

DEPARTMENT OF HUMAN SERVICES

Income Maintenance (Volume 3)

COLORADO WORKS PROGRAM

9 CCR 2503-6

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

3.600 COLORADO WORKS PROGRAM [Rev. eff. 3/1/2022]

3.600.1 Performance Contract

County departments shall enter into a performance contract with the State Department, which may be called a memorandum of understanding (MOU), regarding the delivery of Colorado Works programming. This contract will outline performance measures that the county department is required to meet.

3.600.2 County Policies

County departments shall submit the following county policies to the State Department for review and approval. The State Department is responsible for reviewing and approving county policies, assuring that all counties are complying with all federal and State statutes and regulations. After approval by the State Department, the county department shall have their State approved policies signed by their county board of commissioners or the board's designee and provide a signed copy back to the State Department. The State Department will communicate, in advance, when a change to the list of required policies is made. Counties who do not provide signed county policies within the timeframe required by the State Department will operate under these broad State rules and default to the State defined policies.

The following policies are required:

- A. Diversion
- B. County Approved Settings
- C. Workforce Requirements and Employment Outcomes
- D. Disaster Assistance
- E. Domestic Violence
- F. Other Assistance and Supportive Payments
- G. Hardship Extensions
- H. Substance Abuse (only required if practiced)

County departments should regularly review their Colorado Works policies to ensure alignment with current county practice.

3.600.3 Contracting

3.600.31 Private Contracting

The Board of County Commissioners may contract all or part of the Colorado Works program operation to private or public providers. They may also choose to contract out the provision of goods or services to Colorado Works (CW) eligible persons/families.

A. Prior to initiating a contract with a provider, the county shall:

1. Verify that the provider has not been debarred or suspended or otherwise found to be ineligible for participation in federal assistance programs by consulting the ineligible parties list at <http://www.epls.gov>.
2. Determine if the provider is acting as a sub-recipient and is therefore subject to OMB Circular A-133 (2003) and expanded auditing and oversight requirements. No later editions or amendments are incorporated. This circular is available at no cost from the U.S. Government Publishing Office at 732 North Capitol St., N.W., Washington, D.C. 20002, or at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/a133/a133.pdf>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Economic Security, 1575 Sherman St., Denver, CO 80203, during regular business hours.

B. All contracts shall:

1. Specify the Temporary Assistance for Needy Families (TANF) purpose(s) that is served and/or supported, as outlined in the Code of Federal Regulations at 45 CFR 260.20 (2021). No later editions or amendments are incorporated. These regulations are available at no cost from the U.S. Department of Health and Human Services at 200 Independence Ave., S.W., Washington D.C. 20201, or at <https://www.ecfr.gov/>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Economic Security, 1575 Sherman St., Denver, CO 80203, during regular business hours.
2. Approximate, with reasonable certainty, the number of CW eligible persons to be served and include the method used to calculate this number. This number and the calculation used must be documented and made available upon request by the State Department for audit purposes.
3. Outline the provider's eligibility verification process to ensure that goods and services are provided to CW eligible persons/families.
4. Explain how the costs for the goods/services are calculated.
5. Prohibit supplantation.
6. Include a regular accounting of activities and costs at least twice a year.
7. Clarify that all expenditures for goods, services, or start-up funds be documented with a purchasing document.
8. Ensure that the agency has the ability to clearly identify CW eligible individuals from others in situations where an agency receives funding from multiple sources.

9. Outline specific and measurable performance goals for the contract.
 10. Require, if the county chooses to, that a client apply for CW, sign a written agreement, or complete an Individualized Plan.
 11. Ensure that a HIPPA agreement is signed and on-file in instances where the provider will obtain protected health information. All other contracts must ensure reasonable expectations for the provider to keep client information confidential and secure.
 12. Complete an audit in instances where the county is contracting \$750,000 or more in CW funds during the fiscal year, in compliance with OMB Circular A-133, as incorporated by reference in section 3.600.31.a.2.
- C. Some contracts may be classified as a community resource investment contract pursuant to Section 26-2-707.5(1), C.R.S. These contracts do not require clients to complete an application, a written agreement, or Individualized Plan, though the county may continue to require such documentation per their own individual contracting procedures.

Community resource investment contracts shall meet all contract requirements as outlined above in section 3.600.31 and shall:

1. Include the purpose of the contract and investment in the community.
2. Specify the income eligibility standards that are used.
3. Outline the county's dispute resolution process if it differs from that outlined in section 3.609.6.

3.600.32 County Contract with Religious Organizations

Counties may contract with religious organizations for the payment of cash assistance or provision of services. If the individual objects to being served by the religious organization chosen as a contractor, the county must provide alternative means for the individual or family to receive benefits, assistance, or services. Contract agencies providing services to individuals must have the ability to provide services that are equitable and make all services available offered to every client.

3.600.4 State Flexibility for Pilot Programs

Nothing in these rules prohibits the State Department from piloting programs to serve the TANF population within the bounds of federal regulations for the program. Pilot programs may be offered at the State level or in partnership with one or more county departments. Pilot programs may be designed to serve a subset of clients based on broad-based eligibility factors and may have different eligibility criteria than listed in this rule volume.

3.600.5 Program Review and Oversight

County department supervisory personnel and/or quality assurance staff shall review eligibility determinations (certifications, denials, and/or pending cases) monthly. Supervisory personnel and/or quality assurance staff shall:

- A. Review a minimum number of cases, including specific programs and/or actions, per month as outlined annually by the State Department based on the county department's Colorado Works caseload size. The State Department will notify the county of the minimum number of cases to be reviewed.

The county may elect to:

1. Create a plan to pull a random sample that includes at least the minimum number of Colorado Works cases set forth by the State Department and submit that plan to the State for approval.
 2. Use the State prescribed random sample.
- B. Determine the correctness of eligibility determinations;
- C. Ensure correction of any errors within ten (10) business days or the time frame specified within the approved review plan;
- D. Maintain a record of the cases reviewed for audit purposes, including audit results and any required actions taken by the county. County departments must keep case file reviews for a minimum of three (3) years; and;
- E. Report these results and actions to the State on a monthly basis via the state prescribed process.

3.601 Program Definitions

“Adequate” (related to notice) means a written notice sent to the client which details any determination of eligibility, as well as a change or discontinuation of grant payments and the reason for that change.

“Administrative Disqualification Hearing” (ADH) means a disqualification hearing against an individual accused of wrongfully obtaining or attempting to obtain assistance.

“Administrative error claim” means a grant payment was overpaid and a claim validated based on an error on the part of the county department of human services.

“Administrative Law Judge” (ALJ) means an Administrative Law Judge appointed pursuant to Section 24-30-1003, C.R.S.

“Adverse action” means a county action to reduce grant payments or to deny an application. A reduction may be the result of a sanction, a demonstrable evidence closure, or ineligibility based on income or household changes.

“Affidavit” means a State prescribed form wherein a client attests, subject to the penalties of perjury, that he or she is lawfully present in the United States. An affidavit need not be notarized.

“Applicant” means any individual or family who individually or through an authorized representative or someone acting responsibly for him or her has applied for benefits under the programs of public assistance administered or supervised by the State Department pursuant to Title 26, Article 2, C.R.S., as defined at Section 26-2-103(1), C.R.S.

“Application” means an initial or redetermination request on State approved forms (paper or electronic) for a grant payment and/or services.

“Approval” means assistance is authorized by the county department.

“Assessed need” means any identified need of a client or family receiving Colorado Works grant payments beyond ordinary, routine living expenses that is designed to deal with a specific crisis situation or episode of need, is not intended to meet recurrent or ongoing needs, and will not extend beyond four (4) months without a new assessment.

“Assistance unit” means individuals who live together and who are receiving grant payments as one household.

“Authorized representative” means someone acting reasonably for the client with the authority to make decisions on behalf of the client and who has taken responsibility for the case, including but not limited to, signing documents and speaking with county departments. The authorization must be in writing and signed by the client.

“Basic cash assistance” means a recurrent cash payment intending to meet ongoing needs.

“Budgetary unit” means those people whose income is considered in the determination of eligibility and grant payment calculation because they are considered financially responsible for members of an assistance unit. Members of the budgetary unit can be in the assistance unit or outside of the assistance unit.

“Caretaker” means a person who exercises the responsibility for a child.

“Certification period” means the time period for which a CW client is approved to receive grant payments before a redetermination is required.

“Claim” means an overpayment of a grant payment that needs to be researched and validated by the county department.

“Clear and convincing” evidence is stronger than “a preponderance of evidence” and is unmistakable and free from serious or substantial doubt.

“Client” means a current or past applicant or a current or past recipient of a Colorado Works grant payment.

“Client error claim” means a grant payment was overpaid and a claim was validated based on unintentional or willful withholding of information on the part of the client.

“Collateral contact” means a person outside the client’s household (excluding sponsor(s) and landlord who also live in the home) who has first-hand knowledge of the client’s circumstance and provides a verbal or written confirmation thereof. This confirmation may be made either in person, in writing, electronically submitted, or by telephone. Acceptable collateral contacts include but are not limited to: employers, landlords, social/migrant service agencies, and medical providers who can be expected to provide accurate third-party verification. The name/title of the collateral contact as well as the information obtained must be documented in the statewide automated system.

“Colorado Works” is the Temporary Assistance for Needy Families (TANF) program in Colorado.

“Countable income” means income considered available to the individual after the application of valid exemptions, disregards, and deductions.

“County department” means the county department of human/social services.

“County policy(ies)” means the written county policies governing the Colorado Works program as approved by the State Department and county board of commissioners or their designee.

“County worker” means an employee or designated representative of the county department.

“County approved setting” means a living arrangement evaluated and deemed appropriate by the county department according to county policy.

“Demonstrable evidence” means evidence that a Colorado Works client has refused to comply with the workforce program.

“Denial” means that a Colorado Works application was denied because the client was not eligible for a grant payment upon application.

“Dependent child(ren)” means a person who resides with a parent or non-parent caretaker and who is:

- A. Under eighteen (18) years of age; or,
- B. Between the ages of eighteen (18) and nineteen (19) and a full-time student in a secondary school or in the equivalent level of vocational or technical training (including seeking to obtain high school equivalency) and expected to complete the program before age nineteen (19).

“Discontinuation” means that a client who is currently receiving a grant payment is no longer eligible and his or her grant payment will be stopped.

“Disqualified person” means a person who would be a member of the assistance unit but is ineligible due to program prohibitions.

“Diversion” means a short-term cash payment (not to extend beyond four (4) months) intended to meet an episode of need.

“Domestic violence” (also known as family violence) means a pattern of coercive control one individual inflicts upon another in the context of familial, household, or intimate partner (current or former) relationships including marriage and dating. Violence may be inflicted through a variety of means including, but not limited to:

- A. Physical acts threatening or resulting in physical injury to the individual, including hitting, punching, slapping or biting;
- B. Intimidation resulting in fear of imminent bodily harm through the use of gestures, displays of weapons, or destruction of property, including pets;
- C. Threats of or attempts at physical or sexual abuse or other means of coercion and control, including harm to or threats to harm children, other family members, or pets;
- D. Sexual abuse or threats to inflict nonconsensual sexual acts, including sexual activity with a minor;
- E. Mental, emotional, or psychological abuse including degradation, constant put-downs, or humiliation that results in a reduced ability to engage in daily activities;
- F. Isolation from friends, family, or any type of emotional support system;
- G. Neglect or deprivation of medical care;
- H. Stalking;
- I. Economic abuse or control of finances through withholding money or sabotaging attempts to attain economic self-sufficiency; and/or,
- J. Child molestation, incest.

“Domestic violence survivor” means any person who has experienced or is experiencing domestic violence as defined above.

“Earned income” means payment in cash or in-kind received by an individual for services performed as an employee or as a result of being engaged in self-employment.

“Effective date of eligibility” means the first date a client is eligible for the public assistance program.

“Eligibility requirements” means criteria used to determine individuals eligible or ineligible to receive grant payments and/or services.

“Eligible client” means a client whose countable income is below the grant standard and who meets all non-financial eligibility criteria.

“Emancipated juvenile” means the same as in Section 19-1-103(45), C.R.S.

“Exceptional disengagement” means a pattern of documented non-compliance with the Individualized Plan over a span of time without reporting good cause. The pattern must clearly demonstrate repetitive disengagement from the program over a span of not more than two (2) months, such as three (3) consecutive times in one (1) month or four (4) times in two (2) months. Exceptional disengagement does not exist when a client has demonstrated an unmet need for transportation or childcare or when domestic violence or a disability impact a client. Exceptional disengagement is reported to the State Department via a State prescribed review process.

“Excluded person” means a person who is not included in the assistance unit or budgetary unit.

“Exempt income” means any income that is not countable income for the purpose of eligibility.

“Federal Poverty Guidelines” also called Federal Poverty Level (FPL) means the income level for a household as set forth in the Federal Register 86 FR 7732, 7732-7734, as of February 1, 2021. This rule does not contain any later amendments or editions. These guidelines are available for no cost at <https://www.federalregister.gov/>. These guidelines are also available for public inspection and copying at the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203, or at any state publications library during regular business hours.

“Fleeing felon” means a person fleeing to avoid prosecution or custody or confinement after conviction for a felony.

“Fraud” means the same as in Section 26-1-127(1), C.R.S.

“Family violence option (FVO) trained worker” means a county worker or contract staff who has participated in the State prescribed FVO training.

“Good cause” means circumstances beyond the control of the client. Good cause includes, but is not limited to, medical emergencies or hospitalization; a client who has a disability or other medical condition(s) requiring additional time and/or assistance; a delayed appointment with the Social Security Administration beyond the client's control; or other good cause determined reasonable by the county department using the prudent person principle, including the reasons outlined in 3.608.3. Related to the appeal process, the following circumstances do not constitute good cause: an excessive workload of a party or his or her representative or attorney; when a party obtains legal representation in an untimely manner; a party or his or her representative or attorney's failure to either receive or timely receive, a timely mailed initial decision, or other timely mailed correspondence from the Office of Administrative Courts, the Office of Appeals, or the county department; when a party or his or her representative or attorney has failed to advise the Office of Administrative Courts, the county department, or the Office of Appeals of a change of address or failed to provide a correct address; or any other circumstance which was foreseeable or preventable.

“Grant payment” means the Colorado Works program payment that can either be basic cash assistance or diversion. Grant payments may also be referred to as the benefit.

“Grant standard” means the maximum Colorado Works grant payment that can be provided to a client based on the household composition, not including diversion or assessed need.

“Guardian” means the same as in Section 26-2-703(10.2), C.R.S.

“Immediate family member” means spouses, child(ren), parents, siblings, and the spouses of those persons.

“Income” means any financial gain by means of money payment or in-kind payment. Payments made directly to a vendor are not income.

“Income reporting standard” means the amount of income which requires an assistance unit to report an increase in earnings during a certification period.

“In-kind” means something of value received for the benefit of a client or sponsor(s) of a client and is considered either earned or unearned income. Examples of this are food or shelter that the client received for free or at fair market value or less.

“Intent” and/or “intentionally” means the same as in Section 18-1-501(5), C.R.S.

“Intentional program violation” (IPV) occurs when an individual makes a false or misleading statement or fails to disclose by misrepresentation or concealment of facts, or acts in a way that is intended to mislead or conceal any eligibility factor on any application or other written and/or electronic communication for the purpose of establishing or maintaining eligibility to:

- A. Receive a grant payment for which the client is not eligible; or,
- B. Increase a grant payment for which the client is not eligible; or,
- C. Prevent a denial, reduction or termination of a grant payment.

“Irregular” (related to income) means income which an individual cannot reasonably expect to receive on a monthly basis.

“Liable individual” means a person financially responsible for an overpayment including the client, sponsor(s) of a client, a payee, parents of dependent children, and/or other persons determined to be financially liable by a court.

“Medical services” means services that are allowable or reimbursable under Title XIX of the Social Security Act.

“Minor” means a person who is under the age of eighteen (18).

“Noncustodial parent” means an individual who, at the time he or she requests and receives program services:

- A. Is a parent of a minor child; and,
- B. Is a resident of Colorado; and,
- C. Does not live in the same household as the minor child.

“Overpayment” means a grant payment was made in excess of the amount a client was eligible for.

“Parent” means an adoptive or natural/biological parent, including an expectant parent, upon verification of that pregnancy.

“Periodic payments” means payments that are irregular or a one-time payment.

“Potential income” means a benefit or payment to which the client or sponsor(s) of a client may be entitled and could secure, such as spousal support, annuities, pensions, retirement or disability benefits, veterans compensation and pensions, workers' compensation, Social Security retirement or disability benefits, Supplemental Security Income (SSI) benefits, and unemployment compensation.

“Produce” means to provide for inspection either: 1) an original or 2) a true and complete copy of the original document. A document may be produced either in person, electronically, or by mail.

“Program prohibitions” means any of the following that prevents a required member of the assistance unit from participating in the Colorado Works program.

- A. The individual has misrepresented his or her residence to receive TANF benefits or services simultaneously in two or more states;
- B. The individual is a fugitive or fleeing felon;
- C. The individual has been convicted of a drug-related felony on or after July 1, 1997, unless the county has determined that the person has taken action toward rehabilitation, such as, but not limited to, participation in a drug treatment program;
- D. The individual is a non-citizen who does not meet the definition of an eligible qualified non-citizen;
- E. The individual has been convicted of welfare fraud under the laws of this State as described in Section 26-1-127, C.R.S., any other state, or the federal government. The individual convicted of fraud shall not be permitted to receive grant payments but may receive services as deemed necessary; or,
- F. The individual lacks or failed to provide a Social Security Number (SSN) or proof of application for a SSN.

“Prudent person principle” means that, based on experience and knowledge of the program, the county department exercises a degree of discretion, care, judiciousness, and circumspection, as would a reasonable person, in a given case.

“Qualified non-citizen” is the same as “qualified alien” in 8 U.S.C. 1641(b) and the language, including all notes, in 8 U.S.C. § 1101 and may also be referred to as a legal immigrant.

“Questionable” means the information provided is unclear, conflicting information has been provided, or the county has reason to believe facts presented are contrary to the information provided by the client.

“Received” (for the purpose of income) means the date on which the income is actually received or legally becomes available for use, whichever occurs first, whether reported timely by the client or not.

“Received” (as it applies to receipt of verification, documentary evidence, and reported changes in circumstances) means the date the verification, documentary evidence, and reported changes were received by the county department.

“Recovery” means the collection of a valid claim to repay grant payments to which a client was not entitled.

“Redetermination” means a case review/determination of necessary information and verifications to determine ongoing eligibility and may also be called renewal.

“Responsibility/exercising responsibility” means the accountability for and obligation to make decisions on behalf of a child(ren).

“Sanction” means a reduction in Colorado Works grant payments for an established period of time as a result of not participating in the Workforce Development program.

“Scheduled appointment” or “scheduled interview” means an appointment or interview set using a State prescribed or State approved appointment notice provided to the client.

“Self-employment” means work that is performed at the client's discretion either informally, as an independent contractor or as the owner of a business and not for an employer. Self-employment does not include S-Corps or Limited Liability Companies (LLC).

“Signature” means handwritten signatures, electronic signature techniques, recorded telephonic signatures, or documented gestured signatures. A valid handwritten signature includes a designation of an x. For Individualized Plans and conditions agreements, a verbal agreement is an acceptable signature and must be substantiated with an electronic, recorded telephonic, or written agreement of the terms.

“Sponsor” means any person(s) who executed an affidavit of support (USCIS form I-864 or I-864a (March 6, 2018)) or another form deemed legally binding by the Department of Homeland Security on behalf of a non-citizen as a condition of the non-citizen's date of entry or admission into the United States as a permanent resident. These forms are herein incorporated by reference. This rule does not contain any later amendments or editions. These forms are available at no cost from <https://www.uscis.gov/forms>. These forms are also available for public inspection and copying at the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203, or at any state publications library during regular business hours.

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

“Statewide automated system” means the electronic platform used to calculate public assistance program benefits and grant payments.

“Supplantation” means the replacement of county funds serving Colorado Works clients with block grant funds and the use of those county fund savings for purposes other than the Colorado Works program.

“Supportive payment” means a payment and/or service in addition to basic cash assistance or diversion that is based on an assessed need.

“Termination” means that the client who is currently receiving Colorado Works program grant payments is no longer eligible and his or her grant payments will be stopped.

“Timely notice” means the county shall generate a notice to the client at least eleven (11) calendar days prior to the initiation of any adverse action. This shall be sent to his or her last address known to the county department.

“Unearned income” means any income received by a client or sponsor(s) of a client that is not earned through employment or self-employment.

“Unintentional” or “without intent” means an act, or something done or performed that was not voluntary or intended.

“Verification” or “verify” means confirming statements, application information, and other case information by obtaining written, audio, or other evidence or information that proves such fact or statement to be true.

“Verified upon receipt” means information that is provided directly from the primary source and is not questionable and no additional verification is required.

“Willful” means the same as in in Section 18-1-501(6), C.R.S.

“Willful withholding of information” includes:

- A. Willful misstatement including understatement, overstatement, or omission, whether verbal or written, made by a client in response to verbal or written questions from the county department; and/or,
- B. Willful failure by a client to report changes in income or other circumstances which may affect the amount of grant payment.

“Withdraw” or “withdrawal” means an application is not processed because the client who submitted the application withdraws his or her request for assistance prior to eligibility determination, or requests his or her grant payment be discontinued.

“Workforce Development (WD)” means the program provided to clients determined to be work eligible as described in section 3.607.

3.602 Applications for Colorado Works

3.602.1 Applications

- A. An individual shall have the opportunity to apply for Colorado Works assistance without delay. When an individual is unable to make an application in person at the county department, the county department, upon request of the applicant, shall mail the State Department’s prescribed public assistance application form or assist the individual in applying for assistance utilizing other forms of the State Department’s prescribed application.
 - 1. County departments shall not require any pre-eligibility screening process designed to deter individuals from applying for Colorado Works benefits, services, and/or payment. All applications shall be accepted by the county department and entered into the statewide automated system to determine the applicants’ eligibility for the program.

2. County departments shall accept applications for Colorado Works during normal business hours. They shall not be restricted to a certain day or time of day. County departments shall not refer applicants to community resource providers in place of allowing them to apply for Colorado Works benefits or otherwise limiting opportunities to apply for Colorado Works. In addition, county departments shall accept applications at all Human/Social Services departments for public assistance locations. The application date shall be the date that the application is received in the public assistance office.
3. If the applicant wishes to terminate the process before the application is completed, it shall be treated as an "inquiry" and the application will not be acted upon for a determination of eligibility. An inquiry is a request of information about eligibility requirements for public assistance. If the applicant wishes to terminate the process after the application is submitted, it shall be treated as a "withdrawal/denial."
4. An applicant may choose to withdraw his or her application anytime during the application process or after a grant payment is determined. A decision by the applicant to withdraw shall be treated as a denial by the county department. The applicant shall be notified of the action of the county department on the State-approved Notice of Action form.

B. Administrative Review

All Colorado Works clients whose benefits have been denied, reduced or terminated shall receive timely and adequate notice of the denial or change in benefits in accordance with section 3.609.1. In addition, the client shall have the right to appeal a county department's action in accordance with State rules pursuant to Section 3.609.7. A Colorado Works client receiving basic cash assistance shall have benefits continued if an appeal is filed timely in accordance with rules at Section 3.609.2.E.2.

C. General information concerning public assistance programs shall be provided to all persons seeking information. This shall be provided in writing by the county department. In addition, verbal notice shall be provided to all persons seeking information when requested. Available information shall include:

1. Information about the Colorado Works Program;
2. Conditions of eligibility;
3. Scope of benefits;
4. Time limits;
5. Related services available;
6. Domestic violence waivers; and,
7. Rights and responsibilities of clients.

D. The county department shall ensure that no information concerning a client is released without authorization except as outlined in E.2.i below. In circumstances when a client needs assistance with the application process, information shall not be released by the county department to the assisting individual(s) unless the individual is accompanied by the client, or is the client's authorized representative, or a written authorization to release information is obtained from the client. Upon request, the county department shall provide assistance in completing the application form.

When a client is a person with disabilities and is unable to complete the forms the spouse, other relative, friend, or authorized representative may complete the forms. When no such person is available to assist in these situations, the county department must assist the client in the completion of the necessary forms. The county department also may refer the client to a legal or other resource. The county shall provide reasonable accommodations under the Americans with Disabilities Act for disabled clients. The county department shall make referral to the Social Security Administration (SSA) office for all aged, disabled, or blind clients that may be eligible to receive SSA benefits. However, this shall not negate the county department's responsibility to obtain and process the application. In the event that a client needs assistance in submitting and completing an application, the individual providing this assistance is not considered to be the authorized representative unless the required prescribed or approved State form has been signed indicating such authority for the individual to be the authorized representative on the case.

Applications for clients in special situations shall be handled as follows:

1. Clients who cannot write their names shall make a mark, and such mark shall be witnessed by the signature of at least one witness. The printed name and address of such witness shall follow the signature. County workers may act as witnesses if not related to the client.
2. A client receiving medical treatment in a medical facility shall submit an application to the county department in which the facility is located. When a county department receives an application for a client whose place of residence is in another county, the application shall be forwarded to that county department for processing. When a client has no determinable county of residence, the county department in which the facility is located shall process the application.
3. An application for a client in a public institution shall be processed by the county department where the client has established residence or the county in which the court is located which issued a confinement order. When the application process is completed, the case shall become the responsibility of the county department in which the institution is located.
4. All clients' rights shall be preserved. The signed release of information form/authorization to release information form may be used only for the entities/agencies for which it is intended. No subset of that agency or legal entity attached to that agency shall be included in the authorization to release information unless specified by the client.

E. Receiving Applications for Colorado Works Benefits

1. When receiving applications for benefits, county workers shall:
 - a. Record the date the signed application was received by the county department.
 - b. Review applications for completeness and determine eligibility for assistance;
 - c. Schedule an interview with the client if the interview is not taking place immediately.
 - 1) The client shall be offered an in-person interview at redetermination. if the client does not elect an in-person interview, the county shall schedule and conduct a phone interview.

- 2) The client shall be provided written notice of the interview at least four (4) calendar days of the scheduled interview. The client may provide a written or verbal waiver that written notice of the scheduled interview is not necessary when the county department is able to conduct the interview during application processing. Notice shall include:
 - a) The date and time for the interview;
 - b) Identification of any documentation that may be needed;
 - c) The opportunity to reschedule the appointment or make other arrangements in the event of good cause.
 - 3) When the client does not keep the interview appointment and does not request an alternate time or arrangement, as described in this section, grant payments will be denied.
 - d. Make a home visit when required by county policy to determine a county approved setting for a minor client; and,
 - e. Refer the client to other services when appropriate. Applications that have been approved for refugees shall be referred to the Colorado Refugee Services Program for other ongoing case management and services offered through Colorado Works.
- 2. The application process shall consist of all activity from the date the application is received from the client until a determination concerning eligibility is made. Language translation via interpreter shall be provided by the county department of residence as needed. The major steps in the application process shall include:
 - a. The application shall be date stamped by the county department to secure the application date for the client;
 - b. An explanation shall be provided to the client of the various benefit options;
 - c. An explanation shall be provided to the client of the eligibility factors;
 - d. An explanation shall be provided to the client of the client's responsibility to accurately and fully complete the application, provide documents to substantiate or verify eligibility factors, and that the client may use friends, relatives, or other persons to assist in the completion of the application;
 - e. An assurance shall be provided to the client of the county worker's availability to assist in the completion of the application and to secure needed documentation which the client is unable to otherwise secure;
 - f. An explanation shall be provided to the client of the process to determine eligibility;
 - g. An explanation shall be provided to the applicant of the client's rights and responsibilities including confidentiality of records and information, the right to non-discrimination provisions, the right to a county dispute resolution process, the right to a State-level appeal, the right to apply for another category of assistance and that a determination of the client's eligibility for such other assistance will be made;

- h. An explanation shall be provided to the client that the client may withdraw from the application process at any time.
- i. The agency shall inform all clients in writing at the time of application that the agency will use all Social Security Numbers (SSN) of required household members to obtain information available through state identified sources. One interface includes, but is not limited to, the Income and Eligibility Verification System (IEVS) used to obtain information of income, eligibility, and the correct amount of assistance payments. Information gathered through State identified sources may be shared with other assistance programs, other states, the Social Security Administration, the Department of Labor and Employment, and the Child Support Services Program as permitted by Section 26-1-114, C.R.S.; and,
- j. An explanation shall be provided to the client of all Colorado Works program benefits and requirements applicable to the family members in the household. The county department shall, when appropriate, provide the information verbally and in written form.
- k. An explanation provided regarding the process of utilizing the Electronic Benefit Transfer (EBT) card. This explanation shall include:
 - 1) Identification of the following establishments as described in Section 26-2-104(2), C.R.S. in which clients shall not be allowed to access cash benefits through the Electronic Benefits Transfer services from automated teller machines and point of sale (POS) devices:
 - a) Licensed gaming establishments as defined in Section 44-30-103(18), C.R.S.;
 - b) In-state simulcast facilities as defined in 44-32-102(11), C.R.S.;
 - c) Tracks for racing as defined in Section 44-32-102(24), C.R.S.;
 - d) Commercial bingo facilities as defined in Section 24-21-602(11);
 - e) Stores or establishments in which the principal business is the sale of firearms;
 - f) Retail establishment licensed to sell malt, vinous, or spirituous liquors except for liquor-licensed drug stores as defined in Section 44-3-410, C.R.S.;
 - g) Establishments licensed to sell medical marijuana or medical marijuana-infused products, or retail marijuana or retail marijuana products; and,
 - h) Establishments that provide adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.
 - 2) An explanation that the cash portion issued on the EBT card may be suspended with identified misuse of the EBT card at the above prohibited locations.

3. An application has been made when the county department receives the signed public assistance application forms meeting the criteria identified in Section 3.602.1.F. An application is different from an inquiry.
4. An application must be accepted by any county department; however, it is the responsibility of the county of residence to determine eligibility. The county department that received the application incorrectly shall forward the application to the county of residence promptly.
5. An application may be submitted by the client or by an individual acting on the client's behalf when the client is unable to submit an application.
6. To be accepted, applications for Colorado Works can only be made by a caretaker with whom a dependent child(ren) is living.

F. Minimum Application Requirements

1. The county department shall require a written application, signed under penalty of perjury, using the State Department's prescribed public assistance form.
2. The application form shall be used as the primary source of information. To be considered complete, the application shall contain, at a minimum, the name of the client, signature of the client or authorized representative, and an address for the client which can include general delivery or a county office. If an address is not provided, another means of contact such as phone number or email address must be utilized to obtain an address.
3. The date of application shall be the first working day the county department receives a signed application form, which indicates the client's desire to receive public assistance. The application must be date stamped with the date the county department receives the signed application to secure the application date.

G. Information Sharing

There are public assistance programs that are to be jointly administered by county departments. This requires sharing of information to the extent permitted by Section 26-1-114, C.R.S. Communications from one division to the other shall be formalized so that they serve a purpose, and there is a record of that purpose.

H. Confidentiality

Information regarding families shall remain confidential and available only for the purposes authorized by federal or State law as described in Section 3.609.73, Protections to the Individual.

I. Processing Standard

The county department shall process applications as expeditiously as possible but no later than forty-five (45) calendar days following the application date as described in Section 3.602.1.F.3.

1. The county department shall consider an application for Colorado Works to be an application for all programs of public assistance, except for child welfare services, for which the client has requested assistance. County departments shall make clients aware of other services and assistance under other public assistance programs that they may be eligible.

2. The determination should be followed by a written notification of eligibility status to the client. Clients who refuse to cooperate in completing the application processes shall be denied based upon timely noticing in accordance to Section 3.609.1. In cases where verification is incomplete, the county department shall provide the client with a statement of required verification on the State prescribed notice form and offer to assist the client in obtaining the required verification. The county department shall allow the client eleven (11) calendar days to provide the missing verifications, unless the client can provide good cause or the verification falls under the programs verification at an individual level described in Section 3.604.3 . If good cause is provided, the client shall have until the twentieth (20th) calendar day following the date of application to provide the necessary verification. The State prescribed notice form shall reflect specific months of eligibility and ineligibility.
3. Following a determination of ineligibility, applications remain valid for a period of thirty (30) calendar days.
 - a. If the client has good cause and notifies the county department that he/she is requesting benefits within thirty (30) calendar days of the denial, the county department shall reschedule the interview if not already completed, and the current application date shall be used.
 - b. If the client does not have good cause and notifies the county department that he/she is requesting benefits, and the request is made within thirty (30) calendar days of the current application, that application can be used, but the date of application shall be the most recent date the client requested benefits.
 - c. If the client requests benefits more than thirty (30) days from the date of the denial, they must submit a new application, unless good cause is provided within ninety (90) days.
4. County departments shall require no more than one interview for a Colorado Works client. When an interview is conducted, the county worker shall review the application for completeness and secure, if necessary, signed copies of the Authorization for Release of Information form, and any other forms or documentation necessary to determine eligibility.

J. Information Concerning Immunizations

At the time of application, the county department shall provide information concerning immunizations to all clients seeking benefits through the Colorado Works program. The information shall include parent education of vaccines, information concerning where to access vaccines in the local community, and the exemptions listed in Section 25-4-903, C.R.S. The Department of Public Health and Environment or the County or District Public Health Agency shall provide the immunization information to the county department for this purpose.

K. Reporting Case Actions

1. "Denied," is the action that the county shall take when the client fails to meet the eligibility requirements of the category of assistance desired. A denial also may be on the basis of such factors as, but not limited to:
 - a. The client refuses to furnish information necessary to determine eligibility;

- b. The client is unwilling to have the county department contact a collateral source to secure information, and the client refuses to sign the State-approved Authorization for Release of Information form;
 - c. The client does not supply information or otherwise fails to cooperate with the county department within ten (10) calendar days of the request for information unless good cause is granted and after having received notification of the reason for delay;
 - d. The client moves to an unknown address before determination of eligibility has been completed;
 - e. A third-party refuses to provide documentation of essential verifications and the client is unwilling to cooperate in obtaining such information personally.
 - 1) Authorization of the release of such information alone does not constitute cooperation if the county department requests further assistance from the client. Documentation of lack of cooperation must be entered by the county in the case record.
 - 2) However, if the client is willing to cooperate but unable to obtain the information, no denial or delayed determination of eligibility shall occur. The county shall assist the client in gaining the information required to make a determination of eligibility.
2. A decision by the client to “withdraw,” shall be treated as a denial by the county department.

3.602.2 Right and Opportunity to Register to Vote

A client for public assistance shall be provided the opportunity to register to vote. The county department shall provide public assistance clients the prescribed voter registration application at application and redetermination for public benefits.

3.603 Case File Maintenance

3.603.1 Purpose and Use of Case File Records

A. Preparation of Case Record

Preparation of the case record shall begin at the point of initial application with the client and case maintenance shall continue as long as the case is open for assistance.

B. Purpose

The major purposes of a case record shall be:

- 1. To assist the county worker in reaching a valid decision concerning eligibility or case action, and the amount of payment and type of assistance;
- 2. To ensure assistance is based on factual information and verifications received;
- 3. To provide for continuity of assistance when a worker is absent, when a case is reopened, and when a case is transferred from one county worker/department to another;

4. To ensure valid administration of the county department in keeping with its function and purposes;
5. To serve as a valuable basis for research, for interpretation of the work of the county department, and as a basis for development and evaluation of policy and procedure.

C. Case Numbering

A case number shall be assigned to the client at the time of application for assistance.

D. The county department shall document all case actions in case comments. This information shall include actions taken by the county department, the basis of such actions, and the result or outcome of the action taken on the case, and must also include:

1. All case decisions related to the prudent person principle;
2. All decisions related to the disposition of claims;
3. Any interactions with the client;
4. Actions related to a county conference and/or state level fair hearing;
5. Cause of untimely processing of the application or redetermination;
6. Other information that would be critical to document county department actions and/or would be necessary to justify case decisions during a case review, audit, appeal, or lawsuit; and,
7. Information pertaining to eligibility, verifications, collateral contacts, program participation, and associated expenditures.

E. Documentation

The county department shall document all income and non-financial eligibility information into the statewide automated system.

1. The county department shall not omit case information from the statewide automated system based on the assumption that the information is unnecessary for eligibility determination.
2. All case information used to determine eligibility and changes in basic biographical information shall be updated at the time of redetermination.

F. Arrangement of Case Record and Content of the Case Record

All case files, including electronic files, shall contain all documents necessary to determine the eligibility and participation in program requirements. All case files, including electronic files, at a minimum shall be:

1. Labeled clearly, and,
2. Easily accessible for state reviews and/or audit purposes.

G. Storing County Records

The county department shall be responsible for the provision of a safe place for storage of case records and other confidential material to prevent disclosure by accident or as a result of curiosity of persons other than those involved in the administration of the programs. Data of any form shall be retained for the current year, plus three previous years unless:

1. There is a written statutory requirement, rule, or regulation available from a county (i.e., a broader county policy), State or federal agency requiring a longer retention period; or,
2. There has been a claim, audit, negotiation, litigation or other action started before the expiration of the three-year period. If any such action has been started, the county must maintain the case record for the duration of the action. If a county department shares building space with other county offices, locked files to store case material shall be used. Facility and other maintenance personnel shall be instructed concerning the confidential nature of information.

H. Removal of Case Records

Case records are the property of the State Department and shall be restricted to use by the State Department and county department.

3.604 Eligibility Criteria for Colorado Works Payments and Services

3.604.1 Eligibility Criteria

To receive a Colorado Works grant payment, a client must:

A. Be a resident of Colorado.

1. There shall be no durational residency requirement and a client who establishes intent to remain in Colorado shall be considered a resident.
2. Residence shall be retained until abandoned.
3. Persons receiving TANF benefits from another state shall not be eligible for Colorado Works grant payments during any month a payment was made by the other state.

B. Be lawfully present in the United States as:

1. A citizen of the United States (including persons born in the United States, Puerto Rico, Guam, Virgin Islands (U.S.), American Samoa, or Swain's Island; persons who have become citizens through the naturalization process; persons born to U.S. citizens outside the United States with appropriate documentation); or,
2. A qualified legal non-citizen who entered the United States prior to August 22, 1996; or,
3. A qualified legal non-citizen who entered the United States on or after August 22, 1996, who has been in a qualified non-citizen status for a period of five years, unless they meet one of the exceptions to the five-year bar consistent with 8 U.S.C. 1613(b).

C. Be a member of an assistance unit who meets income eligibility requirements and has provided required verifications or be a noncustodial parent (noncustodial parents may receive services, but not basic cash assistance).

- D. Not be admitted to an institution as a patient for tuberculosis or mental disease, unless the person is a child and receiving “under 21” psychiatric care under Medicaid benefits.
- E. Not be in the custody of or confined in a county, state, or federal correction facility or institution as an inmate, which is one who is confined or serving time imposed by a court, except as a patient in a public medical institution. Those considered to not be an inmate also include, but are not limited to, those on a work release or court monitoring system.
- F. Not be a temporary resident or non-citizen in one of the following situations:
 - 1. Non-citizens with no status verification from the United States Citizenship and Immigration Service (USCIS);
 - 2. Non-citizens granted a specific voluntary departure date;
 - 3. Non-citizens applying for a status; or,
 - 4. Citizens of foreign nations residing temporarily in the United States on the basis of visas issued to permit employment, education, or a visit.

3.604.2 Household Composition

- A. A Colorado Works household consists of clients who are part of the assistance unit and/or budgetary unit.
 - 1. The assistance unit consists of individuals who live together and who must apply for and receive Colorado Works grant payments as a single household.

Members of the same assistance unit who meet the requirements of the Colorado Works program shall receive basic cash assistance or shall be considered when determining diversion grant amounts.

Persons not required to be in one assistance unit, but residing in the same household, shall have the option of applying for Colorado Works as separate units. Each assistance unit shall be budgeted using the appropriate need standard for the unit.
 - 2. The budgetary unit consists of individuals who are part of the assistance unit as well as individuals who are outside of the assistance unit but considered financially responsible for members of the assistance unit.
 - 3. Clients must provide any information or verification needed to determine who must be in the assistance unit and budgetary unit.
- B. Two parent household cases will be paid with county maintenance of effort (MOE) funds. All other single parent and child only cases will be paid with county TANF block grant funds.
- C. Members of the Assistance Unit
 - 1. The following individuals must be included in the assistance unit when living in the home:
 - a. Dependent child(ren) who live in the home of a caretaker.
 - b. Parents of dependent child(ren) who live in the home unless the child is a minor parent who is requesting assistance for their own child or responsibility is established with another caretaker through court order, child welfare, or adoption.

- c. Siblings of dependent child(ren) who live in the home and are legally in the care of the requesting caretaker.
 - d. Half siblings of the dependent child(ren) who live in the home that do not receive child support payments.
 - e. The spouse of a pregnant parent.
 - 2. The following individuals are optional members of the assistance unit. These individuals are included in the assistance unit when living in the home and requesting assistance:
 - a. The spouse of a parent who is not themselves a parent of dependent child(ren) who live in the home.
 - b. A non-parent caretaker.
 - c. The spouse of a non-parent caretaker.
 - d. Half siblings of the dependent child(ren) who live in the home and are receiving child support. The parent or non-parent caretaker of the half sibling receiving child support shall decide whether to include such half sibling receiving child support in the assistance unit.
 - e. Siblings of the dependent child(ren) who live in the home but are not in the legal custody of the requesting caretaker due to an established court order, child welfare involvement or an adoption.
 - f. A parent who lives in the home of another caretaker and no longer has legal custody of the dependent child(ren) who live in the home.
 - g. Parent(s) of a minor parent who is requesting assistance for their own child.
 - 3. The following individuals are excluded from the assistance unit.
 - a. Individuals receiving SSI payments.
 - b. Individuals who receive other title iv benefits such as foster care, adoption subsidy or Title IV kinship payments.
- D. Members of the Budgetary Unit
- 1. The following individuals must be included in the budgetary unit:
 - a. Any individual who is part of the assistance unit (to include optional members of the assistance unit who requested assistance) regardless of whether or not the individual is eligible to receive assistance.
 - b. The spouse of a parent or non-parent caretaker who requested assistance, regardless of whether or not the spouse has requested assistance for themselves.
 - c. The unborn child of a pregnant parent.
 - d. The non-recipient parent(s) of a minor parent.

- e. The sponsor of a non-citizen who is part of the assistance unit (whether or not the non-citizen is themselves eligible to receive Colorado Works grant payments).
 - 2. The following individuals are excluded from the budgetary unit:
 - a. An optional member of the assistance unit who chooses not to receive assistance for himself or herself.
 - b. Individuals who are excluded from the assistance unit as identified in Section 3.604.2.C.3.
- E. A dependent child is considered to be living in the home of a caretaker as long as the caretaker exercises the responsibility for the care of the child even if the following occurs:
 - 1. The child or the caretaker is temporarily absent from the home to receive medical treatment;
 - 2. The child is under the jurisdiction of the court;
 - 3. Legal custody is held by an agency that does not have physical custody of the child;
 - 4. The child is in regular attendance at a school away from home.
- F. School-aged, dependent children must be in school, home school, pursuing a GED, or attending online courses to obtain a high school diploma or GED. A dependent child is still considered to be a student in regular attendance during official school or training program vacation periods, absences due to illness, convalescence or family emergencies. County departments must work with families to enroll children not enrolled in and attending school.
- G. Assistance units may remain eligible and payment for the child shall continue for Colorado Works when children are absent from the home for a period greater than forty-five (45) consecutive calendar days for the following reasons:
 - 1. Child(ren) receiving medical care or education that requires him or her to live away from the home; or,
 - 2. Child(ren) visiting a noncustodial parent, as specified in a parenting plan entered by the court or a parenting plan signed by both parties, the visit not exceeding six (6) months unless otherwise specified; or,
 - 3. Child(ren) residing in voluntary foster care placement for a period not expected to exceed three (3) months. Should the foster care plan change within three months and the placement become court-ordered, the child is not longer considered to be living in the home as of the time the foster care plan is changed.
- H. When more than one caretaker exercises responsibility for a child, the following hierarchy shall be followed. A caretaker:
 - 1. Is a parent; or,
 - 2. Is a relative by blood, marriage, or adoption who is within the fifth degree of kinship to the dependent child (not to be separated due to death or divorce); or is appointed by the court to be the legal guardian or legal custodian of the dependent child; or,

3. If those identified in a-b above are not available, is a person who exercises responsibility for a dependent child within the person's home and provides verification of such responsibility such as a court order, school or medical records listing the individual as the child's contact, collateral contact with child welfare, or another document acceptable to the county department. the prudent person principle may be used to determine that a non-parent caretaker other than a guardian, legal custodian, or a relative exercises responsibility for a child. The individual who exercises responsibility and is highest in the above hierarchy list shall be deemed the caretaker for the assistance unit.
- I. A parent or non-parent caretaker is considered to be living in the home and may continue as a member of the assistance unit/ family needs unit if the individual is temporarily away from home if one of the following occurs:
1. Is on active duty in the uniformed service of the United States.
 2. Is temporarily absent from the home to receive medical treatment.
 3. Is temporarily absent from the home for less than forty-five (45) calendar days and has established an intent to return.
- J. Indian Tribe Eligibility
- Members of an Indian Tribe not eligible for assistance under a Tribal Family Assistance Plan are eligible for Colorado Works.
- K. Assistance for Eligible Refugees
- Refugees are qualified aliens exempt from the five-year bar. Those refugees eligible for assistance through TANF/Colorado Works shall submit an application to their county of residence. Those applications that have been approved shall be referred to the Colorado Refugee Services Program (CRSP) for other ongoing case management and services offered through the TANF/Colorado Works program.
1. The CRSP is responsible for performing the eligibility assessment as required by section 3.607.3 for all refugees referred to them by county departments and will apply uniform guidelines that apply to all county departments regarding the assessment of refugees.
 2. Based on the assessment of the refugee, CRSP will make recommendations to the county departments and will apply uniform guidelines that apply to all county departments regarding the assessment of refugees. These recommendations shall include, at a minimum:
 - a. Whether the refugee is determined to be ready to work.
 - b. The type(s) of activities that will be most beneficial to the refugee; and,
 - c. The amount and duration of supportive services and other assistance payments necessary to achieve self-sufficiency for the refugee.
 3. The county department shall consider the recommendations of CRSP and the recommended supportive services and other assistance within the county policy, within an agreed upon timeframe not to exceed forty-eight (48) hours.

L. Individuals Ineligible for Colorado Works Program

The following individuals shall not be eligible under Colorado Works:

1. Fugitive or fleeing felons;
2. Persons convicted of a drug-related felony, as defined in 21 U.S.C. 862A and Section 18-1.3-401.5 and Section 4 of Article 18 of Title 18 of the C.R.S. on or after July 1, 1997, unless the county department has determined that the person has taken action toward rehabilitation, such as, but not limited to, participation in a drug treatment program;
3. Assistance units with an adult participating in a strike;
4. Qualified legal non-citizens or those who are not federally exempt, who entered the United States on or after August 22, 1996, are ineligible for cash assistance for five (5) years from date of entry into the United States.

M. Penalties for Disqualified or Ineligible Persons

Persons who are required members of the assistance unit, but who are disqualified from receiving or are ineligible to receive Colorado Works basic cash assistance or diversion due to program prohibitions or violations, shall be removed from the assistance unit for the purposes of determining the assistance unit size. Disqualified individual's' income must be considered when determining eligibility without applying income disregards.

The following disqualified or ineligible individuals shall have such month counted as a month of participation in the calculation of their overall sixty-month (60) lifetime maximum as referenced in section 3.606.6 when a grant payment is received for others in the assistance unit.

1. Individuals convicted by a court or whose disqualification was obtained through an intentional program violation (IPV) waiver for misrepresenting their residence in order to obtain assistance in two states at the same time shall have their Colorado Works assistance denied for ten (10) years.
2. Individuals who have committed fraud as determined by a court or determination of an IPV by administrative hearing shall result in the disqualified caretaker being removed from the grant for a twelve (12) month period for the first offense, twenty-four (24) months for the second offense, and lifetime for the third offense. An IPV from another state shall be used to determine eligibility for an individual. The level of the IPV established by the Administrative Law Judge from the other state shall be used to determine the level of the IPV for Colorado Works. The timeframes established herein shall be used; the timeframe established from the other state shall no longer be valid.
3. Individuals who are fleeing felons for the time that that person meets the definition of fleeing felon as described in 3.601.
4. Individuals who have been convicted of a drug-related felony, as defined in 21 U.S.C. 862A and Section 18-1.3-401.5 and Section 4 of Article 18 of Title 18 of the C.R.S., unless the county department has determined that the person has taken action toward rehabilitation, such as, but not limited to, participation in a drug treatment program.
5. Individuals who have failed to apply for a Social Security Number unless good cause exists. Once that person has taken action to apply for a Social Security Number, they may become eligible.

6. Individuals who are non-citizens and do not meet the definition of a qualified non-citizen, those who fail to prove citizenship or fail to provide proof that they are otherwise possess a qualified non-citizen status and/or proof of lawful presence.

N. Minor Parent Applicants/Participants

A minor who is also a parent may apply for Colorado Works.

1. When a minor parent is not emancipated and has a marital status of single, grant payments may not be approved unless the minor parent resides with another adult caretaker or the minor parent resides in another setting which the county has determined is an appropriate setting.
 - a. Counties shall assist minor parents who are otherwise eligible and are not living in a county approved setting according to the county's policy to find an appropriate living arrangement.
 - b. Counties shall assist assistance units which include an unmarried minor parent(s) who has a child at least twelve (12) weeks of age, who has not completed his or her high school education or GED, and who is not participating in educational activities or an approved training program, in participating in such programs within sixty (60) calendar days from the date the initial assessment is completed for those sixteen (16) or older or within sixty (60) calendar days from the date the eligibility interview takes place for those under the age of sixteen (16). Participation means enrollment, attendance, or an action otherwise specified by the county department. Failure to participate without good cause will result in the termination or discontinuation of Colorado Works basic cash assistance.
2. When a minor parent does not live in the home of another caretaker:
 - a. The minor parent may not receive benefits until deemed to be in a county approved setting by the county department unless the minor is emancipated, has a marital status other than single, or resides with an adult relative.
 - b. A minor parent who is emancipated or has a marital status other than single is not considered to be living in the home of a caretaker even if they are living in the home of their parent.
 - c. A minor who is a parent and does not live in the home of a caretaker will receive assistance as an adult if approved.
3. Minor Parents and Caretakers
 - a. If the minor parent lives with an unrelated non-parent caretaker who chooses not to be a member of the assistance unit, the minor must be in a county approved setting.
 - b. If the minor parent lives with an unrelated non-parent caretaker who chooses to be a member of the assistance unit, the county department may choose if it is necessary to approve the setting before grant payments are provided per county policy.

- c. If the minor parent lives with his or her parent, the county department does not need to approve a setting even if the minor's parent chooses not to be a member of the assistance unit.
- d. A minor parent who is the dependent child of a caretaker will receive assistance as a child if approved even if the caretaker is not included in the assistance unit.

O. Out of the Home

- 1. For Colorado Works purposes, a client who is out of State temporarily shall be provided assistance on the same basis as one who is in the state as long as the individual has established intent to return. The client's temporarily out of the State status shall not exceed ninety (90) consecutive days.
- 2. A client who is a resident of an institution is not considered to be in the home. A client shall be considered a resident in an institution when the recipient's stay is at least thirty (30) consecutive days. Institutions include general medical and surgical hospitals, nursing homes, assisted living residences, and mental institutions. Residents of an institution who continue to have the responsibility of a dependent child may receive Colorado Works if the dependent child also resides in the institution or continues to be cared for in the home, unless individual needs are provided for through other state.

3.604.3 Program Verifications

- A. The county department shall not require any documentary evidence (verification) and/or written statements for eligibility determination until the county department receives a signed and dated application. The client has the primary responsibility for providing documentary evidence for required verification and the responsibility to resolve questionable information. The county worker shall assist the client in obtaining the necessary documentation if the client is cooperating with county workers. The client may supply documentary evidence in person, through mail, by facsimile, through an electronic device, or through an authorized representative. The county worker shall accept all pertinent documentary evidence provided by the client and shall be primarily concerned with how adequately the verification proves the statements on the application and/or program participation, if applicable. If written verification cannot be obtained, county workers shall substitute an acceptable "collateral contact" if available, as defined in section 3.601 program definitions and E-F of this section.

If the client is missing any verification, the county department shall request additional and/or required verifications from the client. the request shall include:

- 1. A specific list of verifications necessary to determine eligibility;
- 2. The due date for when the verifications must be returned, which shall be eleven (11) calendar days from the date the verification was requested in writing; and,
- 3. Notification that if the client fails to return the verifications by the due date, the county department shall process the application without those verifications, which may lead to a denial of grant payments.

If proper verification is not received and a collateral contact is unavailable, the client will be noticed (in writing or verbally) with information that the county worker will assist with obtaining verification, provided that he or she is cooperating with the county department.

Verification is an eligibility requirement. Failure to provide requested verification may result in the case and/or client being denied, closed, terminated, or discontinued. The verification process shall begin the date the application is date stamped by the county and shall continue throughout the life of the case, including program participation and applicable verifications for ongoing redeterminations of eligibility.

B. Required Primary Verifications

1. All information received through the Income and Eligibility Verification (IEVS) System shall be reviewed and verified. Assistance shall not be denied, delayed, or discontinued pending receipt of information requested through IEVS, if other evidence establishes the client's eligibility for assistance.
2. All participating clients shall provide to the county the following information:
 - a. Verification of lawful presence in the United States; section 3.604.3.I.
 - b. Verification of citizenship or qualified non-citizenship status; section 3.604.I-J.
 - c. A Social Security Number (SSN) for each client applying for benefits or proof that an application for a SSN has been made. Proof of application is only valid for up to eight (8) months without good cause. The agency shall explain to the client that refusal or failure without good cause to provide a SSN or a receipt of a SSN application will result in ineligibility for the client for whom an SSN or receipt is not obtained. Only the client for whom the SSN or receipt is not provided will be ineligible, and not the entire assistance unit.
 - 1) For clients that made application for a SSN at initial eligibility determination, verification of the SSN must be received prior to the next recertification.
 - 2) For clients added to the assistance unit within sixty (60) days of the certification period expiring, verification of the SSN must be received by the following recertification.
 - 3) The county department shall verify the SSNs provided by the assistance unit with the Social Security Administration (SSA) in accordance with procedures established by the state department for the State On Line Query (SOLQ) system.
 - 4) The county department shall accept as verified a Social Security Number that has been verified by any program agency participating in SOLQ system.
 - d. Verification of a caretaker's responsibility for the child(ren) must be provided, unless the caretaker is the child(ren)'s parent. Verification may include, but is not limited to, verbal or written confirmation from the child's parent, a court order, school or medical records listing the individual as the child's contact, or collateral contact with child welfare. The prudent person principle may be used to determine that a non-parent caretaker other than a guardian, legal custodian, or a relative exercises responsibility for a child.
 - e. Verification of income of any member of the assistance unit or other household member whose income is used to determine eligibility and payment.

- f. Verification of Colorado residency.
 - 3. Counties may require further verification of any information that is received that is determined to be questionable or inconsistent. Such a determination must be documented in the applicant's case file.
 - 4. An applicant may request an extension of time beyond the forty-five (45) day maximum to process an application for Colorado Works benefits in order to obtain necessary verification. The extension may be provided at county discretion. The worker must document the reason for the extension in the statewide automated system and/or case file.
 - 5. All immigrants shall have non-citizen status verified through the Systematic Alien Verification for Entitlements (SAVE) system. Assistance shall not be delayed or discontinued pending this verification.
- C. Secondary Verifications
- When applicable, secondary verifications for eligibility and program participation, may include, but are not limited to:
- 1. Verification of relationship of a dependent child to other household members;
 - 2. Verification of good cause, to include good cause for a delay in providing verifications for assistance, good cause for not cooperating with child support services, and good cause for not participating in work activities;
 - 3. Verification of child support, to include information of the noncustodial parent and/or child support income/expenses as specified in section 3.606;
 - 4. Verification of school attendance for all school-aged children included in the assistance unit, including home school, GED, and online attendance;
 - 5. Verification of work participation;
 - 6. Verification establishing allowable absences of an adult or child in the assistance unit if leaving the state/home and requesting to continue benefits; and/or,
 - 7. Verification of pregnancy, if applicable.
- D. Sources of Verification
- Counties may use collateral contacts, interfaces, prudent person principle, documentary evidence, and in some cases, client statement as sources of verification.
- E. Use of a Collateral Contact, Review, and Follow-up
- Applications shall be reviewed and any necessary follow-up activities such as collateral contacts, verifications, etc., shall be initiated within five (5) calendar days of when the county department obtains information containing the collateral contacts information from the client. Priority shall be given to those applications where critical and emergent need is apparent.
- F. Requirements for Collateral Contact to Make a Determination of Eligibility

1. The client shall be given the opportunity to provide documentation necessary to determine eligibility. When necessary, the county department shall assist the client to secure documentation. If documentation that is necessary to determine eligibility is not received, a notice shall be sent to the client to advise him or her of the proposed action to deny or discontinue the case. The notice to the client shall also include a specific description of the documentation necessary to determine eligibility.

In general, the county department shall rely on the client to provide the documentation necessary to determine eligibility.

2. A collateral contact is an oral or written confirmation of a household's circumstances by a person outside of the household. The signature on the application shall be considered consent for the use of collateral contacts. The county department may rely on members of the household to provide the name of any collateral contact. If the individual provides an unacceptable collateral contact who cannot be expected to provide accurate verification, the county department shall:

- a. Request the name of another collateral contact; or,
- b. Ask for alternative forms of verification; or,
- c. Substitute a home visit to establish a county approved setting when applicable.

3. Confidentiality shall be maintained when talking with collateral contacts. The county department shall disclose only the information that is absolutely necessary to obtain information being sought. If the client fails to provide a collateral contact or provides a contact that is unacceptable to the eligibility worker, the county worker may select a collateral contact that can provide information that is needed. Except for contacts to verify information provided through IEVS, the collateral contact selected by the county worker shall not be contacted without first obtaining the prior written or verbal approval of an adult household member or the authorized representative. Collateral contacts for IEVS do not require household designation or prior contact approval. The notice of proposed action shall advise the household that they have the option to consent to the collateral contact, to provide acceptable verification in another form, or to withdraw the application. If the household refuses to choose one of the above options, the application shall be denied.

The case file shall be documented to support action taken by the county department. The county department shall not determine the household to be ineligible when a person outside the household refuses to provide information required for the client to resolve a request for verification (i.e. a former employer will not provide verification of employment termination and does not respond to attempts for a collateral contact by the county department). In such scenarios, the prudent person principle must be used to determine eligibility without the unavailable verification.

Household members who are disqualified or in an ineligible status are not considered individuals outside the household.

4. In cases in which the information from another source contradicts statements made by the household, the household shall be afforded a reasonable opportunity to resolve the discrepancy prior to an eligibility determination.

- G. The rules contained herein are intended to be sufficiently flexible to allow the eligibility worker to exercise reasonable judgment to determine when a request for verification is unnecessary because the facts of the case are clear. In making a certification decision, the eligibility worker should ask whether his or her judgment is reasonable, based on experience and knowledge of the program.

The prudent person principle may not be used to waive the requirement to verify lawful presence for clients over the age of eighteen (18).

The prudent person principle may be used to determine that a non-parent caretaker other than a guardian, legal custodian, or a relative exercises responsibility for a child and/or when determining good cause for non-cooperation with the workforce development program activities or child support services.

All case decisions related to the prudent person principle must be documented in case comments.

- H. Interfaces are acceptable verification sources for Colorado Works.

1. Income and Eligibility Verification System (IEVS)

IEVS provides for the exchange of information for Colorado Works with the SSA and the Colorado Department of Labor and Employment (DOLE). The county department shall act on all information received through IEVS. The county department shall, at a minimum, prior to approval of benefits, verify potential earnings and unemployment benefits through DOLE for all applicants, except institutionalized applicants. Benefits shall not be delayed pending receipt of verification from a collateral contact (e.g., employers). In cases where the county department has information that an institutionalized or group home recipient is working, wage and unemployment insurance benefits matches are required at application. All other matches will be initiated through IEVS upon approval of benefits. Through IEVS, recipient SSNs will be matched with source agency records on a regular basis to identify potential earned and unearned income, resources and assets, including:

- a. The following data shall be considered verified when entered into the statewide automated system:
 - 1) SSA (Beneficiary and Earnings Data Exchange/Bendex, State Data Exchange/SDX) Social Security benefits, SSI, pensions, self-employment earnings, federal employee earnings; and,
 - 2) Unemployment Insurance Benefits (UIB).
- b. DOLE wage data shall not be considered verified upon receipt. Additional verification must be obtained to verify wage information.
- c. At initial application and at redetermination, a client of Colorado Works shall be notified through a written statement provided on or with the application form that the information available through IEVS: will be requested and used for eligibility determinations; shall be verified through sources, such as collateral contacts with the client, when discrepancies are found by the county department; and may affect the assistance unit's eligibility and level of payment.
 - 1) All verification types obtained by a collateral contact to validate or invalidate the IEVS discrepancy shall be documented; and,

- 2) Case documentation shall be available in the case file or statewide automated system documenting the action taken on the case within forty-five (45) calendar days of initial receipt. Case documentation must include the purpose of the review, the action taken on the case, and how the determination was made that supported the action taken by the county department.
 - d. The county department shall review and process IEVS within forty-five (45) days. No more than twenty (20) percent of the IEVS reviewed may remain unprocessed beyond forty-five (45) days when:
 - 1) The reason that the action cannot be completed within forty-five (45) days is the non-receipt of requested third-party verification; and,
 - 2) Action is completed promptly, when third-party verification is received or at the next time eligibility is redetermined, whichever is earlier. If action is completed when eligibility is redetermined and third-party verification has not been received, the county department shall make its decision based on information provided by the recipient and any other information in its possession.
2. Public Assistance Reporting Information System (PARIS)

The county department shall query PARIS at initial application and at redetermination to determine whether the client is receiving benefits in another state, veterans' benefits, or military wages or allotments.
3. Systematic Alien Verification for Entitlements (SAVE)

The county department shall query SAVE at initial application and at redetermination to:

 - a. Determine whether a qualified non-citizen has a sponsor(s);
 - b. Verify the non-citizen registration number provided by the client and, if the number and name submitted do not match, take prompt action to terminate assistance to the client; and
 - c. Determine if there has been a change in the non-citizen's status.
4. Colorado Department of Revenue, Division of Motor Vehicles (DMV)

The Colorado DMV may be used by the county department to verify lawful presence and identity.

I. Verification of Citizenship and Lawful Presence

1. Verification of citizenship in the United States

Citizenship may be verified by a birth certificate, possession of a U.S. passport, a Certificate of U.S. Citizenship (USCIS form N-560 or NH-561), a Certificate of Naturalization (USCIS form N-550 or N-570), a Certificate of Birth Abroad of a Citizen of The United States (Department of State Forms FS-545 or DS-1350), or identification cards for U.S. citizens (USCIS-I-179 or USCIS-I-197). Documents that are acceptable as verification of citizenship can be found in the Department of Revenue rules at 1 CCR 204-30, Rule 5, Appendix A and B (Mar. 2, 2021), no later editions or amendment are incorporated. These regulations are available at no cost from the Colorado Department of Revenue, 1881 Pierce St., Lakewood, CO 80214 or at <https://www.sos.state.co.us/ccr>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Economic Security, 1575 Sherman St., Denver, CO 80203, during regular business hours.

2. Verification of questionable citizenship information

The following guidelines shall be used in considering questionable statement(s) of citizenship from a client:

- a. The claim of citizenship is inconsistent with statements made by the client, or with other information on the application, or on previous applications.
- b. The claim of citizenship is inconsistent with information received from another source.
- c. The claim of citizenship is inconsistent with the documentation provided by the client.

Application of the above criteria by the eligibility worker must not result in discrimination based on race, religion, ethnic background or national origin, and groups such as migrant farm workers or Native Americans shall not be targeted for special verification. The eligibility worker shall not rely on a surname, accent, or appearance that seems foreign to find a claim to citizenship questionable. Nor shall the eligibility worker rely on a lack of English speaking, reading, or writing ability as grounds to question a claim to citizenship.

3. The client whose citizenship is in question shall be ineligible to participate until proof of citizenship is obtained. If a non-citizen is unable to provide any USCIS document at all, there is no responsibility to offer to contact USCIS on the non-citizen's behalf. Responsibility exists only when the non-citizen has a USCIS document that does not clearly indicate eligible or ineligible non-citizen status. The county department shall contact the State Department, not the USCIS, to obtain information about the non-citizen's correct status. The method used to document verification of citizenship and the result of that verification shall be contained in the case file.

4. All persons eighteen years of age or older must establish lawful presence in the United States prior to receiving Colorado Works with the exception of those exempt in the list provided in this section, as outlined in section 24-76.5-103, C.R.S. The requirements of this section do not apply to clients under the age of eighteen (18).

- a. In order to verify his or her lawful presence in the United States, a client must:

- 1) Produce and provide to the county department:

- a) A valid Colorado driver's license or a Colorado identification card issued pursuant to article 2 of title 42, C.R.S.; or,
- b) A United States military card or military dependent's identification card; or,
- c) A United States coast guard merchant mariner card; or,
- d) A Native American tribal document; or,
- e) Any other document authorized by rules adopted by the Department of Revenue (1 CCR 2204-30, Rule 5, Appendix A, as incorporated by reference in section 3.604.3.I.1 of these rules); or,
- f) Those clients who cannot produce one of the required documents may demonstrate lawful presence by both executing the affidavit described in section 3.604.3.I.4.a.2, and executing a request for waiver as described in 1 CCR 204-30, Rule 5, as incorporated by reference in section 3.604.3.I.1, above.

The request for waiver must be provided to the Colorado Department of Revenue in person, by mail, or online, and must be accompanied by all documents the client can produce to prove lawful presence. A request for a waiver can be provided to the Department of Revenue by a client representative.

Once approved by the Department of Revenue, the waiver is assumed to be permanent, but may be rescinded and cancelled if, at any time, the Department of Revenue becomes aware of the client's violation of immigration laws. If the waiver is rescinded and cancelled, the client has the opportunity to appeal. The county department is responsible for verifying that the client is the same individual indicated as being lawfully present through the waiver; and,

- 2) Execute an affidavit saying that:
 - a) He or she is a United States citizen or legal permanent resident; or,
 - b) He or she is otherwise lawfully present in the United States pursuant to federal law.
- b. The requirements of this section do not apply to the following clients, programs and services:
 - 1) For any purpose for which lawful presence in the United States is not required by law, ordinance, or rule;
 - 2) For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and are not related to an organ transplant procedure;
 - 3) For short-term, non-cash, in-kind emergency disaster relief;

- 4) For programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by federal law or regulation that:
 - a) Deliver in-kind services at the community level, including services through public or private non-profit agencies;
 - b) Do not condition the provision of assistance provided on the individual recipient's income or resources; and,
 - c) Are necessary for the protection of life or safety;
 - 5) Pregnant women;
 - 6) For individuals over the age of eighteen years of age and under the age of nineteen years who continue to be eligible for medical assistance programs after their eighteenth birthday.
 - 5. A non-citizen considered a legal immigrant will normally possess one of the following forms provided by the citizenship and immigration services (USCIS) as verification:
 - a. I-94 arrival/departure record.
 - b. I-551 resident alien card (I-551).
 - c. Forms I-688b or I-766 employment authorization document.
 - d. A letter from USCIS indicating a person's status.
 - e. Letter from the U.S. Department of Health and Human Services (HHS) certifying a person's status as a victim of a severe form of trafficking.
 - f. Iraqi and Afghan individuals who have been admitted as Special Immigrants (SI).
 - g. Any of the documents permitted by the Colorado Department of Revenue rules for evidence of lawful presence (1 CCR 204-30, appendix B, as incorporated by reference in section 3.604.3.I.1 of these rules).
 - 6. Legal immigrants applying for public assistance must present documentation from USCIS showing the applicant's status. All documents must be verified through SAVE to determine the validity of the document. Benefits shall not be delayed, denied or discontinued awaiting the SAVE verification.
- J. Verification required from non-citizens
- 1. As a condition of eligibility for financial assistance, when a sponsored non-citizen is included in the assistance unit or budgetary unit, the client must provide income information about the non-citizen's sponsor(s).

2. As a condition of eligibility for financial assistance, any legal immigrant applying for or receiving financial assistance shall agree in writing that, during the time period the recipient is receiving financial assistance, the recipient will not sign an affidavit of support for the purpose of sponsoring a non-citizen seeking permission from the USCIS to enter or remain in the United States. A legal immigrant's eligibility for financial assistance shall not be affected by the fact that the legal immigrant has signed an affidavit of support for a non-citizen before July 1, 1997.
- K. When a client is unable to provide verification for citizenship, qualified non-citizenship status, lawful presence, identity, and/or their social security number, the county department shall grant thirty (30) calendar days to the client to provide the verification. If the verification is provided in the allotted time, the same application may be used to determine eligibility and benefits provided.

Verification shall be provided for each individual requesting/receiving payments at the time of application and redetermination. In addition, supportive services, special needs payments and assistance in obtaining verifications shall be provided.

Individuals unable to provide this verification will not receive payment for themselves and their income will be used to determine eligibility for the household.

3.604.4 Colorado Works and Child Support Services

- A. As a condition of continued eligibility, clients for Colorado Works are statutorily required to assign all rights to child support on their own behalf or on behalf of any other member of the assistance unit for whom the application is made. A client's failure to sign and date the application form to avoid assignment of support rights precludes eligibility for the assistance unit. Failure to cooperate with Child Support Services at application and/or while receiving basic cash assistance, without good cause, will result in the termination or discontinuation of the Colorado Works basic cash assistance.

This assignment is effective for child support due and owed during the period of time the person is receiving public assistance. The assignment takes effect upon a determination of eligibility for Colorado Works cash assistance. The assignment remains in effect with respect to the amount of any unpaid support obligation accrued and owed prior to the termination of Colorado Works cash assistance to the client. The application form shall contain acknowledgement of these provisions and shall be signed and dated by the client.

1. Clients may request that their case not be referred to child support services based upon good cause. Claims found to be valid are:
 - a. Potential physical or emotional harm to a child(ren).
 - b. Potential physical or emotional harm to a parent or caretaker.
 - c. Pregnancy or birth of a child related to incest or forcible rape.
 - d. Legal adoption before court or a parent receiving pre-adoption services.
 - e. Other reasons documented by the county department.
 - f. Reasons considered to be in the best interest of the child.
 - g. Other court order.

2. Every client shall be given notice and the opportunity to claim that his or her case should not be referred to Child Support Services based upon good cause.
 3. Determination of such good cause must be in writing and documented in the case file by the county director or designee of the county director.
 4. Each case not referred based upon good cause shall be reviewed by the county director or designee at least yearly.
- B. Basic cash assistance shall be considered part of the Unreimbursed Public Assistance (UPA) as defined in the Child Support Services Rule Manual at 9 CCR 2504-1 section 6.002.
- C. If a family is ineligible for Colorado Works basic cash assistance due to child support income and the income received from child support is either not received or is less than the family need standard, the family may request to be reinstated for assistance in that month. The income from the current month will be used to determine eligibility and payment prospectively.

3.604.5 Family Violence Option (FVO) Waiver

The federal government allows state Temporary Assistance for Needy Family (TANF) programs to participate in the option to waive certain program requirements for individuals who have been identified as survivors of family (domestic) violence.

- A. Waiver provisions
1. The FVO waiver allows a county to exempt Colorado Works clients from the following standard program elements if it is determined that participation in these elements would unfairly endanger or penalize an individual or their child(ren) as a result of their experience of family violence:
 - a. Work activities
 - b. TANF time clock. Assistance received while the FVO waiver is in effect does not prevent the TANF time clock from advancing, but is an allowable reason to extend assistance beyond the sixtieth (60th) month.
 - c. Child support services
 2. The county department shall involve the client when choosing to invoke a FVO waiver. The individual at their discretion may accept or refuse any waiver offered.
- B. Requirements for FVO waivers:

When a county department and client invoke the FVO waiver the following are required:

1. Implement county written policies which at a minimum address:
 - a. Domestic violence and FVO;
 - b. How counties intend to provide information about the FVO waiver, related benefits, domestic violence services, and options provided by Colorado Works and others to all clients on an ongoing basis.

This information should be provided in accordance with section 3.602.1 and at a minimum shall include (1) procedures for voluntarily and confidentially self-identifying as a survivor of domestic violence and how self-disclosed information will be used and (2) benefits of and procedures for applying for waivers from any program requirements and extension of time limits;

- c. The process for screening and assessing domestic violence continually.
- 2. Training and case actions for county staff.
 - a. The core FVO/domestic violence training shall be mandatory for all staff who play a role in determining, modifying, or granting FVO waivers, including intake, assessment, case management, or Workforce Development staff. This training must be completed prior to contact with Colorado Works clients. CDHS strongly recommends that all county staff, including experienced staff, supervisors, and/or managers, attend the core FVO training at least once every five (5) years, and attend ongoing and specific training offered or recommended by Colorado Works and local agencies that address domestic violence issues.
 - b. County staff who have participated in the core FVO training shall be the only staff who shall provide information about and screen for domestic violence, assess for domestic violence waiver eligibility, make waiver determinations, review waivers and extensions, consider sanctions, and/or develop and modify an Individualized Plan of a client who has a waiver.
- 3. Follow certain processes with regard to all Colorado Works clients including:
 - a. Screen Colorado Works clients by identifying those who are or have been survivors of domestic violence by using the State Department domestic violence screening form.
 - b. Assess Colorado Works clients who are identified as a survivor of domestic violence by:
 - 1. The nature and extent to which the individual may engage in work activities;
 - 2. The resources and services needed to assist the individual in obtaining safety and self-sufficiency; and,
 - 3. A plan to increase the client's safety and self-sufficiency.
 - c. Domestic violence exemptions (or waivers) of certain Colorado Works requirements may be granted for good cause based on circumstances that warrant non-participation in program work requirements described in this section, non-cooperation with Child Support Services as defined in section 3.604.4.A.1, or a program extension. Good cause may also be determined through the use of the prudent person principle as specified in section 3.604.3.G. And defined in section 3.601.
 - 1. Good cause for granting an FVO waiver of work activities and/or the sixty (60)-month time limit extension is defined as anything that would potentially endanger or unfairly penalize a client or the client's family if he/she participated in work activity requirements or grant payments were discontinued.

2. Good cause for granting a waiver of the Child Support Services cooperation requirement is defined as anything in section 3.604.4.A.1, including circumstances that are not in the best interest of the child, e.g., potentially endangering or unfairly penalizing the client or child if the individual cooperated with Child Support Services.
 4. Provide certain resources to all Colorado Works clients and survivors of domestic violence. Counties are to make immediate referrals to appropriate services, including: domestic violence services, legal services, health care, emergency shelter, child protection, and law enforcement. Such referrals are to be documented in the client's case file.
- C. FVO provisions
 1. Screening clients includes:
 - a. All clients are to be screened continually for domestic violence by trained workers.
 - b. At any point in Colorado works program participation, a client may be identified or may self-identify as a survivor of domestic violence.
 - c. Workers are to use sensitivity and discretion in selecting the appropriate setting for domestic violence screening. The screening and any information related to the client's domestic violence shall remain confidential in accordance with section 3.609.73.
 2. Waiver provisions, case documentation, and the Individualized Plan (IP)
 - a. The county shall use only FVO-trained workers to work with survivors of domestic violence throughout the application, screening, waiver/IP development, and case management processes, and when implementing, modifying, and monitoring sanctions for a domestic violence survivor.
 - b. Workers shall use the prudent person principle in determining what FVO waiver(s) will most benefit the individual. The IP shall be developed with a priority on safety and self-sufficiency for the individual and the individual's child(ren).
 - c. Waivers shall be based on need, and may be granted as long as need is demonstrated. This can be accomplished at application or throughout the life of the case.
 - d. Waivers shall be documented in the statewide automated system describing and taking into account:
 - 1) The past, present, and ongoing impact of domestic violence on the individual and the family;
 - 2) The individual's available resources;
 - 3) The maximized safety of the individual and the individual's family while leading to self-sufficiency;
 - 4) Identification of specific program/work activities requirements being required and/or waived;

- 5) Prioritization of work, excepting those cases where work would lead to greater risk of family violence; re-assessment should occur every six (6) months, at minimum.
3. Appeal of a waiver denial
 - a. If a waiver is denied, and the client wishes to dispute this decision, he or she may appeal through the State Employment and Benefits Division. The Division will review and make decisions on the appeal. If the State Employment and Benefits Division denies the client's appeal, he or she has the right to appeal further through the judicial review process in section 24-4-106, C.R.S.

The appellant shall be granted all requested waivers and continue to receive benefits through the appeal process.
 - b. Any individual may reapply for a waiver at any time.

3.605 Income

3.605.1 Income

- A. For Colorado Works grant payments, all countable gross income that members of the assistance unit and budgetary unit have received or expect to receive shall be used to determine eligibility.
 1. Consideration of income - for purpose of determining need, all countable gross income received in the month prior to, if available, and in the month of application shall be used to determine eligibility of members of the assistance unit.
 2. Availability of income - income shall be countable when actually available, when the client has a legal interest in a sum, and has the legal ability to make such sum available for support and maintenance. Income, in general, is the receipt by a client of a gain or benefit in cash or in-kind during a calendar month. Received means the date on which the income becomes legally available.
 3. Securing potential income - a client must make every reasonable effort to secure potential income.
 - a. The time required to make income available shall not be used as a basis for delaying the processing of an application.
 - b. When the client is taking appropriate action to secure potential income, the assistance unit shall continue without adjustment until the income is available.
 - c. If the client refuses to make a reasonable effort to secure potential income, such income must be considered as if available. Timely and adequate notice must be given to the assistance unit regarding a proposed action to deny, reduce, or terminate assistance, based on the availability of the income.
 - d. If, upon the receipt of the prior notice, the client acts to secure the potential income, the proposed action to deny, reduce, or terminate assistance shall be withdrawn and assistance must be approved and/or continued without adjustment until the income is, in fact, available.
 4. Income of a non-participant stepparent and a non-participant parent of an unmarried minor parent

- a. A stepparent's countable income is considered available to stepchildren included in the assistance unit as dependent children. The countable income of a non-participant parent(s) of an unmarried minor parent who is living in the same home as the minor parent, shall also be deemed to the assistance unit.

The countable income equals gross earned income minus the employment disregard of \$90, minus the maintenance or child support paid to others outside the assistance unit, minus the amounts actually paid by the individual to other individuals not living in the home and who could be claimed by the individual for federal income tax purposes, plus any unearned income received by the stepparent or non-participant parent. The needs of the stepparent or parent of the minor parent, and the needs of individuals living in the home for whom the stepparent or parent are responsible shall be deducted from the result to determine the amount attributed to the assistance unit.

- b. Income of parents living in the same home as the unmarried minor parent shall be attributed to the assistance unit of the minor parent.

5. Sponsored non-citizens

- a. It shall be presumed that an affidavit of support demonstrates the sponsor's ability to make income available to a non-citizen whom he or she sponsors at a minimum of one hundred twenty-five percent (125%) of the Federal Poverty Level. Therefore, the net income of a non-citizen's sponsor and the sponsor's spouse shall be deemed to the assistance unit.

- b. Sponsor net income equals gross earned income minus twenty percent (20%) or \$175, whichever is less, minus support paid to dependents not living in the sponsor's home, plus any unearned income. The remaining income shall be considered available as unearned income to the non-citizen for the purpose of establishing eligibility and payment for Colorado Works.

The client may rebut the county department's determination that the income of the sponsor is available. If such a determination is made, the sponsor's income will not be deemed to the assistance unit.

- c. The income of the sponsor will not be deemed to the assistance unit if any of the following are true:
 - 1) The non-citizen is a qualified non-citizen who is not a legal permanent resident (i.e. refugees, asylees, parolees and Cuban and Haitian entrants).
 - 2) The non-citizen adjusted their status to legal permanent resident from refugee or asylee status.
 - 3) The non-citizen's sponsor signed the sponsorship agreement prior to December 19, 1997.
 - 4) The non-citizen is a victim of battery or extreme cruelty.

- 5) The total income of the non-citizen and non-citizen's spouse, together with the total income of the sponsor and the sponsor's spouse (who is also a sponsor) is less than one hundred twenty-five percent (125%) of the Federal Poverty Guidelines for the household size of both the non-citizen and the sponsor.
 - 6) The non-citizen earned or can be credited with forty (40) qualifying quarters of coverage as defined under Title II of the Social Security Act.
 - 7) The non-citizen was sponsored on an affidavit of support other than the I-864. Or the non-citizen entered in a nonfamily or employment classification that did not require the sponsor to sign form I-864.
- d. If it is determined that the legal immigrant received financial assistance benefits that were the responsibility of the sponsor, the State Department or county department may recover such funds from the sponsor or the legal immigrant via the following:
- 1) Income assignments;
 - 2) State income tax refund offset;
 - 3) State lottery winnings offset; and,
 - 4) Administrative lien and attachment.

Enforcement of duties under affidavit of support shall be the responsibility of the sponsored immigrant.

6. Net income of persons who are required to be included in the assistance unit, but who are disqualified due to failure to meet citizenship, non-citizen status, lawful presence or Social Security Number requirements, or are ineligible as defined in section 3.604.2.C, shall be deemed to the assistance unit. Net income equals gross earned income minus employment disregards and employment incentives plus any unearned income.

B. Countable Income

All countable income, including earned and unearned income received, or unearned income an assistance unit expects to receive in the application month and any month following shall be used to determine eligibility for the assistance unit.

3.605.2 Earned Income

A. Earned In-kind Income

Earned in-kind income shall be income resulting from the performance of services by the client for which he or she is compensated in shelter or other items in lieu of wages.

B. Consideration of Earned Income

"Earned Income" is still considered when:

1. Money payments obligated to the employee are diverted to a third-party for the employee's household or other expenses;

2. Wages are being garnished by a court order.

With the exception of contract employment, wages that are paid to an employee for a period for which services were rendered are considered available when paid rather than when earned, except that wages held at the request of the employee are considered income in the month they would otherwise have been paid.

C. Income from Short-Term Employment

Income received from short-term employment such as temporary employment (ninety days or less) and subsidized employment shall not be considered to determine eligibility as long as the client has not been terminated or has terminated the employment due to a fault of their own. This employment may be documented in the Individualized Plan.

D. Countable Earned Income

1. Consideration of Earned Income Against the Program Income Standard

Unless otherwise specified, any earned income is countable and the applicable earned income must be considered against the applicable needs standard.

2. Determining Earned Income

The amount of wages, salaries, or commissions available to the client after the applicable disregards is considered the net earned income.

3. Wages for Providing Home Care Allowance Services

When a client is the care provider to another client for whom a Home Care Allowance (HCA) payment is made, the HCA payment is considered earned income to the client who is the care provider.

4. Earned Income of a Dependent Child not in School

All earned income of dependent children who are not students or making satisfactory progress in an equivalent activity shall be considered in determining eligibility for Colorado Works.

E. Self-Employment Income

1. A client who is self-employed shall have the following applied to their income:

- a. To determine the net profit of a self-employed client, deduct the cost of doing business from the gross income.

- 1) These expenses include, but are not limited to, the rent of business premises (if working out of the home, the cost of the room used when doing business shall be used to determine the amount of the expense), wholesale cost of merchandise, utilities, interest, taxes, labor, and upkeep of necessary equipment.

- 2) Depreciation of equipment shall not be considered as a business expense.

- 3) The cost of and payments on the principal of loans for capital assets or durable goods shall not be considered as a business expense.
 - 4) Personal expenses such as personal income tax payments, lunches, and transportation to and from work are not business expenses, and are included in the applicable earned income disregards computation.
 - b. Appropriate allowances for the cost of doing business for clients who are licensed, certified, or approved day care providers are:
 - 1) For the first child for whom day care is provided, deduct \$55, and
 - 2) For each additional child deduct \$22. If the client can document a cost of doing business that is greater than the amounts above, the procedure described in (a), above, shall be used.
 - c. The result net profit amount, secured after the appropriate deductions described above, shall be treated as described in section 3.605.2.D, concerning earned income.
 - d. An allowable form of verification for self-employment is a client's ledger of income and expenses.
2. Income Received From Self-Employment

All self-employment income that is received regularly shall be considered income in the month it is received.
3. Irregular Receipt of Self-Employment Income

If receipt of self-employment income is irregular or varies significantly from month to month, it shall be averaged over a twelve-month period.
4. Other Types of Self-Employment Income

Some different types of self-employment income and how they are considered include, but are not limited to, the following:

 - a. Self-employment income earned by the owner of a farm – shall be considered in the month it is received.
 - b. Rental income – shall be considered as self-employment income only if the client actively manages the property for an average of twenty (20) hours per week or more.
 - c. Board (to provide a person with regular meals only) payments shall be considered earned income in the month received to the extent that the board payment exceeds the maximum Food Assistance allotment for a one-person household per boarder and other documented expenses directly related to the provision of board.
 - d. Room (to provide a person with lodging only) payments shall be considered earned income in the month received to the extent that the room payment exceeds other documented expenses directly related to the provision of room.

- e. Room and board payments shall be considered earned income in the month received to the extent that the payment for room and board exceeds the Food Assistance allotment for a one-person household per room and boarder and other documented expenses directly related to the provision of room and board.

F. In-Kind Countable Earned Income

- 1. Donated in-kind earned income is countable when it:
 - a. Is regular and for a specific time period;
 - b. Is a necessary service; and,
 - c. If not performed by the client, someone would have to be hired to perform the service.
- 2. If donated services meet these requirements, the value of these services is determined by:
 - a. The going rate in the community; or
 - b. From two employers of like services.
- 3. The client shall be informed that the continuation of donation of services will result in an income deduction from the assistance grant after all applicable earned income disregards have been applied.

G. In-Kind Income In Exchange For Employment

In-kind income received in exchange for employment is employment income and shall have the appropriate earned income disregards applied to the total value of the income. The amount considered as earned income when a client is paid in-kind is the value of the item supplied. The current market value of the item is used if the value of the item is not provided.

3.605.3 Countable Unearned Income

Unless otherwise specified, any unearned income is countable and together with all other countable income of the client it must be considered against the applicable assistance program need and/or grant standards specified in the regulations covering the different programs.

A. Countable Unearned Income

Countable unearned income includes, but is not limited to the following, as well as other payments from any source, which can be construed to be a gain or benefit to the client and which are not earned income:

- 1. Veteran's Compensation and pension.
- 2. Income from rental property is considered as unearned income where the client is not actively managing the property on an average of at least twenty (20) hours a week. Rental income is countable to the extent it exceeds allowable expenses. Allowable expenses are maintenance, taxes, management fees, interest on mortgage, and utilities paid. This shall not include the purchase of the rental property and payments on the principal of loans for rental property.

3. Current spousal maintenance (also referred to as alimony).
4. U.S. Department of Veterans Affairs (VA) educational assistance (G.I. Bill) payments or any other benefits which are conditional upon school attendance are income to the extent that they exceed expenses necessary for school attendance.
5. Proceeds of a life insurance policy to the extent that they exceed the amount expended by the beneficiary for the purpose of the insured recipient's last illness and burial which are not covered by other benefits.
6. Proceeds of a health insurance policy or personal injury lawsuit to the extent that they exceed the amount to be expended or required to be expended for medical care.
7. Strike benefits.
8. Income from jointly owned property - in a percentage at least equal to the percentage of ownership or, if receiving more than percentage of ownership, the actual amount received.
9. Lease bonuses (oil or mineral) received by the lessor as an inducement to lease land for exploration are income in the month received.
10. Oil or mineral royalties received by the lessor are income in the month received.
11. Stepparent and non-citizens' sponsors' attributable income for Colorado Works cases.
12. Amounts withheld from unearned income because of a garnishment are countable as unearned income.
13. Loans or inheritances.
14. Gifts or prizes.
15. Dividends and interest received on savings bonds, leases, etc.
16. Annuities, pensions, or retirements payments.
17. Disability or survivor's benefits.
18. Worker's Compensation payments.
19. Unemployment Compensation.
20. Social Security benefits.

B. Periodic Payments

The following types of periodic payments are countable unearned income:

1. Annuities - payments calculated on an annual basis which are in the nature of returns on prior payments or services; they may be received from any source;
2. Pension or retirement payments - payments to a client following retirement from employment, such payments made by a former employer or from any insurance or other public or private fund;

3. Disability or survivor's benefits - payment to a client who has suffered injury or impairment, or to such client's dependents or survivors; such payments may be made by an employer or from any insurance or other public or private fund;
4. Worker's Compensation payments - payments awarded under federal and state law to an injured employee or to such employee's dependents; amounts included in such awards for medical, legal, or related expenses incurred by a client in connection with such claim are deducted in determining the amount of countable unearned income;
5. Veteran compensation and pension - payments based on service in the armed forces; such payments may be made by the VA, another country, a state or local government, or other organization. Any portion of a VA pension that is paid to a veteran for support of a dependent shall be considered countable unearned income to the dependent rather than the veteran.
6. Unemployment Compensation - payments in the nature of insurance for which one qualifies by reason of having been employed and which are financed by contributions made to a fund during periods of employment;
7. Railroad retirement payments - payments, such as sick pay, annuities, pensions, and unemployment insurance benefits, which are paid by the Railroad Retirement Board (RRB) to a client who is or was a railroad worker, or to such worker's dependents or survivors;
8. Social Security benefits - old age (or retirement), survivors, dependent, and disability insurance payments (OASDI or RSDI) made by the Social Security Administration; also included are special payments at age seventy-two (72) (Prouty Benefits and Black Lung benefits);
9. Supplementary Medical Insurance Benefits (SMIB)- Social Security "Medicare" supplementary medical insurance benefit is a voluntary program, therefore the full Social Security award amount is counted as income to determine Colorado Works eligibility and to determine the amount of financial assistance to the client. The lump sum SMIB refund received by the "buy-in" recipient is exempt income as the client has previously been charged with that income.
10. Military Allotment- A military allotment received on behalf of a client for those individuals included in the budget unit shall be considered as income in the month received. The military allotment received by the non-recipient spouse, parent, or stepparent on behalf of individuals not in the assistance unit shall be considered as income in the month received to the extent that such income exceeds the need standard concerning those persons not in the budget unit.

3.605.4 Exempt Unearned Income

- A. For the purpose of determining eligibility for Colorado Works, the following shall be exempt from consideration as income:
 1. Income Tax refunds.
 - a. The Earned Income Tax Credit (EITC) shall also be exempt for the month in which the EITC payment is received and for the following month.
 - b. County departments shall provide assistance to help clients apply for and receive the federal and State EITC.

2. Third-Party Payments- The value of any third-party payment for medical care or social services paid on behalf of a client.
3. Emergency Assistance- Emergency Assistance received on a one-time basis in cash or in kind from other agencies and organizations.
4. Energy Assistance- Home energy assistance granted to a client by a private non-profit organization or home energy supplier, whether in kind, by voucher, or vendor payment.
5. Personal Care and Home Care- Personal care or home care allowances paid to a recipient or non-recipient spouse, parent, stepparent, or child, from a federal, state, or local government program for in-home supportive services (attendant, chore, housekeeping) shall be exempt as income in determining the amount of attributable non-recipient spouse, non-recipient parent, or non-recipient stepparent income. However, it shall be classified as employment income in determining the attendant's own eligibility for assistance.
6. VA Aid and Attendance- VA Aid and Attendance may be paid to qualified veterans in addition to their regular VA benefit. VA Aid and Attendance is exempt income to the applicant or recipient to determine eligibility for public assistance in the applicant's or recipient's own home, if the VA Aid and Attendance is used for medical supplies and medical or attendant care not covered by Medicare or Medicaid, or other health insurance programs. The remainder is deducted from the assistance grant. (Amounts for attendant care are treated in the same manner as specified in the preceding paragraph.)
7. General Assistance- General Assistance granted to a client by the county department prior to or as a supplement to categorical assistance.
8. Crime Victims Compensation Act.

B. General Income Exemptions – Exemptions from Consideration as Income

For the purpose of determining eligibility for Colorado Works, the following shall be exempt from consideration as income:

1. A bona fide loan. Bona fide loans are loans, either private or commercial, which have a repayment agreement.
2. Benefits received under the Older Americans Act, Nutrition Program for the Elderly.
3. The value of supplemental food assistance received under the special food services program for children provided for in the National School Lunch Act and under the Child Nutrition Act, including benefits received from the special supplemental food program for Women, Infants and Children (WIC).
4. Home produce utilized for personal consumption.
5. Payments received under Title II of the Uniform Reconciliation Act and Real Property Acquisition Policies Act; relocation payments to a displaced homeowner toward the purchase of a replacement dwelling are considered exempt for up to six (6) months.
6. Experimental Housing Allowance Program (EHAP) payments made by HUD under Section 23 of the U.S. Housing Act.

7. Payments from Indian judgment funds and tribal funds held in trust by the Secretary of the Interior and/or distributed per capita; and the initial purchase made with such funds.
8. Distributions from a native corporation formed pursuant to the Alaska Native Claims Settlement Act (ANCSA) which are in the form of: cash payments up to an amount not to exceed \$2,000 per individual per calendar year; stock; a partnership interest; or an interest in a settlement trust. Cash payments, up to \$2,000, received by a client in one calendar year is excluded as income.
9. Assistance from other agencies or organizations that are provided for items not included in the need standard or do not duplicate a component of the need standard in total.
10. Major disaster and emergency assistance provided to clients, and comparable disaster assistance provided to states, local governments, and disaster assistance organizations.
11. A child receiving foster care or kinship care funds under Title IV of the Social Security Act shall be excluded from the assistance unit and his or her income shall be exempt from consideration for Colorado Works eligibility and payment.
12. Payments to volunteers serving as foster grandparents, senior health aids, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other program under Title I (AmeriCorps VISTA) when the value of all such payments adjusted to reflect the number of hours such volunteers are serving is not equivalent to or greater than the minimum wage, and Title II and Title III of the Domestic Volunteer Services Act.
13. Training allowances or training scholarships granted by Workforce Innovation and Opportunity (WIOA) or other programs to enable any individual to participate in a training program is exempt.
14. Payments received from the Youth Incentive Entitlement Pilot Projects (YIEPP), the Youth Community Conservation and Improvement Projects (YCCIP), and the Youth Employment and Training Programs (YETP) under the Youth Employment and Demonstration Project Act (YEDPA).
15. Social Security benefit payments and the accrued amount thereof paid to a client when an individual plan for self-care and/or self-support has been developed under the following conditions:
 - a. Supplemental Security Income (SSI) permits such disregard under such developed plan for self-care-support goal, and
 - b. Assurance exists that the funds involved will not be for purposes other than those intended.
16. Income received through the Workforce Innovation and Opportunity Act, including supportive services through that program.
17. Money received from the Radiation Exposure Compensation Trust Fund, P.L. No. 101-426 as amended by P.L. No. 101-510.
18. Reimbursement of out-of-pocket expenses.
19. Payments received by clients because of their status as victims of Nazi persecution pursuant to P.L. No. 103-286.

20. Individual Development Accounts (IDAs).
21. Distributions from retirement savings accounts.
22. Distributions from health care savings accounts.
23. Income paid to children of Vietnam veterans who were born with spina bifida pursuant to P. L. No. 104-204.
24. Income of A client who is attending school (student in a secondary education or undergraduate degree program) shall be considered as follows:
 - a. Income received from a college work-study program grant shall be exempt.
 - b. All earned income, including earned income from WIOA, that is received by a dependent child who is a full-time student or a part-time student who is not a fulltime employee shall be disregarded.
25. Educational savings accounts.
26. Educational grants, loans, stipends, and/or scholarships.
27. A client receiving SSI payments shall be excluded from the assistance unit and his or her income shall be exempt from consideration for Colorado works eligibility and payment.
28. Refugee resettlement funds and reception and placement money.
29. Interim Cash Payment received through the Colorado Refugee Services Program.
30. Life or disability insurance policies that may have a cash value taken.
31. The benefits provided from the Low-Income Energy Assistance Program (LEAP).
32. A child receiving subsidized adoption funds shall be excluded from the assistance unit and his or her income shall be exempt from consideration for Colorado Works eligibility and payment.
33. Income that is exempt shall also be exempt if received as a lump sum or excluded if designated or legally obligated for legal fees related to obtaining the lump sum payment, medical bills, funeral and burial expenses, or income taxes.
34. Income tax credits when identified as exempt by the state or federal government.
35. Wages earned through subsidized employment programs including employment, apprenticeships, on-the-job training, and transitional jobs.

3.605.5 Child Support Income

- A. At initial application, current child support payments received by the assistance unit shall be considered income and counted against the need standard to determine eligibility.
- B. Once found eligible, child support income is excluded in the basic cash assistance grant calculation.
- C. For purposes of redetermination (RRR):

1. Inconsistent child support payments are not countable. Child support payments are considered consistent when received in all six (6) of the six (6) previous months.
 2. Once consistency of payments has been established, current child support is averaged over the previous six (6) months. If that averaged amount is \$500 or less for the household, the child support income is disregarded for both eligibility and grant calculation. If that amount is over \$500 for the household, it is counted, in combination with other income, against the need standard to determine continued eligibility.
 3. If found eligible, the child support income is disregarded for basic cash assistance grant calculation.
- D. Child support arrears are exempt income and are not used for eligibility or grant calculation.

3.606 Colorado Works Certification and Benefit Calculation

3.606.1 Basic Cash Assistance

A. Payment of Basic Cash Assistance (BCA) Grants

Counties or groups of county departments shall not reduce the BCA grant, restrict eligibility, or impose sanctions that are inconsistent with state and federal laws or the rules of this Section 3.606.1.

B. Unreimbursed Public Assistance

The BCA grant shall be considered part of the Unreimbursed Public Assistance (UPA) as defined in the Child Support Services rule manual at 9 CCR 2504-1 Section 6.002.

C. Recipient's Right to Decide

In accordance with the principle of the unrestricted money payment, a client shall have the right to decide how any payment received shall be spent.

D. Vendor Payments for client Protection

The county may pay the basic cash assistance grant to vendors on behalf of the client with the client's voluntary agreement. In all other situations the payment shall be made to the client.

E. Considering Income for Eligibility and Payment

Applications received will be certified for six (6) consecutive months beginning the first month the assistance unit is found eligible for basic cash assistance. The certification period consists of the calendar months beginning with the first day of the budget month (day/month the application is received and the assistance unit is found eligible) and ending with the last day of the sixth (6th) month (unless found ineligible) in which financial assistance is provided and that is intended to cover the ongoing basic needs of the assistance unit.

For eligibility and payment, income shall be considered in the month of application and throughout the certification period. This is also true for redetermination and establishing a new certification period going forward. The following calculation shall be used: countable earned income minus applicable earned income disregards, plus countable unearned income.

F. Determining Eligibility for Basic Cash Assistance Grant Based on the Need Standard

The basic cash assistance grant shall be determined based upon income using the following need standard. If the participant has zero income the following cash payment shall be received based upon those included in the assistance unit:

COLORADO WORKS STANDARDS OF ASSISTANCE CHART

Caretaker(s) of Children	Number of Dependent Children											
	0	1	2	3	4	5	6	7	8	9	10	Ea. Add.
No Caretaker												
Need Std.	0	117	245	368	490	587	678	755	830	904	977	67
Grant Amt.	0	141	296	444	593	711	821	915	1004	1095	1195	74
One Caretaker												
Need Std.	253	331	421	510	605	697	770	844	920	992	1065	67
Grant Amt.	306	400	508	617	732	844	932	1022	1113	1201	1289	74
Two Caretakers												
Need Std.	357	439	533	628	716	787	861	937	1009	1082	1155	67
Grant Amt.	431	531	645	760	866	952	1042	1135	1222	1309	1398	74

G. Pregnancy Allowance

Upon verification of pregnancy, pregnant parents are eligible for the basic cash assistance grant plus a ten dollar (\$10.00) pregnancy allowance. The client is eligible for the pregnancy allowance through the month in which the pregnancy ends.

H. Gross Income

To be eligible for Colorado Works basic cash assistance, the countable gross earned and unearned income together shall not exceed the need standard for the household size after disregards have been applied in accordance with section 3.606.2.

I. Calculation of the Basic Cash Assistance Grant for an Eligible Assistance Unit

To calculate the basic cash assistance amount for an eligible assistance unit:

1. Deduct the earned income disregard(s) from the gross earned income, received or expected to be received by members of the assistance unit, in the month of application;
2. Add to the result from step 1, above, the unearned income received or expected to be received by members of the assistance unit;
3. Deduct the total from step 2, above, from the grant amount for the household size.

J. Reporting of Earned Income

When the assistance unit reports earned income:

1. Apply the appropriate earned income disregards to the gross earned income of each employed member of the budgetary unit as described in Section 3.606.2; and,
2. Add the unearned income received by each member of the budgetary unit; and,

3. Compare the total to the need standard for the household size.
4. If the net countable income equals or exceeds the need standard, the assistance unit is not eligible for Colorado Works basic cash assistance.

K. Calculation of an Eligible Assistance Unit

To calculate the basic cash assistance grant amount for an eligible assistance unit:

1. Deduct the net countable income from the grant amount for the assistance unit; and,
2. Drop the cents, and the remainder is the authorized grant.

3.606.2 Earned Income Disregards

For all cases with eligible members that have earned income (not including disqualified individuals), payment and eligibility will be determined using the income disregards as described below. All payments shall be calculated by using applicable disregards.

A. Earned Income Disregards Calculations

The following earned income disregards shall be applied to gross wages for clients:

1. At application the gross earned income minus the ninety dollar (\$90) earned income disregard, plus any countable unearned income received or expected to be received by members of the assistance unit, shall not exceed the need standard for the household size and shall be applied at application. If income does not exceed the need standard for the household size, the sixty seven percent (67%) disregard shall be applied to determine payment amount.
2. For an assistance unit currently receiving basic cash assistance, the gross earned income minus the sixty seven percent (67%) earned income disregard, plus any countable unearned income received or expected to be received by members of the assistance unit, shall not exceed the need standard for the household size and shall be applied during the certification period. If income does not exceed the need standard for the household size, the 67% disregard shall be applied to determine payment amount.

B. Calculation Steps

If the assistance unit is eligible, calculate the payment utilizing the following steps:

1. Deduct the earned income disregard(s) from the gross earned income, received by or expected to be received by members of the assistance unit, in the month of application;
2. Add to the result from step 1, above, the unearned income received or expected to be received in that month by members of the assistance unit;
3. Deduct the total resulting from step 2, above, from the grant amount for the household size. The remainder is the grant amount.

3.606.3 Changes and Reporting Requirements

Colorado Works clients shall report information concerning income, household composition, and residency. The income reporting standard for an assistance unit is provided on the change report form and in noticing. Information on such changes may be reported to the county of residence by use of a change report form, the client's redetermination packet, and/or by making the county aware of the change. Changes shall be reported by the tenth (10th) of the month following the month the change occurred. The county must act on all changes reported within ten (10) calendar days of the report by entering the change into the statewide automated system. By acting on changes, the county department shall determine eligibility.

A. Negative and positive changes during the certification period

1. If the assistance unit will receive an increase in grant payments as indicated by the total net change of all changes in the month, the increase will affect the case the month following the date the change is reported and verified.
2. If the assistance unit will receive a decrease in grant payments, the grant payment amount will remain the same until redetermination when a new payment amount will be set for the upcoming certification period or the case discontinues.

The only decreases that occur during the certification period are identified in section 3.606.3.C below. These changes take effect after timely noticing is applied.

B. Limited reporting standard

A recipient with an established certification period must report certain changes in household circumstances by the tenth (10th) day of the month following the month in which the change occurred. The client will be notified in writing of the changes they are required to report. The county worker must act on reported changes within ten (10) calendar days from the date the change is reported by entering the change into the statewide automated system. The following changes must be reported during the certification period:

1. When the income of the assistance unit exceeds the income reporting standard for that assistance unit.
 - a. The reporting standard for earned income is a reflection of the amount of earned income the household could receive and still be eligible for Colorado Works after applicable disregards are applied (calculated by dividing the need standard for the household by .33).
 - b. The reporting standard for unearned income is the need standard for the household, as identified in 3.606.1.F.
2. When the assistance unit receives earned or unearned income from a new source.
3. When a change to the number of people living in the home occurs.
4. When the assistance unit no longer resides at the address previously reported to the county department.

C. Ongoing eligibility and the effect of negative and positive changes to the certification period

The certification period does not guarantee ongoing eligibility. To remain eligible, the primary eligibility criteria must still be met, including remaining below the need standard.

All changes are compared against the assistance unit size and grant amount.

1. A negative change may result in the reduction of payment or case closure before the end of the certification period. When a negative change occurs, the reduction of payment or closure shall take place after the appropriate noticing timeframe as identified in 3.609.1.

A negative change shall include, but is not limited to:

- a. An increase in income in which the budgetary unit's total countable income is over the need standard after applicable income disregards are applied.
- b. Income is received from a new source which results in the exclusion of a member of the assistance unit.
- c. A member leaves the household.
 - 1) If the member leaving the home is the only dependent child on the case.
 - 2) If a pregnancy ends.
 - 3) When a government agency provides information that a dependent child is no longer in the household and the child's new household is in need of services (such as child support) with a different caretaker or parent.
 - 4) When a member leaves the home and applies for assistance and/or someone is requesting assistance for that member during the original assistance unit's certification period:
 - a) A new assistance unit may apply for the member as he/she leaves the original assistance unit but the member shall not receive a portion of the new assistance unit's basic cash assistance grant until benefits have been terminated for that member in the original assistance unit.
 - b) The individual is considered to be a part of the original assistance and budgetary units during the noticing period. After the noticing period, the grant amount for the original assistance unit will be recalculated using the new household size and benefits will continue as long as eligibility continues for that assistance unit until the certification period ends.
 - 5) When a member requests assistance to stop for him or herself, or a caretaker who remains a part of the original assistance unit requests that they stop receiving benefits for another member who has left the home.

when a member of the assistance unit or budgetary unit leaves the home, the individual's income shall be excluded beginning the first day of the month following the month the individual reported they left the home and the basic cash assistance grant adjusted accordingly.
- d. An eighteen-year-old who is the only dependent child graduates from high school or stops attending school.
- e. Death of a client.

- f. Imposing sanctions.
 - g. Imposing actual intentional program violation (IPV) penalties.
 - 2. A positive change results in a payment increase and shall be effective the month following the month the change is reported and verified. Payments shall be adjusted accordingly and provided to the recipient timely. A positive change shall include, but is not limited to:
 - a. Termination of or decrease in income.
 - b. Adding a member to the assistance unit.
 - 1) The initial application for Colorado Works is sufficient to cover all members who join the assistance unit after initial application. Verification is still needed to establish eligibility for the member joining the assistance unit.
 - 2) A new member(s) who is added to an existing assistance unit shall be added effective the first day of the following month that the assistance unit reported the change and provided any necessary verifications.
 - a) if the new member has income, it will be considered income to the assistance unit in the month that the new member joined the household. The income shall be used to determine eligibility and payment according to the negative and positive change rules in section 3.606.34.a.
 - b) if the new member is a newborn and a pregnancy has been previously verified, the newborn shall be added effective the first day of the month of birth and documentation shall consist of the birth date and a Social Security Number (SSN) or an SSN application. No other documentation is required to add a baby to the assistance unit after the birth is reported unless there is questionable information regarding relationship to a parent(s), citizenship, or qualified non-citizenship status.
 - c. Verifying a pregnancy.
 - d. Providing individual level verification.
 - e. A member who was previously ineligible becomes eligible.
 - 3. Positive and negative changes may occur at the same time. All changes will be taken into consideration and the net result of the change will be compared to the client's base eligibility determination. The comparison will be used to determine if there is a negative change, positive change, or complete ineligibility to the assistance unit's basic cash assistance grant.
- D. At any time while receiving basic cash assistance, if there is questionable information regarding the circumstances of a household, the county worker can request verification of the questionable information. If the client fails to submit verification of the questionable information, grant payments may be discontinued.

3.606.4 Redetermination of Eligibility

A. Filing a redetermination (RRR) to continue benefits

Colorado Works clients shall file their RRR with the county by the 15th of the month as specified in the RRR packet. A client's failure to file a RRR timely may delay the determination of benefits. All RRR forms must be entered into the statewide automated system within two (2) business days. Complete forms received timely must be acted upon by the county department by the last day of the month in which the forms were due. Complete forms received between the 16th and the last day of the month the RRR is due must be approved as soon as possible. The county department will have ten (10) days to act on such redeterminations, to include scheduling and conducting the interview and requesting any necessary verification. The county must make an eligibility decision on redetermination forms received between the 16th and the last day of the month within thirty (30) days from receipt of such RRR.

An interview for Colorado Works basic cash assistance cases shall take place annually and necessary verifications must be requested and obtained at each RRR to determine whether the client continues to be eligible for Colorado Works.

B. Redetermination procedures- mail out

Forms that the client is required to complete shall be mailed to the client at least thirty (30) calendar days prior to the first of the month in which eligibility redetermination is due. This is considered the prior notice period. The following procedures relate to mail-out redetermination:

1. An RRR packet shall be mailed to the client which identifies the RRR due date and the date when Colorado Works grant payments will stop if the RRR packet is not returned;
2. The RRR packet shall be completed, signed by the client, and returned to the county department no later than the 15th of the month in which the client's existing certification ends; and,
3. When the client is unable to complete the RRR packet due to physical, mental, or emotional disabilities, and has no one to help, the county department shall either assist the client or refer the client to a legal or other resource.
4. When initial arrangements or a change in arrangements are being made, an extension of up to thirty (30) days may be allowed. The assistance and/or referral action of the county department shall be recorded in the case record.

C. Complete RRR packet

A complete RRR packet has all questions applicable to Colorado Works and/or specific to the household's circumstances completed by the client and is signed by the client or authorized representative.

D. Redetermination process

The redetermination process shall consist of all activity from the date the RRR is received from the client until a determination concerning eligibility is made.

During the redetermination process, the county worker shall:

1. Date the RRR packet to record the date of receipt by the county department.

2. Enter the RRR into the statewide automated system within two (2) business days.
3. Schedule and conduct an interview when required. The client shall be provided with written notice of a scheduled interview in accordance with section 3.602.1.E.1.c. When the client does not keep the appointment and does not request an alternate time or arrangement, as described in section 3.602.1.E.1.c, grant payments will be terminated at the end of the current certification period.
4. Explain the purpose of the interview and the use of the information supplied by the client on the RRR form and any additional required forms.
5. Inform all clients in writing at the eligibility redetermination that Social Security Numbers for all clients will be used to request and exchange information with other agencies as part of the eligibility process, including the Department of Labor and Employment (State Wage And Unemployment Data), Social Security Administration, and Internal Revenue Service (unearned income). IEVS information may also be exchanged with other state or federal agencies administering public assistance programs, including the Department of Labor and Employment, Child Support Services, and the Social Security Administration.
6. Have the client complete the forms or complete the form on behalf of the client.
7. Explain the appeal rights to the client.
8. Witness the signature of the client and sign as a person who helped complete the forms, when applicable.
9. Review documents, verifications, and any other information supplied by the client with the client in order to obtain clarification if needed. Information requested shall include:
 - a. Income.
 - b. Other eligibility factors to be verified unless satisfactory documentation is in the case record.

E. Redetermination not returned

When the RRR packet is not returned by the 15th of the RRR due month, discontinuation of benefits shall occur at the end of the RRR due month. This action to discontinue shall not be taken, however, if the completed and signed forms are returned between the 16th and the end of the RRR due month as defined in section 3.606.4.A. If no response is received by the end of the RRR due month, the case shall be discontinued upon the effective date of the notice sent to the client with the RRR packet.

F. Incomplete redetermination packets

If the RRR packet is received by the first filing deadline, but it is incomplete, a correction notice shall be sent to the client advising the client that the RRR packet is incomplete and must be corrected by the correction deadline to avoid termination and/or the county department shall work with the client to complete the packet.

G. Termination of benefits and adequate notice

When the information provided in the RRR packet, or otherwise provided by the client, is the basis for reduction in the amount of assistance or in termination of assistance, such actions shall be taken after adequate notice, as defined in section 3.601 and described in 3.609.1,C and D, is given.

H. Termination of benefits and adequate notice redetermination requirements

A redetermination of eligibility shall be complete for Colorado Works when:

1. All necessary forms concerning the redetermination are completed and have been reviewed;
2. Requested verification is obtained and recorded in the case file;
3. All factors are evaluated and decisions on continued eligibility and amount of money payment have been reached; and
4. Notice of change in payment, if applicable, is completed and mailed to the client. A state-approved notice of proposed action form shall be used for positive actions and for negative or adverse actions.

I. Reopening and reinstatements

Cases may be reopened prior to the effective date of closure with good cause and may be reinstated if closed within thirty (30) calendar days or less.

1. Reinstatement in lieu of an application- when a request is made for the category of assistance from which the client was discontinued within thirty (30) calendar days following the effective date of discontinuation, the following procedures shall be followed:
 - a. A RRR packet or current application shall be in the case file or completed and signed by the client;
 - b. Income shall be verified;
 - c. Other eligibility factors shall be verified unless satisfactory documentation is in the case record;
 - d. Eligibility determination shall be completed and appropriate actions shall be taken.
2. Reopening in lieu of an application- when a client requests assistance prior to the effective date of the client's discontinuation from assistance, the following procedures shall be followed:
 - a. A RRR packet or current application form shall be in the case file or completed and signed by the client;
 - b. Income shall be verified;
 - c. Other eligibility factors shall be verified unless satisfactory documentation is in the case record;

- d. Eligibility determination shall be completed and appropriate actions shall be taken;
- e. If reopened, child support services and other appropriate units shall be so advised.

3.606.5 Clients Moving to a New County of Residence

- A. Colorado Works clients transferring from one county to another shall remain eligible for the basic cash assistance and shall continue to be eligible. For work required individuals, the client remains eligible until assessed by the new county, in accordance with the timeframes outlined in 3.608.1.A. The benefits shall continue without interruption.
- B. Clients who are transferring to another county are required to continue to report changes and the transferring county shall continue to process the client's changes during the period in which the transfer to another county is in process.
 - 1. Clients shall continue to report changes by the tenth (10th) of the month following the month in which the change occurred and complete redeterminations as required by the paying county; and,
 - 2. The paying county shall continue its activities; and,
 - 3. The paying county shall resolve all issues concerning the client's continuing eligibility or termination before the transfer is completed; and,
 - 4. The paying county shall assure that the case is updated in a timely way to enable acceptance by the county of residence.

3.606.6 Time Limits and Extensions

A. Time Limits

Each month for which a basic cash assistance grant is received shall be counted toward the time limits of adult members who are part of the assistance unit regardless of whether or not the adult is eligible to receive assistance. Any assistance unit containing an adult may receive Federal TANF grant payments for up to sixty (60) cumulative months.

B. Time Limits and Sanction Periods

Months in which a partial Colorado Works payment was made due to a sanction shall be counted toward the time limit.

C. Extensions

An assistance unit containing an individual who has received Federal TANF assistance in Colorado or another state as an adult for sixty (60) or more cumulative months shall not be eligible for Colorado Works assistance in Colorado unless granted an extension by the county department due to hardship or domestic violence. Assistance units that contain disqualified members shall not be eligible for consideration of an extension.

- 1. The State Department shall send a notification to clients who are approaching the sixty (60) month time limit on Federal TANF assistance. The county department shall make all reasonable efforts to contact these clients by phone or in person to explain the extension process and to accept a request for an extension.

2. All clients shall have the opportunity to request an extension. Requests for an extension of Colorado Works shall be made in the county of residence and may be made in person, by phone, or in writing. The client's county of residence shall approve or deny an extension request.
3. The county department shall have thirty (30) days after the receipt of a request for an extension to make a decision whether to grant or deny the extension. The county shall send a notice to the client concerning the decision.
4. If the request for an extension is denied, the notice shall include the reason for the denial and the right to appeal the decision per Section 3.609.6. A client who has been granted an extension may request an additional extension prior to the end of the current extension period. If a timely request is not made, the county department may grant an extension if the client is able to demonstrate good cause. Good cause shall be determined by the county department and cannot be appealed.
5. An extension may be granted for up to six (6) months. A client who has been granted an extension may request additional extensions, but the request must be made prior to the end of the current extension period.
6. Nothing in these rules shall be construed to prohibit a former client from requesting a hardship or domestic violence extension, after the lapse of the 60-month lifetime limit, when new hardship or domestic violence factors occur, to the extent permissible under State and federal law.
7. The client receiving an extension shall meet with the county worker on a regular basis to address specific needs and to identify a plan to move off of assistance in an Individualized Plan.

D. Hardship

A household may be considered to be experiencing a hardship if one or more of the following prevents the adult member(s) of the assistance unit from securing or maintaining employment:

1. Disability of the caretaker, his or her spouse, the dependent child(ren) or immediate relative for whom the caretaker is the primary caregiver, pursuant to the definition of "persons with disabilities" at Section 3.604.3; or,
2. Involvement in the judicial system because a member of the assistance unit has an existing case; or,
3. Family instability which may include a caretaker with proven inability to maintain stable employment or inability of the caretaker to care for the children in his or her own home or in the home of a relative; or,
4. Inadequate or unavailable:
 - a. Child care,
 - b. Housing,
 - c. Transportation; or,

d. Employment opportunities.

County departments shall include additional criteria for Item “d”, regarding employment opportunities specific to the county. A county department may define additional reasons for granting an extension due to hardship. The detailed information and additional hardship reasons shall be defined and described in the county policies and procedures.

E. Hardship Due to Domestic Violence

Domestic violence extension may be granted when domestic violence problems, as defined at Section 3.604.5 prevent the adult member(s) from participating in work activities or securing employment.

F. Exemptions From the 60-Month Time Limit

Any month of receipt of assistance by an adult while living in Indian Country, or a Native Alaskan village where at least fifty percent (50%) of the adults were not employed, shall not be counted toward the sixty (60) cumulative months of Federal TANF assistance. Indian Country is defined in 18 U.S.C. Section 1151.

G. Twenty Percent (20%) Allocation of Extensions

Up to twenty percent (20%) of the Statewide caseload receiving Colorado Works may be granted an extension beyond the sixty (60) month time limit due to hardship or domestic violence. At any point that records indicate that the State will exceed the twenty percent (20%) maximum on the number of Colorado Works extensions granted to assistance units, the State shall determine if this is due to the provision of federally recognized good cause domestic violence waivers. If the records support this determination, as allowed by federal law, the State shall provide information to the federal government to demonstrate that the reason for exceeding the twenty percent (20%) maximum was due to granting federally recognized good cause domestic violence waivers. The State Department has the sole responsibility of monitoring this federal limit. County departments are not restricted to a certain number of extensions unless the Statewide limit is reached.

3.606.7 Funeral, Burial, and Cremation Expenses

A. Death Reimbursement

1. A death reimbursement benefit shall in some circumstances be available to assist in paying for the funeral, burial, and cremation expenses of a deceased client. Death reimbursement benefits paid for the disposition of a deceased client under these rules are not entitlements. Benefit levels for such dispositions shall be adjusted by the State Department in order to contain expenditures within the available legislative appropriation.
2. The total amount of death reimbursement benefit paid by the county department pursuant to this section shall not exceed one thousand five hundred dollars (\$1,500). To be eligible for a state contribution, the total combined reasonable charges (including those paid by the deceased client's estate, family, State Department funds, or any other source) for services, property, and supplies shall not exceed two thousand five hundred dollars (\$2,500).
3. A birth certificate and death certificate shall not be required for a burial in the circumstances of a stillborn child or a pregnancy ended by miscarriage. Documentation from a medical provider and/or a collateral contact shall take the place of the birth and death certificate.

B. When State Funds may be Contributed

A death reimbursement benefit covering reasonable funeral expenses or reasonable cremation or burial expenses or any combination thereof shall be paid by the State Department for a deceased client, subject to state appropriations, as follows:

1. The expenses are incurred for the disposition of a deceased client who received Colorado Works while alive; and,
2. The deceased client's estate is insufficient to pay all or part of such expenses (a deceased client's estate is defined as property of any kind that the deceased client owned at the time of death); and,
3. The county department shall issue a written authorization and itemization of the services, property, and supplies for which the State Department funds shall be contributed. The total charge and amount of State Department funds authorized for each item shall be included in this authorization; and,
4. The total combined reasonable charges (including those paid by the deceased client's estate, family, State Department funds, or any other source) for services, property, and supplies which have been authorized by the county department shall not exceed two thousand five hundred dollars (\$2,500).

C. Disposition by Funeral, Burial, and Cremation

In those cases where disposition of a deceased client is by funeral/memorial service and burial or cremation, the county department may authorize that State Department funds shall be contributed toward the expenses for the following:

1. Transportation of the deceased client's body from the place of death to a funeral home or other storage facility;
2. Storage of the body during the time prior to final disposition;
3. Embalming, where necessary for preservation of the body;
4. Funeral or memorial service;
5. Purchase of casket;
6. Preparation of body for placement in casket;
7. Transportation of body and casket to site of funeral/memorial service and/or cemetery;
8. Purchase of gravesite;
9. Purchase of vault (liner), when required by the cemetery;
10. Opening and closing of grave;
11. Purchase and placement of grave marker;
12. Perpetual care of gravesite by owner of cemetery;
13. Cremation of body;

14. Purchase of an urn or other receptacle for the cremated remains of the decedent;
15. Burial of the cremated remains of the decedent, including purchase of gravesite, vault (liner) if required by the cemetery, opening and closing of grave, purchase and placement of grave marker, and perpetual care of gravesite;
16. Storage of the cremated remains for no more than one hundred twenty (120) days, in those cases where they are not buried and are not claimed by the decedent's family or friend; and/or,
17. Any other items that are incidental to the funeral/memorial service and burial/cremation.

D. Arranging for Details of Disposition

Even though State Department funds may be contributed toward the expenses for the items listed in the preceding sections, some of those items will not be requested, necessary, or affordable in some situations (e.g., in the case of a direct burial with or without graveside service, or immediate cremation with no burial). In the course of contacting relatives of the deceased client in order to arrange for disposition, the county department and any provider which is involved (e.g., a funeral home or cemetery) should consult with the family members about the applicable regulatory provisions, the resources of the decedent's estate and family/friends, and the relative costs of the various types of disposition.

In those cases where the client or family has requested that the disposition include items which cannot be provided within the limitations of these regulatory provisions, and where the family is unable or unwilling to make separate financial arrangements without a State Department contribution, the county department shall make arrangements for disposition of the client's body in a reasonable, dignified manner which approximates the wishes and the religious and cultural preferences of the client or family.

E. Limitation of Total Charges for Disposition

Regardless of the manner of disposition, State Department funds shall not be contributed if the total charges (including those paid by the deceased client's estate, family, state funds, or any other source) for services, property, and supplies related to the disposition exceed two thousand five hundred dollars (\$2,500).

F. Procedures to be Followed by County Departments

The county department in which the deceased client's case is active shall be responsible for determining whether and in what amounts State Department funds may be contributed for the disposition of the deceased client's body.

1. When assistance for funeral, burial, or cremation services is requested on behalf of a deceased client, the county department shall obtain a completed application for funeral/burial/cremation assistance as prescribed by the State Department. This form is used to make a determination of eligibility for State Department funds for such services. The county department shall ensure that a choice of disposition by the client or a family member is made in writing. The choice of disposition may be made in the client's will, on the application for funeral/burial/cremation assistance, or by any other document that the county department deems to be credible. When a choice of disposition between burial and cremation was made by the client in writing, and the client is determined to be eligible for burial assistance, the choice shall be honored by the county department within the limits of costs and reimbursement available.

If a choice of disposition was not previously made by the client, the county department shall request a family member (spouse, adult children, parents, or siblings) to make the choice. The application form provides a section to be used by the family to make a written choice of disposition. Once the choice of disposition is determined, the appropriate providers shall be contacted to obtain signed proposals of items and charges for disposition. The Provider's Proposed Charges for Funeral/Burial/Cremation of Deceased Recipient of Assistance form shall be used for this purpose. If more than one provider is involved, a separate form for each provider **MUST** be used.

Once the application and proposals from providers are received, the county department will be able to determine if a State Department funded death reimbursement is appropriate.

If the combined charges from the providers exceed two thousand five hundred dollars (\$2,500), no death reimbursement shall be paid from State Department funds.

Providers may seek contributions from non-responsible persons only to the extent that monies are available from such parties.

2. In determining the extent of the State Department funded contribution, if any, toward the expenses of disposition, the county department shall proceed in accordance with the following steps:
 - a. If the client did not make a written choice between burial and cremation, the county department shall determine whether the client'S family has any preference. The county department shall encourage such relatives, in making a choice of disposition, to consider the relatives' ability to contribute to the costs of the available options.
 - b. After determining the method of disposition for the deceased client, the county department shall next determine whether any funds for disposition are available from the deceased client's estate using the guidelines in section 26-2-129(6), or from those individuals legally responsible, as defined in section 26-2-129(2)(E), C.R.S., for the deceased client's support. The county department shall also inquire about the availability of such funds from persons who appear to be interested in the manner of the deceased client's disposition, even if such persons are not legally responsible for the deceased client's support.
 - c. The county department shall require the legally responsible person to financially participate towards the charges for funeral, burial, or cremation unless their resources are less than the Supplemental Security Income (SSI) resource limit which is \$2,000 for an individual and \$3,000 for a couple as described in C.R.S. 26-2-129(5). The amount of resources over the SSI limit shall be used to reduce the State Department funded Death Reimbursement payment. Money voluntarily contributed by the responsible party towards the burial, funeral, or cremation costs by the responsible party is also used to reduce the Death Reimbursement Benefit.
 - d. The value of a prepaid burial plot of two thousand dollars (\$2,000) or less when purchased is exempt and not counted toward the total funeral, cemetery, or burial expenses. If the final resting place was purchased by someone other than the decedent and donated to the deceased client, it shall not be counted as personal resource of the deceased client or legally responsible person.

- e. Social Security lump sum death benefits payable to a legally responsible person shall not be used in reducing the maximum Death Reimbursement Benefit.
 - f. Funds disbursed from any insurance policy of the deceased client to a legally responsible person or non-responsible person who is named as beneficiary or a joint beneficiary of the deceased client's policy, are counted as available and shall be used to reduce the maximum Death Reimbursement. Providers may seek contributions from non-responsible persons to the extent that monies are available from such parties.
 - g. Contributions made by non-responsible parties shall not reduce the Death Reimbursement Benefit. These funds are used to offset the maximum combined charges to the providers. The county department shall make every reasonable effort to minimize the contribution of State Department funds for a deceased client's disposition. The State Department may limit the maximum State Department contribution to a figure lower than one thousand five hundred dollars (\$1,500) in order to contain total State Department expenditures within the available legislative appropriation. The State prescribed form shall be used to inform the county department accounting office of itemized total charges and the total State Department contribution.
3. The county department shall use the following procedures in cases where the county department becomes aware of a deceased client, and a family member cannot be located:
- a. If a family member has not been located within twenty-four hours after the client dies, the county department shall have the deceased client's body refrigerated or embalmed.
 - b. If a family member has not been located within seven days, the county department shall make the determination to bury or cremate the deceased client based on the best option available.
 - c. The county department shall complete and send the State required form, Authorization of Cremation, to the appropriate funeral home/crematorium to authorize the cremation.
 - d. The county department may authorize payment for funeral, burial, and cremation expenses up to one year after the death of the client. Those persons who made arrangements for the disposition of the deceased recipient's body must provide all necessary information to enable the county department to determine whether and to what extent a contribution of State Department funds is appropriate.

G. Provider Agreement

The county department shall have a statement of agreement between the providers that sets forth the charges and the amounts of any disbursement of funds by the county department. The agreement shall assure that the distributions of death reimbursement benefits are equitable. All vendor(s) who are providing the services must sign the agreement. The form must be approved and signed by the county department before death reimbursement is provided. Payment shall be made pursuant to the agreement.

3.606.8 Diversion, Other Assistance, and Family Needs Payments

- A. A Colorado Works client may receive a diversion payment to address a specific crisis situation or episode of need. Such payments are not designed to meet clients' basic ongoing needs. A diversion payment may address needs over a period of no more than four (4) months. In addition to a diversion payment, a client who is eligible for diversion may receive supportive services based on a defined need.

A Colorado Works client may receive a diversion payment (diversion grant) under the following terms and conditions:

1. The client does not need long-term cash assistance or basic cash assistance as determined by the assessment.
2. The client demonstrates a need for a specific item or type of assistance, including but not limited to, cash, supportive services, housing, or transportation. Such assistance may be provided in the form of cash payment, vendor payments, or in-kind services.
3. The client enters into a written or verbal agreement with the county department. The agreement shall be documented in the statewide automated system and shall:
 - a. Document the reason why the client does not need basic cash assistance; and,
 - b. Define the expectations and the terms of the diversion payment; and,
 - c. Specify the need(s) for and the specific type(s) of non-recurring cash payment.
4. The client shall agree not to apply for any further Colorado Works assistance in the county where he or she received the diversion payment or any other county for a period of time to be established by the county that issued the diversion payment. This Period of Ineligibility (POI) shall start in the month that the payment is provided.
5. If the client is unable to sustain the agreement because of circumstances beyond his or her control, he or she may apply for and the county may grant basic cash assistance or another diversion payment prior to the end of the POI. The county department can end the POI before it expires if good cause exists and is granted by the county department.
6. A diversion payment is a needs-based, cash or cash-equivalent payment made to a client who is eligible for basic cash assistance, or, at county option, and based on the county's policy, a higher income limit not to exceed the maximum criteria established in the State plan for non-recurrent short-term benefits. All diversion clients who receive a one-time cash payment are not required to assign child support rights, and receipt of such payment does not count toward their Federal TANF assistance time limit.
7. Two Payments of Assistance in the Same Month

A client shall not receive a diversion grant for any month in which he/she receives basic cash assistance.

B. Supportive payments and referrals

1. Counties shall provide referrals for all families and assess non-work eligible families for supportive payments at each eligibility interview, at minimum. Work eligible clients must be assessed for supportive payments according to 3.608.1, at minimum. To receive supportive payments while receiving Colorado Works grant payments, clients must have an assessed need as defined in section 3.601. Supportive payments can also be issued as incentives for gaining or maintaining employment, participation in the workforce development program, or other achievements.
2. County departments shall take action on all supportive payment requests within ten (10) calendar days from the date of request by the client. All requests for and decisions to approve or deny supportive payments must be documented in the statewide automated system. Clients shall receive notice of supportive payment decisions as defined in section 3.609.7.
3. Supportive payments may include anything but the following:
 - a. Medical services, except for family planning;
 - b. Title IV of the Social Security Act funding that supports children in foster care;
 - c. Supports to children under 18 who are not in the home;
 - d. Any juvenile justice purposes; and
 - e. Capital assets over \$5,000.

C. Family Preservation Eligibility

To receive Family Preservation Services as provided in the Social Services rule manual, 12 CCR 2509-4 Section 7.304.21 under "Title IV-A Emergency Assistance," a family's income and resources must meet all of the following guidelines:

1. The family income must be under \$75,000 yearly; and,
2. The child must meet out-of-home placement criteria; and,
3. The child lived with a specified relative within the last six months.

D. Other assistance

Counties may provide assistance to clients meeting the following broad based Colorado Works eligibility criteria:

1. At least one dependent child or pregnancy in the home;
2. Lawfully present; and
3. Household income under \$75,000 yearly.

E. County Department's Right to Decide

The county department may provide, by means of its own funds, items which are needed by a client and which are not included in the standards of assistance. Such provisions for "unmet need" shall not be deducted as income in the budgeting process.

3.607 Initial Workforce Development (WD)

3.607.1 Work Eligible

A. The following are work eligible clients, unless excluded by subsection B below:

1. An adult, minor child head-of-household, or spouse of a minor child head-of-household receiving assistance.
2. A parent who is not receiving assistance that is living with their child who is receiving assistance.

B. The following are not mandatory to the Workforce Development program:

1. A minor parent who is not a head-of-household or who is not a spouse of a head-of-household.
2. A non-citizen who is ineligible to receive assistance due to his or her immigration status based on criteria established in 3.604.1.
3. Anyone receiving supplemental security income.

3.607.2 Workforce Development Screening

All work eligible clients will have a Workforce Development Screening completed within thirty (30) calendar days from the date of application as defined in section 26-2-708, C.R.S. Benefits shall not be delayed or postponed for any Workforce Development requirement.

The Workforce Development Screening shall consist of an evaluation of basic skills, past employment, and employability for a client who is 18 years of age or older, or who is 16 years of age or older, but is not yet 18 years old and is not attending high school or a high school equivalency program and has not completed high school or obtained a certificate of high school equivalency.

3.607.3 Workforce Development Assessment

Once referred to Workforce Development, all work eligible clients must have the State prescribed Workforce Development Assessment completed at their initial Workforce Development appointment.

- A. The Workforce Development Assessment must be completed prior to and shall be utilized to inform the development of the first and subsequent Individualized Plans (see section 3.608.1.A).
- B. The Workforce Development Assessment shall be documented in case comments in the statewide automated system.
- C. The Workforce Development Assessment shall also be utilized to determine the issuance of supportive payments.

3.607.4 Condition Agreement

All counties shall use the State prescribed Condition Agreement that clearly outlines the expectations of the county and the client. The county worker shall review the Condition Agreement with the client within thirty (30) calendar days from the date of the Workforce Development Screening as defined in section 26-2-708, C.R.S.

The client shall sign the Condition Agreement, using a valid form of signature, one time per application.

3.607.5 Individualized Plan

The Individualized Plan shall be developed collaboratively between the county worker and the client, addressing the family's needs, goals, and supports. The Individualized Plan shall be comprehensive including matters relating to securing and maintaining training, education, or work. No abbreviations or acronyms shall be used. The Individualized Plan shall identify goals and determine manageable action steps for satisfying the objectives.

The first Individualized Plan shall be developed at the same time the county worker and client review the Condition Agreement (within thirty (30) calendar days from the date of the Workforce Development Screening).

The county worker shall ensure the client understands the terms of the Individualized Plan. The client shall indicate by a valid form of signature as defined in 3.601 and date that they agree with the Individualized Plan. If the client does not agree with the Individualized Plan, the client may follow the steps outlined in section 3.609.7 regarding due process.

If a client does not participate in the Workforce Development program prior to signing the first Individualized Plan, this shall be considered Demonstrable Evidence, as defined in 3.601, and will result in the closure of the grant payment. Once an Individualized Plan is signed, clients that do not participate in the Workforce Development program are subject to re-engagement according to 3.608.3.

3.608 Ongoing Workforce Development

3.608.1 Ongoing Case Management

The Workforce Development worker will have contact with the client at least once every ninety (90) days. This contact may include an update to the Individualized Plan if needed and shall include an assessment for supportive payments as outlined in section 3.606.8.

A. Ongoing Workforce Development Assessment

The State prescribed Workforce Development Assessment shall be completed at least once every six (6) months and must be documented in case comments in the Statewide Automated System. In addition, the State prescribed Workforce Development Assessment must be completed by the new county of record within thirty (30) days of a county transfer.

B. Individualized Plan Modification

Either a client or a county department may request a modification of the Individualized Plan. Any modification made will result in a new Individualized Plan that must have a valid form of signature as defined in 3.601 and date by the client. If the client does not agree with the modification, they may request due process as defined in section 3.609.7. In addition, an updated Individualized Plan must be completed by the new county of record within thirty (30) days of a county transfer.

3.608.2 Work Activities

A. Engaged in Work Activities

Work eligible clients are required to engage in the Workforce Development program, once determined eligible for Colorado Works. All activities in the Individualized Plan shall relate to the outcome of both initial and ongoing assessments. The statewide automated system shall accurately reflect all activities that a client is participating in, regardless if that activity is included in the Individualized Plan.

B. Allowable Work Activities

Work activities are defined in greater detail in Colorado's federally approved Work Verification Plan (2020); no later amendments or editions are incorporated. The Work Verification Plan can be found at https://drive.google.com/open?id=0b9eaxw7_92zsvnnhexz4u3hzdue. Copies are also available for public inspection and copying by contacting the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203 or at any State publications library during regular business hours.

The State of Colorado will seek public comment on any changes to the Work Verification Plan by posting such changes for comment on the publicly accessible Colorado Department of Human Services website, at least thirty (30) days prior to implementing the change.

County defined work activities are listed in county policy which can be reviewed at the county department or copies are also available for public inspection and copying by contacting the Colorado Department of Human Services, Director of the Employment and Benefits Division, 1575 Sherman Street, Denver, Colorado, 80203 during normal business hours.

Allowable work activities include:

1. Employment, such as full-time or part-time employment, subsidized employment, on the job training, and temporary employment.
2. Education, such as pursuing a degree, high school equivalency, job skills training, english as a second language courses, or pursuing a certificate.
3. Volunteer work, such as community service, work experience programs, and unpaid internships.
4. Search for work, such as applying for jobs, interviewing, attending job fairs, and attending hiring events.
5. Job readiness activities, such as interpreting labor market information, identifying references, building job search skills, building cultural competencies, substance abuse and mental health treatment, mitigating the effects of domestic violence, and rehabilitation activities.

C. Work Activity Outlined in the Individualized Plan

For purposes of participating in the work activities requirements of this section, a Colorado Works client shall be considered to be engaged in work program requirements if they are participating in the work activities listed in section 3.608.2.B or in the Work Verification Plan incorporated in section 3.608.2.B, or in any other work activities designed to lead to self-sufficiency as determined by the county department and as outlined in their Individualized Plan.

- D. Clients in paid work experience shall be entitled to the same wages and benefits, including but not limited to, sick leave, holiday and vacation pay, as are offered to employees who are not clients and who have similar training or experience performing the same or similar work at a specific workplace. Clients in unpaid work experience are entitled to all rules under the Fair Labor Standards Act as indicated in the Work Verification Plan.

3.608.3 Re-engagement and Good Cause

Counties should make every reasonable effort to ensure Individualized Plans are appropriate, achievable, and the most likely strategy to support a client's long-term economic well-being goals.

Good cause for not engaging in Workforce Development can be reported at any time during the current application period and verification is not required to be provided by the client. The county worker shall use the Prudent Person Principle to determine good cause which may be reported by the client in person, virtually, telephonically, or electronically. County workers must enter good cause in the State Benefit Management System within five (5) calendar days.

- A. There may be instances where a client is unable to comply, such as:

1. Missing a scheduled meeting; or
2. Not participating with the Individualized Plan.

In these instances, the county shall send a request to the client to report good cause and provide the client with eleven (11) calendar days to report good cause.

- B. In general, the Prudent Person Principle is used to determine good cause. At a minimum, good cause for the client may include, but is not limited to:

1. Breakdown in child care arrangements
2. A lack of available and appropriate child care pursuant to a county department's written policy. Colorado Works clients who are caring for a child should be granted good cause if:
 - a. There is not appropriate child care within a reasonable distance from the client's home or work site.
 - b. There is no available or suitable child care.
 - c. There is not appropriate and affordable child care arrangements within the rate structure defined in the approved county child care rate plan.
3. Remotely located without transportation
4. Breakdown in transportation arrangements with no feasible alternative
5. School obligations that frequently necessitate a parent's or caretaker's attendance
6. Loss of housing or a housing crisis that might result in homelessness or eviction
7. Medical emergencies, including mental health, substance abuse, or crisis, involving anyone in the household
8. Physical or mental disability or illness of the client or an individual in the client's care

9. Legal proceedings for the client or other immediate family members
 10. Employment issues when layoffs occur, wages are below applicable federal and state minimum wage standards, working conditions present a risk to health or safety, or workers' compensation protection does not exist
 11. Client's incarceration
 12. Jury duty
 13. Death of an immediate family member or authorized representative
 14. Other situations as determined by the county
- C. Good cause does not constitute an exemption from Workforce Development program requirements or time limits. However, good cause should be considered when granting an extension as defined in 3.606.6.C. If there is good cause for not participating in the Workforce Development program, a sanction or closure will not be imposed. Once good cause is determined, the re-engagement process ends. County departments must follow the state prescribed process for re-engagement to include good cause, re-engagement, sanctioning, and closing a case.
- D. At the time of the good cause request, a re-engagement appointment shall be sent through the Statewide Automated System and the client shall be provided written notice of the appointment at least four (4) calendar days, but no more than eleven (11) calendar days in advance. The client may provide a written or verbal waiver that written notice of the scheduled appointment is not necessary when the county department is able to conduct the appointment during communication with the client.
- Notice shall include:
1. The date and time for the appointment
 2. The opportunity to reschedule the appointment or make other arrangements in the event of good cause
- E. If the county department makes contact with the client and good cause is provided, the re-engagement process stops. The Workforce Development worker shall enter a case comment including the date and type of contact into the Statewide Automated System.
- F. Clients may reschedule their re-engagement appointment prior to the re-engagement appointment. The rescheduled appointment cannot exceed fifteen (15) calendar days from the original re-engagement appointment.
- G. Timeframes for rescheduling the re-engagement appointment include:
1. The Workforce Development worker shall schedule the new re-engagement appointment within four (4) calendar days of the client's request to reschedule.
 2. The client shall be provided written notice of the rescheduled appointment at least four (4) calendar days, but no more than fifteen (15) calendar days in advance. The client may provide a written or verbal waiver that written notice of the scheduled appointment is not necessary when the county department is able to conduct the appointment during communication with the client.

- H. If the client attends the re-engagement appointment but does not provide good cause, a sanction will not be imposed, except as outlined below. Once the client attends the re-engagement appointment, the re-engagement process ends. The county or client may request modification of the Individualized Plan as outlined in section 3.608.1.B.

When a county determines that there has been exceptional dis-engagement by the client, as evidenced by repetitive or cumulative attendance at re-engagement appointments without reporting good cause, a sanction, as defined in section 3.608.4 may be applied to the grant payment based on state department review.

- I. If the client misses the re-engagement appointment, there are no attempts to reschedule prior to the scheduled appointment, and the client does not provide good cause, a sanction, as defined in section 3.608.4 will be applied to the grant payment. The following process shall occur:
1. The unsuccessful outcome of the re-engagement attempts shall be documented in the statewide automated system within five (5) working days of the determination by the county worker.
 2. A notice of grant payment reduction based on the sanction will be sent according to section 3.609.7.
 3. If good cause is provided after the unsuccessful outcome of the re-engagement attempts is entered into the Statewide Automated System, the sanction shall be reversed.

3.608.4 Sanction

- A. Sanctions from other counties

All sanctions shall be served when a client moves from one county to another. The new county may become aware of good cause for previous non-participation and may reverse the sanction if appropriate.

- B. Sanctions issued in other states will not be recognized in the State of Colorado.

- C. Effect of a sanction on the Colorado Works grant payment

The Colorado Works grant payment for the entire household shall be reduced due to a sanction imposed against a member of the assistance unit as follows:

1. First, Second, and Third level sanctions

The reduction for the first, second, and third instance of sanction shall be 25% of an assistance unit's grant payment. the sanction shall be in effect for one month for each level sanction. A first, second, or third instance of sanction shall progress to the next level of sanction if the client does not re-engage in the Workforce Development program as defined in subsection G. Below by the end of the month that the sanction is being served.

2. Fourth level sanction

The reduction for a fourth instance of sanction is 100% and shall result in case closure of the Colorado Works grant payment. The closure shall be in effect for one month. A new application for Colorado Works grant payments is required according to section 3.602.1.

D. Serving a sanction

All sanctions imposed by a county must be served by the client. If a client has had a break in grant payment for one month or more, the sanction shall be considered served. If a client reapplies for benefits anytime within the calendar month that they are serving a sanction, the client must serve the sanction by having a reduction in benefits according to the first, second, or third level sanctions, or by having a case closed for a fourth level sanction.

E. Sanctioning a client that has been sanctioned previously

Once a sanction is served, all subsequent occurrences shall be in accordance with the level following the sanction previously served as outlined in 3.608.4.C. and D.

F. Sanctioning more than one client in an assistance unit

Each Colorado Works case can experience no more than one sanction level in a month. If multiple clients in the same assistance unit have sanctions, the sanctions will be served simultaneously and at the higher sanction level when multiple levels exist.

G. Re-engagement following a sanction

When a client who is serving a sanction contacts the county worker and indicates an interest in participating in the Workforce Development program, an Individualized Plan will be developed. Once the Individualized Plan is signed, the sanction will not progress to the next sanction level unless a new instance of non-compliance occurs. The county worker will enter the re-engagement date into the Statewide Automated System and resume ongoing case management.

When a client is serving a sanction based on exceptional dis-engagement defined in section 3.601 and outlined in 3.608.3.H, the client is considered re-engaged based on their attendance at the most recent re-engagement appointment.

3.608.5 Appeal of a Sanction

A Colorado Works client has the right to appeal the county department's action to sanction. The client can utilize the local level dispute resolution process and/or a state level hearing process per section 3.609.9. The appeal period for proposed sanctions for Colorado Works begins with the mailing of a notice of sanction that lists the proposed action and the client's appeal rights.

A notice of proposed action shall not be issued by the county department for proposed Colorado Works sanctions until the re-engagement process has been completed.

3.609 Colorado Works Notice, Payments, Overpayment, Intentional Program Violations and Fraud, Dispute Resolution, Appeal and State Level Fair Hearing

3.609.1 Notice

A. Each client of Colorado Works shall receive prior written notice of any agency action affecting his or her eligibility for or receipt of grant payments.

1. The client shall be notified in writing of county department approval of:

- a. An application for Colorado Works.**
- b. Any change in the amount of grant payment.**

- c. The right to a county conference and/or state level fair hearing if the client is dissatisfied with the effective date of eligibility, or the amount or type of assistance authorized.
- 2. A client shall be given notice of any action by the county department, or any person or agency acting on its behalf, which adversely affects the client's eligibility for, or right to grant payments authorized under the Colorado Works program. Failure to give notice of an adverse action shall be grounds for setting aside the action on appeal. The notice must meet the following standards:
 - a. The notice must be in writing; and,
 - b. It must describe clearly and in plain language the action to be taken and the reason(s) for the action; and,
 - c. It must refer by number to the section(s) of the state department's rules that require or permit the action being taken, or cite the specific changes in federal or state law requiring the action; and,
 - d. It must state the effective date of the proposed action; and,
 - e. It must explain the client's right to request a county conference and/or state level fair hearing, the time period for requesting a conference or hearing, and the steps which must be taken to obtain a conference or hearing; and,
 - f. It must explain the client's right to continued grant payments and the obligation to repay if it is determined that the client was not eligible to receive them; and,
 - g. It must inform the client of his or her right to be represented or assisted by legal counsel, a relative, a friend, or a spokesperson of his or her choosing; and,
 - h. To the extent practicable, notice shall be in his or her primary language. If he or she is illiterate, the action shall also be explained verbally.
- B. The county department shall notify a client of any change from his or her prior grant payment amount, the reason for the action, and the date the action becomes effective in writing.
- C. Clients shall receive written timely notice, giving at least eleven (11) calendar days advance notice before any adverse action taken during the certification period, becomes effective, except as specified in section 3.609.7.C. The notice shall explain the reason for the proposed action and the date the action becomes effective.
 - 1. When acting on a change, if the eleven (11) calendar day timely notice period can be given within the month the written timely notice is sent, the change will become effective the first day of the following month.
 - 2. If the 11 calendar day timely notice period concludes in the following month, the change shall become effective the first day of the month after which the timely notice period concluded.
 - 3. If the timely notice period ends on a weekend or holiday and a request for a state level fair hearing and continuation of grant payments is received the first business day after the timely notice period, the request shall be considered timely received.

4. Colorado Works grant payments must be discontinued or reduced after thirty-one (31) calendar days in the following situations:
 - a. The client's income exceeds the grant standard, after application of disregards.
 - b. All eligible dependent children in the assistance unit no longer meet the definition of living in the home.
 - c. A dependent child(ren) in the assistance unit no longer meet the definition of living in the home and Colorado Works is requested for the child(ren) by another caretaker.
 - d. An adult member of the assistance unit leaves the home and requests assistance in a new assistance unit.
 - e. All members of the assistance unit leave the state of Colorado to reside in another state or country.
 - f. An eighteen-year-old who is the only dependent child graduates from high school or stops attending school.

The thirty-one (31) day count begins on the first day of the month following the month in which the change occurred. Colorado Works benefits will be discontinued on the first day of the month following the month in which the thirty-first (31st) day falls.

An individual may be removed from the assistance unit according to D below, and prior to thirty-one (31) calendar days, when the change described in this section occurs simultaneously with a change in which adequate notice, not timely notice, is required.

- D. Adequate notice, not timely notice, is required in the following situations:
1. When facts indicate an overpayment because of probable fraud or an intentional program violation and such facts have been verified to the extent possible, prior notice shall be mailed at least five (5) calendar days before the proposed effective date.
 2. The client has died.
 3. An adult member of the assistance unit formally requests for benefits to stop for themselves in their original assistance unit, or a caretaker who remains a part of the original assistance unit requests that they stop receiving benefits for another member who has left the home.
 4. When an adult member of the assistance unit who is not the head of household requests for benefits to stop for themselves and their child(ren) when that adult makes a declaration that they have left the home due to domestic violence.
 5. The client begins receiving Title-IV of the Social Security Act funds from another source such as foster care/ Title-IV kinship/adoption subsidies.
 6. The client begins receiving benefits under another public assistance program which may not be received concurrently with a Colorado Works grant, such as Supplemental Security Income or Adult Financial programs.
 7. At application or redetermination, when a certification period has not yet been set.

8. An adult member of the assistance unit has already received sixty months of assistance and a hardship extension has not been granted.
- E. If the client's change in circumstances requires a reduction or termination of grant payments, the following action will be required:
1. Send a written timely or adequate notice, according to subsections C. and D., above.
 2. If a client requests a county conference, conduct the county conference as specified in section 3.609.6. If a client is dissatisfied with the results of the county conference and requests a state level fair hearing before an Administrative Law Judge, such a request shall be in accordance with section 3.609.7. If a client does not request a county conference and only requests a state level fair hearing any time prior to the effective date of the timely notice, and the certification period has not expired, the client's grant payments shall be continued on the basis authorized immediately prior to the timely notice. Continued grant payments shall not be issued for a period beyond the end of the current certification period. Grant payments shall be continued until a final decision has been made by the Office Of Appeals or until the certification period ends, whichever occurs first. The county department shall explain to the client that repayment will be required for the amount of any grant payments determined by the hearing officer to have been overpaid or the continued grant payments to which the client was not eligible to receive.
 3. If the certification period expires before the hearing process is completed, the client may reapply for benefits.
 4. If the client does not appeal the timely notice to decrease or terminate grant payments within the timely notice period, the changes shall be made in accordance with timeframes outlined in section 3.609.1.

3.609.2 Payments

- A. A client shall be placed on an issuance schedule so that he or she receives grant payments on or about the same date each month once a certification period is established. Due to the effective date of eligibility, the date on which a client receives his or her initial payment need not be the date that the client must receive any subsequent payments.

1. Initial payment

The initial payment to eligible clients shall include assistance beginning with the date of application. Should the assistance unit be ineligible on the date of application, but become eligible prior to the time that a determination of eligibility is made, the initial payment shall include assistance beginning with the date on which the assistance unit became eligible.

To calculate partial month payments:

- a. Determine the grant amount based on the size and composition of the assistance unit;
- b. Deduct the total net countable income – this is the authorized grant amount for the entire month;

- c. Determine the number of days for which payment is made and based on the table in subsection E. Below, find the decimal figure corresponding to the number of days of eligibility;
- d. Multiply the authorized grant amount for the entire month by such decimal figure to determine the authorized grant amount for the partial month;
- e. Subtract from authorized grant amount for the partial month any appropriate deductions, unless the authorized grant for the partial month is less than \$10, in which case no payment is made. However, if the deductions from the authorized grant amount for the partial month results in an amount less than \$10, such lesser amount shall be paid except when the amount is less than \$1.00.

To calculate the partial month payments, the following table shall be used:

Days	Standard	Days	Standard	Days	Standard
1	.03288	11	.36164	21	.69041
2	.06575	12	.39452	22	.72329
3	.09863	13	.42739	23	.75617
4	.13151	14	.46027	24	.78904
5	.16439	15	.49315	25	.82192
6	.19726	16	.52603	26	.85480
7	.23014	17	.55890	27	.88768
8	.26302	18	.59178	28	.92054
9	.29590	19	.62466	29	.95342
10	.32876	20	.65754	30	.9863

2. Payment determination

For the certification period, eligibility and payment shall be determined prospectively.

- B. When the county department determines that a client was ineligible for all or a part of a grant payment that the client has already received, the county department shall, subject to notice as described in 3.609.1 and these recovery rules, establish a claim, and if valid, initiate recovery.
- C. If a client dies, payments to the client shall be treated as follows:
 1. A client's eligibility shall end on the date of his or her death.
 2. If a client dies before 12:00 a.m. on the first day of a month, no eligibility for a grant payment for the following month exists.
 3. If a client dies on or after 12:00 a.m. on the first day of a month, any payment to which the person was eligible shall be maintained for release to the client's personal representative as defined in section 15-10-201(39), C.R.S., for a maximum of three (3) months. The following rules apply when a personal representative requests to receive a deceased client's last grant payment:
 - a. The individual claiming to be the personal representative of the deceased client must provide the court-issued letters described in section 15-12-103, C.R.S. to the county department in order to receive the deceased client's last grant payment; or

- b. If the personal representative with court-issued letters presents a court order ordering the county department to pay the deceased client's last grant payment to a specific person or entity, the county department shall make the last grant payment payable to the person named in the order.
- D. All payments, including partial payments, shall have any cents dropped to the nearest dollar.
- E. The client has the right to decide how to use his or her grant payment. The county department shall not:
 - 1. Impose any restriction, either direct or implied, on a client's use of his or her grant payment including, but not limited to, requesting a client to provide receipts or proof of how the money has been spent; or
 - 2. Require the client to account for the use of the grant payment, except for the Electronic Benefits Transfer (EBT) card point of sale limitations listed in 26-2-104(2), C.R.S.; or,
 - 3. Give assistance to creditors in the collection of the client's debts.
- F. County departments shall not hold or delay the client's grant payment beyond the regular issuance date except when:
 - 1. A final agency decision has been made authorizing the action;
 - 2. In cases where a corrected payment is to be issued, the corrected payment shall be issued by the effective date of the original warrant and the incorrect payment shall be cancelled.
 - 3. When the county department receives reliable information that the client no longer resides at the last known address and attempts to locate the person through the post office, relatives, friends, etc., have been unsuccessful, the client's grant payment shall be discontinued. Discontinuing the grant payment is an adverse action and notice shall be given following the policies outlined in section 3.609.1.C. If the client contacts the county department before grant payments are discontinued and provides the client's current address and all other eligibility criterion have been met, the client shall receive the grant payments they are eligible for;
 - 4. Any grant payments issued to an Electronic Benefits Transfer (EBT) card and not accessed within two hundred seventy-four (274) days of issuance shall be expunged. The county shall reissue grant payments within 90 days of the expungement if requested by the client verbally, electronically, in person, or in writing. The county may reissue up to twelve (12) months of expunged grant payments.
- G. The county department shall take prompt action to correct underpayments to clients of Colorado Works grant payments. There are two types of underpayments: 1) grant payment(s) received by or for a client that is less than the amount which the client should have received but not a denial or termination, or 2) the failure of the county department to issue a grant payment to an eligible client when such payment should have been issued (i.e., denials or termination of Colorado Works grant payments).
 - 1. When a county department becomes aware of a potential underpayment, the county department shall:
 - a. Determine if an underpayment occurred; and,

- b. Record the facts and basis of its determination in the case record.
 - 2. A county shall correct any underpayments by the month following the discovery of such underpayments.
 - 3. Underpayments shall be used to pay any validated claims against the client unless the county department has determined this action will cause an undue hardship to the client as determined on a case-by-case basis. Underpayments will be applied to claims using the following hierarchy:
 - a. Fraud or intentional program violation (IPV) claims first (undue hardship cannot be granted);
 - b. Client error claims second; and
 - c. Administrative error claims last. Instances that may result in an administrative error claim include, but are not limited to, the following:
 - 1) The county failed to take timely action on a change reported by the client.
 - 2) The county incorrectly computed the client's income or other information, or otherwise gave an incorrect grant payment.
 - 3) Any other situation not caused by willful withholding of information on the part of the client and/or their authorized representative.
 - 4) If an underpayment is discovered by the county department, the county department shall inform the client in writing of its determination of the underpayment.
 - 5) Prompt action shall be taken to correct underpayments that occurred within the past twelve (12) months from the discovery date by issuing a retroactive payment. Retroactive payments shall not be made unless the amount is one dollar (\$1.00) or more.
- H. The county department shall reissue a lost or stolen payment if the loss or theft is not questionable and the county determines that such loss was beyond the client's control.

A loss will be considered within the client's control when:

 - 1. The client has shared the EBT pin number or written the pin number on the EBT card itself, or
 - 2. The client has given his or her card to another person for that person's use.
- J. A client is prohibited from using or allowing the use of his or her EBT card at automated teller machines (ATMs) and point of sale (POS) devices located in establishments as described in section 3.602.1.E.2.k.

A client's transactions shall be monitored quarterly. Clients who use prohibited ATMs or POS devices (misuse) shall be contacted by the county department. Misuse shall result in:

1. A written warning that the use of the EBT card in prohibited establishments will result in the card being disabled. The county department shall provide education about appropriate use, access, and alternatives;
2. If continued misuse occurs (identified on the usage report after a warning has occurred), the cash portion of his or her EBT card shall be disabled for one month, requiring the county to inform the client of additional options for receipt of payment (direct deposit or county warrant) as well as notification of the dispute resolution process in accordance with state rules pursuant to section 3.609.6;
3. If misuse continues, the county department shall deny or discontinue the cash benefit for one month. The county shall require the client to complete a new application after the one-month time period if the client requests assistance. The county department shall not accept a new application from the client until the one-month denial or discontinuance expires. The county department shall follow the dispute resolution process pursuant to section 3.609.6; and,
4. After the one-month case closure for continued misuse, if/when the client reapplies, any future EBT card usage at prohibited establishments shall be considered continued misuse. Such subsequent violations will result in the one-month denial/discontinuance and reapplication process referred to in subsection 3, above.

3.609.3 Overpayments

The county department shall establish a claim on an overpayment before the last day of the quarter following the quarter in which the overpayment was discovered.

- A. An overpayment claim shall be adjusted if there is a record of any underpayment(s) for a prior period. Any underpayment must be applied to the overpayments in the following hierarchy:
 1. Fraud or IPV claims first,
 2. Client error claims second; and,
 3. Administrative error claims last.
- B. Liability for an overpayment must be legally established. Methods for legally establishing an overpayment include but are not limited to:
 1. An executed promissory note;
 2. A court judgment;
 3. A final agency action; or
 4. A signed public assistance repayment agreement form.

The state department's public assistance repayment agreement form shall be provided to the client once an overpayment claim is established.

- C. Failure to sign the public assistance repayment agreement form shall be handled as follows:
1. If the client against whom a recovery has been initiated is currently participating in the Colorado Works program and does not respond to the public assistance repayment agreement form within eleven (11) calendar days of the date the notice containing the public assistance repayment form is mailed, grant payment reduction shall begin with the first month following the timely noticing period without further notice.
 2. If the client against whom a recovery has been initiated is not participating in the program when a recovery for a claim is initiated or if a recovery has been initiated for repayment of a claim and no response is made to the public assistance repayment agreement form within eleven (11) calendar days of the date the notice is mailed, the county department shall pursue all legal recovery methods in order to recover the overpayment. Legal remedies include, but are not limited to, judgments, garnishments, claims on estates and the state income tax refund intercept process.
- D. The amount of the overpayments involving income shall be calculated to allow for income disregards described in section 3.606.2.
- E. All earned and unearned income received by the client are taken into consideration in the computation.
- In the instances where the overpayment is the direct result of actions tied to the determination of IPV and/or fraud, which resulted in receipt of grant payments in error, or grant payments received that the client was not eligible to receive, the overpaid grant payments shall be recovered from the client and/or a liable individual.
- F. The calculation of overpayment shall begin in the month that the overpayment occurred.
1. Start with the amount issued to the client;
 2. Determine the correct payment;
 3. Compare the amount issued to the client to the correct payment amount.
 - a. If the amount issued to the client is greater than the correct payment amount, the difference is the overpayment amount.
 - b. If the amount issued to the client is less than the correct payment amount, the difference is the underpayment amount; follow the procedures for underpayment in section 3.609.2.G.
 4. If a client does not meet the non-financial eligibility requirements in any month, the client is totally ineligible for the month. Any payment received in such month(s) is an overpayment.
- G. When the county department has determined that a client has received an overpayment, the department shall:
1. Take action to research the overpayment and determine the amount of the overpayment.
 2. Determine if the overpayment is to be recovered.

3. Document the facts and situation that produced the overpayment. Document whether the overpayment is to be recovered. Retain all associated documentation and notices until the overpayment is repaid in full.
4. Determine whether there was willful withholding of information, fraud, or IPV.
5. Provide the client with timely or adequate notice as required by section 3.609.1 of the amount due and the reason for the recovery including:
 - a. The liable individual(s) responsible for the repayment;
 - b. The amount of the claim;
 - c. The period the claim is for;
 - d. The reason for the overpayment including whether the overpayment is a result of fraud/IPV, client error, or administrative error;
 - e. The client's rights and responsibilities;
 - f. The method of repayment;
 - g. How to obtain free legal assistance;
 - h. The applicable rules concerning the overpayment; and
 - i. Provide the public assistance repayment form.
6. Send quarterly statements with the balance due.

3.609.4 Recovery

- A. The recovery of valid overpayments is required regardless of when the overpayment occurred. Overpayments may be recovered from the client who was overpaid or who fraudulently received the assistance payment or another liable individual.

If a client is deceased, overpayments shall be recovered from the deceased client's estate.

- B. The following rules for recovery do not apply in instances where the state or county department seeks recovery in a case that was transferred to the district attorney and prosecuted through the courts:
1. The client shall be notified of the recovery action to be taken, using the notice rules found at section 3.609.1.
 2. When the overpayment is caused by an unintentional error, the client's willful withholding or an administrative error, such overpayment shall be deducted, after notice has been given, from subsequent grant payments while the client is actively receiving Colorado Works grant payments.
 - a. The client may choose to repay the county department the entire amount of the overpayment at one time. The client shall work with the county department to determine how a lump sum repayment can be made.

- b. When the recovery amount is not to be repaid in a single payment per subsection a above, and the case remains active, the county department shall establish a monthly recovery deduction from subsequent grant payments. The monthly rate of recovery shall be ten dollars or ten percent of the assistance payment, whichever is higher.

The following procedure shall be used to arrive at the monthly recovery deduction amount:

- 1) If the error is a result of an agency error and the client does not meet criteria set forth in section 3.609.4.L, compute ten percent (10%) of the Colorado Works grant payment amount. If the resulting percentage amount is less than ten dollars (\$10), the deduction from the grant payment amount shall be ten dollars (\$10).
- 2) Deduct the percentage amount or ten dollars (\$10), whichever is higher, from the grant payment. The result shall be rounded to the next lower whole dollar amount, if not already a whole dollar amount. This rounded amount is the final payment amount.
- 3) When the authorized payment amount is less than ten dollars (\$10), the case is considered a "no payment" case and no deduction shall be made.
- 4) When the recovery is due to a fraudulent action on the part of the client and interest may be added thereto, the interest amount shall not be included in the grant payment deduction unless the client agrees to such inclusion. If the client does not so agree, the interest amount shall be collected separately.
- 5) The amount of the grant payment deduction for recovery shall be recorded in the client's case file and collected via the statewide automated system.

- c. The county department shall not establish a claim unless the amount of the claim is greater than \$200, except in the following circumstances:

- 1) The overpayment is identified through a federal or state level quality control review; or,
- 2) The claim is being pursued as and results in an IPV.

- 3. When the overpayment is caused by an unintentional error, the client's willful withholding of information or an administrative error, and the Colorado Works case is no longer active, recovery of such overpayment shall be based upon the public assistance repayment agreement form or other methods of recovery.

- a. The county shall establish a monthly repayment agreement with a former client. The repayment agreement shall not exceed twenty-five percent (25%) of available monthly income. Determination of the repayment amount must be clearly documented in the electronic case file.
- b. The client may choose to repay the county department the entire amount of the overpayment at one time. The client shall work with the county department to determine how a lump sum repayment can be made.

- c. The county department may write-off unpaid valid claims as follows:
 - 1) Valid administrative error claims less than one hundred twenty-five dollars (\$125.00) can be written off ninety (90) days after the termination of all public assistance.
 - 2) Valid claims for client error, fraud, and IPV less than three hundred dollars (\$300.00).
 - 3) Any unpaid valid claim of \$125 or more for an individual who was not convicted of an IPV or fraud specific to the overpayment, is no longer receiving public assistance, and the overpayment was established six (6) or more years ago, and the county department has determined that it is no longer cost effective to pursue collection.
 - 4) Once written off, a claim is not subject to recovery.
 - d. If the client begins to receive Colorado Works grant payments again after the overpayment has been established and still has a claim balance, the deduction of grant payments shall occur as described in section 3.609.5.
- C. The client may issue the state a refund of any overpaid grant payments from his or her existing balance of Colorado Works grant payments on his or her electronic benefits transfer (EBT) card by contacting the county department. This requires a written statement from the client.
- D. Clients are not entitled to grant payments that were paid in error or mistakenly provided to the client based on a data entry error into the statewide automated system or an error resulting from the statewide automated system. The county shall create a claim and may retrieve the grant payments from the client's EBT card within twenty-four (24) hours of the issuance without prior written authorization by the client. The client shall have no appeal rights in relation to this grant payment because he or she was not eligible for the initial receipt of the grant payment(s) in the first instance.

When grant payments issued in error are not retrieved from the client's EBT card within twenty-four (24) hours, funds shall not be taken from the card using this method unless permission is granted from the client in writing using the state prescribed form. If permission is not granted, the county department shall pursue other methods of recovery.
- E. The client may request voluntary deductions be applied to the overpayment. These are considered to be an amount in addition to the deduction from the grant payment as established through the recovery calculations. The client shall be provided written confirmation of the amount to be deducted and that he or she has the right to stop the voluntary deduction at any time by written request.
- F. A claim may be filed against the estate of a client for overpayment. This includes cases where overpayments were made and not recovered. The county department's legal advisor must be consulted in determining the amount of assistance payments for which a claim is to be filed.

- G. In accordance with sections 26-2-133 and 39-21-108, C.R.S., the State and county departments may recover overpayments of public or medical assistance benefits through the offset (intercept) of a taxpayer's state income tax refund. Tax refunds shall not be offset in instances where the taxpayer is making regular, ongoing payments as agreed to in the public assistance repayment agreement and/or based on arrangements between the taxpayer and the county(ies). Unless agreed to by the client, the county shall not offset tax refunds during the same month the client makes a payment on a claim if the payment agreement was established prior to the offset. Rent rebates are subject to the offset procedure.

The offset of the taxpayer state income tax refund and/or rent rebate may be used to recover overpayments that have been:

1. Determined by final agency action; or,
 2. Ordered by a court as restitution; or,
 3. Reduced to judgment.
- H. Prior to certifying the taxpayer's name and other information to the Colorado Department of Revenue, the Colorado Department of Human Services shall notify the taxpayer, in writing at his or her last-known address, that the State intends to use the tax refund offset to recover the overpayment. In addition to the requirements of section 26-2-133(2), C.R.S., the pre-offset notice shall include the name of the county department claiming the overpayment, the program that made the overpayment, and the current balance owed.
- I. Effective August 1, 1991, the taxpayer is entitled to object to the offset by filing a request for a county conference or state level fair hearing within thirty (30) calendar days from the date that the state department mails its pre-offset notice to the taxpayer. In all other respects, the procedures applicable to such hearings shall be those that are stated in section 3.609.7. At the hearing on the offset, the county department or ALJ shall not consider whether an overpayment has occurred because overpayment has already been otherwise legally established, but may consider the following issues if raised by the taxpayer in his or her request for a hearing:
1. Whether the taxpayer was properly notified of the overpayment;
 2. Whether the taxpayer is the person who owes the overpayment;
 3. Whether the amount of the overpayment has been paid or is incorrect;
 4. Whether the debt created by the overpayment has been discharged through bankruptcy; or,
 5. Whether other special circumstances exist, (i.e., facts that show that the taxpayer was without fault in creating the overpayment and will incur financial hardship if the income tax refund is offset).
- J. If a tax refund offset is established, an overpayment shall not be recovered using another method in the month the offset occurs unless prior authorization is received from the individual making the recovery payments.
- K. The county department is required to pursue collection of the overpayment from the client/responsible payee who managed and administered the Colorado Works funds. The county department shall pursue all available overpayment recovery options to collect the overpayment from the client/responsible payee first and then any other liable individuals legally responsible for overpayments, unless otherwise specified.

1. In instances where a trustee has used a client's trust income or property in a manner contrary to the terms of the trust, the county department shall:
 - a. Determine whether an overpayment of Colorado Works grant payments has occurred as a result of the client's loss of income based on the trustee's improper actions;
 - b. Consult with the county attorney or other legal resource to determine how to pursue action against a trust/trustee;
 - c. Advise the trustee of the overpayment circumstances; and
 - d. If the trustee disagrees with such circumstances and overpayment, pursue the recovery establishment and collection through appropriate legal means; or
 - e. Take appropriate steps to secure repayment with the cooperation of the trustee; or,
 - f. Report such behavior or action by the trustee to the county protective services to ensure the protection of the client's rights in the trust.
2. In instances where a power of attorney has used his or her legal authority for purposes other than for the benefit of the client, the county department shall:
 - a. Determine whether an overpayment of Colorado Works grant payments has occurred as a result of the power of attorney's improper actions;
 - b. Consult with the county attorney or other legal resource to determine how to pursue action against a power of attorney;
 - c. Advise the holder of the power of attorney of the overpayment circumstances; and,
 - d. If the holder of the power of attorney disagrees with such circumstances and overpayment, pursue the recovery establishment and collection through appropriate legal means; or
 - e. Take appropriate steps to secure repayment with the cooperation of the holder of the power of attorney; or
 - f. Report such behavior or action by the trustee to the county protective services to ensure the protection of the client's rights and benefits.
- L. In any case in which an overpayment has been made, there shall be no recovery from any person:
 1. Who is without fault in the creation of the overpayment; and,
 2. Who has reported any increase in income or other circumstances affecting the client's eligibility within the timely reporting requirements for the program; and,

3. Who would be deprived of income required for ordinary and necessary living expenses such that it would be against equity and good conscience to seek recovery. The fact that the client is receiving public assistance shall not be the only factor in making a determination that the person would be deprived of income required for ordinary and necessary living expenses and that equity and good conscience exist.
 - a. If a client has ten (10) percent or more of income remaining after necessary living expenses, he or she shall not be considered deprived of income.
 - b. If a client's expenses exceed his or her income, additional questions must be asked to determine how he or she is meeting expenses to ascertain if other income (i.e. gift, in-kind) needs to be included in the income calculation.
- M. When the overpayment recovery is not pursued, such fact, together with the reason, shall be documented in the statewide automated system. All information pertaining to the reason, establishment, and collection of claims shall be retained in the case record until the claim is written off or paid in full.

3.609.5 Intentional Program Violation (IPV) and Fraud

- A. All clients must be provided with their rights in relation to IPV as follows:
 1. The client has the right to an administrative disqualification hearing (ADH) before an administrative law judge (ALJ).
 2. The county department may offer an ADH at the county. This does not preclude the client from requesting the initial ADH or a second ADH be held before an ALJ under subsections M and O.
 3. A client may waive the right to an ADH, either before an ALJ or with the county department, by signing a waiver of ADH form. Clients have a right to look at all the evidence that would be used at an ADH before deciding whether to waive the right to an ADH.
 4. If a client chooses to appear at the ADH he or she has the right to represent him or herself or to be represented by an attorney at his or her expense.
 5. The client may choose to be represented by any other person he or she chooses pursuant to section 26-2-127(1)(a)(IV), C.R.S.
 6. A client and/or his or her representative, upon providing a signed release, may look at his or her case file, including all the evidence that will be used at the ADH. The client and/or his or her representative has the right to look at his or her case file before and during the ADH.
 7. The county department shall provide a free copy of the evidence to be utilized during the ADH to the client at least fifteen (15) days prior to an ADH heard by the county. Upon request, the county department will provide a free copy of any other parts of the case file that the client determines is needed at the ADH.
 8. A client may bring witnesses to speak on his or her behalf at the ADH.
 9. The client and or his or her representative has the right to question or deny any evidence or statements made against him or her at the ADH. This includes the right to ask questions of persons testifying against him or her.

10. The client has the right to present any evidence that he or she feels is important to prove his or her case.
- B. All Colorado Works clients must be provided with a written notice of the penalties for an IPV on the application form. All Colorado Works clients shall be notified of the penalties for an IPV when reporting changes on the redetermination form.
- C. A county department is required to refer the investigation to the appropriate investigatory agency for any client or representative payee whenever there is an allegation or reason to believe that individual has committed an IPV as described below.

When conducting an interview for IPV and/or fraud, the county department investigator or representative has the responsibility to ensure the following:

1. That an explanation was given to the individual regarding the reason the interview is taking place; and,
 2. That the individual's rights have been provided to him or her (section 3.609.6.A); and,
 3. That the individual's rights and responsibilities including confidentiality of records and information, the right to non-discrimination provisions, the right to a county conference, and the right to a state level fair hearing have been provided to him or her; and,
 4. That the rights and responsibilities presented in the "what I should know" section of the application that the client acknowledged when he or she signed the application form have not been violated; and,
 5. That the county and/or representative of the county shall not threaten the individual or engage in any other intimidation tactics toward the client.
- D. If the county receives questionable information that is necessary for determining a client's eligibility and the verification requested by the county department is not supplied by the client as required by the county department's verification request timeframes (section 3.604.3), grant payments may be reduced and/or the case closed and grant payments terminated for a client's failure to prove eligibility following the notice policies outlined in section 3.609.1. These actions and notification shall not be used as an intimidation tactic or threat.
- E. Following an investigation, the county must take action on cases where documented evidence exists to show a client has committed one or more acts of IPV. The county must take action through:
1. Obtaining a "waiver of administrative disqualification hearing"; or,
 2. Proceeding with an ADH, either at the county department or in front of an ALJ, or both as described in subsections M. and O. below; or,
 3. Referring the case for civil or criminal action in a county or district court; or,
 4. Documenting in the case file the county department's decision to take no action to pursue IPV using documented evidence to support the decision.
 5. Establishing a claim based on the IPV, if appropriate.

- F. In proceeding against a client who is alleged to have committed an IPV, the county department must coordinate any action with actions taken under the food assistance program where the factual issues are the same or related.
- G. Overpayment actions shall be initiated in the statewide automated system within ten (10) calendar days of the investigation's conclusion, unless otherwise specified in the case file. This is required in all cases even if ADH procedures or referral for prosecution is not initiated, except in instances where notification of overpayments may prejudice the ongoing criminal case or investigation. In these instances, the county department may make the determination to postpone notification of claims to the client if the overpayment is being referred to a court of appropriate jurisdiction. The determination to postpone notification must be clearly documented in the case file.
- H. The state department will not condone any actions of the county department that could be determined to be a violation of state or federal law. Any actions taken by a county department that is determined to be in violation of state or federal law may be subject to corrective action per 9 C.C.R. 2501-1 section 1.150.
- I. These rules apply to all clients who commit an IPV who are recipients or representative payees of grant payments and/or services. The determination of IPV shall be based on clear and convincing evidence that demonstrates intent to commit IPV.
- J. Supporting evidence warranting the pursuit of an IPV disqualification must be documented and reviewed by a supervisor. If the county department determines there is evidence to substantiate that a person has committed an IPV, the person has a right to an ADH. However, the county department shall allow that person the opportunity to waive the right to an ADH.
 - 1. The State approved IPV forms shall be provided to the individual suspected of an IPV. These may be offered to the individual during the investigation or mailed once it has been suspected an IPV has occurred, but there is no plan to pursue criminal charges.
 - 2. One of the state approved forms affords the individual the right to waive the ADH. If the individual chooses to waive his or her right to an ADH, the individual shall have fifteen (15) calendar days from the date the IPV forms are hand-delivered or mailed by the county to return the waiver. If the form is not returned, the county department shall pursue an ADH.
 - 3. The completion of the waiver is voluntary and the county department may not require, nor by its actions appear to require, the completion of the waiver.
- K. An IPV ADH must be requested whenever:
 - 1. The facts of the case do not warrant civil or criminal prosecution;
 - 2. Documentary evidence exists to show an individual has committed one or more acts of IPV; and
 - 3. The individual has failed to sign and return the waiver of ADH form.
- L. An ADH may be requested against an accused individual whose case is currently being referred for prosecution on a civil or criminal action in county or district court.
- M. A county department may conduct an ADH or may use the Office of Administrative Courts (OAC) to conduct the ADH.

1. The individual may request verbally, in writing, electronically, or in person that the OAC conduct the ADH in lieu of a county ADH. Such an ADH must be requested ten (10) calendar days before the scheduled date of the county ADH.
2. The OAC or the county department must mail by certified mail, return receipt requested, a notice of the date of the ADH on the form prescribed by the state department, to the individual alleged to have committed an IPV. The notice must be mailed at least thirty (30) calendar days prior to the ADH date, to the individual's last known address. The notice form shall include a statement that the individual may waive the right to appear at an ADH.
3. The ALJ or ADH officer shall not enter a default judgment against the individual for failure to file a written answer to the notice of hearing or failure to appear at the ADH, but shall base the initial decision upon the evidence introduced at the ADH.
4. The ADH must be continued at the accused individual's request if good cause is shown. The request for continuance must be received by the presiding ALJ or ADH officer at least ten (10) calendar days prior to the ADH.

The ADH shall not be continued for more than a total of thirty (30) calendar days from the original ADH date. One additional continuance is permitted at the ADH officer or ALJ's discretion. If the ADH officer or ALJ considers it necessary, a medical assessment may be ordered to substantiate or disprove a good cause statement of an accused individual. Such assessment shall be obtained at the agency's expense and made part of the record.

5. In the event that the ADH was heard by the county, the client may request an ADH to be heard by the OAC within fifteen (15) calendar days of the date the county department mails the local ADH decision to the client.

N. Disqualification for IPV shall be as follows:

1. If the individual signs and returns the request for waiver of ADH within fifteen (15) calendar days from the date the waiver is sent, that person shall be provided with a notice of the period of disqualification.
2. The disqualification period shall begin no later than the first day of the following month from the date determined through the ADH process or, if the individual signed an ADH waiver, the date he or she signed the waiver.
 - a. Once the disqualification is imposed it shall continue without interruption. To consider a disqualification period served, the client shall have a break in grant payments totaling the time period of the disqualification. The disqualification period shall remain in effect unless and until the finding is reversed by the Office of Appeals or a court of appropriate jurisdiction or until the period of disqualification is served per section c below.
 - b. The disqualification may be in addition to any other penalties which may be imposed by a court of law for the same offenses (i.e. criminal or civil sanctions).
 - c. The disqualification shall be in effect for twelve (12) months upon the first occasion of any such offense; twenty-four (24) months upon the second occasion of any such offense and permanently upon the third such offense, pursuant to section 26-2-128(1), C.R.S. all disqualifications imposed shall run and be served consecutively.

3. The disqualification penalizes only the individual(s) found to have committed an IPV. If a client's spouse and/or sponsor(s) have received an IPV on his or her own case(s), the spouse's and/or sponsor(s)' income and resources, when applicable, will be considered available to the client and used for determining eligibility.
 4. An IPV disqualification in one county is valid and effective in all other Colorado counties. A county department shall consider a disqualification imposed by another county department when determining the appropriate disqualification penalty for the disqualified individual without an additional ADH or further right to appeal.
- O. If, as a result of the ADH, the county ADH officer or ALJ finds the individual has committed an IPV, a written notice shall be provided to notify the individual of the decision. The county hearing decision notice shall be a state prescribed form, which includes a statement that a state ADH at the OAC may be requested.
1. In the event that the ADH was heard by the county, the client may appeal the decision of the county ADH to the OAC. An appeal must be received by the county department or by the OAC within fifteen (15) calendar days of the date the county department mails the local ADH decision to the client. See section 3.609.7 for rules regulating the appeal process.
 2. A copy of the county ADH decision shall be forwarded to the state department's employment and benefits division for review at the same time the decision is mailed to the client. If the client does not appeal the county ADH decision to the OAC, it becomes an initial decision and if no response is sent by the employment and benefits division to the county department, the county's decision becomes a final decision. If the employment and benefits division disagrees with the county department decision, they may: remand the decision to the county department or require the county to send the ADH request to OAC for determination of IPV, as described in M.5 above.
 3. In an ADH before an ALJ, the determination of IPV shall be an initial decision, which shall not be implemented while pending state department review and a final agency decision. The initial decision shall advise the client that failure to file exceptions to findings of the initial decision will waive the right to seek judicial review of a final agency decision under section 24-4-106, C.R.S. affirming the initial decision.
 4. When an individual waives his or her right to an ADH, a written notice of the disqualification penalty shall be mailed to the individual. This notice shall be on a state prescribed notice form.
- P. When the county department determines that it has paid a client a grant payment as a result of fraud, the facts used in the determination shall be reviewed with the department's legal counsel within the attorney general's office and/or a representative from the district attorney's office. If suspected fraud is substantiated by the available evidence, the case shall be referred to the district attorney. All referrals to the district attorney shall be made in writing and shall include the amount of assistance fraudulently received by the client.
- Q. If any deduction is being made from the client's assistance payment it must be consistent with any court order resulting from a prosecution by the district attorney. If the individual being prosecuted is not a Colorado Works program client, another method of recovery shall be used to collect amounts due to the department.
1. Interest shall be charged from the month in which the overpayment was received until the date the overpayment is recovered. Interest shall be calculated at the legal rate.

2. The client may choose to repay the county department the entire amount of the overpayment at one time or establish a repayment plan. In either instance, the fraud charge should be discussed with the district attorney or appropriate investigative authority.
- R. If the district attorney declines to prosecute, the amount of overpayment due, as established by the department, will continue to be recovered by deduction from subsequent grant payments or other method of recovery if the individual is not a current client of Colorado Works grant payments.

3.609.6 Dispute Resolution

The dispute resolution process is available for disputes concerning county department actions related to eligibility, reduction of grant payment amounts, redetermination procedures, and other county actions that do not involve allegations of fraud or IPV on the part of the client. If there is a dispute regarding fraud or IPV, that dispute must be handled according to sections 3.609.1 and 3.609.5 regarding IPV and fraud.

In order to resolve disputes between county departments and clients, county departments shall adopt procedures for the resolution of disputes consistent with this section. The procedures shall be designed to establish a simple, non-adversarial format for the informal resolution of disputes.

- A. The county department, prior to taking action to deny, terminate, recover, initiate vendor payments, or modify financial assistance provided under the Colorado Works program to a client, shall, at a minimum, provide the client an opportunity for a county conference.
 1. The right of a client to a county conference is primarily to ensure that the proposed action is valid, to protect the client against an erroneous action concerning grant payments, and to ensure reasonable promptness of county action. The client may choose, however, to bypass the county conference and appeal directly to the state office of administrative courts, pursuant to section 3.609.7.
 2. The client is entitled to:
 - a. Representation by an authorized representative retained at his or her own expense, such as legal counsel, relative, friend, or another spokesperson, or he or she may represent himself or herself;
 - b. Examine the contents of the case file and all documents and records used by the county department or agency in making its decision. Examination of the file is available at a reasonable time before the conference and during the conference. However, the file shall not include names of confidential informants, privileged communications between the county department and its attorney, or the nature and status of pending criminal prosecutions and any other information that is confidential or privileged under state or federal law; and
 - c. Present new information or documentation to support reversal or modification of the proposed adverse action.
 3. Failure of the client to request a county conference within ninety (90) calendar days from the date timely notice of the proposed action was mailed, absent the client requesting a postponement within that same ninety (90) days, shall constitute abandonment of the right to a conference. The client does not lose the right to appeal directly to the OAC pursuant to section 3.609.7.

4. Failure of the client to appear at the scheduled county conference without making a request for postponement prior to the scheduled date of the conference shall constitute abandonment of the right to a conference unless the client can show good cause for his or her failure to appear. The client does not lose the right to appeal directly to the OAC pursuant to section 3.609.7.
- B. The county conference shall be held before a person in the county department or agency where the proposed decision is pending who was not directly involved in the initial determination of the action in question. The county worker or contractor who initiated the action in dispute shall not conduct the county conference.
1. The person designated to conduct the conference shall be in a position which, based on knowledge, experience, and training, would enable him or her to determine if the proposed action is valid. This could include, but is not limited to, a supervisor, quality assurance personnel, or a manager with no previous knowledge of the case.
 2. Two or more county departments may schedule a joint county conference related to the same client. If two or more counties schedule a joint county conference, the location of the conference need not be held in the county taking the action, and the conference location shall be convenient to the client.
 3. The county conference may be conducted either in person, by telephone, or by video conference. A telephonic or video conference must be agreed to by the client.
 4. The county/agency worker or other county or department employee or contractor shall attend the county conference and present the factual basis for the disputed action.
 5. The county conference shall be conducted on an informal basis. The county department/agency must provide specific reasons for the proposed action, and the applicable state department's rules or county policy. In the event the client does not speak English or other language services are needed, an interpreter shall be provided by the county department/agency.
 6. The county/agency shall have available at the conference all pertinent documents and records in the case file relevant to the specific action in dispute.
 7. To the extent possible, the county conference shall be scheduled and conducted prior to grant payments being reduced or terminated.
 8. The county department shall provide notice to the client at least four (4) days prior to the scheduled time and location for the conference, or the time of the scheduled telephone or video conference. Notice should be in writing. The client may provide a written or verbal waiver that written notice of the scheduled conference is not necessary when the county department is able to conduct the conference within four (4) days.
 9. The county department may consolidate a client's disputes regarding the Colorado Works program, the food assistance program, or any other public assistance program if the facts are similar and consolidation would facilitate resolution of all disputes.
 10. The goal of the county conference is to reach an agreement between the client and the county department.

- C. At the conclusion of the conference, the person presiding shall summarize the discussion in writing. The summary shall include whether the issue was resolved and include the client's appeal rights as described in section 3.609.7. A copy of the written summary shall be provided to the client and/or his or her representative within eleven (11) calendar days. A copy of the summary will also be maintained in the client's case file.

3.609.7 Appeal and State Level Fair Hearing

- A. These rules apply to all state-level fair hearings of county department actions concerning assistance payments and actions taken pursuant to state rules or official county policies governing the Colorado Works program. An affected client who is dissatisfied with a county department action or the result of a county conference or failure to act concerning grant payments may appeal to the Office of Administrative Courts (OAC) for a fair hearing before an independent Administrative Law Judge (ALJ). This will be a full evidentiary hearing of all relevant and pertinent facts to review the decision of the county department. The time limitations for submitting a request for an appeal are:
1. When the client elects to avail himself of a county conference, but is dissatisfied with that decision, the request must be submitted in writing and mailed or hand-delivered as described in subsection 3 below, within the ninety (90) day period specified in 2, below;
 2. When the client elects not to avail himself of a county dispute resolution conference but wishes to appeal directly to the state, a written request for an appeal must be mailed or hand-delivered as described in 3 below no later than ninety (90) calendar days from the date the notice of the proposed action was mailed to the client;
 3. A request for an appeal must be mailed or hand-delivered to the office of administrative courts. If the request is sent to or mailed to the county department, the county shall forward such request to the OAC.
- B. Requests for state hearings may result from such reasons as:
1. The opportunity to make application or reapplication has been denied;
 2. An application for assistance or services has not been acted upon within the maximum time period for the category of assistance;
 3. The application for assistance has been denied, the grant payment has been modified or discontinued, vendor payments have been initiated, requested reconsideration or a grant payment amount deemed incorrect has been refused or delayed, payment has been delayed through the holding of payments, the county department is demanding repayment for any part of a grant payment which the client does not believe is justified, or the client disagrees with the type or level of benefits or services provided.
- C. The basic objectives and purposes of the appeal and state hearing process are:
1. To safeguard the interests of the client;
 2. To provide a practical means by which the client is afforded a protection against incorrect action on the part of the county department;
 3. To bring to the attention of the state department and county department information that may indicate need for clarification or revision of state and county policies and procedures;

4. To assure equitable treatment through the administrative process without resort to legal action in the courts.
- D. Any clear expression verbally or in writing by the client or his or her representative, that the client wants an opportunity to have a specific action of a county department reviewed by the state department is considered a request for a state level fair hearing. The county department shall, when asked, aid the person in preparation of a request for a hearing. If the request for a hearing is made verbally, the county department shall prepare a written request within ten (10) calendar days for the client or his or her representative's signature or have the client prepare such request, specifying the action he or she would like to appeal and the reason for appealing that action.
1. The client is entitled to:
 - a. Representation by any person he or she chooses pursuant to section 26-2-127(1)(a)(iv), C.R.S., legal counsel retained at the client's own expense, or he or she may represent him or herself;
 - b. Examine the complete case file and any other documents, records, or pertinent material to be used by the county at the state level fair hearing, including the hearing packet as described in section 3.609.711.D.3, before the date of hearing as well as during the hearing. However, the file shall not include the names of confidential informants, privileged communications between the county departments and its attorney, the nature and status of pending criminal prosecutions, and any other information that is confidential or privileged under state or federal law.
 2. The client and staff of the county department are entitled to:
 - a. Present witnesses;
 - b. Establish all facts and circumstances pertinent to the decision being appealed;
 - c. Advance any arguments without undue interference;
 - d. Question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

3.609.71 Hearing Procedures

3.609.711 State Level Fair Hearing Procedures

The procedures in this section apply to all hearings in front of the OAC. One or more persons from the Colorado Department of Personnel and Administration, Office of Administrative Courts (OAC), are appointed to serve as ALJs for the state department.

All hearings described in this section shall be conducted in accordance with section 24-4-105, C.R.S.

- A. The State Administrative Law Judge shall, in preparation for the hearing, review the reasons for the decision under appeal and be prepared to interpret applicable Departmental rules and/or official written county policies governing the Colorado Works program and pertaining to the issue under appeal.
- B. The county department shall forward copies of its applicable Colorado Works policies and any subsequent amendments, including effective dates, to the OAC. Clients appealing a county action shall be provided reasonable opportunity to examine the county's policies.

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- C. When legal counsel does not represent the client and/or the department, the ALJ shall assist in bringing forth all relevant evidence and issues relating to the appeal.
- D. Upon receipt by the OAC of an appeal request, OAC assigns a case number. The OAC sets a hearing date at least ten (10) days from the date the appeal was requested, and sends a letter by first class or certified mail, or by email through the electronic filing system to the appellant and the county department notifying them of the date, time, and place of the hearing.
1. The appellant is told that if these arrangements are not satisfactory, he or she must notify the OAC. An ALJ will decide if good cause exists, and whether the date, time, and/or place of the hearing will be changed.
 2. An information sheet shall be enclosed to explain the hearing procedures to the appellant. The information sheet informs the appellant that: he or she has the right to representation retained at his or her own expense, such as legal counsel, a relative, a friend, or another spokesperson, or he or she may represent himself or herself under section 26-2-127(1)(a)(iv), C.R.S.; the appellant or his or her representative has the right to examine all materials to be used at the hearing, before and during the hearing.
 3. For all hearings except IPV ADH hearings, the information sheet shall also include a notice that failure to appear at the hearing as scheduled, without having secured a proper extension in advance, or without having shown good cause for failure to appear, shall constitute abandonment of the appeal and cause a dismissal thereof. Pursuant to section 3.609.5.M.2-3., failure to appear does not result in a dismissal of an ADH hearing.
 4. If OAC sets the hearing forty-five (45) days or more from the date of the notice of hearing, the county department/agency shall, within fifteen (15) days but no later than thirty (30) days prior to the hearing, prepare and mail a hearing packet to the appellant with a copy to OAC. If the hearing is set less than 45 days from the date of the notice of hearing, the county department/agency shall, within five (5) days but no later than ten (10) days prior to the hearing, prepare and mail the hearing packet. The hearing packet shall contain the following information:
 - a. The reasons for the decision of the county department and a specific explanation of each factor involved, such as the amount of excess income or residence factors;
 - b. The specific state rules governing the Colorado Works program or county policy on which the decision is based with a numeric reference to each such rule, including the appropriate Code of Colorado Regulations (C.C.R.) cites;
 - c. Notice that the county department will assist him or her by providing relevant documents from the case file for his or her claim, if he or she so desires, and that he or she has the opportunity to examine rules and other materials to be used at the hearing concerning the basis of the county decision.
 5. Information that the appellant or his or her representative does not have an opportunity to see shall not be made available as a part of the hearing record or used in a decision on an appeal. No material made available for review by the ALJ may be withheld from review by the appellant or his or her representative.
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6. In Colorado Works program appeals, the ALJ has twenty (20) calendar days from the hearing date to arrive at an initial decision. Once an initial decision is rendered, the OAC immediately sends the case and the initial decision to the State Department, Office of Appeals. The Office of Appeals serves the initial decision on the parties via first class mail and provides for an opportunity for the parties to file exceptions to the initial decision prior to the Office of Appeals issuing a final agency decision.
 7. The initial decision shall not be implemented pending review by the Office of Appeals and entry of a final agency decision. All final agency decisions on these appeals shall be made within ninety (90) calendar days from the date the request for hearing is received.
- E. When the client has had a county conference and wishes to appeal the county department's action to the OAC, the following procedures shall be followed:
1. As part of the local conference the client is informed that if he or she wishes to appeal to the OAC for a hearing, the county department shall provide relevant documents from the case file for the client's claim, if he or she so desires, and that he or she may have the opportunity to examine materials as described in the section 3.609.
 2. The county department shall forward a copy of the decision being appealed and a copy of the written notification given to the client to the OAC.
 3. A copy of the OAC's notice to the client setting a date for the hearing is forwarded to the county department. The county department shall provide the client with a hearing packet in accordance with section 3.609.711.D.3.
 4. If the client indicates to the county department that he or she desires to withdraw the appeal, the county shall attempt to obtain a statement to that effect in writing and forward it to the OAC.
 5. If a client has legal counsel or another authorized representative for the appeal, the county department will not discuss the merits of the appeal or the question of whether or not to proceed with it with the client unless the discussion is in the presence of, or with the permission of, such counsel or such other authorized representative.
 6. If the county department learns that legal counsel will represent the client, the county department shall make every effort to ensure that it, too, is represented by an attorney at the hearing. The county department may be represented by an attorney in any appeal that it considers such representation desirable.
 7. If the appellant needs interpretation services, the county department shall arrange to have present at the hearing a certified interpreter who will be sworn to translate correctly.
 8. The fact that an appellant and the county department have been notified that a hearing will be held does not prevent the county department from reviewing the case and considering any new factors which might change the status of the case, or taking such action as may be indicated to reverse its decision or otherwise settle the issue. Any change, which results in a voiding of the cause of appeal, shall be immediately reported to the OAC.
 9. Upon receipt of notice of a state hearing on an appeal, the county department shall arrange for a suitable hearing room appropriate to accommodate the number of persons, including witnesses, who are expected to be in attendance, taking into consideration such factors as privacy; absence of distracting noise; and the need for table, chairs, electrical outlets, adequate lighting and ventilation, and conference telephone facilities.

- F. Telephonic hearings may be conducted as an alternative to in-person hearings unless otherwise requested by any of the parties. All applicable provisions of the in-person hearing procedures will apply, such as the right to be represented by counsel, the right to examine and cross-examine witnesses, the right to examine the contents of the case file, and the right to have the hearing conducted at a reasonable time and date.
- G. The county department shall have the burden of proof, by a preponderance of the evidence, to establish the basis of the ruling being appealed. Every party to the proceeding shall have the right to present his or her case or defense by verbal and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Subject to these rights and requirements, where a hearing is expedited and the interests of the parties will not be subsequently prejudiced thereby, the ALJ may receive all or part of the evidence in written form or by verbal stipulations.
- H. The following provisions govern the procedure at state hearings before the ALJ:
 - 1. The hearing is closed to the public however, any person or persons whom the appellant wishes to appear for or with him or her may be present, and, if requested by the appellant and in the record, such hearing may be public;
 - 2. The purpose of the hearing is to determine the pertinent facts in order to arrive at a fair and equitable decision in accordance with the rules of the state department. In arriving at a decision, only the evidence and testimony introduced at the hearing is considered by the ALJ. However, in circumstances when it is shown at the hearing that medical or other evidence could not, for good cause, be obtained in time for the hearing, the ALJ may permit the introduction of such evidence after the hearing. The opposing party must also be furnished with a copy of this new evidence and must have the opportunity to controvert or otherwise respond to it. Delays in rendering the initial decision will be attributed to the party requesting that the ALJ hear additional evidence after the hearing;
 - 3. Although the hearing is conducted on an informal basis and an effort is made to place all the parties at ease, it is essential that the evidence be presented in an orderly manner so as to result in an adequate record;
 - 4. When an ALJ makes a decision regarding the merits of the case, or the dismissal of the appeal, that decision is called an initial decision.
 - 5. A complete and exact record of the proceedings shall be made by electronic or other means. When requested by the party, the OAC shall cause the proceedings to be transcribed.
 - 6. When the ALJ dismisses an appeal for reasons other than failure to appear, the decision of the ALJ shall be an initial decision, which shall not be implemented until the Office of Appeals completes its review and enters a final decision.
 - 7. The ALJ shall not enter a default against any party for failure to file a written answer in response to the notice of hearing, but shall base the initial decision upon the evidence introduced at the hearing. However, an appellant may be granted a postponement of the hearing if the county department has failed to provide the hearing packet required by section 3.609.711, and the appellant has therefore been unable to prepare for the hearing.

8. When OAC has notified the appellant of the time, date, and place of the OAC hearing and the appellant fails to appear at the hearing, without giving notice to the ALJ of acceptable good cause for his or her inability to appear at the hearing, then the appeal shall be considered abandoned. The ALJ shall enter an order of dismissal and the OAC shall serve it upon the parties. The dismissal order shall not be implemented pending review by the Office of Appeals and entry of an agency decision.

However, the appellant shall have ten (10) calendar days from the date the order of dismissal was mailed to draft and send a letter to the ALJ explaining the reason for his or her failure to appear. If the ALJ then finds that there was good cause for the appellant not appearing, the ALJ shall vacate the order dismissing the appeal and reschedule the hearing date.

If the appellant does not submit a letter seeking to show good cause within the ten (10) day period, the order of dismissal shall be filed with the Office of Appeals of the state department. The Office of Appeals shall review the dismissal of the appeal and give the appellant time to file exceptions before issuing a final agency decision in accordance with the procedures in section 3.609.72.

After the final agency decision is served on the parties, the county department shall carry out the necessary actions within ten (10) calendar days of the final agency decision becoming effective. The actions may be: to provide assistance or services in the correct amount, to terminate assistance or services, to recover assistance incorrectly paid, and/or other appropriate actions in accordance with the rules. Pursuant to section 24-4-106(5), C.R.S., the effective date of the final agency decision may be postponed if the appellant makes a request for postponement due to irreparable injury to the state department or the court reviewing the final agency action on judicial review.

3.609.72 Decision and Notification

- A. Following the conclusion of the state level fair hearing, the ALJ shall promptly prepare and issue an initial decision and file it with the State Department, Office of Appeals.

The Office of Appeals of The State Department is the designee of the State Department's executive director for reviewing the initial decision of the ALJ. The Office of Appeals enters a final agency decision on behalf of the executive director affirming, modifying, or reversing the initial decision.

1. The initial decision shall make an initial determination whether the county or state department or its agent acted in accordance with, and/or properly interpreted, the rules of the state department and/or the county policies governing the Colorado Works program.
2. The ALJ has no jurisdiction or authority to determine issues of constitutionality or legality of Colorado Statute, departmental rules, or county policy(ies) governing the Colorado Works program.
3. The initial decision shall advise the client who brought the appeal that failure to file exceptions to the initial decision will waive the right to seek judicial review under section 24-4-106, C.R.S. of a final agency decision that affirms the initial decision.
4. The Office of Appeals shall promptly serve the initial decision upon each party by first class mail, and shall transmit a copy of the decision either electronically or by mail to the division of the state department that administers the program(s) pertinent to the appeal.

5. The initial decision shall not be implemented pending review by the Office of Appeals and entry of an agency decision.
- B. Upon receiving the initial decision, the Office of Appeals may issue an order of remand based on an issue that warrants an immediate remand before the initial decision is even mailed to the parties.

Additionally, the Office of Appeals may issue an order of remand after its substantive review of an initial decision, and prior to issuing a final agency decision, based on the need for further clarification, findings, conclusions of law, and/or further proceedings. An order of remand is not a final agency decision that is subject to judicial review under section 24-4-106, C.R.S.

- C. Any party seeking final agency decision which reverses, modifies, or remands the initial decision of the ALJ shall file exceptions to the decision with the Office of Appeals, within fifteen (15) days (plus three days for mailing) from the date the initial decision is mailed to the parties. If that date falls on a weekend or State holiday, the due date shall be moved to the next business day. Exceptions must state specific grounds for reversal, modification or remand of the initial decision.
 1. If the party asserts that the ALJ's findings of fact are not supported by the weight of the evidence, the party shall, simultaneously with, or prior to, the filing of exceptions request the OAC create a transcript of all or a portion of the hearing and file it with the Office of Appeals. No transcript is required if the review is limited to a pure question of law. Similarly, if the exceptions assert only that the ALJ improperly interpreted or applied State rules or statutes, the party filing exceptions is not required to provide a transcript or recording to the Office of Appeals.

If applicable, the exceptions shall state that a transcript has been requested. Within five (5) days of the request for transcript, the party requesting it shall advance the cost therefore to the transcriber designated by the OAC unless the transcriber waives prior payment.
 2. A party who is indigent and unable to pay the cost of a transcript may file a written request, which need not be sworn, with the Office of Appeals for permission to submit a copy of the hearing recording instead of the transcript. If submission of a recording is permitted, the party filing exceptions must promptly request a copy of the recording from the OAC and deliver it to the Office of Appeals. Payment in advance shall be required for the preparation of a copy of the recording.
 3. The Office of Appeals shall serve a copy of the exceptions on each party by first class mail. Each party shall be limited to ten (10) calendar days from the date exceptions are mailed to the parties in which to file a written response to such exceptions. The Office of Appeals shall not permit oral argument.
 4. The Office of Appeals shall not consider evidence that was not part of the record before the ALJ. However, the case may be remanded to the ALJ for rehearing if a party establishes in its exceptions that material evidence has been discovered which the party could not with reasonable diligence have produced at the hearing.
 5. While review of the initial decision is pending before the Office of Appeals, the record on review, including any transcript or recording of testimony filed with the Office of Appeals, shall be available for examination by any party at the Office of Appeals during regular business hours.

6. The state department's division(s) responsible for administering the program(s) relevant to the appeal may file exceptions to the initial decision, or respond to exceptions filed by a party, even though the division has not previously appeared as a party to the appeal. The division's exceptions or responses must be filed in compliance with the requirements of this section exceptions filed by a division that did not appear as a party at the hearing shall be treated as requesting review of the initial decision upon the state department's own motion.
 7. In the absence of exceptions filed by any party or by a division of the state department, the Office of Appeals shall review the initial decision, and may review the hearing file of the ALJ and/or the recorded testimony of witnesses, before entering a final agency decision. Review by the Office of Appeals shall determine whether the decision properly interprets and applies the rules of the state department and/or relevant statutes, and whether the findings of fact and conclusions of law support the decision. If a party or division of the state department objects to the final agency decision entered upon review by the Office of Appeals, the party or division may seek reconsideration of the final agency decision pursuant to subsection c, below.
 8. The Office of Appeals shall mail copies of the final agency decision to all parties by first class mail.
 9. For purposes of requesting judicial review under section 24-4-106, C.R.S., the effective date of the final agency decision shall be the third day after the date the decision is mailed to the parties, even if the third day falls on Saturday, Sunday, or a legal holiday. The parties shall be advised of this in the final agency decision.
 10. The State or county department shall initiate action to comply with the final agency decision within three (3) business days after the effective date. The department shall comply with the decision even if reconsideration is requested, unless the effective date of the agency decision is postponed by order of the Office of Appeals or a reviewing court pursuant to section 24-4-106(5), C.R.S.
- D. No motion for reconsideration shall be granted unless it is filed in writing with the Office of Appeals within fifteen (15) days of the date that the final agency decision is mailed to the parties. The motion must state specific grounds for reconsideration of the final agency decision.
- The Office of Appeals shall mail a copy of the motion for reconsideration to each party of record and transmit electronically or in writing to the appropriate division of the state department.
- A motion for reconsideration of a final agency decision may be granted by the Office of Appeals for the following reasons:
1. A showing of good cause for failure to file exceptions to the initial decision within the fifteen (15) day period allowed by section 3.609.7; or,
 2. A showing that the agency decision is based upon a clear or plain error of fact or law. An error of law means failure by the Office of Appeals to follow a rule, statute, or court decision, which controls the outcome of the appeal.
- E. When a final agency decision concludes that an action of the county or state department was not in accordance with rules of the department, or when the county or state department determines that its action was not supported by the state department's rules after the client makes a request for a hearing, the adjustment or corrective payment is made retroactively to the date of the incorrect action.

- F. The client is to be fully informed by the final agency decision of his or her further right to apply for judicial review of the agency decision. Judicial review can be started by filing an action for review in the appropriate state district court. Any such action must be filed in accordance with section 24-4-106, C.R.S. and with the Colorado Rules of Civil Procedure within thirty-five (35) days after the final agency decision becomes effective.
- G. The state department will establish and maintain a method for informing, in summary and depersonalized form, all county departments and other interested persons concerning the issues raised and decisions made on appeals.

3.609.73 Protections to the Individual

A. Confidentiality

All information obtained by the county department concerning a client of Colorado Works is confidential information.

- 1. The county department shall inform county officials and other persons who have dealings with the department as to the confidential nature of information, which may come into their possession through transaction of department business.

When a county worker consults a bank, current/former employer of a client, another social agency, etc., to obtain information or eligibility verification information, the identification of the county worker as an employee of the county department will, in itself, disclose that an application for assistance has been made by a client. In this type of contact, as well as other community contacts, the department shall strive to maintain confidentiality whenever possible.

- 2. Ensuring privacy while interviewing and the continuous confidentiality of information are essential. This involves both office facilities and county worker discretion. Office procedures and facilities should be such that information is not inadvertently revealed to persons not concerned with the affairs of a particular client. The county worker must also use discretion in mentioning department business outside the office.
- 3. The county or state department may share information across systems so that a client is efficiently served by programs using other systems to determine eligibility/maintain information to the extent allowable under section 26-1-114, C.R.S.

B. Confidentiality must be treated as follows:

- 1. Aggregated information not identified with any client, such as caseload statistics and analysis, is not confidential and may be released for any purpose.
- 2. Information secured by the county department for the purpose of determining eligibility and need is confidential.
- 3. Unless disclosure is specifically permitted by the state department, the following types of information are the exclusive property of, and are restricted to use by, the state and county departments:
 - a. Names and addresses of Colorado Works clients, and/or the grant payment amount;

- b. Information contained in applications, reports of medical examinations, correspondence, and other information concerning any person from whom, or about whom, information is obtained by the county department;
 - c. Records of state or county departmental evaluations of the above information.
 - d. All information obtained through the Income and Eligibility Verification System (IEVS).
- 4. No one outside the state or county department shall have access to records of the department except for the following individuals: those executing the Income and Eligibility Verification System (IEVS); child support services officials; the SSA; and federal and State auditors and private auditors for the county these individuals shall have access only for purposes necessary for the administration of the program.
 - a. Client records may be used as exhibits for administrative, civil and/or criminal proceedings when the proceedings relate directly to the receipt of Colorado Works Programs.
 - b. Additional individuals shall have access to the client's records as long as the client is notified and his or her prior permission for release of information is obtained, unless the information is to be used to verify income or eligibility under administration of the IEVS.
 - c. If the information is needed to provide benefits to a client in an emergency situation, and the client is physically or mentally incapacitated to the extent that he or she cannot sign the release form, and time does not permit obtaining the client's consent prior to release of information, the county department must notify the client within eleven (11) calendar days after supplying the information. If the applicant or client does not have a telephone or cannot be personally contacted within eleven (11) days, the county department must send written notification containing the required information. The verbal or written notification shall include the name and address of the agency that requested the information, the reason the information was requested and a summary of the information released.
 - d. The release of records is strictly conditioned upon the information being used solely for the purpose authorized and the person requesting the information must certify the use to be made of the information and that it will not be disclosed or used for any other purpose.
- 5. The district attorney or county human services board member, shall have access to the records of the department, excluding IEVS information, if the following identified consent or notice conditions are met.
 - a. A district attorney upon presentation of a written request accompanied by evidence that fraud is the reason for the request
 - b. A county human services board member, as described in section 26-1-116, C.R.S. if the board member has an obligation to perform Colorado Works duties per county business processes or county policies approved by the state department as described in section 3.600.2.

When a county board member or a district attorney who has met the above conditions needs information about a client that is not in the possession of the county department, the requestor, with the aid of the county department, may contact the state department to inquire as to the appropriate methods of securing it.

6. County departments shall not release information regarding clients to law enforcement agencies unless a valid search warrant is received by the county or state department, except as provided in section 3.609.73.B.4.
7. Upon request to the state department by the Colorado Bureau of Investigation, with the responsibility for location and apprehension of a person with an outstanding felony arrest warrant, the addresses of a fleeing felon who is a client of Colorado Works programs shall be released pursuant to section 26-1-114(3)(a)(iii) C.R.S.
8. The client shall have an opportunity to examine such pertinent records concerning him or her as constitutes a basis for adverse action and in the case of a county conference or a state level fair hearing. Other requests for information by the client shall be honored only when the client makes the request in person and his or her identity is verified or the request is in the form of a written and signed statement.

The client may designate an individual, firm, or agency to represent him or her at conferences and hearings. The client must put the designation of such representative in writing. The representative shall have access to all pertinent records.

9. The client may give a formal written release for disclosure of information to other agencies, such as hospitals or advocate agencies. If the client is not present, or the opportunity to agree or object to the use or disclosure cannot practicably be provided because of the client's incapacity or an emergency circumstance, the department may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the client and, if so, disclose only the minimum confidential information necessary that is directly relevant to the client's care.
10. Information provided to agencies and/ or individuals must be limited to the specific information required to determine eligibility, conduct ongoing case management, or otherwise necessary for the administration of the Colorado Works program. Information obtained through IEVS will be stored and processed so that no unauthorized personnel can acquire or retrieve the information. County departments are responsible for limiting IEVS data to only those individuals requiring access to determine eligibility or otherwise administer the programs.

All persons with access to information obtained pursuant to the income and eligibility verification requirements will be advised of the circumstances under which access is permitted, how data will be utilized, confidentiality of data, and the sanctions imposed for illegal use or disclosure of the information.

3.609.74 Protection Against Discrimination

County departments are to administer Colorado Works in such a manner that no client will, on the basis of race, color, religion, creed, national origin, ancestry, sex/gender (including transgender status), pregnancy, age, sexual orientation, gender identity, political affiliation, or physical or mental disability, or any other protected groups as described in the state department's anti-discrimination policy, be excluded from participation, be denied any aid, care, or services, or other benefits of, or be otherwise subjected to discrimination in his or her interactions with the Colorado Works program.

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- A. The references to “aid” includes all forms of assistance, including direct and vendor payments, work programs and information and referral services.
- B. The county department shall not, directly or through contractual or other arrangements, on the grounds of race, color, religion, creed, national origin, ancestry, sex/gender (including transgender status), pregnancy, age, sexual orientation, gender identity, political affiliation, or physical or mental disability, or any other protected status: :
1. Provide any aid to an individual which is different, or is provided in a different manner, from that provided to others;
 2. Subject a client to segregation barriers or separate treatment in any manner related to access to or receipt of assistance, care services, or other benefits;
 3. Restrict a client in any way in the enjoyment or any advantage or privilege enjoyed by others receiving aid, care, services, or other benefits provided under assistance programs;
 4. Treat a client differently from others in determining whether he or she satisfies any eligibility or other requirements or conditions which must be met in order to receive aid, care, services, or other benefits provided under the Colorado Works program;
 5. Deny a client an opportunity to participate in assistance programs through the provision of services or otherwise, or afford him or her an opportunity to do so which is different from that afforded others under programs of assistance.
 6. Deny a client the opportunity to participate as a member of a planning or advisory body that is an integral part of the program.
- C. No distinction is permitted in relation to the use of physical facilities, intake and application procedures, caseload assignments, determination of eligibility, and the amount and type of benefits extended by the county department to clients.
- D. The county department shall ensure that other non-federal agencies, persons, contractors and other entities with which it contracts business are in compliance with the above prohibition of discrimination requirements on a continuing basis. The county department staff is responsible for being alert to any discriminatory activity of other agencies and for notifying the state department concerning the situation.
- E. The State department, through its various contacts with agencies, persons, and referral sources, will be continuously alert to discriminatory activity and will take appropriate action to assure compliance with these prohibitions against discrimination the county department, on notification by the state department, will also terminate payments to the offender or association with any agency, person, or resource being used which has been found by the state department or the Colorado Civil Rights Division to continue discriminatory activity against clients.
- F. A client who believes he or she is being discriminated against may file a complaint with the county department, the state department, the Colorado Civil Rights Division or directly with the federal government. When a complaint is filed with the county department, the county director is responsible for an immediate investigation of the matter and taking necessary corrective action to eliminate any discriminatory activities found. If such activities are not found, the client is given a written explanation of the outcome. If the client is not satisfied, he or she is requested to direct his or her complaint, in writing, to the state department, client services section, which will be responsible for further investigation and other necessary action. The client services section can be reached by email at cdhs_clientservices@state.co.us.]
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3.609.75 Additional Programs and Services

3.609.751 Optional Noncustodial Parent Programs

A county may provide services under the Colorado Works program to a noncustodial parent (as defined in section 3.601), in accordance with the county's policy. A noncustodial parent shall not be eligible to receive basic cash assistance under the program.

- A. Such services provided to a noncustodial parent shall be intended to promote the sustainable employment of the noncustodial parent and enable such parent to pay child support.
- B. Provision of such services shall not negatively impact the custodial parent's eligibility for benefits or services.
- C. Any services offered to a noncustodial parent shall be based on the county's review of:
 - 1. The noncustodial parent's request for services; and,
 - 2. The county's assessment of the noncustodial parent's needs.
- D. All services offered to a noncustodial parent shall be outlined in an Individualized Plan entered into by the county and the noncustodial parent.
- E. Services may include, but are not limited to, parenting skills, mediation, workforce development, job training activities, and job search.

Editor's Notes

Primary sections of 9 CCR 2503-1 have been recodified effective 09/15/2012. See list below. Versions and rule history prior to 09/15/2012 can be found in 9 CCR 2503-1. Prior versions can be accessed from the All Versions list on the current rule page.

Rule section 3.100, et seq. has been recodified as 9 CCR 2503-1, (Reserved for Future Use).

Rule section 3.200, et seq. has been recodified as 9 CCR 2503-2, (Reserved for Future Use).

Rule section 3.300, et seq. has been recodified as 9 CCR 2503-3, COLORADO REFUGEE SERVICES PROGRAM (CRSP).

Rule section 3.400, et seq. has been recodified as 9 CCR 2503-4, (Reserved for Future Use).

Rule section 3.500, et seq. has been recodified as 9 CCR 2503-5, ADULT FINANCIAL PROGRAMS.

Rule section 3.600, et seq. has been recodified as 9 CCR 2503-6, COLORADO WORKS PROGRAM.

Rule section 3.700, et seq. has been recodified as 9 CCR 2503-7, LOW-INCOME ENERGY ASSISTANCE PROGRAMS (LEAP).

Rule section 3.800, et seq. has been recodified as 9 CCR 2503-8, ADMINISTRATIVE PROCEDURES FOR THE COLORADO CHILD CARE ASSISTANCE PROGRAM.

Rule section 3.900, et seq. has been recodified as 9 CCR 2503-9, COLORADO CHILD CARE ASSISTANCE PROGRAM.

History

Rules 3.600-3.609 eff. 09/15/2012. Rules 3.610-3.638 repealed eff. 09/15/2012.

Rules 3.600.1, 3.604.1, 3.605.3, 3.606.6, 3.608.4, 3.609.95 eff. 04/01/2013.

Rules 3.602.1.E, 3.602.1.I, 3.604.2, 3.605.3.D, 3.605.3.E.1, 3.605.3.E.2, 3.606.1-3.606.3, 3.606.4.A, 3.606.4.B, 3.606.4.F-G, 3.606.4.L, 3.608.4.H.1-3.608.4.H.4, 3.608.4.I-3.608.4.J, 3.609.1.A.1-3.609.1.A.2 eff. 07/01/2013.

Rule 3.606.4.B eff. 08/07/2013.

Rules 3.602.1-3.602.1.E emer. rule eff. 07/11/2014.

Rules 3.602.1-3.602.1.E eff. 10/01/2014.

Rule 3.602.1 emer. rule eff. 06/05/2015.

Rules 3.600.31, 3.601, 3.602.1, 3.604.1, 3.604.2, 3.605.2, 3.606.6, 3.606.8, 3.607.2, 3.608.1, 3.608.3, 3.608.4, 3.609.961-3.609.962 eff. 07/01/2015.

Rule 3.602.1 emer. rule eff. 06/05/2015.

Rule 3.602.1 eff. 09/01/2015.

Rules 3.602.1-3.602.1.E, 3.609.3-3.609.3.J eff. 01/01/2016.

Rules 3.605.2.F, 3.605.3.A.1, 3.605.3.D.24.a eff. 11/01/2016.

Rules 3.602.1.E.2.i, 3.604.1.C.2, 3.604.1.G, 3.604.1.N.5.d.18), 3.604.2 O, 3.604.2.V.2.a.3), 3.604.2.V.3.c, 3.605.3 A, 3.605.3.E, 3.606.1 A, 3.606.2 A, B, 3.606.4 B, L, 3.606.8.D, 3.609.4.F, 3.609.4.G.1.c, 3.609.94.D.1 eff. 04/01/2017.

Rules 3.601, 3.604.2 eff. 10/01/2017.

Rule 3.605.3.D eff. 01/01/2018.

Rule 3.606.2 F eff. 09/01/2018.

Rules 3.609.5 E, 3.609.92 B eff. 01/30/2020.

Rules 3.607.1 B, 3.608.1 B, 3.608.2 A-C, 3.608.3 eff. 08/01/2020.

Rules 3.609.4 E, 3.609.4 G.2.b eff. 01/01/2021.

Rules 3.601, 3.604.1 N.7.f, 3.604.1 N.11, 3.604.2 L.2.c emer. rules eff. 12/03/2021.

Entire rule eff. 03/01/2022. Rules 3.601, 3.604.1 B.3, 3.604.3 I.5.f emer. rules eff. 03/01/2022.

Rules 3.601, 3.604.1 B.3, 3.604.3 I.5.f eff. 03/02/2022.

Annotations

Rule 3.602.1 E. 2.k. (adopted 08/08/2014) was not extended by Senate Bill 15-100 and therefore expired 05/15/2015.