regional Emergency Medical and Trauma Advisory Councils (RETAC) on September 2, 2015, December 7, 2015, and June 1, 2016. RETACs are responsible for creating a regional plan for emergency medical and trauma services care in the five or more counties that participate together. The following RETAC coordinators and council members participated when the department presented the proposed amendments for discussion:

- Central Mountains RETAC: Anne Montera, Coordinator, Jamie Woodworth (Summit County Ambulance Service), Chairman, Josh Hadley (Chaffee County EMS), Vice Chairman, Chris Montera (Eagle County Health Services District), Treasurer
- Foothills RETAC: Linda Underbrink, Coordinator, Tom Candlin (St. Anthony Institute for EMS Education), Chairman
- Mile-High RETAC: Shirley Terry, Coordinator
- Northeast Colorado RETAC: Jeff Schanhals, Coordinator, Marci Dowis (Sterling Regional Medical Center), Council Member, Lorraine Speicher (East Phillips County Hospital District), Council member
- Northwest RETAC: Addy Marantino, Coordinator, John Hall (Grand Junction Fire Department), Chairman
- Plains to Peaks RETAC: Kim Schallenberger, Coordinator, Rob Handley (Limon Ambulance Service), Chairman, Tim Dienst (Ute Pass Regional Health Services District), Vice Chairman

- San Luis Valley RETAC: Jon Montano, Coordinator, Jeff Babcock, Chair, Rodney King (Conejos County EMS), Treasurer, Jim Felmler(Saguache County Emergency Management), Council member
- Southeast Colorado RETAC: Josh Eveatt, Coordinator
- Southern Colorado RETAC: Brandon Chambers, Coordinator
- Southwest RETAC: Amy Allen, Coordinator
- Western RETAC: Terri Foechterle, Coordinator, Jerry Gray, (Hinsdale County EMS) Chairman

The department also notified the general emergency medical and trauma services community through the EMTS on the Go weekly email starting on May 18, 2016 regarding the rule change. This notice continues to be part of the weekly email to date. There are more than 1,200 interested parties on this email distribution list

The following individuals and/or entities were notified that this rule-making was proposed for consideration by the Board of Health:

See discussion above.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

There have been no major factual or policy issues encountered through the stakeholder process. The amendments being proposed do not result in a change in the grant distribution process and will not affect applicants in a substantive way.

Please identify health equity and environmental justice (HEEJ) impacts. Does this proposal impact Coloradoans equally or equitably? Does this proposal provide an opportunity to advance HEEJ? Are there other factors that influenced these rules?

The proposed amendments do not have health equity or environmental justice impacts.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities and Emergency Medical Services Division

EMERGENCY MEDICAL SERVICES ACCOUNT

6 CCR 1015-1

.....

Section 1 - Statement of Basis and Purpose

The General Assembly of the State of Colorado in Section 25-3.5-102, CRS, recognized the importance of an efficient and reliable statewide emergency medical and trauma network for the promotion of health, safety, and welfare of Colorado residents and visitors. The assembly further amended the statute to include the creation of an Emergency Medical Services Account (Section 25-3.5-601, CRS) and specified that funds from said account shall be utilized by local emergency medical and trauma service providers in order to improve the statewide emergency medical and trauma network.

Section 2 - Definitions

As used in these regulations, the words and terms in this section shall have the meaning as set forth herein unless the context clearly requires a different meaning.

2.1 All definitions that apply to Section 25-3.5-602, C.R.S. apply to these rules.

2.2 "Contract" - The document between the Department and applicant chosen as a recipient of funds from the Emergency Medical Service Account. The contract describes the terms and conditions of the award agreement.

2.3 "Council" - the State Emergency Medical and Trauma Services Advisory Council created in Section 25-3.5-104, C.R.S.

2.4 "Emergency Account" - funds set aside pursuant to Section 25-3.5-603(3)(a)(II)(A), C.R.S. for unexpected emergencies that arise after the deadline for grant applications has passed or those circumstances that require immediate attention or action.

2.5 "Emergency Medical and Trauma Services" - planning, training and services needed to prevent, respond to and treat an injury or sudden illness particularly when there is a threat to life or long-term functional abilities.

Section 3 - Emergency Medical and Trauma Service Funding

3.1 In order to be eligible for emergency medical and trauma service funding, an applicant must be able to demonstrate:

A) That the funds requested are for the provision of emergency medical and trauma services, and

B) Will be used to maintain or upgrade the access to and/or quality of emergency medical and trauma services within the state.

3.2 Applications must be submitted in the format required by the Department prior to the announced deadlines.

3.3 To be considered, applications must

45 A) Be complete and

46
47 B) Be submitted in the manner specified in the announcement.

48
49 3.4 All applications will be subject to verification by the Department.

50
51 3.4.1 Verification shall include:

52
53 A) A review of the application for completeness and compliance with the requirements specified
54 in the application, and

55
56 B) A review of the applicant's eligibility as set forth in these regulations.

57
58 3.4.2 Any application found to be inconsistent with the requirements specified in paragraphs A) and B)
59 will be rejected and the applicant will be notified of the rejection.

60
61 3.5 The Department, in consultation with the Council, shall establish requirements for matching funds from
62 applicants prior to the opening of each grant cycle. These requirements will be provided in the application
63 process.

64
65 3.6 Any application received that does not meet the matching funds requirement specified in the application will be
66 rejected unless the applicant requests a waiver of the matching funds.

67
68 3.6.1 The Council shall establish a committee to review all applications requesting a waiver of the
69 matching funds requirement. The committee will evaluate each application requesting a waiver to
70 determine whether the applicant has successfully demonstrated that local matching funds are not available.

71
72 3.6.2 Any application that does not receive a waiver from the Council will not be eligible for funding.

73
74 3.7 To provide a fair and impartial review and evaluation of the applications, the Council shall establish review
75 committees of members designated by the Council. Each committee will review and evaluate applications
76 and submit recommendations to the Department.

77
78 3.8 The Department shall provide final review and prioritization of the applications and make awards based upon:

79
80 A) Priorities established by statute,

81
82 B) Recommendations from the Council,

83
84 C) Substantiated need of the applicant, and

85
86 D) Effect upon the emergency medical and trauma system should funds not be awarded.

87
88 3.9 The Department, in consultation with the Council, may, within statutory limitations, reestablish funding
89 priorities for the Emergency Medical and Trauma Services Funding Program to address specific needs
90 related to the maintaining and upgrading of the Colorado emergency medical and trauma services system.

91
92 3.10 A letter of intent to award funds to an applicant is only an offer to enter into a funding contract, and not an
93 actual funding obligation on the part of the Department. Only when a contract listing conditions of the
94 award is accepted and, if applicable signed by all parties, will any formal obligation be recognized or funds
95 disbursed.

96
97 **Section 4 - Emergency Medical and Trauma Services Emergency Funding**

98
99 4.1 Application for funds from the Emergency Account may be submitted to the Department at any time. Unless
100 waived by the Department because of extreme emergency or need for immediate action, the application
101 must be submitted in the format approved by the Department and shall contain:

102
103 A) Evidence of financial need or hardship;

104

105 B) A detailed description of the emergency, to include causation, resolution, and the effect on local delivery of
 106 emergency medical and trauma services if funding is not provided; and

107
 108 C) The methods explored by the applicant to resolve the crisis other than funding from the Emergency
 109 Account.

110
 111 4.2 In addition to meeting the standard grant eligibility requirements, the emergency fund applicant must be able to
 112 demonstrate:

113
 114 A) That the request for funds is for an unexpected emergency and

115
 116 B) If the funds are not received, access to and/or quality of local emergency medical services will be seriously
 117 hindered or eliminated.

118 119 **Section 1 – Statement of Basis and Purpose**

120 The General Assembly of the State of Colorado in Section 25-3.5-102, CRS, recognized the importance
 121 of an efficient and reliable statewide emergency medical and trauma network for the promotion of health,
 122 safety, and welfare of Colorado residents and visitors. The assembly further amended the statute to
 123 include the creation of an Emergency Medical Services Account (Section 25-3.5-601, CRS) and specified
 124 that funds from said account shall be utilized by local emergency medical and trauma service providers in
 125 order to improve the statewide emergency medical and trauma network.

126 **Section 2 – Definitions**

127 As used in these regulations, the words and terms in this section shall have the meaning as set forth
 128 herein unless the context clearly requires a different meaning.

129 2.1 All definitions that apply to Section 25-3.5-602, CRS Apply to these rules.

130 2.2 “Contract” means the document between the Department and the emergency medical and
 131 trauma service provider chosen as a recipient of funds from the EMS Account. The contract
 132 describes the terms and conditions of the award agreement.

133 2.3 “Council” means the State Emergency Medical and Trauma Advisory Council created in
 134 Section 25-3.5-104, CRS.

135 2.4 “Emergency Account” means those funds that have been set aside pursuant to Section 25-
 136 3.5-603, CRS for those unforeseen, involuntary circumstances resulting in the need for immediate
 137 attention and/or action.

138 2.5 “Emergency Medical and Trauma Services” are the services, planning or the training therein,
 139 utilized in a pre-hospital environment in response to the perceived individual needs for prevention
 140 of: loss of life, further aggravation to physiological and/or psychological injury, and/or inherent
 141 harm to an individual or group of individuals.

142 **Section 3 – Emergency Medical and Trauma Service Provider Grants**

143 **3.1 Eligibility for Grant Funds**

144 In order to be eligible for emergency medical and trauma service grant funds, the applicant must be able
 145 to demonstrate that their purpose is for the provision of emergency medical and trauma services and their
 146 intent must be to maintain or upgrade the access to and/or quality of emergency medical and trauma
 147 services within the community/county/region/state.

148 **3.2 Applications for Emergency Medical and Trauma Service Provider Grant Funds**

149 All applications must be submitted on forms provided by the Department. In addition, all applications
150 must:

- 151 1) be complete and contain any additional information deemed necessary by the Department,
152 and
- 153 2) be submitted to the address specified in the announcement before the deadline specified at
154 the announcement of the application for funds.

155 **3.3 Application Verification Process**

156 All applications will be verified by the Department. This verification process shall include:

- 157 1) a review of the application for completeness and compliance with the requirements specified
158 in the application, and
- 159 2) a review of the applicant's eligibility as set forth in these regulations. Any application found to
160 be inconsistent with the requirements specified in paragraphs 1) and 2) will be rejected
161 and the applicant will be notified of the rejection.

162 **3.4 Matching Fund Requirement/Waiver**

- 163 1) The Department, in consultation with the Council, shall establish the matching funds requirements
164 prior to the opening of each grant cycle. These requirements will be provided in the application
165 process. Any application received that does not meet the matching funds requirement specified in
166 the application will be rejected unless the applicant requests a waiver of the matching funds.
- 167 2) The Council shall establish a committee to review all applications requesting a waiver of the matching
168 funds. The committee will evaluate each application requesting a waiver to determine whether the
169 applicant has successfully demonstrated that local matching funds are not available. Any
170 application that does not receive a waiver from the council will not be eligible for funding.

171 **3.5 Application Review and Evaluation**

172 To provide a fair and impartial review and evaluation of the applications, the Council shall:

- 173 1) Establish review committees of members designated by the Council. Each committee will
174 review and evaluate applications and submit recommendations to the Council, and
- 175 2) The Council will review the recommendations from each committee and provide
176 recommendations to the Department.

177 The Department shall:

- 178 1) Provide final review and prioritization of the applications and make awards based upon
179 priorities established by statute, recommendations from the council, substantiated need,
180 and impact upon the emergency medical and trauma service programs should funds not
181 be awarded.

182 **3.6 Awarding of Funds**

- 183 1) The Department, in consultation with the Council, may, within statutory limitations, reestablish funding
184 priorities for the Emergency Medical and Trauma Services Grant Program to address specific
185 needs related to the maintaining and upgrading of the Colorado Emergency Medical and Trauma
186 Care System.
- 187 2) A letter of intent to award funds to an applicant is only an offer to enter into a grant contract, and not
188 an actual funding obligation on the part of the Department. Only when a contract listing conditions
189 of the grant is accepted and signed by all parties will any formal obligation be recognized or funds
190 disbursed.

191 **3.7 Appeal Process**

192 Applicants who wish to appeal an adverse action with respect to their grant application shall:

193 1) Make the request in writing to the Department within 60 days of notification of a denial of an
194 award

195 2) Include the statute, rule or written application guideline that was not followed in the review of
196 their grant application.

197 The Department shall:

198 3) Review requests for appeals to substantiate a violation of statute, rule or application guideline

199 4) Notify the applicant and the Council of their findings

200 The Council shall:

201 5) Review appeals where there is a substantiated violation of statute, rule or application guideline
202 and make recommendations to the Department for corrective action.

203 **Section 4 – Emergency Medical and Trauma Services Emergency Grants**

204 **4.1 Emergency Grant Funds Application Requirements**

205 Application for funds from the Emergency Account may be submitted to the Department at any time.
206 Unless waived by the Department because of extreme emergency or need for immediate action, the
207 application must be submitted on forms provided by the Department and shall contain:

208 1) Evidence of financial need or hardship

209 2) A detailed description of the emergency, to include causation, resolution, and the impact on
210 local delivery of emergency medical services if funding is not provided, and

211 3) The methods explored by the applicant to resolve the crisis other than funding from the
212 Emergency Account.

213 **4.2 Eligibility for Emergency Medical and Trauma Service Grant Funds within the Emergency**
214 **Fund**

215 In addition to meeting the standard grant eligibility requirements, the emergency fund applicant must be
216 able to demonstrate that the request for funds is a true emergency in which, if the funds are not received,
217 access to and/or quality of local emergency medical services will be seriously hindered or eliminated.
218