

DEPARTMENT OF HUMAN SERVICES

State Board of Human Services

RULE MANUAL VOLUME 12 SPECIAL PROJECTS

12 CCR 2512-2

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

STATEMENT OF BASIS AND PURPOSE, FISCAL IMPACT AND SPECIFIC STATUTORY AUTHORITY OF REVISIONS MADE TO STAFF MANUAL VOLUME 12

Revisions to Sections 12.500-Concl. - 12.500.12, 12.500.12 - 12.500.14-Concl. were finally adopted following publication at the 5/2/86 State Board meeting, with an effective date of 7/1/86 (Document 7). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Addition of Section 12.600 was finally adopted following publication at the 2/6/87 State Board meeting, with an effective date of 4/1/87 (Document 8). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to Section 12.203 were finally adopted following publication at the 5/1/87 State Board meeting, with an effective date of 7/1/87 (Document 11). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Addition of Sections 12.700 - 12.704 was finally adopted following publication at the 11/6/87 State Board meeting, with an effective date of 1/1/88 (Document 2). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Addition of Sections 12.800 - 12.805.12 was finally adopted following publication at the 4/6/90 State Board meeting, with an effective date of 6/1/90 (CSPR# 90-1-24-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Deletion of Section 12.500 was finally adopted following publication at the 11/02/90 State Board meeting, with an effective date of 1/1/91 (CSPR# 90-8-23-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Addition of Section 12.900 was adopted emergency at the 11/2/90 State Board meeting, with an effective date of 11/2/90 (CSPR# 90-9-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Addition of Section 12.900 was final adoption of emergency at the 12/7/90 State Board meeting, with an effective date of 11/2/90 (CSPR# 90-9-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to Sections 12.200 through 12.203 were finally adopted following publication at the 2/7/91 State Board meeting, with an effective date of 4/1/92 (CSPR# 91-10-24-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Addition of Section 12.500 through 12.515 was adopted emergency at the 2/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-10-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Addition of Section 12.500 through 12.515 was adopted emergency and final at the 3/4/94 State Board meeting, with an effective date of 4/1/94 (CSPR# 93-10-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Revisions to Sections 12.500 through 12.515 were final adoption following publication at the 10/7/94 State Board meeting, with an effective date of 12/1/94 (CSPR# 94-6-30-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Addition of Sections 12.100 through 12.111 were final adoption following publication at the 12/6/96 State Board meeting, with an effective date of 2/1/97 (CSPR# 96-9-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Sections 12.100 through 12.111 were re-promulgated as final adoption following publication at the 3/7/97 State Board meeting, with an effective date of 5/1/97 (CSPR# 96-9-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of External Affairs, Department of Human Services.

Addition of Sections 12.400 through 12.480 were adopted as emergency at the 8/4/2000 State Board meeting, with an effective date of 9/1/2000 (CSPR# 00-6-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, State Board Administration.

Addition of Sections 12.400 through 12.480 were adopted as emergency and final at the 9/8/2000 State Board meeting, with effective dates of 9/1/2000 and 9/8/2000 (CSPR# 00-6-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Office, State Board Administration.

Revisions to Sections 12.440 and 12.470 were final adoption following publication at the 2/2/2001 State Board meeting, with an effective date of 4/1/2001 (CSPR# 00-11-15-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Office, State Board Administration.

Revisions to Section 12.101.1, and addition of Section 12.120-12.120.5 were adopted following publication at the 5/2/2003 State Board meeting, with an effective date of 7/1/2003 (Rule-making# 03-02-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Office, State Board Administration.

Revisions to Sections 12.105.2 through 12.105.21 and addition of Section 12.105.22 were adopted as emergency at the 6/6/2003 State Board meeting, with an effective date of 7/1/2003 (Rule-making# 03-02-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Office, State Board Administration.

Revisions to Sections 12.105.2 through 12.105.21 and addition of Section 12.105.22 were final adoption of emergency rules at the 7/11/2003 State Board meeting, with an effective date of 7/1/2003 (Rule-making# 03-02-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Office, State Board Administration.

Deletion of Sections 12.300, 12.600, 12.700, 12.800, and 12.900, et seq., and replacement of Section 12.500, et seq., with a new program, were final adoption following publication at the 5/7/2004 State Board meeting, with an effective date of 7/1/2004 (Rule-making#s 04-2-19-1 and 04-3-5-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Office, State Board Administration.

Revisions to Sections 12.200 through 12.203.6 were final adoption following publication at the 12/2/2005 State Board meeting, with an effective date of 2/1/2006 (Rule-making# 05-08-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Office, State Board Administration.

Deletion of Section 12.105.22 was final adoption following publication at the 2/3/2006 State Board meeting, with an effective date of 4/1/2006 (Rule-making# 05-10-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Office, State Board Administration.

Revision of Section 12.540 and addition of Section 12.541 were final adoption following publication at the 1/5/2007 State Board meeting, with an effective date of 3/1/2007 (Rule-making# 06-8-24-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Office, State Board Administration.

Revision of Section 12.540 was adopted as emergency and final at the 6/6/2008 State Board meeting, with an effective date of 6/6/2008 (Rule-making# 07-11-13-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration.

Re-write of Sections 12.200 through 12.203.6 were final adoption following publication at the 6/5/2009 State Board meeting, with an effective date of 8/1/2009 (Rule-making# 08-9-12-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions and repeals in Sections 12.104 through 12.108, 12.200 through 12.200.7, 12.400 through 12.480 and 12.500 through 12.552 were final adoption following publication at the 4/6/2012 State Board meeting, with an effective date of 6/1/2012 (Rule-making#'s 11-9-7-3, 11-11-15-1, 11-12-27-1, and 12-2-7-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.

Revisions of Sections 12.200 through 12.200.2 and 12.200.4 through 12.200.7 were final adoption following publication at the 3/8/2013 State Board meeting, with an effective date of 5/1/2013 (Rule-making# 12-12-14-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions of Sections 12.200 through 12.201.9 (through new 12.202.4) were final adoption following publication at the 11/6/2015 State Board meeting, with an effective date of 1/1/2016 (Rule-making# 14-11-17-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Strategic Communications and Legislative Relations, State Board Administration.

12.100 COLORADO ELECTRONIC BENEFIT TRANSFER SERVICE (CO/EBTS)

12.100.1 AUTHORITY

12.100.11

Authority for the program is contained in Colorado Revised Statutes, Sections 26-2-104 and 26-1-122(2), as amended.

12.100.12

The Colorado Electronic Benefit Transfer Service (CO/EBTS) is intended to provide electronic benefit access, through use of a plastic debit card, to recipients of food assistance and public assistance programs. These programs include, but are not limited to, Food Stamps, Aid to Families with Dependent Children, Old Age Pension, Aid to the Needy Disabled, Aid to the Blind, and the Low-Income Energy Assistance Program. Through CO/EBTS, direct deposit payments will be made to providers of services for the Low-Income Energy Assistance Program, Child Care and Child Welfare (Subsidized Adoption and Foster Care) programs. Voucher payments (e.g., burial) will also be made by direct deposit. Other programs may be added as appropriate. Recipient payments will be made by direct deposit on a voluntary basis. Provision will be made for delivery of recipient payment of direct federal benefits by CO/EBTS.

12.101 GENERAL PROVISIONS

12.101.1 DEFINITIONS

A. Automated Teller Machine (ATM)

An "ATM" is a device which dispenses cash and provides benefit inquiries. The equipment is activated by inserting a plastic magnetic stripe card and entering a personal identification number (PIN).

B. Cash Account

A "cash account" is an authorization file maintained by the Colorado Department of Human Services on behalf of a cardholder from which withdrawal of cash benefits and purchase transactions are authorized.

C. CO/EBTS Contractor

The "CO/EBTS contractor" is a private company hired by the Colorado Department of Human Services. The contractor will be responsible for operation of the CO/EBTS system including, but not limited to, card production, transaction processing, equipment installation/maintenance, customer service, conversion training, and account settlement.

D. Correcting Debit

A "correcting debit" is an action taken by a retailer to correct a system error.

E. CO/EBTS Conversion

"CO/EBTS conversion" is the project implementation period during which food stamps and public assistance recipients change over from receiving benefits through food coupons and warrants to accessing their benefits through CO/EBTS debit card transactions at authorized retailers' point-of-sale (POS) terminals and at automated teller (ATM) machines. Also, providers will begin receiving direct deposit payments, electronically transmitted to make accounts, rather than warrants.

F. Debit

A "debit" is a transaction initiated by the cardholder at a terminal with use of a PIN resulting in a deduction against the balance of the cardholder's account, which has been credited by the value and category of public assistance benefits authorized.

G. Direct Deposit

“Direct deposit” is the process by which the Colorado Department of Human Services credits a client’s or provider’s bank account upon authorization by the Colorado EBTS program.

H. Electronic Benefit Transfer Service (EBTS)

“EBTS” is the delivery of government benefits and payments through electronic means and equipment.

I. Food Stamp Account

A “food stamp account” is an authorization file maintained by the Colorado Department of Human Services on behalf of a cardholder from which food stamp purchases at approved merchants are authorized.

J. Food Stamp Transaction

A “food stamp transaction” is authorized from a food stamp account in which the entire transaction amount is for the purchase of food at an approved merchant in accordance with the Food Stamp Program. A food stamp transaction must not include cash back.

K. Encryption

“Encryption” is the process which protects PIN data by altering the information to make it unrecognizable. These data are encrypted before transmission over communications lines rendering them unintelligible.

L. Personal Identification Number (PIN)

The “PIN” is a four to six digit secret number or word either selected by the cardholder or randomly assigned by the card processor. The PIN is used by the cardholder to initiate an EBTS transaction.

M. Point of Sale (POS) Terminal

“POS” terminals are electronic devices located at retail outlets through which cardholders can conduct EBTS food stamp and cash transactions by swiping their card and entering their PIN on a key pad.

N. Primary Account Number (PAN)

The “PAN” is a number embossed on the front of the debit card, by the card issuer, which identifies the cardholder.

O. Retailer

“Retailer” is the commercial location, such as a grocery store or automated teller machine, where the EBT cardholder redeems food or cash benefits.

P. System Error

A “system error” is an auditable processing failure at any point in the EBT redemption process that results in the improper crediting or debiting of an account or in the failure to credit or debit an account.

Q. Transaction

A “transaction” is an electronic interchange at a point of sale device or ATM resulting in the exchange of financial information concerning a recipient account.

12.102 ACCOUNT SET-UP

The county department of social services shall input account set-up data into the various CDHS systems, using state department established file formats and data layouts, to facilitate system transmission of account set-up records to the CO/EBTS contractor. County departments may opt, particularly in emergency cases, to transmit account set-up files on-line directly to the CO/EBTS contractor.

12.103 CARD/ PIN ISSUANCE AND ACCOUNTABILITY

The county department of social services shall establish secure procedures for issuance of CO/EBTS debit cards and personal identification numbers. County departments may issue a card at the initial client interview, but under no circumstance shall a card for a non-expedited case be issued later than 30 calendar days after the application date.

12.103.1 OVER-THE COUNTER ISSUANCE

12.103.11 Card Stock

Each county department of social services shall maintain the capability to issue cards on-site at its primary location and satellite offices. The CO/EBTS contractor will provide counties with an initial supply of sequentially numbered cards containing pre-embossed primary account numbers; county departments must reorder cards from the CO/EBTS contractor as needed to ensure an adequate supply at all times.

12.103.12 PIN Selection

The county department of social services shall issue PINs through encryption devices supplied by the state department. Recipients shall select their own PINs when cards are issued over-the-counter.

12.103.13 Expedited Issuance

The county department of social services shall issue CO/EBTS debit cards no later than the sixth day after application for recipients entitled to expedited benefits/payments as defined by specific program rules.

12.103.2 MAIL ISSUANCE

The county department of social services shall initiate issuance of cards and PINs through the mail during CO/EBTS conversion by submitting account set-up files to the CO/EBTS contractor. The county department may request mail issuance on a case-by-case basis thereafter by entering a positive mail indicator in the account set-up file transmitted to the CO/EBTS contractor.

After conversion, county departments may request mail issuance in those situations where in-person issuance would constitute an inconvenience to the recipient. County departments may also mail cards/PINs to clients residing a distance from the issuance site such that transportation would constitute a hardship.

12.104 REPORTS OF LOST, STOLEN CARDS AND UNAUTHORIZED USE

The county department of social services shall facilitate de-activation of CO/EBTS debit cards reported by cardholders to be lost, stolen, or used by unauthorized parties. Upon receiving such a report, the county department may instruct the recipient to phone the CO/EBTS contractor's customer service line to report the incident and request card de-activation. If the recipient cannot or refused to call, the county department shall immediately report the incident and request card de-activation to the CO/EBTS contractor customer service representative on behalf of the recipient.

12.105 CARD REPLACEMENT [Rev. eff. 6/1/12]

The county department of social services shall replace CO/EBTS debit cards for eligible recipients when cards are reported to be lost, stolen, or non-functioning. County departments may issue replacement cards over-the-counter or through a transmission to the CO/EBTS contractor requesting mail issuance. In addition, the county department shall maintain a record of cards replaced on the daily card issuance log.

12.105.1 Card Replacement Time Limit [Eff. 2/1/97]

The county department of social services shall replace cards within three working days of notification by the recipient. This may be accomplished by either over-the-counter or mail issuance. The CO/EBTS contractor is required to deliver replacement cards to the post office no later than 3:00 p.m. the day after a request is received for a mail issued card replacement.

12.106 PIN REPLACEMENT

The county department of social services shall provide cardholders with the opportunity to change PINs. PIN replacements may be issued over-the-counter or by mail through the CO/EBTS contractor. Add eff. 2/1/97

12.107 DIRECT DEPOSIT

Eligible recipients, or their designated payees, may elect to receive cash payments through direct deposit to an account at their financial institution. Direct deposit application forms and envelopes will be provided to county offices. The county department of social services shall inform cash assistance recipients of the availability of direct deposit, provide informational materials, and application forms. County offices shall assist recipients or payees in providing bank account information to allow for direct deposit. Add eff. 2/1/97

Counties shall issue a debit card to each new recipient and inform the recipient that he/she will access at least the first payment through the debit card.

12.108 AUTHORIZED REPRESENTATIVES

An eligible recipient may designate an authorized representative to receive a CO/EBTS debit card and PIN. Separate cards, primary account numbers, and PINs shall be issued to the eligible recipient and the authorized representative. The authorized representative shall have the ability to access food and/or cash benefits on behalf of the eligible recipient as provided by program regulations. Add eff. 2/1/97

12.109 CLIENT TRAINING

The county department of social services may conduct client training through the mail or on-site in local offices. Add eff. 2/1/97

12.109.1 LOCAL OFFICE TRAINING

The county department of social shall provide facilities within each food stamp/social services office to conduct on-site CO/EBTS client training. Add eff. 2/1/97

12.109.11 CO/EBTS Trainees

The county department of social shall conduct on-site CO/EBTS training in local offices for eligible post-conversion food stamps and cash assistance recipients. Add eff. 2/1/97

12.109.12 Training Content

The county department of social services shall conduct training in a manner prescribed by state department procedures. Add eff. 2/1/97

12.109.13 Written Training Materials

The county department of social services shall distribute written training materials, produced by the CO/EBTS contractor, to CO/EBTS recipients. These materials will include, but not be limited to, a pamphlet and a fact card. All written training materials will be available in Spanish and English and be at no higher than a fifth grade reading level. Add eff. 2/1/97

12.109.14 Other Client Assistance

The county department of social services shall provide other client assistance, which the county department deems necessary, such as orientation classes, question and answer sessions, and "hands-on" card usage instructions. Counties shall identify special needs clients (e.g., blind, illiterate, disabled) and "customize" training to the needs of these individuals. Rev. eff. 5/1/97

12.109.2 MAIL TRAINING

12.109.21 Conversion

The county department of social services shall update CDHS automated systems with the most current food stamp recipient, cash assistance recipient, substitute payee, and conservator addresses no later than two months before that county's conversion to CO/EBTS. The CO/EBTS contractor will mail debit cards, PINs, and written training materials to each current recipient one month before conversion.

12.109.22 Ongoing

The CO/EBTS contractor will include written training materials with all CO/EBTS card mailings. The county department of social services shall transmit a positive mail indicator to the contractor for any recipient the county wishes to have the CO/EBTS card, PIN, and training materials issued by mail.

12.110 PROVIDER PAYMENTS

12.110.1 COUNTY RESPONSIBILITIES

12.110.11 Conversion

The county department of social services shall update provider information (e.g., name, address, mailing address, and provider tax identification number) contained within the various Human Services automated systems no later than four months prior to CO/EBTS conversion in that county to facilitate transition to direct deposit provider payments.

12.110.12 Ongoing

The county department of social services shall enter all provider information into the appropriate automated system immediately upon a provider's approval to deliver program services. The county department shall give each prospective provider a direct deposit form requesting the provider's bank account number and supporting documentation. The provider must then submit the bank account information in order to receive direct deposit payments when and if the provider is approved to deliver services. The county department shall also give the provider written materials explaining the direct deposit payment procedure. County departments must maintain the ability to enter data related to provider bank account numbers into the various Human Services automated systems for transmission to the CO/EBTS contractor.

12.110.2 STATE RESPONSIBILITIES

The State Department will transmit provider information through the various Human Services automated systems to the CO/EBTS contractor. Transmissions will take place during conversion and on an ongoing basis as new providers are added.

12.111 EXPUNGED BENEFITS

Food stamp benefits will be automatically expunged, or cancelled, after 270 days of no recipient account activity (food purchases or benefit inquiries); cash benefits will be expunged after 90 days of no recipient account activity (purchases, withdrawals, benefit inquiries). County staff may re-start the time period for any recipient in a manner prescribed by the State Department.

12.120 EBT CONTRACTOR ACCOUNT ADJUSTMENTS

12.120.1 EBT CONTRACTOR ACCOUNT ADJUSTMENT AUTHORITY

The EBT contractor, on behalf of impacted retailers, may adjust EBT cardholders' food or cash accounts through correcting debits to recoup SYSTEM error funds.

12.120.2 EBT CONTRACTOR NOTIFICATION TO THE COLORADO DEPARTMENT OF HUMAN SERVICES

The EBT contractor shall notify the Colorado Department of Human Services, through a claim activity file, of the intention to adjust a recipient's food and/or cash account.

12.120.3 CLIENT NOTICE OF RIGHT TO A FAIR HEARING

- A. any recipient shall be mailed a notice whose EBT account is to be adjusted by the EBT contractor, advising the recipient of the right to a fair hearing.
- B. The notice shall stipulate:
 - 1. The amount to be adjusted;
 - 2. The name of the retailer;
 - 3. The reason for the adjustment;
 - 4. The date of the adjustment;
 - 5. Procedures for requesting a state hearing; and,

6. The timeframe for requesting a hearing.

12.120.4 FAIR HEARING

Any request for a State level fair hearing shall be in accordance with State Food Stamp rules, as found in Staff Manual Volume 4B (10 CCR 2506-1), Sections B-4410, B-4410.3, and B-4410.34.

12.120.5 ACCOUNT ADJUSTMENT TIMEFRAMES

The EBT contractor may not adjust a recipient's EBT account for fifteen (15) calendar days from the issuance date of the fair hearing notice. If the recipient requests a fair hearing during this 15-day period, the EBT contractor is prohibited from adjusting the account until and unless the fair hearing disposition is rendered in the retailer's favor. After the 15-day noticing period has expired, or after a recipient appeal has been denied, the EBT contractor may adjust a recipient's current month or one future month's benefits. The EBT contractor may take no further adjustment actions if adequate funds are not available in either the month when the recovery action is initiated or in the subsequent month.

12.200 DOMESTIC VIOLENCE PROGRAM (DVP)

12.200.1 Purpose [Rev. eff. 5/1/13]

These rules set forth policies concerned with administering funding to support the provision of a statewide network of services to reduce the incidence of domestic violence in Colorado.

12.200.2 Definitions [Rev. eff. 10/1/18]

For the purposes of these rules, the following definitions are used:

- A. "Behavioral health conditions" means illnesses such as mental health disorders or alcohol or substance misuse disorders that clients may exhibit.
- B. "Client" means a victim or survivor of domestic violence, per the definition in E. below, who requests and receives services from a funded program. Clients may be adults or minor children.
- C. "Domestic violence advocacy" means activities performed by individuals who work for or volunteer for an organization or a program with a mission to respond to and/or prevent domestic violence. Domestic violence advocacy activities may be provided by individuals trained in accordance with Section 13-90-107, C.R.S. as well as other professionals. Domestic violence advocacy is conducted in partnership with clients and may include but is not limited to providing information about crime victim rights, presenting an array of options clients may take to increase their safety, engaging with the client to create a safety plan, increasing clients' knowledge of and access to available community resources, acting in an empathetic manner that encourages clients to self-determine strategies that lead to enhanced well-being, supporting clients' informal and formal social support systems and, providing community education or prevention. Domestic violence advocacy does not include activities performed on behalf of or with perpetrators or offenders of domestic violence.

- D. “Domestic violence advocate” means an employee or volunteer who works or volunteers for an organization or a program with a mission to respond to and/or prevent domestic violence. Advocates shall receive specialized training to be knowledgeable about the dynamics of domestic violence, how domestic violence impacts individuals, how to engage with clients in safety planning, how to offer emotional support, information and referrals, and how to provide crisis intervention, crime victims’ rights information, and other assistance to clients and their families. Advocates may also provide community education or engage in activities aimed at preventing domestic violence. Advocates do not provide services to perpetrators or offenders of domestic violence. Advocates may provide confidential services in accordance with Section 13-90-107, C.R.S., legal services, or services to address clients’ behavioral health conditions if they are qualified to do so.
- E. “Domestic violence” is as defined in Section 18-6-800.3, C.R.S. and also includes non-criminal acts that comprise a pattern of abusive behavior. These behaviors may include but are not limited to physical violence, intimidation, control, coercion, sexual coercion, emotional manipulation, economic abuse, or other psychological tactics that may harm a person.
- F. “Funded program” means an organization that receives funding from the Colorado Department of Human Services, Domestic Violence Program.
- G. “Non-residential domestic violence advocacy services” means domestic violence advocacy services as defined above for clients who do not reside in a residential facility or otherwise receive residential services.
- H. “Personally identifying client information” means data or information collected by a DVP funded program about a client receiving domestic violence advocacy including, but not limited to client name, a home or physical address, information regarding the client’s whereabouts or location, contact information such as a post office box or email address, a social security number, driver license number, passport number, date of birth or age, gender expression or identity, racial or ethnic background, religious affiliation, or disability.
- I. “Residential facility” means a location such as a shelter, house, or transitional housing site where a client receives temporary housing and advocacy services and an organization or a program with a mission to respond to and/or prevent domestic violence owns or leases the location, operates the facility, and is responsible for maintenance and upkeep. A “residential facility” may include communal-style living quarters, or individual apartments or units for clients.
- J. “Residential services” means domestic violence advocacy services as defined above for clients residing in a residential facility or at a motel, hotel, or other lodging paid for by a funded program.

12.200.3 Domestic Violence Program (DVP) Advisory Committee [Rev. Eff. 10/1/18]

An Advisory Committee will be established to provide feedback regarding the DVP’s direction. The Advisory Committee’s roles, responsibilities, and membership shall be determined by the Committee and, at a minimum, shall consist of:

- A. Individuals who are knowledgeable in the field of domestic violence;
- B. Individuals who are knowledgeable in nonprofit management and/or grant making;
- C. Individuals representing community-based programs and government agencies;
- D. At least one representative from the Colorado Coalition Against Domestic Violence; and,
- E. At least two representatives for programs that receive funding from DVP.

12.200.4 Announcements of Availability of Funding [Rev. Eff. 10/1/18]

The DVP will announce availability of funding and solicit responses as required by the State Procurement Code (24-101-101, C.R.S., et seq.)

12.200.5 Funded Program Monitoring and Compliance [Rev. Eff. 10/1/18]

- A. Funded programs shall comply and cooperate with monitoring, which may include on-site visits, financial desk reviews, quality assurance reviews, or reviews for compliance with other federal or state requirements.
- B. DVP shall provide funded programs with notice of all planned monitoring efforts. Monitoring may occur at regular intervals or at random periods if DVP is aware of programmatic or operational changes at a funded program that may impact compliance.
- C. Upon conclusion of a monitoring effort, DVP will provide funded programs with a written report containing the following items:
 - 1. The areas DVP reviewed during the monitoring activity;
 - 2. Recommendations for the funded program to make improvements to programmatic services or operations;
 - 3. Areas of non-compliance with DVP rules, the contract for funding, or other state or federal requirements; and,
 - 4. A timeline for attaining compliance with areas of non-compliance.
- D. Funded programs may request an extension of the timeline for attaining compliance.
- E. If a funded program is not able to attain full compliance within 180 days of the date the report was issued, DVP may temporarily restrict access to contract funding until full compliance is attained.
- F. If a funded program is not able to attain full compliance within 365 days of the date the report was issued, DVP may cancel the contract.
- G. A funded program may appeal decisions regarding, restrictions placed upon funding, or denial of further funding:
 - 1. For the purposes of these rules, an appeal is defined as an action that a funded program may take if the funded program disagrees with the decision to restrict access to contract funding.
 - 2. All appeals shall be made in writing within thirty (30) business days of issuance of notification of funding restrictions to the DVP Advisory Committee.
 - 3. The Advisory Committee shall review the appeal and provide the DVP with a recommended course of action.
 - 4. DVP shall issue a written decision to the program within sixty (60) days of receipt of appeal.
 - 5. The written DVP decision shall be the final agency decision.

12.200.6 Complaints [Rev. Eff. 10/1/18]

The DVP Advisory Committee shall advise DVP regarding how to proceed with reviewing complaints and shall hear and record complaints from concerned citizens, victims or survivors of domestic violence, clients of funded programs, employees or volunteers of funded programs, and other concerned parties, regarding potential violations of rules in sections 12.201 and 12.202.

12.200.7 Critical Incident Reporting [Rev. Eff. 10/1/18]

Funded programs shall inform DVP of critical incidents impacting the funded program's ability to meet contractual obligations, comply with DVP rules, provide safe services for clients, maintain safe operations of the program, or sustain prudent financial stewardship of resources.

12.201 Operations and Administrative Rules for Funded Programs

12.201.1 Purpose of Operations and Administrative Rules [Rev. Eff. 10/1/18]

These rules, in accordance with Section 26-7.5-104, C.R.S., shall serve as minimum operations and administrative requirements for programs funded wholly or in part by DVP. Domestic abuse programs, as defined in Section 26-7.5-103, C.R.S., that currently do not receive DVP funding should use these rules to begin the process of establishing programs. Programs that currently receive DVP funding shall adhere to these rules to maintain funding from the DVP. All policies shall be written and approved according to the funded program's internal policy approval process.

12.201.2 Confidentiality Requirements [Rev. Eff. 10/1/18]

All programs funded wholly or in part by DVP shall have the following written operations and administrative policies, in place to ensure protection of confidential client communications:

- A. Training for employees and volunteers who provide domestic violence advocacy or have access to personally identifying client information to receive fifteen (15) or more hours of domestic violence-related training, per Section 13-90-107, C.R.S., prior to providing advocacy or having access to personally identifying client information.
- B. Protecting confidential client advocacy communications to minimally include maintenance and destruction of, and access to the following records by individuals qualified per Section 12.201.2, A., above unless a funded program has received express written consent of the client to release non-aggregated personally identifying information to a third party:
 - 1. Client and case file records;
 - 2. Electronic data collection systems;
 - 3. Electronic client communications such as e-email and text messages;
 - 4. Communication logs domestic violence advocates use to communicate among each other;
 - 5. Domestic violence advocacy or counseling meeting notes;
 - 6. Client communications through an interpreter or translator; or,
 - 7. Any other documents or materials produced by the program containing personally identifying client information.

- C. Responding to subpoenas directing an employee or volunteer to testify or directing access to confidential client communications in B., above.
- D. Making mandatory reports of known or suspected child maltreatment in accordance with statute.
- E. Responding to the following circumstances within the confines of confidential client communications:
 - 1. Client request for release of information to a third party;
 - 2. Client medical emergencies when the client is unable to give consent for summoning emergency medical services;
 - 3. Situation where a client is determined to pose a danger to self or others;
 - 4. Known or suspected client criminal activity or behavior;
 - 5. Law enforcement request for residential facility access to serve a warrant or subpoena on a client; and,
 - 6. Working with county and court officials, such as a guardian ad litem, when a family is involved with child protection or custody matters;
- F. Establishing a separate set of confidentiality, mandatory reporting, and duty to warn parameters for employees or volunteers acting within other professional standards such as attorneys, licensed social workers or licensed or unlicensed counselors, and parameters for required disclosures of such obligations to clients.

12.201.3 Reporting Requirements [Rev. Eff. 10/1/18]

All programs funded wholly or in part by DVP shall submit regular reports to DVP per contract requirements to minimally include but not be limited to federally required data and data required by Section 26-7.5-104 (2) (B), C.R.S.

12.201.4 Fiscal Requirements [Rev. Eff. 10/1/18]

- A. All programs funded wholly or in part by DVP shall demonstrate sound fiscal management as evidenced by written fiscal policies and procedures in accordance with generally accepted accounting principles, approved and reviewed by the board of directors, advisory board or other governing body that demonstrate sound fiscal controls and sufficient assurances to protect against theft or embezzlement.
- B. Funded programs shall submit an annual independent financial audit or review to DVP within three hundred sixty five (365) days of the funded program's fiscal year end.

12.201.5 Board of Directors, Advisory Board, or Governing Body Requirements [Rev. Eff. 1/1/16]

- A. Funded programs' boards of directors, advisory board, or other governing bodies such as a Tribal Council shall ensure that the funded program exercises sound ethical and legal governance and financial management.
- B. Governing bodies shall make every effort to recruit and maintain membership that reflects the racial, ethnic, economic, and social composition of the community or region to be served, including former clients of the program and/or persons who have experienced domestic violence.

- C. For funded Tribes, the Tribal Council may serve as the governing body.

12.201.6 General Operations and Administrative Requirements [Rev. Eff. 10/1/18]

All programs funded wholly or in part by DVP shall have the following in place to demonstrate sound administrative capacity:

- A. Written plan, approved pertaining to disaster management to minimally include assurances to maintain emergency services in the event of a public health emergency or natural or environmental disasters;
- B. Written safety policies and procedures to minimize risk to clients, employees, volunteers, and property, to minimally include responses to potential breaches of safety at each service location;
- C. Written policy regarding participation in lobbying, political activity, and public demonstrations that states these activities may not be paid for with DVP funding;
- D. Satisfactory fire safety inspection report completed annually by the local fire authority for all residential shelter facilities operated by the funded program that conforms to the fire safety standards as determined by each city, town, municipality, county or special district;
- E. Documentation of a certificate of occupancy in accordance with local zoning, if applicable; and,
- F. Water safety inspection documentation if water at residential facility is not from a public water source.

12.201.7 Personnel Requirements [Rev. Eff. 10/1/18]

All programs funded wholly or in part by DVP shall have the following duties and responsibilities related to personnel and volunteer requirements:

- A. Written personnel policies to minimally include:
 - 1. Ethics policy regarding employee-client relationships and professional conduct;
 - 2. Equal employment opportunity hiring policy;
 - 3. Whistleblower policy;
 - 4. Harassment-free workplace policy;
 - 5. Employee grievance policy;
 - 6. Criminal background check policy to minimally include, but not be limited to completion of a criminal history background check and notifications of convictions that exclude candidates from hire;
 - 7. Policy for compliance with Section 27-90-111 C.R.S., if the executive director of the Colorado Department of Human Services, or designee, designates the funded program's contract as a contract that involves direct contact with vulnerable persons;
 - 8. Drug-free workplace; and,
 - 9. Annual performance reviews of employees.

- B. Written job descriptions for employees funded wholly or in part by DVP to minimally include assurances that staff serving as licensed or unlicensed counselors or social workers maintain appropriate licensure as required by law, and/or registration with the Colorado Department of Regulatory Agencies;
- C. Current, accurate, and complete personnel records for all employees to minimally include the following documentation:
 - 1. Completion of 15 hours of domestic violence-specific training in accordance with Section 13-90-107 C.R.S. prior to providing advocacy or having access to personally identifying client information;
 - 2. Verification of legal status to be eligible to work in the United States;
 - 3. Resume or application of employment;
 - 4. Completion of performance reviews by direct supervisor;
 - 5. Current wage rate and benefits;
 - 6. Current, valid driver's license and proof of insurance if using a personal or funded program-owned vehicle to conduct business; and,
 - 7. Completed criminal history background check prior to employment start date.

12.201.8 Volunteer Requirements [Rev. Eff. 10/1/18]

Programs funded wholly or in part by DVP shall have the following duties and responsibilities related to volunteer requirements:

- A. Written volunteer policies to minimally include:
 - 1. Ethics policy regarding volunteer-client relationships and professional conduct;
 - 2. Whistleblower policy;
 - 3. Harassment-free volunteer environment policy;
 - 4. Volunteer grievance policy;
 - 5. Criminal background check policy to minimally include, but not be limited to completion of a criminal history background check and notifications of convictions that exclude candidates from volunteer service;
 - 6. Drug-free volunteer work environment; and,
 - 7. Reviews of volunteer performance.
- B. Written volunteer job descriptions.
- C. Current, accurate, and complete records for all volunteers to minimally include the following documentation:

1. Completion of 15 hours of domestic violence-specific training in accordance with Section 13-90-107 C.R.S. prior to providing advocacy or having access to personally identifying client information;
2. Resume or application to volunteer;
3. Completion of performance reviews by direct supervisor;
4. Current, valid driver's license and proof of insurance if using a personal or funded program-owned vehicle to conduct business; and,
5. Completed criminal background check prior to volunteer start date.

12.201.9 Community Services Requirements (Eff. 1/1/16)

Funded programs shall make every effort to provide or make available the following services to the community:

- A. Community education to inform the service region of the availability of domestic violence services;
- B. Awareness and education to make known the impact of domestic violence;
- C. Prevention activities to reduce the incidence of domestic violence;
- D. Training and technical assistance to offer subject-matter expertise; and,
- E. Collaborative or cooperative efforts to increase coordination and avoid duplication of services.

12.202 Domestic Violence Advocacy Services Requirements

12.202.1 Purpose of Domestic Violence Advocacy Services Requirements [Rev. Eff. 10/1/18]

These rules, in accordance with Section 26-7.5-104, C.R.S., shall serve as minimum domestic violence advocacy services requirements for programs funded wholly or in part by DVP. Domestic abuse programs, as defined in Section 26-7.5-103, C.R.S., that currently do not receive DVP funding should use these rules to begin the process of establishing programs. Programs that currently receive DVP funding shall adhere to these rules to maintain funding from the DVP. All policies shall be written and approved according to the funded program's internal policy approval process.

12.202.2 Crisis Response Services Requirements [Rev. Eff. 10/1/18]

All programs funded wholly or in part by DVP shall offer and provide free and confidential emergency and crisis response domestic violence advocacy services on a continuous basis by employees and volunteers trained in accordance with Section 13-90-107, C.R.S., which shall minimally include one or more of the following:

- A. Operation of a crisis telephone number accessible to the local community twenty-four (24) hours per day, seven days per week. The crisis line shall be accessible to all callers, including those:
 1. Using a "blocked line" where their phone number reads on caller ID as "Unavailable";
 2. With limited spoken English language proficiency through the provision of interpreters or other communication method; and,

3. Who are deaf, hard of hearing, or deaf blind and use a third party telecommunication relay service (such as an IP relay service or a video relay service, teletypewriter (TTY) device) per the requirements of the Americans with Disabilities Act (ADA).
- B. Availability of employees or volunteers trained in accordance with Section 13-90-107, C.R.S. who are able to respond to emergency crisis situations twenty-four (24) hours per day, seven days per week; or,
- C. Coordination of A and B, above, through a formal memorandum of understanding with a DVP-funded program in good standing serving the same region that operates its own crisis response services as outlined in A and B, above.

12.202.3 Domestic Violence Advocacy Services Requirements [Eff. 10/1/18]

- A. All programs funded wholly or in part by DVP shall provide domestic violence advocacy in the following manner:
 1. By trained employees and volunteers in accordance with Section 13-90-107, C.R.S.;
 2. Free of charge to clients;
 3. Without income qualifications placed on receipt of services;
 4. Without requirements that clients attend a religious activity or instruction as a prerequisite to receive services;
 5. Without requirements for clients to show proof of residency in Colorado or the United States;
 6. Without requirements for clients to submit to criminal background checks, credit checks, drug testing, or a release of information as a condition of services;
 7. On a voluntary basis without any conditions;
 8. Following an intake and assessment of needs and safety; and,
 9. With provisions of referrals when requested services are not available or are denied by the funded program.
- B. All programs funded wholly or in part by DVP shall establish a written document outlining the rights afforded to clients who request services. Written rights shall minimally include the following notices:
 1. Identification of criteria for eligibility of domestic violence advocacy services;
 2. Service accommodations for the following clients:
 - a. Those who are deaf or hard of hearing or have limited English proficiency; and,
 - b. Disabilities including behavioral health conditions.
 3. Availability of free, voluntary services to be provided without condition or prerequisites including non-proselytization;

4. Program adherence to confidential communications including legal exception to confidentiality of mandatory reporting of known or suspected child maltreatment;
 5. Opportunity to provide feedback regarding experience with provision of or denial of services at the funded program;
 6. Procedure to file a grievance or complaint to minimally include the funded program's internal grievance or complaint policy and procedure, and the right to complain to DVP and other applicable regulating agencies regarding services provided or denied; and,
 7. Ability to request access to own client file or record including electronic documentation services provided.
- C. All programs funded wholly or in part by DVP shall establish written policies or procedures regarding:
1. Identification of criteria for eligibility of domestic violence advocacy services;
 2. Language accessibility plan to minimally include the use of interpreters, translators, bilingual employees, and/or written materials to provide services to clients who are deaf or hard of hearing and those with limited English proficiency;
 3. Service accommodation plans to minimally include nondiscrimination on the basis of clients' age, disability, behavioral health conditions, sex, sexual orientation, race, color, national origin, religion, ethnicity, or gender identity or expression as well as accompanying protocols to ensure an environment that is accessible, culturally relevant, and trauma informed for all clients;
 4. Transportation of clients by employees or volunteers of the funded program, if an available service; and,
 5. Child care by employees or volunteers of the funded program, if an available service, while parent is on-site for a maximum of three hours.
- D. Programs funded wholly or in part by DVP shall ensure full compliance with the requirements of the Federal Department of Health and Human Services Administration for Children and Families, 45 CFR part 1370 (2017). No later editions or amendments are incorporated. These regulations are available at no cost from the U.S Health Resources and Services Administration, Office of Communications 5600 Fishers Lane, Rockville, MD 20857 or at <https://www.ecfr.gov/>. These regulations are also available for public inspection and copying at the Colorado Department of Human Services, Office of Community Partnerships, 1575 Sherman St., Denver, CO 80203, during regular business hours. If a funded program wishes to provide sex segregated or sex-specific programming, they shall submit a written plan to be approved by DVP, which outlines the following:
1. Why the sex segregated or sex-specific programming is necessary for the essential safe operations of the program or service;
 2. How they will provide comparable services to individuals who cannot participate in the sex segregated or sex-specific programming or service; and,
 3. An analysis of research-supported best practices that justify the need for the sex segregated or sex-specific programming or service.

12.202.4 Residential Domestic Violence Advocacy Services Requirements [Rev. Eff. 10/1/18]

- A. in addition to the requirements in sections 12.202.1 and 12.202.2, funded all programs funded wholly or in part by DVP that offering residential domestic violence advocacy programs services shall:
1. Notify DVP of intent to open a new or relocate a residential facility to include documentation of compliance with this section;
 2. Notify DVP of the permanent or temporary closure of a residential facility;
 3. Screen for appropriate access to a for residential facility services based on the client's need for safe, temporary accommodations and/or fit for communal living;
 4. Offer to develop a safety plan to minimally include the client's safe contact with formal and informal support systems while in shelter receiving residential services;
 5. Encourage but not mandate participation in supportive services, advocacy, or counseling as a condition of residency receiving residential services;
 6. Maintain quality living conditions to address normal wear and tear to the residential facility, equipment, and furnishings; and,
 7. Maintain safe living conditions of the residential facility to minimally include:
 - a. Locking doors and windows;
 - b. Appropriate lighting;
 - c. Mechanisms or devices for contacting emergency assistance; and,
 - d. Compliance with applicable fire and safety codes.
- B. All programs funded wholly or in part by DVP shall have minimal residential services staffing by employees or volunteers trained in accordance with Section 13-90-107, C.R.S., to include:
1. An adequate number of employees or volunteers to ensure the health and safety of residential services clients including those at a residential facility or staying in other accommodations such as a motel;
 2. Residential services intake availability twenty-four (24) hours per day;
 3. Twenty-four (24) hour access for residential services clients to trained employees or volunteers to offer safety planning, advocacy services, support, or assistance, consistent with residents' schedules and needs in-person whenever feasible; and,
 4. If not providing in-person twenty-four (24) hour staffing at a residential facility, a DVP-approved written plan to respond to residential program clients' needs to minimally include employee or volunteer coverage and how clients can access emergency services in the event employees or volunteers are not physically present.
- C. All Programs funded wholly or in part by DVP that offer residential services shall have the following:
1. Separate bedrooms for each family, whenever feasible;

2. Private space for bathing and personal hygiene needs;
 3. Space or rooms designated for quiet time, whenever feasible;
 4. Free food, clothing, toiletries, hygiene products, and other basic needs whenever feasible;
 5. Unrestricted functioning telephone access for the purposes of reaching emergency assistance, securing resources, and maintaining social support;
 6. Laundry facilities;
 7. Access to residential services for victims with service animals;
 8. Assistance with facilitating access to safe housing accommodations for victims with pets or other domesticated animals;
 9. Marked and posted evacuation routes and exits, posting of fire extinguisher locations, and documentation of performance of regular fire drills; and,
 10. Functioning heating, cooling, and ventilation systems.
- D. Programs funded wholly or in part by DVP that offer residential services shall have the following written policies and procedures to minimally include:
1. Admission and eligibility criteria for residential services including provisions for referrals when unable to accommodate an individual or family;
 2. Expectations of residential client conduct while receiving services;
 3. Residents' voluntary provision of housekeeping, food preparation, or other chores;
 4. Residents' voluntary participation in supportive services such as support groups;
 5. Established involuntary exit criteria for residents;
 6. Provision of locked storage of personal valuables and legally prescribed medication to minimally include:
 - A. Granting residents unrestricted access to personal valuables and prescribed medication; and,
 - B. Employees or volunteers refraining from possessing or dispensing medication to residents unless they are licensed to do so as a health care professional.
 7. Client use of legal substances including tobacco products, alcohol, and marijuana while on the residential facility property;
 8. Safety protocol and procedures to minimally include a response to safety threats, availability of a First Aid kit, and documentation of performance of regular safety drills; and,
 9. Universal precautions for infectious disease.

12.202.5 Domestic Violence Victim Advocacy Services for Children and Youth Requirements [Eff. 10/1/18]

- A. All programs funded wholly or in part by DVP that have residential domestic violence advocacy services shall have written policies and procedures that ensure the following:
1. Employees and volunteers receive training specific to the dynamics of the impact of domestic violence on children and youth;
 2. Trained advocates offer to conduct a voluntary intake and assessment of children and youth's needs independent from that of the parent's;
 3. Trained advocates inform children and youth of their right to confidential communications and legal exceptions to confidentiality including mandatory reporting of known or suspected child maltreatment;
 4. Accommodate any dependent adult children who have a developmental or physical disability for whom the adult victim is the primary caretaker;
 5. Accommodate teenage children regardless of gender together with their victim parent; and,
 6. Provide access to indoor and outdoor play spaces and recreational opportunities if feasible.
- B. All programs funded wholly or in part by DVP that offer non-residential domestic violence advocacy to children and youth shall have written policies and procedures that ensure the following:
1. Employees and volunteers receive training specific to the dynamics of the impact of domestic violence on children and youth;
 2. Trained advocates offer to conduct a voluntary intake and assessment of children and youth's needs independent from that of the parent's; and,
 3. Trained advocates inform children and youth of their right to confidential communications and legal exceptions to confidentiality including mandatory reporting of known or suspected child maltreatment.
- C. All programs funded wholly or in part by DVP that offer domestic violence advocacy for teens and youth impacted by violence in a dating or intimate relationship shall have written policies and procedures that ensure the following:
1. Employees and volunteers receive training specific to the dynamics of domestic violence that occurs within a youth or teen's dating or intimate relationship;
 2. Trained advocates conduct a voluntary intake and assessment of teens and youths needs regarding safety and community resources;
 3. Trained advocates inform youth and teens of their right to confidential communications and legal exceptions to confidentiality including mandatory reporting of known or suspected child maltreatment; and,
 4. A written policy that establishes the age of consent for which the funded program may provide domestic violence advocacy services to a minor without parental permission.

12.400 (None) [Rev. eff. 6/1/12]

12.500 COLORADO TRAUMATIC BRAIN INJURY PROGRAM

12.510 INTRODUCTION [Rev. eff. 6/1/12]

These rules implement the Colorado Traumatic Brain Injury Program (Program) as defined in Title 26, Article 1, Part 3, C.R.S.

Individuals who are eligible for program services do not have an entitlement to services. Program services are subject to available funding. If the demand for and need for services exceeds the available funding, the entity under contract to provide services shall maintain a wait list of eligible persons. The TBI Program Director, TBI Board of Directors, and contractor shall determine how eligible persons on the wait list are considered for program services. Eligible persons may receive priority placement on the wait list by the TBI Program Director, TBI Board of Directors, and contractor based on the health, safety, and welfare of the eligible person.

12.520 DEFINITIONS [Rev. eff. 6/1/12]

“Applicant” means an individual for whom an application or referral for services has been completed.

“Care Coordination” means a collaborative process that assesses, plans, implements, coordinates, monitors and evaluates the options and services required to meet individual's needs, using communication and available resources to promote quality, cost effective outcomes.

“Contractor” means an organization or entity that is under contract with the Department to perform intake and eligibility determination services or to provide services to program participants.

“Partner” means an organization or entity that is collaborating with the Department to provide support and services to program participants.

“Program” means the Colorado Traumatic Brain Injury Program, as defined in Title 26, Article 1, Part 3, C.R.S.

“Program participant” means an individual for whom an application or referral for program services has been completed, who has been determined to meet all of the program eligibility criteria, and who has been referred to a contractor or partner to receive program services or to be placed on the contractor's or partner's wait list for services.

“Protected health information” means any information about an applicant or program participant that is protected under the Health Insurance Portability and Accountability Act of 1996, Public Law Number 104-191, which is incorporated by reference. No later amendments or editions are incorporated. This information will be included in the program application materials and may be obtained by requesting an application for program services. Copies of this material are also available for review by contacting the Traumatic Brain Injury Program Director, Colorado Department of Human Services, 1575 Sherman Street, Fourth Floor, Denver, Colorado 80203; or at any State publications depository library.

“Subrogation” means that the individual must reimburse the Program for funded purchased services if he/she recovers expenses from a third party.

“Traumatic Brain Injury (TBI)” means injury to the brain caused by physical trauma resulting from, but not limited to, incidents involving motor vehicles, sporting events, falls, blast injuries, and physical assaults. Documentation of traumatic brain injury shall be based on adequate medical history, neurological examination, including mental status testing or neuropsychological evaluation. Where appropriate, neuroimaging may be used to support the diagnosis. A traumatic brain injury shall be of sufficient severity to produce partial or total disability as a result of impaired cognitive ability and physical function.

“TBI Board” or “TBI Board of Directors” means the Colorado Traumatic Brain Injury Board created with the State Department of Human Services pursuant to Section 26-1-302, C.R.S.

12.530 ELIGIBILITY [Rev. eff. 7/1/17]

Applicants who meet all of the following criteria are eligible to receive program services:

1. The applicant has a traumatic brain injury; and,
2. The applicant lives within the State of Colorado and considers Colorado to be their place of residency; and,
3. The applicant agrees to subrogation when purchased services supports are available.

12.540 SERVICES [Rev. eff. 6/1/12]

All program participants who receive program services shall receive care coordination services.

Additional client purchased services may be provided as program funds permit.

12.541 Case Closure [Rev. eff. 6/1/12]

Care coordination agencies shall establish and publish written guidelines for closing cases. These guidelines shall respect and accommodate the cognitive and behavioral challenges following traumatic brain injury. Program participants shall be treated sensitively and fairly in any case closure discussions and decisions.

- A. The Traumatic Brain Injury Program Director and the Board of Directors shall approve the written guidelines for closing cases. Reasons for case closure may include a case when a Program participant:
 1. Has met his or her goals and elects to discontinue services;
 2. Has moved out of state;
 3. Cannot be located by the care coordination agency;
 4. Has been institutionalized under circumstances which preclude delivery of services for at least six months;
 5. Has been non-cooperative with, or abusive of, the care coordination agency staff and/or service providers to the extent that services cannot be delivered; or,
 6. Has died.
- B. When a case is closed, the program participant shall be provided written notification of this action whenever possible, and of his or her appeal rights and the process of how to appeal.

12.550 APPEALS AND GRIEVANCES [Rev. eff. 6/1/12]

Applicants and Program participants shall have the right to file grievances and appeals.

12.551 Grievance Process [Rev. eff. 7/1/17]

A “grievance” is an oral or written complaint or expression of dissatisfaction about any matter other than a decision that may be appealed. A grievance may address issues such as the quality of services provided, the person providing services, the timeliness of services, the accessibility of service locations, or the availability of staff.

1. Applicants and program participants shall have ninety (90) calendar days from the date of the incident to file a grievance expressing a complaint or dissatisfaction with any matter other than a decision that may be appealed.
2. The contractor shall accept oral and written grievances, and shall document oral grievances in writing.
3. The contractor shall give applicants and program participants reasonable assistance in filing a grievance and completing procedural steps in the grievance process, upon request.
4. The contractor shall ensure that the individuals who make decisions on grievances are individuals who are not a subject of the grievance and who were not involved in any previous level of review or decision-making regarding the grievance.
5. The contractor shall provide a reasonable opportunity for the individual making the grievance to present information, in person as well as in writing.
6. The contractor shall resolve each grievance and provide written notice within thirty (30) calendar days from the date the contractor receives the grievance. The notice shall include the contractor's proposed resolution to the grievance, the individual's right to further grieve the contractor's proposed resolution to the Colorado Traumatic Brain Injury Program Director or designee, and information on how to contact the Director or designee.
7. Applicants and Program participants shall have ninety (90) calendar days from the date of the contractor's notice to submit their grievance to the Colorado Traumatic Brain Injury Program Director or his/her designee.
8. The grievance process shall be an informal dispute resolution process. The decision of the Colorado Traumatic Brain Injury Program Director or designee shall be final.

12.552 Appeal Process [Rev. eff. 6/1/12]

An “appeal” is a request to review a decision of a contractor to deny or revoke program eligibility or to deny, reduce, suspend or terminate the delivery of program services.

- A. The contractors performing eligibility determinations and providing program services shall provide written notice to applicants and Program participants of decisions adversely impacting the individual's eligibility and program services. The notice shall include the decision the contractor has made, the reasons for the decision, the individual's right to appeal the contractor's decision, and the appeal procedures.

-
- B. Applicants and Program participants shall have ninety (90) calendar days to file an appeal from the date of the contractor's notice.
 - C. The contractor shall accept oral and written appeals, and shall document oral appeals in writing.
 - D. The contractor shall give applicants and program participants reasonable assistance in filing an appeal and completing procedural steps in the appeal process, upon request.
 - E. The contractor shall ensure that the individuals who make decisions on appeals are individuals who were not involved in any previous level of review or decision-making regarding the decision under appeal.
 - F. The contractor shall provide a reasonable opportunity for the individual making the appeal to present information, in person as well as in writing.
 - G. The contractor shall resolve each appeal and provide written notice within thirty (30) calendar days from the date the contractor receives the appeal. The notice shall include the contractor's decision regarding the appeal, the individual's right to a second level appeal to the Colorado Department of Human Services, Executive Director or his or her designee, and information on how to contact the Executive Director or his or her designee.
 - H. Applicants and Program participants shall have ninety (90) calendar days from the date of the contractor's notice to file a second-level appeal with the Department of Human Services, Executive Director or his or her designee.
 - I. The Executive Director or his or her designee shall have the right to additional information and may request oral argument or a hearing if it deems necessary.
 - J. The applicant, program participant may represent himself/herself or use legal counsel or other spokesperson at a hearing.
 - K. The decision of the Executive Director or his or her designee shall constitute final agency action.
 - L. The contractor whose decision is under appeal shall participate in the appeals process, provide any documentation required, and implement any decision made by the Executive Director or his or her designee.
 - M. The appeal process shall be conducted pursuant to Section 24-4-105 and 106, C.R.S.

Editor's Notes

History

Section 12.540 emer. rule eff. 06/06/2008.

Section 12.540 eff. 07/30/2008.

Section 12.200 eff. 08/01/2009.

Sections SB&P, 12.105, 12.200, 12.500 eff. 06/01/2012. Section 12.400 repealed eff. 06/01/2012.

Sections SB&P, 12.200-12.200.2, 12.200.4-12.200.7 eff. 05/01/2013.

Sections SB&P, 12.200-12.202.4 eff. 01/01/2016.

Sections 12.530, 12.551 eff. 07/01/2017.

Section 12.202.3 D emer. rule eff. 09/07/2018.

Sections 12.200-12.202.5 eff. 10/01/2018.

Annotations

Rules 12.540.C. and 12.540.D. (adopted 01/05/2007) were not extended by Senate Bill 08-075 and therefore expired 05/15/2008.