

DEPARTMENT OF HUMAN SERVICES

Social Services Rules

RULE MANUAL VOLUME 7 OVERVIEW OF CHILD WELFARE SERVICES (PROGRAM AREAS 4, 5, AND 6)

12 CCR 2509-3

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

7.200 OVERVIEW OF CHILD WELFARE SERVICES - PROGRAM AREAS 4, 5, and 6

7.200.1 CHILD WELFARE SERVICES

Child Welfare Services constitutes a specialized set of services that are intended to strengthen the ability of families to protect and care for their own children, minimize harm to children and youth, and ensure permanency planning. The goal shall be to support the intactness of families, when appropriate, through the provision of services aimed at stabilizing the family situation and strengthening the parents/guardians in fulfilling their parental responsibilities to their children. Intervention shall be guided by respect for the family's integrity, knowledge of the legal base for action, and sound social work practice.

The following principles shall underlie the provision of Child Welfare Services:

- A. Children and youth shall have the right to be raised in an environment free from abuse or neglect preferably by their families of origin by providing reasonable efforts to maintain the family unit through the provision of in-home services.
- B. Placement shall be considered when there is evidence that leaving the child in the home would jeopardize the safety of the child or community. Reasonable efforts shall be made to prevent placement or to reunite the family as soon as safely possible if removal is necessary. In determining reasonable efforts to be made, and in making such reasonable efforts, the child's health and safety shall be the paramount concern. A court may determine that reasonable efforts shall not be required; otherwise, reasonable efforts shall be made to preserve and reunify families.
- C. Appropriate and culturally competent services that promote safety shall be provided to families, children, and youth in their own homes and in out-of-home placements.
- D. Children and youth who have been removed from the care of their parents shall have the right to have extended family members considered as placement resources, to be placed in a safe environment, to not be moved indiscriminately from one placement to another, and to have the assurance of a permanency plan.
- E. Consideration of the child's age, race, ethnicity, culture, language, religion, and other needs shall guide the choice of all services provided, including out-of-home and adoptive placements.
- F. Case planning shall involve the parents so that relevant services can be provided to permit timely rehabilitation and reunification.
- G. Child Welfare Services shall be provided in collaboration with other community agencies on behalf of children, youth, and their families. Assessment tools or resources available through these community agencies shall be incorporated in the assessment, based on the culture, ethnicity and other needs of the family.

7.200.2 HUMAN IMMUNODEFICIENCY VIRUS (HIV) POLICY

7.200.21 Definitions

- A. Acquired Immunodeficiency Syndrome (AIDS): The late stage of the illness triggered by infection with Human Immunodeficiency Virus (HIV). A person receives an AIDS diagnosis when he or she has a CD4 (helper 1-cell) count of less than 200 and/or certain opportunistic infections common with advanced immune deficiency.
- B. HIV: The detection by laboratory antibody tests of the presence of the Human Immunodeficiency Virus (HIV) in an individual.
- C. Universal Precautions: Measures used to keep a barrier between a person and blood and/or other infectious bodily fluids. The precautions are published by the Centers for Disease Control as accepted methods of preventing the spread of infectious disease and, when used routinely and properly, are sufficient to control the spread of infectious blood borne diseases, including HIV. Following are the universal precautions:
 - 1. Universal precautions apply to blood and to other body fluids containing visible blood. Blood is the single most important source of HIV in a care giving setting.
 - 2. Universal precautions also apply to semen and vaginal secretions. Although both of these fluids have been implicated in the sexual transmission of HIV, they have not been implicated in transmission from client to care providers.
 - 3. Universal precautions do not apply to feces, nasal secretions, sputum, sweat, tears, urine, saliva and vomitus unless they contain visible blood. The risk of transmission of HIV from these fluids, while theoretically possible, is extremely low or nonexistent.
 - 4. In any contact with visible blood, use a barrier such as latex gloves. When these are not immediately available, such as immediate response to a nosebleed or wound, use a barrier such as a towel. If hands are exposed to blood, they must be washed with soap and water immediately after contact.

7.200.22 Testing and Confidentiality

- A. For children and youth in the legal custody of the county department of social services, the county department shall recommend to the medical care provider that the child or youth be tested for HIV based on determination of risk including the following considerations:
 - 1. Specific medical reasons for testing related to the well-being of the child or youth.
 - 2. Authority to test based on legal mandates or the informed consent of the client or those authorized to make medical decisions for the client.
 - 3. Mandatory pre and post test counseling shall include age appropriate information regarding the illness, assistance in dealing with psycho social issues, information about safer sex and a risk reduction plan.
 - 4. A plan shall be developed for re-testing based upon risk behaviors.
 - 5. In the event a child refuses to consent to testing for HIV, the medical care provider shall be requested to provide counseling to the child.
- B. Confidentiality

Section 25-4-1405(6), C.R.S., allows for minors to be examined and treated for HIV infection without the consent of the parent or guardian. Further, if the minor is age 16 or older, the results of the examination or treatment need not be divulged to the minor's parent or guardian, or to any person, unless necessary under reporting requirements of Title 25 or Title 19, C.R.S.

In the event that the county becomes aware of positive HIV test results, the county shall develop a plan for confidential management of test results and HIV status. The county's policy may limit access to the test results based on the need to know and must comply with provisions of Title 25, Article 4, Part 14, C.R.S. The need to know shall include, but not be limited to:

1. The care provider, with consideration of his or her capacity to provide appropriate physical and emotional care to a child or youth who is HIV-infected and his or her capacity to appropriately manage confidentiality issues. In the case of residential child care facility, residential treatment center, or child placement agency placement, HIV information shall be provided to the person designated by the facility to coordinate medical care.
2. The caseworker and supervisor for the child or youth, who must manage the case including medical care.
3. Child's biological parents based on the determination of risk to the child. The county department shall include the child's parents in decisions for medical procedures and treatment based on risk to the child, except where parental rights have been terminated.

7.200.23 Service Provisions

7.200.231 Non-Discrimination

The status of being at risk for HIV exposure or being diagnosed with HIV/AIDS shall not be a cause for denial of services.

7.200.232 General Services

The county department shall identify and may refer for medical evaluation children or youth in county custody who are at risk of HIV infection, considering the following factors:

- A. Infants born to known HIV infected mothers or mothers with high risk behavior.
- B. Children who have been involuntary sexual partners because of sexual assault, rape, incest and/or sexual abuse.
- C. Children with hemophilia who were exposed to blood or blood products before 1985 or children or youth who have received blood transfusions before March 1985.
- D. Children engaged in injection drug use past or present, including other injection behaviors such as needle sharing.
- E. Children engaged in unprotected, oral vaginal, or anal intercourse.

7.200.3 CHILD WELFARE GRIEVANCE RESOLUTION PROCESS

The governing body of each county, and city and county, shall establish a grievance process, including a citizen review panel, as required by Section 19-3-211, C.R.S. The following requirements apply to the grievance process:

- A. Definitions

Grievance means a complaint regarding the conduct of an employee of a county department of social services in performing his/her duties under Article 3 of the Children's Code. "Grievance" does not include complaints regarding conduct by the courts, attorneys, law enforcement officials, employees of the State, foster parents or other providers of services to children, or other family members.

Citizen Review Panel means an advisory body appointed by the governing body of a county or city and county pursuant to Section 19-3-21.1, C.R.S. The members of such citizen review panel shall be appointed by the governing body without influence from the state department or the county department, be representative of the community, have demonstrable personal or professional knowledge and experience with children, and not be employees or agents of the state department or any county department. At least one member of the citizen review panel in each county and city and county shall be the parent of a minor child at the time of his or her appointment to serve on such panel.

Complainant means any person who was the subject of an investigation of a report of child abuse or neglect or any parent, guardian, or legal custodian of a child who is the subject of a report of child abuse or neglect and brings a grievance against a county department in accordance with the provisions of Section 19-3-211, C.R.S.

Recommendation means a proposed course of action that may be implemented by a county director to resolve a grievance. These proposed actions may include reassigning a case to a different employee, requiring an employee to receive training, or administering disciplinary action to an employee, subject to applicable safeguards afforded to the employee through the personnel system under which the employee is employed.

B. Time Frames for Resolving Grievances

County department shall attempt to resolve all grievances informally before using the formal grievance process. Any grievance not resolved to the satisfaction of the complainant shall be forwarded to the county director within ten working days after it has been received by the county department.

The county director shall act on the grievance within twenty calendar days after s/he receives it. If the county director is able to resolve the grievance to the complainant's satisfaction, s/he will issue a written decision setting forth the resolution. If the county director is unable to resolve the grievance to the complainant's satisfaction within 20 calendar days, the county director shall immediately refer the grievance to the Citizen Review Panel, together with the county directors proposed resolution of the grievance.

Within thirty calendar days after receipt of the grievance from the county director, the Citizen Review Panel will convene a hearing on the grievance and send a written recommendation regarding the grievance, together with the basis for its recommendation, to the county director and the complainant.

If the county director agrees with the Citizen Review Panel's recommendation, s/he will issue a written decision implementing the recommendation. If the county director or the complainant disagrees with the recommendation, the grievance shall be referred to the governing body.

Within thirty calendar days of receiving the grievance, the governing body shall send its written recommendation regarding the grievance, together with the basis for the recommendation, to the complainant, the county director and to any county employee who is the subject of the grievance. The county director shall issue a final decision including his/her plan to implement the governing body's recommendation, and shall send a copy of this report to the complainant and to the county employee who is the subject of the grievance. Within thirty calendar days after issuing this final

decision, the county director shall submit a written report to the Citizen Review Panel including a disposition of the grievance, and shall send copies of the report to the complainant and to the county employee who is the subject of the grievance.

C. Citizen Review Panel

1. Access to Information and Confidentiality

A Citizen Review Panel shall have access to child abuse or neglect reports and any information from the complete case file that the governing body believes is pertinent to the grievance, which shall be reviewed solely for the purpose of resolving grievances pursuant to the provisions of this section, except that access to identifying information concerning any person who reported child abuse or neglect shall not be provided and no participant in the conflict resolution process shall divulge or make public any confidential information contained in a report of child abuse or neglect or in other case file records to which he or she has been provided access.

2. Informal Testimony

Upon the request of the complainant, the county department, or the subject of a grievance, a citizen review panel may receive testimony from experts or other witnesses. Such testimony must be provided voluntarily and without a fee. Further, such testimony will be provided without an oath, will not be subject to objections from parties to the grievance process, and the witness will not be subject to cross examination. Members of the Citizen Review Panel, however, may ask questions of the witness as the panel's procedures permit.

3. Scope of Inquiry and Recommendations

The Citizen Review Panel shall only inquire into and make recommendations concerning grievances as presented by a complainant and as defined above. The Citizen Review Panel may not access records or receive testimony unless the record or testimony is directly related to a grievance properly referred to the panel. Once the panel has made a recommendation concerning a grievance, or the time for making such a recommendation has expired, the panel may not inquire further into the grievance. The panel may not inquire into the conduct of courts, attorneys, law enforcement officials, employees of the State, foster parents or other providers of services to children, or other family members, nor may the panel inquire into the conduct of a county department employee if no grievance concerning that employee or that conduct has been properly referred to the panel.

The authority of the Citizen Review Panel is limited to making recommendations as defined above. Specifically, the panel may only recommend actions that:

- a. will resolve a particular grievance concerning the conduct of a county department employee performing his/her duties under Article 3 of the Children's Code; and,
- b. can be implemented by the County Director.

D. Annual Reports

On or before June 30 of each year, every county or city and county shall submit to the State Department an annual report regarding the resolution of grievances pursuant to this section. At a minimum, this report shall include:

1. The number of grievances received by the County Director, the number of grievances referred to the Citizen Review Panel, the number of grievances referred to the governing board, and the actual time frames for resolving grievances at each level.
2. A brief description of the disposition of the grievances, including the number that were concluded without any action taken, the number which were substantiated, the number resolved by case reassignment, the number resolved by requiring additional training, the number resolved by imposing disciplinary action against a county employee, and the number resolved in other ways.

E. Counties shall publicize:

1. The availability of the process for all dependency and neglect cases through the "Notice of Rights and Remedies" and by informing child welfare clients, guardians, and legal custodians of the process during the initial contacts with parties and periodically throughout the provision of services related to dependency and neglect cases.
2. The rights and remedies for families as specified in Section 7.200.4.
3. Any other information about the process as deemed relevant by the governing body.

7.200.4 REQUIRED NOTICE OF RIGHTS AND REMEDIES

- A. All county departments shall utilize the state prescribed "Notice of Rights and Remedies for Families" in cases subject to Article 3 of the Colorado Children's Code, "Dependency and Neglect".
- B. County departments shall add county-specific information to the state prescribed form and supply copies of the notice to all law-enforcement agencies within the county or district.
- C. The notice shall be delivered at the time of a child's removal to the parent(s) and family from whom the child is removed by court order or by law enforcement personnel. The notice shall specify the cause of the removal of the child or children.
 1. If the removal is an emergency pursuant to Section 19-3-401, C.R.S., a copy of the court order directing the removal of the child or children from the home shall be delivered to the family promptly upon its availability.
 2. If the removal of the child or children is not an emergency, a copy of the court order directing the removal shall also be provided to the parents and family at the time of removal.

7.200.5 MANDATORY REPORTING OF CHILD ABUSE OR NEGLECT

All county department staff who have reasonable cause to know or suspect child abuse or neglect as set forth in Section 19-3-304, C.R.S., are mandated to report such information to the appropriate county department staff or local law enforcement.

7.200.6 REFERRALS

"Referral" means a report made to the county department that contains one or more of the following:

- A. Allegations of child abuse or neglect as defined in Section 19-1-103(1), C.R.S.;
- B. Information that a child or youth is beyond the control of his/her parent;

- C. Information about a child or youth whose behavior is such that there is a likelihood that the child or youth may cause harm to him/herself or to others, or who has committed acts that could cause him/her to be adjudicated by the court as a delinquent;
- D. Information indicating that a child or youth meets specific Program Area 6 requirements and is in need of services.

7.200.61 Documentation of Referrals

All reports that meet the definition of a referral shall be entered into the State automated system (TRAILS). Any time a case is opened, it shall come through the referral or assessment process in TRAILS with the exception of Interstate Compact on the Placement of Children (ICPC), out of state subsidized adoption, and Division of Youth Corrections (DYC) Medicaid-only.

7.201 PROGRAM AREA 4 - YOUTH IN CONFLICT

7.201.1 DEFINITION OF PROGRAM AREA 4

Program Area 4 services are provided to reduce or eliminate conflicts between youth and their family members or the community when those conflicts affect the youth's well-being, the normal functioning of the family or the well-being of the community. The focus of services shall be on alleviating conflicts, protecting the youth and the community, re-establishing family stability, or assisting the youth to emancipate successfully.

7.201.2 TARGET GROUPS

- A. Children and youth who are beyond the control of their parents or guardians.
- B. Children and youth whose behavior is such that there is a likelihood they may cause harm to themselves or to others or who have committed acts that could cause them to be adjudicated a delinquent child by the court.

7.201.3 INITIAL ASSESSMENT

- A. The county department shall respond, either with a face-to-face intervention or by telephone, when notified by the court appointed detention screener or a law enforcement officer, of a child or youth in the custody of a law enforcement agency who is inappropriate for secure detention but cannot be returned home.
- B. The county department shall complete a needs assessment for children or youth who do not require physical restriction but for whom immediate removal from the home appears necessary for his/her protection or the protection of others. The county department shall provide needed services, other than secure detention, such as temporary placement, crisis intervention, or in home services.
- C. A child or youth shall not be removed from the home without police protective custody or hold, a court order, or a signed voluntary placement agreement. Before or at the conclusion of the court-ordered placement (72 hours) or police hold (48 hours), the child or youth shall:
 - 1. Be returned home; or,
 - 2. Remain in court-ordered placement; or,
 - 3. Continue in placement by virtue of a voluntary placement agreement signed by the parents/guardians.

7.202 PROGRAM AREA 5 - CHILDREN IN NEED OF PROTECTION

7.202.1 DEFINITION OF PROGRAM AREA 5

To protect children whose physical, mental or emotional well-being is threatened by the actions or omissions of parents, legal guardians or custodians, or persons responsible for providing out-of-home care, including a foster parent, an employee of a residential child care facility, and a provider of family child care or center-based child care. The county shall provide services targeted to achieve the following:

- A. Children are secure and protected from harm;
- B. Children have stable permanent and nurturing living environments; and,
- C. When appropriate, children experience family continuity and community connectedness.

7.202.2 TARGET GROUPS

- A. Children whose physical, mental, or emotional well-being has been threatened or harmed due to abuse or neglect.
- B. Children who are subjected to circumstances in which there is a reasonable likelihood that they are at risk of harm due to abuse or neglect by their parents or caretakers which shall include children who are alleged to be responsible for the abuse or neglect and are under the age of 10.

7.202.3 DEFINITIONS

- A. Child abuse or neglect is defined in Section 19-1-103(1), C.R.S.
- B. The following terms shall be defined as:
 - 1. "De novo" means that the issue is reviewed once again as if the appeal were the first review.
 - 2. "Expungement" means the designation of a report or record whereby it is deemed not to have existed for the purpose of employment and background screening. Expungement of a confirmed report of abuse or neglect shall not preclude the county department from maintaining records of the report in the case file or in the State automated system for purposes of future safety and risk assessments.
 - 3. "Good cause" means a legitimate reason why the process set forth herein should be modified. Such reasons may be that it was not possible for a party to meet a specified deadline and there was incapacity of the party or representative, lack of proper notice of the availability of the appeal process, additional time is required to obtain documents which were timely requested but not delivered, or other circumstances beyond the control of the party.
 - 4. "Preponderance of the evidence" means credible evidence, put forth by either party that the claim is more probably true than false.

7.202.4 INITIAL ASSESSMENT [Rev. eff. 2/1/07]

- A. The county department shall have staff available 24 hours a day to receive reports of abuse and neglect, conduct initial assessments of such reports and investigate those reports that are appropriate for child protective services. Continuously available means the assignment of a person to be near an operable telephone, beeper system, or to have such arrangements made through agreements with the local law enforcement agencies.

- B. The county department shall develop procedures to ensure that those individuals reporting abuse or neglect after-hours are directed to the designated agency for response.
- C. The county department shall provide appropriate referral information to the reporting party in those situations in which there are inadequate grounds to constitute assignment for assessment and investigation. Either casework or supervisory staff shall inform, whenever possible and appropriate, the reporting party of the decision not to investigate and the reasons for that decision.
- D. The county department shall enter all referrals into TRAILS as outlined in Sections 7.200.6 and 7.200.61, and conduct an initial assessment. The initial assessment shall decide the appropriateness of further investigation. It shall include, but not be limited to, the following activities:
 - 1. Checking the State Department's automated system.
 - 2. Reviewing county department files.
 - 3. Obtaining information from collateral sources, such as schools, medical personnel, law enforcement agencies, or other care providers.
- E. The county department shall gather and document the following information as available:
 - 1. Family members and birth dates.
 - 2. Relationships of individuals in the household.
 - 3. Identified alleged victims, birth dates, and their current location.
 - 4. Reasonable effort to secure the identity of the person alleged to be responsible for the abuse or neglect, as well as the responsible person's date of birth, Social Security Number, and last known address.
 - 5. Presenting problems - specific allegations.
 - 6. Reporter's credibility and name, address, and phone number.
 - 7. Relationship of reporter to family.
 - 8. Other potential witnesses.
 - 9. Collateral agencies and individuals involved with the family.
 - 10. Records check - results of internal and State automated system inquiries.
 - 11. Date and time intake report received.
 - 12. Response assessment based upon reporter's information.
 - 13. Referrals made.
 - 14. Decision as to investigation response and caseworker's signature (name).
 - 15. Supervisory approval of the decision and signature.

- F. The county department shall assign a referral for assessment and investigation if it:
1. Contains specific allegations of known or suspected abuse or neglect as defined in statutes and regulations. A "known" incident of abuse or neglect would involve those reports in which a child has been observed being subjected to circumstances or conditions that would reasonably result in abuse or neglect. "Suspected" abuse or neglect would involve those reports that are made based on patterns of behavior, conditions, statements or injuries that would lead to a reasonable belief that abuse or neglect has occurred or that there is a serious threat of harm to the child.
 2. Provides sufficient information to locate the alleged victim.
 3. Identifies a victim under the age of 18.
 4. Meets the conditions of #2 and #3 above, results in a third report of suspected child abuse or neglect within a two year period and the two previous reports were not accepted for investigation. All reports with a child welfare concern occurring in any jurisdiction concerning any child in the family are to be counted towards the three or more reports.
- Upon completion of the investigation, the next report of suspected abuse or neglect that is not accepted for investigation shall be counted as number one.
- G. The county department shall ensure that referrals that do not need to be assigned for assessment and investigation are documented in TRAILS with the reasons why further investigation was not needed. In those reports in which a full investigation is not going to be conducted the supervisor shall approve that decision.
- H. The county department's decision of how quickly to initiate an investigation is based on specific reported information that is credible and that indicates that a child is in present or impending danger, as defined in Section 7.202.531.
- I. The county department shall assign priority in response time using the following time frames:
1. Immediate and/or same day response when the report indicates that there may be present danger. If the report is received after regular business hours, the time frame is immediate and/r up to eight hours.
 2. End of the third calendar day following receipt of the report when the report indicates there may be impending danger.
 3. Within five (5) working days from the date of the report when the report indicates maltreatment or risk of maltreatment and indicates an absence of present or impending danger.

7.202.5 INVESTIGATION PROCEDURES [Rev. eff. 11/1/98]

The purposes of the intake investigation are to:

- A. Assess and ensure safety;
- B. Assess risk, needs, and strengths of children and families;
- C. Oversee development and coordination of the initial Family Services Plan; and,
- D. Obtain appropriate resources for children and their families.

7.202.51 Written Procedures [Rev. eff. 2/1/07]

- A. The county department shall develop written cooperative agreements with law enforcement agencies that include:
 - 1. Protocol for cooperation and notification between parties on child abuse and neglect reports and child maltreatment deaths.
 - 2. Protocol for distributing the Notice of Rights and Remedies when required by Section 19-3-212, C.R.S., and Section 7.200.3, G, of this staff manual.
 - 3. Joint investigation procedures.
 - 4. Procedures for independent investigation by either party.
 - 5. Procedures for investigation of abuse or neglect in out-of-home-care settings. A law enforcement investigation regarding the criminal aspects of an institutional abuse case shall not relieve the county department of its responsibility to assess the safety of the children in out-of-home care settings.

- B. The county department may develop a Memorandum of Understanding with Child Advocacy Centers as defined in Section 19-1-103(19.5), C.R.S., that is to include:
 - 1. Protocols with advocacy center authorizing the use of their video tape or audio tape equipment;
 - 2. Interviewers are to be competent;
 - 3. Interviews should meet the National Children's Alliance performance forensic standards for persons conducting these forensic interviews, as found in the National Children's Alliance Standards for accredited member programs; no later editions are incorporated. Copies of these standards are available from the Colorado Department of Human Services, Child Welfare Division, 1575 Sherman Street, Denver, Colorado 80203, or at any State publications depository library;
 - 4. The county department is not responsible for the training of the forensic interviewer employed by the advocacy center;
 - 5. Procedures for conducting forensic interviews in a manner that is of a neutral fact-finding nature and coordinated to avoid duplicate interviews; and,
 - 6. The child advocacy center shall provide technical assistance for forensic interviews, forensic medical examinations, or evidence collection or preservation.

- C. Counties are to provide staff a standardized format on which to document protective plans. Documentation of a protective plan is completed with the family and shall include the following:
 - 1. Description of present danger; and,
 - 2. Indication that parents' willingness and capacity to cooperate is sufficient to proceed; and,
 - 3. Description of actions to be taken by family, agency personnel, and others; and,
 - 4. Commitment and availability of the person(s) responsible for ensuring the child's safety; and,

5. Timeframes of the plan; and,
6. Signatures of parents, caregivers, and others who are included in the plan.

7.202.52 Investigation Requirements [Rev. eff. 2/1/07]

The investigation of intra-familial, institutional, or third party abuse shall be conducted as set forth in Sections 19-3-308(2), (3), (4) through 19-3-308.5, C.R.S. To the extent that is reasonably possible, this shall occur as soon as possible following the receipt of the referral according to the county's prioritization of the incident.

- A. Within the assigned response timeframe, the investigation shall include a face-to-face interview with or observation of the child who is the subject of a report of abuse or neglect. An interview shall occur if the child has verbal capacity to relate information relevant to safety decisions; otherwise, an observation of the child is sufficient.
- B. The interview shall be conducted out of the presence of the suspected person(s) responsible for the abuse or neglect.
- C. The investigation shall determine the names and conditions of any children living in the same place as the child who is the subject of the report.
- D. The person alleged as responsible for the abuse or neglect shall be advised of the report and given an opportunity to respond.
- E. The investigation shall include use of the Safety Intervention Model as described in Section 7.202.53. To assess for safety, interviews shall be conducted with children, caregivers, family members and other collateral sources to gather information that is relevant for determining present and impending danger. These interviews shall determine:
 1. Extent of child maltreatment;
 2. Circumstances surrounding the child maltreatment;
 3. Child functioning on a daily basis;
 4. Adults and caregiver functioning on a daily basis;
 5. Parenting practices; and,
 6. Disciplinary practices.
- F. A visit to the child's place of residence or place of custody shall be completed as part of the investigation if:
 1. Home conditions are the subject of the referral; or,
 2. Information obtained in the interview process indicates assessment of the home environment is necessary due to safety issues.
 3. The visit will assist the investigator to determine the truth of the allegations.
- G. The investigation shall include consideration of ethnic, religious, accepted work-related practices of agricultural communities, and accepted child-rearing practices of the culture in which the child participates.

H. Colorado Family Risk Assessment

1. The investigation shall include the Colorado Family Risk Assessment that:
 - a. determines risk for future abuse or neglect.
 - b. aids in determining if case services should be provided beyond the initial 30 day investigation/assessment.
 - c. if the case is opened beyond investigation, helps target the appropriate level of services.
2. The Colorado Family Risk Assessment is required for all Program Area 5 cases being investigated, except:
 - a. institutional abuse investigations.
 - b. third party investigations.
 - c. fatality investigations when there are no surviving siblings.
 - d. when caregivers have abandoned the child.
 - e. when the investigation determined no basis for the allegations.
3. The Colorado Family Risk Assessment shall address the following factors:
 - a. current type of allegation,
 - b. previous child welfare investigations, services, and placement,
 - c. number of children in household,
 - d. age of youngest child in household,
 - e. primary caregiver's description of incident,
 - f. primary caregiver's provision of physical care or supervision,
 - g. caregiver(s) use of alcohol and controlled substances,
 - h. characteristics of children in the household,
 - i. recent or historical domestic violence in the household,
 - j. caregiver(s)' history of homelessness and mental health treatment,
 - k. primary caregiver's history of abuse or neglect as a child,
 - l. caregiver(s) use of excessive/inappropriate discipline,
 - m. caregiver(s) involvement in disruptive/volatile adult relationships.
4. The risk assessment documentation is to be completed within 30 calendar days from the date the investigation/assessment was assigned which is at or before completion of the

child protective services investigation.

- I. All of the information resulting from the investigation shall be documented in the case file as a summary of investigation findings, along with any specific evidence gathered, such as photographs or videotapes.
- J. At the time of a new referral, the county department shall specifically review the case history of any case with four or more reports of abuse/neglect occurring in any jurisdiction concerning any child in a family.

Each report is to be reviewed in terms of actions taken and services provided. The review shall be documented in the file on the investigation summary form. The supervisor is to ensure that the review and the documentation have occurred.

The county department shall have a procedure to identify, track, and record cases with a history of four or more reports of abuse/neglect.

- K. Reasonable efforts shall be made to prevent out-of-home placement, unless an emergency exists, and to maintain the family unit. Safety plans other than placement shall be considered, including but not limited to the provision of in-home and Core Services, if appropriate and available; the possibility of removing the maltreating adult from the home rather than the child; the possibility of the non-maltreating parent placing child and self in a safe environment; or the availability of kinship placement.
- L. Taking children into custody - See Section 19-3-401, C.R.S.
- M. Upon completion of an investigation, the county department shall consider a report confirmed if there is a preponderance of evidence to support that abuse occurred.
- N. For purposes of investigation, the interview of the child may be audio or video taped. If audio or video taping is conducted, the following standards shall be followed:
 - 1. Any interview of a child concerning a report of child abuse may be audio taped or video taped as set forth in Section 19-3-308.5, C.R.S.
 - 2. The audiotaped or videotaped interview shall be conducted by a competent interviewer and may be conducted at the child advocacy center, as defined in Section 19-1-103(19.5), C.R.S., that has a Memorandum of Understanding with the county department responsible for the investigation or by a competent interviewer for the county department, except that an interview shall not be videotaped when doing so is impracticable under the circumstances or will result in trauma to the child, as determined by the county department.
 - 3. The child shall be advised that audio or video taping of the interview is to be conducted and the advisement shall be documented. If the child objects to video taping of the investigation, such taping shall not be conducted by the county department.
 - 4. If it is the county department's policy to routinely video or audio tape interviews, and an exception is made, the reason for the exception shall be noted in the record.
 - 5. When there is a request by any party to the action to view or listen to an audio or video tape, the child or the guardian ad litem shall be notified in advance of the request, when possible.
 - 6. Access to these tapes shall be subject to the rules of discovery and governed by the

confidentiality provisions under Section 7.000.72.

7.202.53 Safety Intervention Model [Eff. 2/1/07]

- A. The Safety Intervention Model is the action and decisions required throughout CPS involvement to:
 - 1. Identify and assess threats to child safety;
 - 2. Plan for an unsafe child or children to be protected;
 - 3. Facilitate caregivers in taking responsibility for child protection; and,
 - 4. Manage plans designed to assure child safety while a safe and permanent home is established.

- B. A child's safety must be considered during intervention with families at the following key decision points:
 - 1. At the initiation of an assessment, upon first contact with an alleged child victim and family;
 - 2. Following a new child protection referral prior to the completion of the assessment;
 - 3. The conclusion of an assessment and promptly upon opening a child protection case;
 - 4. Whenever there is a new CPS referral on an open CPS case or there is a significant change in family circumstances or situation that might pose a new or renewed threat to child safety;
 - 5. Prior to reunification on an open ongoing CPS case;
 - 6. Prior to changing the permanency goal on an open CPS case; and,
 - 7. Prior to supervisory approval for closing a CPS case.

7.202.531 Definitions [Eff. 2/1/07]

- A. "Colorado Safety Assessment" refers to the instrument in TRAILS that guides a case worker through a safety assessment process.

- B. "Impending danger" refers to threats to child safety that are based on specific referral information or a more thorough evaluation of individual and family conditions that create an immediate threat to child safety in the near future.

- C. "Present danger" refers to an immediate, significant and clearly observable threat to child safety that is actively occurring or in process of occurring at the point of contact with a family and will likely result in severe harm to a child.

- D. "Protective plan" refers to a written plan designed to provide immediate protection of a child and that is put in place upon the initial contact during the assessment or at anytime present danger is identified during the safety and assessment process prior to the completion of a safety assessment.

- E. "Safety plan" refers to a written arrangement between the family, safety service providers, and the county department that establishes how impending danger to a child will be controlled and managed.

7.202.532 Child Safety at Initiation of Assessment [Eff. 2/1/07]

- A. At the point of first contact with the alleged child victim(s), assessment shall focus immediately on whether there are threats to child safety that are actively occurring (known as present danger). Upon making face-to-face contact with the alleged child victim and caregiver(s), the caseworker shall evaluate and determine if a child is in present danger.
- B. If the child is in present danger, the caseworker shall initiate a safety response and shall:
 - 1. Implement an immediate protective plan to manage present danger unless out-of-home placement is required as described below. The immediate protective plan shall include reasonable means by which child safety can be assured while the overall safety assessment continues. See Section 7.202.51, C, outlining the required format on which to document protective plans. Documentation of a protective plan shall be completed with the family.
 - 2. Implement out-of-home placement (see Section 7.304, et seq., 12 CCR 2509-4), in which case no protective plan will be documented.

7.202.533 Parameters for Use of the Colorado Safety Assessment [Eff. 2/1/07]

- A. Completion of the Colorado Safety Assessment is required:
 - 1. At the conclusion of an investigation or assessment including when there are new allegations on an open ongoing child protective services case; or,
 - 2. Whenever there is a significant change in family circumstances or situations that might pose a new or renewed threat to child safety; or,
 - 3. Prior to reunification on an open CPS case; and,
 - 4. Prior to supervisory approval for closing a CPS case.
- B. Completion of the Colorado Safety Assessment is required for all Program Area 5 reports being investigated or assessed, except:
 - 1. Institutional abuse investigations.
 - 2. Third party investigations.
 - 3. Fatality investigations when there are no surviving siblings.
 - 4. When caregivers have abandoned the child.
- C. The Colorado Safety Assessment shall be documented in the State's automated system no later than thirty (30) calendar days from the date the investigation/assessment was received.

7.202.534 The Colorado Safety Assessment [Eff. 2/1/07]

- A. The Colorado Safety Assessment provides fifteen (15) safety concerns to assess for impending danger. The fifteen standardized safety concerns shall be used to analyze whether conditions within the family are threats to child safety that could result in severe harm. The fifteen standardized safety concerns are as follows:
 - 1. Caregiver(s) in the home is out of control and/or violent.

2. Caregiver(s) describes or acts toward child in predominately negative terms and/or has unrealistic expectations likely to cause severe harm.
 3. Caregiver(s) has caused harm to the child or has made a credible threat of severe harm.
 4. Caregiver(s)' explanations of severe injuries present are unconvincing.
 5. The caregiver(s)refuses access to the child or there is reason to believe that the family will flee.
 6. Caregiver(s) is unwilling or unable to meet the child's immediate needs for food, clothing, and shelter, which is likely to result in severe harm.
 7. Caregiver(s) is unwilling or unable to meet the child's moderate to severe medical or mental health care needs.
 8. Caregiver(s) has not or is unable to provide sufficient supervision to protect child from potentially severe harm.
 9. Child is fearful of caregiver(s), other family members, or other people living in, or having access to, the home.
 10. Child's physical living conditions seriously endanger the child's immediate health.
 11. Caregiver(s)' alleged or observed substance use may seriously affect ability to supervise, protect or care for the child.
 12. Child sexual abuse is suspected and circumstances suggest that child safety is of immediate concern. Caregiver(s)' alleged or observed emotional instability or developmental delay seriously affects his/her ability to supervise, protect, or care for the child.
 13. Caregiver(s)' alleged or observed emotional instability or developmental delay seriously affects his/her ability to supervise, protect, or care for the child.
 14. Domestic violence exists in the home and places the child in danger of physical and/or emotional harm.
 15. Caregiver(s) has previously abused or neglected a child or is suspected of such, and the severity of the past maltreatment or caregiver's response to previous intervention suggests impending danger to the child.
- B. The list of safety concern definitions shall be referenced when assessing threats to child safety and prior to checking safety concerns in the Colorado Safety Assessment.
- C. The following four (4) impending danger criteria must be present to determine that a safety concern exists. Meeting these criteria indicates that the family's behavior, condition or situation directly threatens the safety of a child and could reasonably result in severe harm to the child.
1. The threat to child safety is specific and observable.
 2. The threat or conditions reasonably could result in severe harm to a child.
 3. The caregiver(s) is unable to control conditions and behavior that threaten child safety.

4. The potential that a child could experience severe harm is imminent, which means that it could occur at any point in the near future.

D. Safety Assessment Conclusion

1. If none of the fifteen (15) safety concerns are identified at the conclusion of the safety assessment process, then there is no impending danger to a child and no further safety intervention is required. Although risk issues may be identified, the assessment may be closed and further intervention is a county option.
2. If one or more of the fifteen (15) safety concerns are identified, then it is necessary to consider the child's vulnerability to determine if there is impending danger.
3. If an assessment does not determine that there is a vulnerable child in the home, then there is not a threat to child safety and no further safety intervention is necessary. Although risk issues may be identified, the assessment may be closed and further intervention is a county option.
4. If an assessment indicates that there are one or more safety concerns and there is a vulnerable child in the home, then it is concluded that impending danger is present and an evaluation must be made regarding caregiver protective capacities to manage and address safety concerns.

E. Determining Caregiver Protective Capacity and Making the Safety Decision

1. Caregiver protective capacities shall be evaluated for the purpose of determining if a caregiver and/or other responsible adult in the home has the capacity and willingness to manage and/or mitigate impending danger and assure the child's protection.
2. If it is determined that a caregiver is capable and willing to manage impending danger and assure child safety, then the safety decision is that children are "safe" and no further safety intervention is necessary.
3. If an immediate protective plan was implemented prior to the completion of the safety assessment, the protective plan is no longer in effect.
4. If emergency out-of-home placement occurred prior to the completion of the safety assessment, efforts should be made to return responsibility for the child's safety back to caregiver(s) by seeking prompt reunification.
5. If it is determined that the caregiver(s) is incapable and/or unwilling to sufficiently manage impending danger and assure child protection, then the safety decision is that children are unsafe and further safety intervention analysis and planning are necessary.

F. Safety Intervention Analysis to Determine Whether to Place in Out-of-Home Care or Develop an In-Home Safety Plan [Eff. 2/1/07]

1. In selecting the level of effort and intervention required to manage safety concerns, in-home safety planning shall be considered first.
2. To determine whether an in-home safety plan can sufficiently manage the safety concerns, consider and document how the following are met:
 - a. The home environment is stable enough to support an in-home safety plan;

- b. Caregivers are willing to accept and cooperate with the use of an in-home safety plan; and,
 - c. Resources are accessible and the level of effort required is available to sufficiently control safety concerns.
3. If in-home safety planning is not a sufficient option to handle safety concerns, then a combination of in-home and out-of home safety management shall be considered. Out-of-home safety management shall be implemented only if these levels of intervention are not sufficient.

7.202.535 Safety Planning and Documentation [Eff. 2/1/07]

- A. Safety plans do not have to be developed if the safety analysis results in a decision that out-of home placement is the only plan that is sufficient to control impending danger safety concerns.
- B. A safety plan shall be developed for all other situations in which the safety intervention analysis has indicated that an in-home safety plan can sufficiently control safety concerns. It shall be documented in the state's automated system. All children in the household assessed to be unsafe shall be included in one plan.
- C. All safety plans must include the following:
 - 1. Safety responses that are the least restrictive response for assuring safety;
 - 2. Safety responses that have an immediate impact on controlling safety concerns;
 - 3. Activities that correspond to each specific safety concern and describe the frequency of each action;
 - 4. Safety response(s) that are readily accessible at the level required to assure safety;
 - 5. Identification of each family member and safety management provider participating in the plan;
 - 6. Parental acknowledgement of safety concerns and a willingness to participate in the safety plan; and;
 - 7. Caseworker activities to oversee the safety plan.
- D. Parents, caregivers, and others who are a part of a safety plan shall sign the safety plan and receive a copy, and the signatures and paper form shall be retained in the file.
- E. The safety plan shall be documented in the State's automated system by the conclusion of the investigations or assessment.

7.202.54 Institutional Abuse or Neglect Investigations [Rev. eff. 2/1/07]

Institutional abuse or neglect investigations shall:

- A. Include those reports of child abuse or neglect by staff in any private or public facility that provides out-of-home child care, including 24 hour care and child care homes and centers.
- B. Not include abuse or neglect that occurs in public, private, and parochial schools and preschools operated in connection with those schools, except when those schools provide extended day

services and abuse or neglect occurs during that time. Those instances shall be considered as institutional abuse and investigated accordingly.

- C. Be the responsibility of the county department of social services in which the facility named in the report is located.
- D. Be conducted in those cases in which an allegation of abuse or neglect is made. A report of a minor injury resulting from physical restraint shall not, by itself, require a full investigation unless there are surrounding circumstances that would indicate abusive or neglectful behavior by the care provider. Such circumstances include those reports in which someone is specifically alleging the behavior to be abusive or those reports in which there has been a pattern of frequent injuries by the same caretaker or of similar incidents in the same facility.
- E. Be conducted by a qualified and disinterested party in those situations in which the county department is the supervisory agency, such as for certified county foster and group homes. Such an investigation shall be arranged for by the responsible county department with either another county department, another agency within the community who accepts delegated responsibility, or a disinterested and qualified staff person within the county department.
- F. Be initiated within 24 hours to determine the child/ren's safety. Children must be seen within 24 hours.
- G. Include notification within one working day after receipt of the referral to the licensing authority or certifying unit regarding the receipt of a child maltreatment referral in an out-of-home or day care setting.
- H. Include in the initial assessment as much of the following information as possible from the reporting party and records:
 - 1. Name, address and present specific location of the alleged child/ren victim(s).
 - 2. Child/ren's age and the nature and extent of the injuries
 - 3. Time, date, location and witness(es) of the incident.
 - 4. Any indication that other children in the institution are or have been injured, abused, neglected, and if so, their names addresses and current location.
 - 5. Any other information which might be helpful in establishing the cause of the injury, abuse and/or neglect.
 - 6. Name, address and telephone number of the institution and whether there is an after-hours telephone number for the institution.
 - 7. Name and address of the agency holding legal custody of the child/ren.
 - 8. Name and address of the child/ren's parent(s)/guardian(s).
 - 9. Name, address and present location of the person(s) alleged to be responsible for an incident of child abuse or neglect. If the person(s) is a staff person(s), determine if the person(s) is still on duty or off duty. If the person(s) is another resident, determine where he/she is at the time you are obtaining this information.
 - 10. Determine if the institution has been apprised of the allegation and if so, what action(s) may have been taken by the institution, such as:

- a. Notification of the custodial county/agency.
- b. Notification of the parent(s) guardians.
- c. Separation of the victim(s) from the alleged person responsible for child abuse or neglect.
- d. Provision of medical treatment, and if no medical treatment has been provided whether in the reporter's opinion, an injury was sustained which would constitute a medical emergency.

11. Both historical and current information regarding the child/ren, the facility and the person(s) responsible for the abuse or neglect.

I. Be investigated in the following manner:

1. Interview alleged victim/s

- a. Child/ren shall be interviewed in a setting which is as neutral as possible and where confidentiality can be maintained.
- b. Child/ren shall not be taken off the grounds for the interview unless the county department of social services has court ordered custody or law enforcement has taken the child into protective custody.
- c. Person(s) allegedly responsible for child abuse or neglect and other related parties (i.e., foster parents, spouse or other facility staff) shall not be allowed to be present during the interview with the child/ren.
- d. The county department of social services shall, if necessary, obtain a court order to access the child/ren if the facility refuses access.
- e. The investigating workers shall determine if there are other victims not named in the report and shall immediately assess the safety of those victims.
- f. Names and addresses of any other alleged victims who may no longer be in the facility shall be obtained and interviewed, if appropriate.

2. Interview witnesses, including children and staff.

3. Interview other facility staff who may have additional information.

4. Interview the person(s) allegedly responsible for abuse or neglect after the child/ren and witnesses have been interviewed by either law enforcement or social services.

5. Obtain a detailed description of the incident and of the injuries and an assessment of the appropriateness of physical management/restraint if this was involved.

J. Require notification of:

1. Custodial agencies, including county departments, other states, and appropriate divisions of the Department of Human Services.

- a. Shall be notified immediately if there are safety issues or if an injury requires medical treatment.

- b. Shall be notified following completion of investigation if the child in their custody was the subject of a report or if the investigation reveals concerns regarding the child care practices which could negatively impact their child/ren.
 2. Licensing authority/or certifying unit shall be notified the next working day if the investigation indicates there is an immediate threat to the child/ren's health, safety, or welfare.
 3. Parents/Legal Guardians of alleged victim(s)
 - a. Shall be notified by the custodial counties when alleged abuse occurs in out-of-home care setting.
 - b. Shall be notified by the investigating county when there is no custodial county.
 - c. Shall be notified by investigating county when alleged abuse occurs in less than 24 hour child care with notification provided prior to an interview with child/ren, where possible.
 - d. Notification shall include that an investigation is being or has been conducted on a report of abuse and/or neglect, nature of the alleged abuse and the findings of the investigation.
 - e. If circumstances do not allow for direct contact, then notification of the allegations and findings shall be provided in writing.
 4. Parents or legal guardians of uninvolved children in less than 24 hour licensed child care settings shall be given notice of an investigation within 72 hours when it has been determined by the State or county department that:
 - a. The incident of alleged child abuse or neglect that prompted the investigation is at the level of a medium, severe, or fatal incident of abuse or neglect, as defined by rule at Sections 7.202.6, F and 7.202.602, A, or involves sexual abuse;
 - b. The State Department or county department has made a determination that notice to the parents or legal guardians of the uninvolved children is essential to the investigation of the specific allegation or is necessary for the safety of children cared for at the facility; and,
 - c. The State Department or county department has documented in writing the basis for the determination, and a State Department or county department supervisor has provided written approval of the determination for which basis and approval may be in electronic form.
 5. Director of facility
 - a. Shall be apprised of the allegation.
 - b. Shall be advised regarding the results of the investigation and provided a verbal report immediately once a determination is made. If the county department is unable to make a determination regarding the person(s) allegedly responsible for child abuse or neglect, the director shall also be advised so that decisions regarding the continued employment of the employee can be made by the facility.

K. Require the submission of a written report by the investigating county within 60 calendar days after the initial receipt of the report of child abuse or neglect:

1. To the facility administrator/director and the agency with licensing/certifying authority.
2. To the Institutional Abuse Team when the incident involves a 24-hour care facility.
3. To the same custodial counties as required in Subsection J, 1, above.
4. Report shall include at a minimum the following information:
 - a. Name(s) of person(s) allegedly responsible for an incident of child abuse or neglect.
 - b. The child's name, age, and length of time he/she has been in placement.
 - c. The name of the facility and the county in which it is located.
 - d. The name of director/administrator.
 - e. The approximate number of children served.
 - f. The age range of children served and type of children served (e.g., child with developmental disabilities).
 - g. A summary of what the investigation involved, including a list of the individuals interviewed.
 - h. A summary of findings/conclusions and the information on which they are based.
 - i. A summary of the recommendations and/or need for an identified corrective or remedial action.

7.202.55 Third Party Abuse or Neglect Report Requirements [Rev. eff. 2/1/07]

Third party abuse or neglect reports shall:

- A. Include any reports of abuse or neglect by a person who is not relating to the child in the contexts described in the previous intrafamilial or institutional abuse sections.
- B. Be forwarded immediately by the county department to the appropriate law enforcement agency for screening and investigation in all cases in which the abuse or neglect was by a third party age ten or over.

In those cases in which the person allegedly responsible for an incident of child abuse or neglect is under the age of 10, the county department shall be the agency responsible for the investigation. The investigation shall focus on whether abuse occurred, and if so, identifying the service needs of the victim. In addition, it shall assess whether the person allegedly responsible for child abuse or neglect has been the victim of abuse, and if so, what interventions are necessary to secure safety and address treatment needs.

- C. Be followed by receipt by the county department of a copy of the report summarizing the investigation that was conducted by law enforcement. The investigation report shall be the basis upon which the county department enters a confirmed report of child abuse or neglect into the State Department's automated system pursuant to Section 7.202.6.

7.202.56 Conclusion of Investigation [Rev. eff. 2/1/07]

- A. An investigation shall be completed within 30 calendar days of date the investigation/assessment

was assigned, unless there are circumstances which have prevented this from occurring. Such circumstances shall be documented in the case record.

- B. Upon completion of an investigation, the county department shall report the outcome of the investigation on the Department's automated reporting system.
- C. Services provided beyond 60 calendar days of the receipt of the report shall be open for services based on either court involvement or the family's agreement to accept services.
- D. Regardless of the outcome of the investigation and as allowable by law, the county department shall notify:
 - 1. The involved child's family of the outcome of the investigation;
 - 2. The person alleged to be responsible for the abuse or neglect of the outcome of the investigation; and,
 - 3. Where applicable, its local licensing unit, the director or administrator of the facility, the agency with licensing or certifying authority and the State Department of Human Services' Division of Child Welfare and Division of Child Care, if the abuse or neglect investigation involved a state-licensed or county-certified facility.

7.202.6 REQUIREMENTS CONCERNING COUNTY ENTRY OF CONFIRMED REPORTS OF CHILD ABUSE AND NEGLECT INTO THE STATE AUTOMATED SYSTEM AND PROCESSES TO APPEAL THE CONFIRMED REPORT [Rev. eff. 9/1/06]

When the county investigation of a report of suspected child abuse or neglect results in a confirmed finding of child abuse or neglect by a preponderance of evidence, the county department shall enter the confirmed report of child abuse or neglect into the State Department's automated system no later than 60 calendar days after receipt of the complaint, unless a county elects to implement Section 19-3-309.5, C.R.S., and defer entering a confirmed report of child abuse or neglect into the State automated system, and enter into a preconfirmation agreement (known as a safety plan agreement, as authorized pursuant to Section 19-3-309.5, C.R.S.).

- A. The county may follow the deferral process in the following circumstances:
 - 1. When the person has had no previous allegations of abuse or neglect investigated;
 - 2. When the child abuse or neglect that the person is found to be responsible for is at the level of minor incident of abuse or neglect, pursuant to Sections 7.202.6, F and 7.202.602, A;
 - 3. When the person and the county department decide on a mutually agreeable method for resolving the issues related to the report; and,
 - 4. When the requirements set forth in the preconfirmation agreement for resolving the issues related to the report of child abuse or neglect can be completed within sixty days after the receipt of the complaint.
- B. Counties are not obligated to enter into any agreements to defer entering a confirmed report of child abuse or neglect into the State automated system.
- C. The preconfirmation agreement shall be in writing and signed by the caseworker and the person found to be responsible for the abuse or neglect of the child, and reviewed by the supervisor.
- D. Upon deciding to enter into the deferral process, the county department shall document the decision in

the State automated system.

- E. If the person who is found to be responsible for abuse or neglect completes the agreement, as determined by the county department, the county department shall make an entry of "deferred" into the State automated system regarding the report of child abuse or neglect related to the incident investigated.
- F. If the person who is found to be responsible for the abuse or neglect does not complete the agreement, as determined by the county department, the county department shall make an entry of "founded" into the State automated system regarding a confirmed report of child abuse or neglect related to the incident investigated.

7.202.601 Definitions [Rev. eff. 9/1/06]

In addition to the definitions set forth in Section 7.202.3, the following definitions are applicable to the submission of confirmed (known also as "founded") reports of abuse and neglect by the county department to the State Department.

- A. "Authorized caregiver" , as used in these rules, means an individual or agency authorized by a parent, guardian or custodian to provide care to a child and who agrees to provide such care. The authorization may be on a temporary basis and need not be in writing unless otherwise required by law.
- B. "Child in need of services" includes a child who receives services regardless of whether the services are court ordered, county provided or voluntarily arranged by the family, or a child who needs services even if the services are not provided.
- C. "Environment injurious to the welfare of a child" means that the environment caused injuries to the welfare of the child or reasonably could be foreseen as threatening to the welfare of the child and is in control of the parent, guardian, custodian or authorized caregiver.
- D. "Severity level" means the assessment of the harm to the child victim or the act of abuse or neglect as minor, medium, severe or fatal as defined in these rules. Upon confirmation of the allegation(s) of abuse, neglect, or sexual abuse, the county department shall use the following definitions when determining the severity of the incidents:

1. Physical Abuse

- a. "Minor physical abuse" means excessive or inappropriate force used resulting in a superficial injury;
- b. "Medium physical abuse" means excessive or inappropriate force used resulting in an injury that may require medical attention;
- c. "Severe physical abuse" means excessive or inappropriate force used resulting in a serious injury that requires medical attention or hospitalization;
- d. "Fatal physical abuse" means excessive or inappropriate force used resulting in a child's death.

2. Neglect

- a. "Minor neglect" means the physical or emotional needs of the child are marginally or inconsistently met, but there is little or no impact on the child's functioning;

- b. "Medium neglect" means the physical or emotional needs of the child are inadequately met resulting in some impairment in the child's functioning;
 - c. "Severe neglect" means the physical or emotional needs of the child are not met resulting in serious injury or illness;
 - d. "Fatal neglect" means that the physical or emotional needs of the child are not met resulting in death.
3. Sexual abuse severity is to be determined based upon the type of contact, duration of contact, and the emotional impact upon the child.

6.202.602 Entering Confirmed Reports of Child Abuse or Neglect [Rev. eff. 9/1/06]

The county department shall enter the confirmed report even if there is a criminal or civil proceeding pending against the person responsible arising out of the same incident. The reported data shall include the following:

- A. The name, address, gender, date of birth, and race of the child(ren) victim(s);
- B. The composition of the victim's immediate family;
- C. At a minimum, the name and last known mailing address of the person confirmed to be responsible for the child abuse or neglect, and the date of birth and Social Security Number, if known;
- D. The type of abuse or neglect;
- E. The severity of the abuse or neglect;
- F. Any previous incidents of child abuse or neglect of child or siblings;
- G. The name(s) and address(es) of any person(s) responsible for previously confirmed abuse or neglect, if known;
- H. The name of the source of the report submitted to the county department, if known;
- I. The county department that investigated the report; and,
- J. The date the suspected abuse or neglect was reported to the county department and the date the county department confirmed the abuse or neglect report.

7.202.603 Notice to Law Enforcement and District Attorney [Rev. eff. 9/1/06]

The county department shall notify the local law enforcement agency and the District Attorney's Office of the founded report. No other entity shall receive notification unless otherwise authorized by law.

7.202.604 Notice to the Person Found to be Responsible for Child Abuse or Neglect [Rev. eff. 9/1/06]

- A. The county department shall notify the person confirmed as responsible for child abuse or neglect of its finding by first-class mail to the responsible person's last known mailing address, using a form approved by the State Department. The county department shall retain a copy of the notice in the case file showing the date of mailing.
- B. At a minimum, the notice shall include the following information:

1. The type and severity level of the abuse or neglect, the date the incident was reported to the county department, which county department filed the report, the date the county confirmed the report in the State Department's automated system, and information concerning persons or agencies that have access to the report.
2. The circumstances under which information contained in the State's automated system will be provided to other individuals or agencies.
3. How to access the county's dispute resolution process. Counties are authorized to offer a county dispute resolution process to persons alleged to be responsible for an incident of child abuse or neglect.
4. The right of the person found responsible to request a record review of the county's determination and record or a State level fair hearing before an independent Administrative Law Judge as set forth in Sections 7.202.605 - 7.202.607.
5. Notice that the scope of the appeal is limited to challenges that the finding(s) are not supported by a preponderance of the evidence or that the actions found to be child abuse or neglect do not meet the legal definitions of child abuse or neglect. The State Department will be responsible for defending the determination at the State level fair hearing.
6. A full explanation of all alternatives and deadlines contained in Sections 7.202.605 - 7.202.607.

7.202.605 State-Level Appeal Process [Rev. eff. 9/1/06]

- A. The grounds for appeal shall consist of the following:
 1. The findings are not supported by a preponderance of credible evidence; or,
 2. The actions ultimately found to be abusive or neglectful do not meet the statutory or regulatory definitions of child abuse or neglect.
- B. The person determined to be responsible for committing child abuse or neglect shall have ninety (90) calendar days from the date of the notice of confirmed finding to appeal the finding in writing to the State Department of Personnel and Administration, Office of Administrative Courts (OAC). The written appeal shall include:
 1. A statement detailing the basis for the appeal with the county department notice attached; and,
 2. Whether the person requesting the appeal, the "Appellant" , is requesting a record review or a fair hearing.
- C. The administrative review and appeal processes must be initiated by the person responsible for child abuse or neglect or his/her legal representative. The Appellant need not hire an attorney to appeal the county determination. If the individual is a minor child, the appeal may be initiated by his/her parents, legal custodian, or legal representative.
- D. If the appeal is filed more than ninety (90) calendar days from the date of the notice of confirmed finding, the Appellant must show good cause for not appealing within the prescribed period. Failure to request State review within this ninety-day period without good cause shall be grounds for dismissing the appeal and waiver of further administrative remedies.
- E. The confirmed report shall be utilized for employment background screening by the State Department

while the administrative appeal process is pending.

- F. The Appellant shall have the right to appeal even if a dependency and neglect action or a criminal prosecution for child abuse is pending arising out of the same report. The OAC shall hold in abeyance the administrative process pending the outcome of the dependency and neglect or criminal action if requested by either party to the appeal. The pendency of other court proceeding shall be considered to be good cause to continue the appeal past the 180 day timeframe set forth below. If the Appellant objects to the continuance, the continuance shall not exceed six (6) months from the date ordered.
- G. The following circumstances shall be considered to be admissions to the factual basis of the TRAILS finding of responsibility for child abuse or neglect and shall be considered to be conclusive evidence of the person's responsibility for the act of child abuse or neglect:
 - 1. When a Dependency and Neglect Petition has been adjudicated against the Appellant on the basis of Sections 19-3-102(1)(a), (b), or (c), C.R.S., arising out of the same factual basis as the founded report in TRAILS; or,
 - 2. The Appellant has been found guilty of child abuse, or has pled guilty or nolo contendere to child abuse as part of any plea agreement, including, but not limited to a deferred judgment agreement, arising out of the same factual basis as the founded report in TRAILS.
- H. When an Appellant requests a State Level Fair Hearing, the State Department is authorized to enter into settlement negotiations with the Appellant as part of the litigation process. The State Department is authorized to enter into settlement agreements that modify, overturn or expunge the reports as reflected in the State portion of the TRAILS database. The State Department is not authorized to make any changes in the county portion of the TRAILS database. In exercising its discretion, the State Department shall take into consideration the best interests of children, the weight of the evidence, the severity of the abuse or neglect, any pattern of abuse or neglect reflected in the record, the results of any local court processes, the rehabilitation of the Appellant, and any other pertinent information.

7.202.606 Record Review Before the Office of Administrative Courts [Rev. eff. 9/1/06]

- A. When the OAC receives a request for a record review of the county department's determination, the OAC shall notify the State Department that the request has been docketed and provide a copy of the appeal request.
- B. The State Department shall notify the relevant county department that a record request has been submitted to the OAC and shall request that the county department submit to OAC directly a copy of the record upon which it based the decision, including, but not limited to, the specific finding(s) that has been made, the TRAILS report, all supporting documentation, photographs and any tape or other recording of interviews.
 - 1. It is the responsibility of the county department to block out any confidential information in their records prior to the county department's submitting the record to the OAC.
 - 2. The OAC shall provide access to the Appellant to the record submitted by the county department.
- C. After the record has been submitted to OAC by the county department, OAC shall provide the Appellant the opportunity to submit any relevant documentation supporting the Appellant's position.

- D. When the time has passed which the OAC designated for Appellant to submit Appellant's documentation, the appeal shall be "at issue" and the appeal record shall be closed. The Administrative Law Judge shall then render an Initial Decision for review by the Colorado Department of Human Services, Office of Appeals. The Initial Decision shall uphold, modify or overturn/reverse the county determination. The Administrative Law Judge shall have the authority to modify the type and severity level of the child abuse or neglect finding to meet the evidence provided by the parties. The Administrative Law Judge shall not order the county department to modify its record; rather, the State Department shall indicate the outcome of the appeal in its portion of the TRAILS database. The decision shall be rendered no later than 180 calendar days following receipt of the appeal, unless the proceeding has been continued for good cause by the OAC.

7.202.607 State Fair Hearing Before the Office of Administrative Courts [Rev. eff. 9/1/06]

- A. When the OAC receives a request for a fair hearing, the OAC shall notify the State Department that the request has been docketed and send a copy of the appeal request to the State Department.
- B. The OAC shall enter a Procedural Order to the parties indicating the following:
1. Within 120 calendar days from the date of the Procedural Order, the parties shall attempt to contact each other to determine whether the appeal could be resolved without proceeding to hearing and, if so, to finalize settlement terms.
 2. Within 120 days, if the parties are not able to resolve the appeal without proceeding to hearing, each party shall so inform the OAC on the form provided by OAC so that it can set a date with the parties for a telephone scheduling conference.
 3. At the telephone scheduling conference between OAC and the parties, the OAC shall determine the date for the hearing, the date by which the State Department shall provide the Appellant and to OAC the specific incident(s) that supports the finding of responsibility for child abuse or neglect and the legal basis for the finding of responsibility for child abuse or neglect, and the date for Appellant's submission of the response to the State Department and to OAC. The State Department shall have at least fourteen (14) calendar days from the date of the scheduling conference to submit the following to the Appellant and to OAC, and the Appellant shall have 14 days in which to respond to the State Department and OAC.
 - a. The State Department shall provide in writing to the Appellant the specific allegations(s) that form the basis of the county department's determination that the Appellant was responsible for child abuse or neglect.
 - b. The State Department shall indicate the specific type and severity of child abuse asserted against Appellant and the legal authority supporting the determination.
 - c. To the extent that the State Department determines that the facts contained in the county record support a modification of the type and severity of child abuse or neglect determined by the county department, the State Department shall so notify the county department and the Appellant of that modification and the process shall proceed on the modified finding(s).
 - d. The Appellant shall respond to the State Department's submittal by providing the factual and legal basis supporting the appeal.
 4. The scheduling conference shall also set the timeframe for submittal of the pre-hearing statement in accordance with OAC procedures.

5. If the Appellant fails to participate in the scheduling conference referenced above or fails to submit the response referenced in Subsection B,3,d, above, to the State Department and OAC within the timeframe ordered, the OAC shall deem the appeal to have been abandoned by the Appellant and render an Initial Decision Dismissing Appeal. In accordance with the procedures set forth below, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.
- C. The Administrative Law Judge shall conduct the appeal in accordance with the Administrative Procedure Act, Section 24-4-105, C.R.S. The rights of the parties include:
1. The State Department shall have the burden of proof to establish the facts by a preponderance of the evidence and that the facts support the conclusion that the Appellant is responsible for the child abuse or neglect indicated in the document provided by the State Department.
 2. Each party shall have the right to present his or her case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination.
 3. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be subsequently prejudiced thereby, the Administrative Law Judge may receive all or part of the evidence in written form or by oral stipulations.
 4. A telephonic hearing may be conducted as an alternative to a face-to-face hearing unless either party requests a face-to-face hearing in writing. The written request for a face-to-face hearing must be filed with the OAC and the other party at least ten (10) calendar days before the scheduled hearing.
 5. Where facilities exist that have videoconferencing technology local to the county department that made the confirmed finding, either party may request that the hearing be conducted via that technology. The requesting party shall investigate the feasibility of this approach and shall submit a written request outlining the arrangements that could be made for video conference. The Office of Administrative Courts shall hold the hearing via videoconferencing for the convenience of the parties whenever requested and feasible.
- D. At the conclusion of the hearing, unless the Administrative Law Judge allows additional time to submit documentation, the Administrative Law Judge shall take the matter under advisement. After considering all the relevant evidence presented by the parties, the Administrative Law Judge shall render an Initial Decision for review by the Colorado Department of Human Services, Office of Appeals.
- E. The Initial Decision shall uphold, modify or overturn/reverse the county determination. The Administrative Law Judge shall have the authority to modify the type and severity level of the child abuse or neglect finding to meet the evidence provided at the hearing. The Administrative Law Judge shall not order the county to modify its record; rather, the State Department shall indicate the outcome of the appeal in its portion of the TRAILS database.
- F. The decision shall be rendered no later than 180 calendar days following receipt of the appeal, unless the proceeding has been continued for good cause by the OAC or both parties agree to waive the time limit.
- G. When an Appellant fails to appear at a duly scheduled hearing having been given proper notice, without having given timely advance notice to the Administrative Law Judge of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned and the Administrative Law Judge shall enter an Initial Decision Dismissing Appeal. In accordance with the procedures set forth below,

the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.

7.202.608 State Department Office of Appeals Functions [Rev. eff. 9/1/06]

- A. Review of the Initial Decision and hearing record and entry of the Final Agency Decision shall be pursuant to State rules at Sections 3.850.72 - 3.850.73 (9 CCR 2503-1).
- B. Review shall be conducted by a State adjudicator in the Office of Appeals not directly involved in any prior review of the county report being appealed.
- C. The Final Agency Decision shall advise the Appellant of his/her right to seek judicial review in the State District Court, City and County of Denver, if the Appellant had timely filed Exceptions to the Initial Decision.
- D. If the Appellant seeks judicial review of the Final Agency Decision, the State Department shall be responsible for defending the Final Agency Decision on judicial review.
- E. In any action in any court challenging a county's confirmed report of child abuse or neglect, the State Department will defend the statutes, rules, and State-mandated procedures leading up to the confirmation, and will defend all county actions that are consistent with statutes, rules, and State-mandated procedures. The State shall not be responsible for defending the county department for actions that are alleged to be in violation of, or inconsistent with, State statutes, State rules or State-mandated procedures.

7.202.609 Confidentiality of Appeal Records [Rev. eff. 9/1/06]

- A. All records submitted by the parties as part of the State level appeal process and all notices, orders, agency notes created by or made part of the State Department's agency record shall be confidential and shall not be released or disclosed unless such release or disclosure is permitted by the applicable State statutes or Section 7.000.72 (12 CCR 2509-1).
- B. Initial and Final Agency Decisions where information identifying the Appellant, victim(s), other family members, or other minors have been blocked out may be released to the public.

7.202.61 Provision of Ongoing Child Protection Services [Rev. eff. 11/1/98]

A county department of social services receiving 50 or more reports of child abuse and neglect per year shall have a multi-disciplinary child protection team in accordance with Sections 19-1-103(22) and 19-3-308(6), C.R.S.

7.202.62 Provision of Ongoing Child Protection Services [Rev. eff. 2/1/07]

- A. Ongoing child protection services shall be based on the safety and risk issues identified in the family social history and assessment summary in the Family Services Plan. Services shall be provided to protect the child(ren) from further abuse or neglect and to preserve the family, when this can safely be accomplished. When the family from whom the child(ren) were removed cannot safely be preserved, services shall be provided that preserve the child(ren)'s continuity within the extended family and/or home community when feasible. When the child(ren) cannot safely return to the family from whom they were removed, services shall be provided to achieve an alternative permanent plan.
- B. The county department shall complete the safety assessment consistent with requirements outlined in Section 7.202.53.
- C. The county department shall complete the Colorado family risk reassessment every six months,

counted from the date of completion of the Family Services Plan and prior to case closure, on all Program Area 5 cases that have remain home or reunification as the permanency goal identified in the automated system. The Colorado family risk reassessment shall address the following factors:

1. Number of children in household.
2. Age of youngest child in household.
3. Occurrences of a child protection substantiated or inconclusive investigation since the initial risk assessment or most recent reassessment that was not prompted by an investigation.
4. Current use of controlled substances by caretaker(s).
5. Disruptive/volatile relationships in the household.
6. Caregiver ability to provide physical care/supervision to children.
7. Primary caregiver's use of treatment/training programs.
8. Secondary caregiver's use of treatment/training programs.

D. Monthly Contact

The primary purpose for case contacts shall be to assure child safety and well-being and move the case toward achieving identified treatment goals. In child protection cases in which the children remain in the home and in child protection cases in which the children are placed out of the home, the county department shall have face-to-face and telephone contact with the children and parents and relevant collateral contacts as often as needed (while meeting the minimum expectations below) to reasonably attempt to assure the safety, permanency and well-being of the children.

1. A face-to-face contact with a parent, or the guardian to whom the child shall return, or with a child is defined as an in-person contact for the purpose of observation, conversation, intervention or interview about substantive case issues, such as safety, risk and needs assessment, safety and treatment planning that may help to reduce future risk of abuse and neglect, service agreement development and/or progress.
2. The primary purposes for county department contacts with parents are to assess the parent(s)' ability to provide safety for the child and make progress toward treatment plan goals. When a child protection case remains open with the county department, the county department shall maintain sufficient contact with parents or the guardian with whom the child resides, or to whom the child shall return, to lead to timely resolution of child safety issues and to move the case toward timely resolution of treatment plan goals. Such contact shall occur at least monthly and at least every other month there shall be face-to-face contact. Such contacts shall occur with parents at least until a motion for termination of parental rights is filed, in cases in which the child is not living in the home or in which it is no longer planned that the child will return home.
3. The primary purpose for child contacts is to assure the child's safety and well-being regardless of the reason the case is open with the county department. For in-home cases, the county department shall have at least monthly face-to-face contact with children participating as a child in the case.
4. For children in out-of-home care, the county department shall have monthly face-to-face

contact and, at least every other month, contact shall occur at the child's out-of-home placement residence (see Section 7.001.6, B).

5. For all other types of contacts, the purpose of the contacts shall be determined by the stage of the case, by the level of safety, risk and needs of the case, and according to whether or not the county department representative is the primary service provider. In cases in which there are individuals and/or someone from another or other agencies who has/have the primary therapeutic relationship with the parent and/or the child, these parties may be designated by the county department to fulfill additional contacts beyond the minimum contacts described above when additional contacts are needed to reasonably assure the safety, permanency and well-being of the child/ren in the case.
 6. All case contacts with parents and child/ren by the county department shall be recorded in the case file, which may be either the hard copy or the State automated case management system case file, and shall reflect how the purpose of the visit was accomplished.
 7. In exceptional situations, if the minimum case contacts are not able to be provided by the county in any given month, those reasons shall be documented by the county in the case file.
 8. If direct contact is impossible due to the child's distance location, an alternative agency contact agreement shall be developed and signed by the director or administrator. The alternative agency contact agreement must meet all minimum requirements for frequency and location of contacts. The contacts and the following information shall be documented in the child's case records indicating:
 - a. the case circumstances, including why the direct contact is not possible.
 - b. how the contact shall occur and, if the case is supervised by another agency, the frequency of contact by that agency.
 - c. how the county department shall monitor progress.
 9. All case contacts by parties designated by the county department, beyond the minimum contacts described above, to provide assessment, treatment and/or monitoring of the parents and children, shall be recorded in the case file. The county department shall have the responsibility to determine that such needed contacts have occurred.
- E. The county department shall provide courtesy supervision services when requested by another county or state when there is court jurisdiction and such services must continue in order to protect the child. In cases where there is no court jurisdiction, the receiving county shall conduct an assessment to determine if services are needed in order to protect the child. Services shall be provided if indicated. Other services include:
1. The requirement to utilize ICPC procedures to obtain courtesy supervision shall not be used by a county to deny a request from another state to provide assessment of a child's safety.
 2. When there is court jurisdiction, Interstate Compact on the Placement of Children (ICPC) procedures shall be followed by the sending state in order to obtain courtesy supervision of a case in Colorado.
 3. The contacts requirements in D, above, shall apply to cases being provided courtesy supervision when there is court jurisdiction and also for voluntary cases for which it is determined that services are indicated.

- F. If a child protection service client for whom services are still needed moves to another county or state, the county or state of current residence should be notified within ten days and provided with written appropriate, relevant information. Change in venue procedures as outlined in Section 7.304.4, E, shall be followed. If there is no court order for services, the receiving county shall provide outreach and assessment services up to 60 calendar days. If during the 60 calendar days period it is determined that further services are not indicated or the family is unwilling to accept services, the receiving county shall close the case.
- G. All Program Area 5 cases shall remain in that program area as long as the child is at risk for abuse/neglect and the case plan is to reunify the family. Cases on appeal for termination of parent-child legal relationship shall remain in Program Area 5 until the termination is finalized.

7.202.7 SPECIAL CATEGORIES OF INVESTIGATIONS

7.202.71 Investigation of Reports of Medical Neglect of Infants with Disabilities

Definitions

- A. "Withholding of Medically-Indicated Treatment" - means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) that, in the treating physician's reasonable medical judgment, will be most likely to be effective in improving or correcting all such conditions. The term does not include, however, the failure to provide treatment to an infant (other than appropriate nutrition, hydration or medication) when, in the treating physician's (or physicians') reasonable medical judgment any of the following circumstances apply:
1. The infant is chronically and irreversibly comatose;
 2. The provision of treatment would merely prolong dying, not be effective in improving or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant;
 3. The provision of treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.
- B. "Reasonable Medical Judgment" - is a medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.
- C. "Infant with a Disability" - is a child less than one year of age who was born with a life-threatening condition and who may have additional non-lethal physical or mental disabilities. The definition includes children over the age of one year who have been continuously hospitalized since birth, who were born extremely premature, or who have a long-term disability. These procedures do not imply that treatment should be changed or stopped when an infant reaches one year of age. The primary population to be addressed in these regulations is that of the hospitalized infant. Any other situations involving medical neglect of children will be provided for under the existing protections of the Colorado Children's Code regarding medical care of children.
- D. "Designated Hospital Liaison" - is the person named by the hospital or health care facility to act as the contact with the county department in all aspects of cases of suspected withholding of medically-indicated treatment from infants with disabilities and with life threatening conditions.
- E. "Hospital Review Committee (H.R.C.)" - is an entity established to deal with medical and ethical dilemmas arising in the care of patients within a hospital or health care facility. Where they exist, the committee may take many organizational forms, such as an "infant care review committee" or

an "institutional-bioethics committee." The functions for a committee may differ from institution to institution, including the authorization to review and recommend treatment in specific cases.

7.202.72 County Procedures for Investigation of Reports of Medical Neglect of Infants with Disabilities

- A. The county department responsible for coordinating the investigation of a report of medical neglect shall be the county in which the parents of the hospitalized infant reside. If the parent's residence cannot be determined, the county department in which the hospital is located shall assume responsibility.
- B. The county department shall work with medical organizations, hospitals, and health care facilities to implement procedures that ensure a timely response and resolution of reports of medical neglect. To that end, it shall contact each appropriate health care facility in the county to obtain the name, title, and telephone number of the designated hospital liaison. At least annually, this information is to be updated by the county department. The county department also shall be responsible for coordination with any existing hospital review committees, which may have evaluated and recommended treatment in the case under investigation.
- C. County department staff assigned to the investigation of a medical neglect report shall make no medical decisions regarding the infant and shall seek an independent medical consultation when indicated.

Should the parent(s) wish to seek a second medical opinion, the county department shall provide referral assistance.

If the county department finds that an independent medical evaluation is necessary to determine the infant's medical prognosis, the county department shall recommend to the parent(s) of an infant with a disability that an independent medical evaluation be done.

- D. in all medical neglect reports, the county department shall obtain all relevant medical data concerning the child. The county department shall seek a court order to obtain records if the request for such material is refused.
- E. The county department shall advise promptly the State Division of Child Welfare Services of all medical neglect reports involving infants with disabilities. The contact persons at the State will be the Child Protection Specialists.
- F. If after assessing the medical neglect report there are indications that the report of medical neglect may be founded, the county department shall interview the parent(s).
- G. If the county department determines that medically-indicated treatment or palliative care is being or will be withheld, and (1) the child's condition requires an urgent response, or (2) efforts by county department or hospital personnel to obtain parental consent to treatment would be futile or already have failed, then the matter shall be brought to court under a petition. The petition shall be a request to the court to place temporary custody of the child with the county department to ensure proper medical treatment is provided. The county department shall immediately contact the department's attorney when such a court order is required.
- H. In cases in which the infant has died before the investigation is completed and the county department has reason to suspect that medically indicated treatment was withheld, the matter shall be referred to the law enforcement agency in the location where the child died. If it is determined that treatment was not medically indicated, or that medically- indicated treatment had not been withheld, then the report shall be deemed unfounded.

7.202.73 Ongoing Services for Cases of Medical Neglect of Infants with Disabilities

The county department shall make available the following services:

A. Monitoring Court-Ordered Treatment

When either the court has ordered or the parent(s) have agreed upon a course of treatment, the county department shall monitor developments to ensure this treatment is provided. When there is a failure to provide treatment, the county department shall notify the court and immediately petition the court to take appropriate action.

B. Coordinating With Other Resources

The county department shall contact agencies that provide services to child/ren with special needs, and help the parents with referrals to appropriate agencies that provide services for infants with similar disabilities and for their families. Referrals shall be made to agencies with financial resources for costs of medical and rehabilitative services. Information shall be provided regarding parental support groups and community educational resources. This information shall be made available, as is deemed appropriate under the circumstances, whether the county department has taken legal action or not.

7.202.74 Investigation of Medical Neglect in Which Religious Considerations are Involved

- A. The county department shall investigate cases of medical neglect including those cases in which there is a failure to provide medical treatment based upon the parent's, guardian's, or custodian's religious beliefs and there is concern that such failure will result in a threat to the child's health and welfare.
- B. The county department shall obtain a medical evaluation if the child's condition presents substantial concern for the child's health and welfare. This evaluation shall be obtained with the consent of the parents, guardians, or legal custodians. If such consent is refused, the county department shall seek a court order to obtain a medical evaluation.
- C. In consultation with medical practitioners, the county department shall consider whether the condition is life-threatening or will result in serious disability without professional medical care.
- D. If the child's condition is determined to be life-threatening or could result in serious physical impairment, the county department shall seek a court order to ensure the provision of the necessary medical care in the event that such care is refused by the parent, guardian, or legal custodian.
- E. Additionally, in those cases in which there is spiritual healing involved, the county department shall follow the guidelines defined in Section 19-3-103(2)(a), (b), C.R.S., to decide whether the method is a "recognized" method of religious healing and whether such healing is considered to be medically effective for the child's condition.
- F. If it is determined that the situation is life-threatening or will result in serious disability without professional medical care, the county department shall contact the court for an order providing medical treatment for the child.
- G. For purposes of entering confirmed reports of abuse or neglect into the State Department's automated system, reporting to police for criminal investigation, and filing of dependency and neglect petitions, no child who is under treatment by a recognized method of religious healing shall, for that reason alone, be considered to have been neglected or dependent unless the child's parent, legal guardian, or custodian inhibits or interferes with the provision of medical services according

to court-ordered medical evaluation or treatment.

If a parent, guardian, or legal custodian inhibits or interferes with the provision of medical evaluation or treatment according to a court order, that act would constitute "neglect" and in such cases a report shall be made to law enforcement and the county department of social services may file a dependency and neglect petition.

7.202.75 Investigation, Reporting, and Review of Child Fatalities

Parameters:

The county department shall investigate child fatalities in intrafamilial and institutional settings in those cases in which:

- A. There is reason to know or suspect that abuse/or neglect caused or contributed to the child's death.
- B. The death is not explained or cause of death is unknown at the time of the child's death.
- C. The history given about the child's death is at variance with the degree or type of injury and subsequent death.

7.202.76 Investigation Procedures

- A. The county department shall coordinate with the following agencies: law enforcement, district attorney's office, coroner's office, and hospitals to ensure prompt notification of questionable child fatalities.
- B. At a minimum in cases in which there are no surviving siblings, the county department shall provide law enforcement and the coroner with information related to any prior involvement with the child, the family, or the alleged perpetrator.
- C. When there are surviving child/ren, the county department shall investigate the condition of those child/ren and shall take the action necessary to ensure their protection.
 - 1. When assessing the condition of surviving child/ren who may be at risk, the investigation shall include the following activities:
 - a. A visit to the child/ren's home or place of custody.
 - b. An interview and/or evaluation of the child/ren.
 - c. An examination of the child/ren to include an assessment of the child/ren's overall current physical, mental, or emotional condition.
 - d. An assessment of the safety of the home environment, to include an interview with the parents, guardians, and/or legal custodians.
 - 2. When there are reasonable grounds to believe that a surviving child is at risk of emotional or physical harm in his/her home environment, the county department shall seek an emergency protective order.

7.202.77 Reporting to the State

- A. Within 24 hours (excluding weekends and holidays) of a referral of either a suspicious child fatality or an unexpected fatality of any child currently in the custody of the department, the county

department shall call the following information in to the State Department Child Protection Administrator:

1. Name and age of victim.
 2. Known circumstances around the death.
 3. Description of physical injuries or medical condition of the child/ren at the time of death.
 4. Names and ages of surviving child/ren who may be at risk.
 5. Brief description of the department's prior involvement with the family/caretaker, if any.
 6. Actions taken by the county department to date and future actions to be taken.
 7. Involvement of other professionals in the case.
- B. The county department shall provide the state department's Child Protection Administrator a completed Child Fatality Report, on a form supplied by the state, within 45 calendar days of notification of the child's death, to the extent possible, and no longer than 60 calendar days without a written request for extension.

In addition to the Child Fatality Report, it shall provide the following information:

1. Copies of any pertinent social, medical, and mental health evaluations of all involved subjects (child/ren, family, caretakers, etc.).
2. Coroner's records, including autopsy report.
3. Police reports of present investigation as well as any prior criminal history of all subjects.
4. A copy of the case record if the county department has had past or current contact with the child prior to the child's death.
5. Report of county department internal review.

7.202.78 Additional Actions when County Department has had Prior/Current Case Services involvement

- A. When the county department has custody of the child and or protective supervision, it shall take the following actions:
1. Immediately notify the parent/caretaker of the child's death. If the parent/caretaker resides in another county or state, the county department shall coordinate with the county department of parents' or caretakers' residence to provide, whenever possible, personal notification.
 2. Immediately notify the county department director of the death of a child in the department's custody, protective supervision, or when the department has had prior case service involvement within the last five years. A complete copy of the child's case record shall be made available to the county director within 24 hours of notification of a child's death.
 3. Immediately notify the court, the attorney for the county department, and the Guardian Ad Litem (when one has been assigned) of the death of any child who is under the court's jurisdiction.

- B. Upon notification of a child fatality in which the county department has had prior case services involvement with the child, family, or alleged perpetrator, the county department director shall take the following actions:
1. Designate an individual(s) who will be responsible for investigating the child's death. The assigned individual(s) shall not have had prior involvement in the case. In the event of a conflict of interest, the county department shall arrange for the investigation to be conducted by another county department of social services with personnel having appropriate training and skill.
 2. Ensure that a complete internal administrative review of the county's involvement in the case before the child's death is conducted. This review shall be referred to as the Department Internal Review and shall be completed whenever the county department has had current or prior case services involvement within the last five years. The Review shall include, at a minimum:
 - a. Evaluation of the case plan.
 - b. Assessment of the interventions made by the county department.
 - c. Identified areas of strengths and/or weaknesses in the casework process.
 - d. Analysis of any systemic issues that may have led to delays or oversights.
 - e. Evaluation of the role played by other community agencies and the overall case coordination.
 - f. Recommendations for staff training or changes in the system that would avoid other similar occurrences.
 3. Submit a written report of the department internal Review and Child Fatality Report within 45 calendar days of notification of the child's death to the State Department Child Protection Administrator.
- C. If another county department also has had prior case services involvement within the five-year period, the State Department shall decide what reviews shall occur in that county department.

7.202.8 FATALITY REVIEWS

When a child fatality occurs, the county shall submit reports for review by the State Department in accordance with Sections 7.202.7 and 7.202.78 of this staff manual, and cooperate with the State Department's review. The State Department shall conduct a review of cases where the county was involved prior to the child's death.

7.203 PROGRAM AREA 6 - CHILDREN IN NEED OF SPECIALIZED SERVICES

7.203.1 DEFINITION OF PROGRAM AREA 6

To provide statutorily authorized services to specified children and families in which the reason for service is not protective services or youth in conflict. These services are limited to children and families in need of subsidized adoption or Medicaid only services, or to children for whom the goal is no longer reunification. The purpose of services in Program Area 6 is to fulfill statutory requirements in the interests of permanency planning for children. Children must meet specific Program requirements to receive services under these target groups.

7.203.2 CHILD WITH SUBSIDIZED ADOPTION

7.203.21 Target Groups

- A. Children whose special needs are a barrier to their adoption, are legally free for adoption, and are in the custody of a county department of social services.
- B. Children whose special needs are a barrier to their adoption, meet Title IV-E eligibility requirements, and are in the custody of a non-profit licensed adoption agency or living with a relative.

7.203.22 Intake/Assessment

Eligibility Requirements In order for a child to be eligible for subsidized adoption,

all the following factors must be present at the time the child is placed for adoption:

- A. The goal for the child is adoption and the court has determined that the child cannot or should not be returned to the home of his/her parents and all parent-child legal relationships are terminated.
- B. The county department, agency, or relative requesting the adoption subsidy is financially responsible for the care of the child.
- C. The county must determine that in each case a reasonable, but unsuccessful, effort to place the child for adoption has been made before providing a subsidy, unless the best interests of the child would not be served by such an effort. Where appropriate, the current foster family will be given priority as the prospective adoptive family. Reasonable effort requires listing with the Colorado Adoption Resource Registry and may include presentation in the media and consultation with the state.
- D. Children who are in the custody of licensed non-profit private agencies or who are living with relatives must meet Federal IV-E eligibility requirements.
- E. The child is one with "special needs."

A "special need" is one or more of the following special, unusual, or significant factors that act as a barrier to the child's adoption:

1. Physical disability (such as hearing, vision, or physical impairment; neurological conditions; disfiguring defects; and, heart defects).
2. Mental retardation (such as developmental delay or disability, perceptual or speech/language disability, or a metabolic disorder).
3. Developmental disability resulting in educational delays or significant learning processing difficulties.
4. Educational disability which qualifies for Section 504 of the Rehabilitation Act of 1973 or special educational services.
5. Emotional disturbance.
6. Hereditary factors that have been documented by a physician or psychologist.
7. High risk children (such as HIV-positive, drug-exposed, or alcohol-exposed in utero).

8. Other conditions that act as a serious barrier to the child's adoption. Conditions may include but are not limited to a healthy child over the age of seven or a sibling group that should remain intact and medical conditions likely to require further treatment.

7.203.23 Parameters

- A. An adoption subsidy is a payment directly to the adoptive parent or parents to provide for the needs of an eligible adopted child. Case services may be paid directly to the providers of service or to the adoptive parent. A subsidy is intended to help, or remove financial barriers to, the adoption of Colorado children with special needs by providing assistance to the parent or parents in the payment of expenses of caring for and raising the child. Families applying for adoption of a child with special needs should be informed of the subsidized adoption program. The contact requirements in Section 7.001.6 shall be used prior to finalization and contacts shall be documented in the case file.
- B. The county department may make subsidy payments at the time of adoptive placement and continue them after the adoption has been finalized.
- C. Available public programs and insurance benefits for which the child is eligible shall be used first to address the child's needs before state subsidy payments are used. Subsidy is a program that provides assistance to adoptive parents in certain defined and limited ways for adoptive parents in financial and decision making responsibility and authority for their child.
- D. Subsidy benefits may continue through the month of the child's 18th birthday or until age 21, when the county department has determined that the child has a developmental disability or physical disability which warrants continuation of assistance.
- E. The county department shall not use state subsidy funds for any child 18 and over attending college.
- F. The county department shall not use an income eligibility requirement (income means test) for the prospective adoptive parents in determining eligibility for subsidized adoption.
- G. When a child is certified eligible for subsidy, the adoption worker must inform prospective adoptive parents of the availability of subsidy for the child. The amount of the subsidy shall be based on the child's need and the family circumstances.

7.203.24 County Requirements for Subsidized Adoption

- A. If current foster home is not an appropriate resource, local adoptive homes should be used or studies should be requested from the counties licensed adoption agencies, in and out of state. If there are no available resources in the state pool, the child shall be registered with the Colorado Adoption Resource Registry (CARR).
- B. The county department shall obtain and document the diagnosis and prognosis of the child's special needs that are a barrier to the adoption. The documentation shall include medical, psychological, psychiatric, or other appropriate reports. If the county department determines that the child is one with special needs for whom services will be purchased, it must confirm the special needs by a second opinion of a social worker, doctor, psychologist or mental health specialist who is outside the department.
- C. The county department shall determine the child's eligibility for subsidized adoption and sign the subsidized adoption agreement before the adoption is finalized.

There are situations after finalization when adoptive parents can request a state level Fair Hearing before an Administrative Law Judge concerning the adopted child's eligibility for Title IV-E

Subsidized Adoption benefits or the amount of those benefits. These situations include, but are not limited, to:

1. Relevant facts regarding the child which were known and not presented to the adoptive parents prior to the finalization of the adoption;
 2. Denial of assistance based upon a means test of the adoptive family;
 3. Erroneous determination that a child is ineligible for adoption assistance; and,
 4. Failure by the county department or a non-profit Child Placement Agency to advise adoptive parents about the availability of adoption assistance for children who have been identified with special needs;
 5. Decrease in the amount of adoption assistance without the concurrence of the adoptive parents.
 6. Denial of a request for a change in payment level due to a change in the adoptive parents' circumstances.
- D. If a child is legally free and reunited with the birth parents, the child is not eligible for an adoption subsidy.
- E. If the child meets the eligibility requirements the county department responsible for providing the adoption subsidy will approve the CW-SA-1-2 (Child's Application and Summary for Subsidized Adoption) and the CW-SA-3 (Subsidized Adoption Agreement).

7.203.3 CHILD WITH MEDICAID ONLY SERVICES

7.203.31 Target Groups

- A. Children in foster care who have been determined IV-E eligible and have moved to Colorado.
- B. Children for whom an adoption assistance agreement is in effect and who have moved in or out of Colorado.
- C. Children eligible for Home and Community Based Services or Home Health Care Services as defined in Section 8.500 of the Department of Health Care Policy and Financing's Medical Assistance manual (10 CCR 2505-10). Children enrolled in the Home and Community Based-Developmentally Disabled Waiver Program administered through Community Centered Boards and the Department of Human Services, Developmental Disabilities Services, are not eligible for services in this target group.

7.203.32 Intake/Assessment

For children moving to Colorado, the county department shall:

- A. Verify from the letter from the other state that the child is eligible for IV-E foster care from the state of origin.
- B. Make two copies of the agreement, retaining one for the child's file and forwarding the other to the state department.
- C. Complete the state prescribed form and assign a case number, indicating on the form that it is medical only.

- D. Complete the Family and Children's Services-100 to obtain a Medicaid Card.
- E. Notify the foster care provider using the SS-4 Form that the child is eligible for Medicaid only from Colorado. In addition, advise the provider to notify the county department if foster care is stopped by the originating state or of any change of address.
- F. Verify annually from the state of origin that the child is eligible for Medicaid.

7.203.33 Procedures for Children Eligible for Home and Community Based Services or Home Health Care Services

- A. The county department shall open a case Home and Community Based when an application for Home and Community Based Services (HCBS) or Home Health Care Services is completed. The county department shall provide services as required in Section 8.500 of the Department of Health Care Policy and Financing's Medical Assistance manual (10 CCR 2505-10) for children in Home and Community Based Services or Home Health Care Services Programs.
- B. The county department shall close the case on the Department's automated reporting system no later than the end of the month following the month that the child begins to receive services from the case management agency unless the child remains eligible for services under Program Areas 4 or 5.

7.203.4 CHILDREN WHOSE DISPOSITION IS NO LONGER REUNIFICATION WITH FAMILY

Children for whom all efforts at reunification with the family are exhausted. The parent-child legal relationship may or may not be terminated.

7.203.41 Eligibility

- A. A child shall be eligible for services in this target group only if he/she has prior eligibility in another target group and has a permanent plan other than reunification.
- B. Children in this target group shall receive services as addressed in the placement services, legal guardianship, relinquishment, independent living, and adoption sections of these rules. Contact requirements for these children shall be in accordance with Section 7.001.6. These contacts shall be documented in the case file.

7.203.42 County Department Procedures

- A. The county department shall document in the case file all efforts at reunification for the children in this target group.
- B. The county department shall ensure that the Family Services Plan contains a plan for permanent placement with a relative, adoption, legal guardianship/ permanent custody, or other planned permanent living arrangement, as appropriate (see Section 7.301.24, M).
- C. When the permanent plan is not adoption the county department shall document in the case file why adoption is not appropriate.

7.203.5 YOUNG ADULTS WHO HAVE EMANCIPATED FROM FOSTER CARE

Participation in Independent Living programs is voluntary for this population of emancipated young adults, ages 18 to 21, who were in out-of-home care on their 18th birthday and who are in need of continuing support and services toward becoming self-sufficient.

7.203.51 Eligibility

Emancipated young adults, ages 18 to 21, who were in out-of-home care on their 18th birthday are eligible to receive independent living services to assist them as they continue the transition to adulthood. Services may include independent living assessment, case planning, transitional services, room and board, and other services as identified in the county Title IV-E Independent Living Plan (see Section 7.305).

7.203.52 County Department Procedures

- A. The county department of social services shall document in the case file the independent living services provided.
- B. The county department of social services shall complete the Independent Living Plan as a part of the Family Services Plan.
- C. Minimum contact requirements are to be determined by the participant and caseworker, but shall be quarterly, face-to-face, at a minimum to determine appropriateness of services and continued need of the participant.

Editor's Notes

History

Section 7.202.62.A - F eff. 09/01/2007.