

**Title of Proposed Rule: Revisions to Colorado Works Rules for Two-Parent Household**  
**CDHS Tracking #: 17-02-07-01**

Office, Division, & Program:  
 OES, Employment & Benefits  
 Division, Colorado Works Program

Rule Author:  
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**STATEMENT OF BASIS AND PURPOSE**

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

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

The proposed rule change aims to prevent a potential federal penalty of \$59M for the State of Colorado. Federal law requires the State to meet the Work Participation Rate (WPR), which requires specific work activities for Colorado Works participants. WPR is a process measure which tracks the number of hours individuals spend in specific activities. Individuals either meet the minimum federally required hours or no credit is given towards the rate. Colorado has been unable to meet the Two-Parent federal WPR of 90%. The inability to meet this could potentially result in a \$59 million sanction for the State of Colorado. The proposed rule change allows the Two-Parent Colorado Works households to be removed from the WPR by changing the funding source while still having the same eligibility requirements.

**State Board Authority for Rule:**

Code	Description
26-1-107, C.R.S. (2016)	State Board to promulgate rules
26-1-109, C.R.S. (2016)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2016)	State department to promulgate rules for public assistance and welfare activities.

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

Code	Description
45 CFR 261	Federal regulations to ensure that recipients work
26-2-705, C.R.S. (2016)	Requirement to develop strategies and policies that focus on ensuring that participants are in work activities as soon as possible so the state is able to meet or exceed work participation rates specified in the federal law
26-2-715, C.R.S. (2016)	WPR for the county shall ensure that the state will be able to meet or exceed its WPR under federal law

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

**DOCUMENT 2**

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**REGULATORY ANALYSIS**

**1. List of groups impacted by this rule.**

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

These proposed rules will not impact Colorado Works customers. Changes will take place “behind the scenes” in CBMS to ensure households are correctly coded.

These proposed rules will not change county financial obligations. These rules may affect county practice; counties that currently direct MOE funds to specific cases will lose this functionality, as the State will now manage this.

**2. Describe the qualitative and quantitative impact.**

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

There is no negative financial impact to counties as a result of this rule change; each county’s financial obligation remains the same. Each county will continue pay the full amount of obligated MOE.

Longer term, we expect this rule change to prevent a \$59M federal penalty from failing to meet Two-Parent WPR. This penalty would likely be absorbed at least partially by counties, which *would* negatively financially affect them. Thus, this rule change aims to avoid a future financial burden at no cost today.

On average across the past three fiscal years, half (32) of counties in the State have designated county MOE funds to specific cases using the “NJR” (Not-Job-Ready) activity code in CBMS. This accounted for about 21% of the County MOE obligation. If instead, as outlined in this rule change, all counties would have designated their MOE-obligated funds to pay Two-Parent households as defined by the State, this would have accounted for 53% of the County MOE obligation. Thus, while this rule change will change practice for some counties currently using the NJR code to designate MOE funds to those specific cases, the rule change does not result in exceeding the overall County MOE funds available.

Statewide	County MOE Obligation	MOE Spent on NJR (actual)		MOE on 2PHH's (proposed)	
<b>SFY14</b>	\$ 22,149,729.99	\$ 4,947,248.59	22%	\$ 11,614,144.20	52%
<b>SFY15</b>	\$ 22,149,729.99	\$ 3,277,257.63	15%	\$ 11,744,992.00	53%
<b>SFY16</b>	\$ 22,219,730.00	\$ 5,815,812.04	26%	\$ 11,899,183.00	54%
<b>Average</b>	\$ 22,173,063.33	\$ 4,680,106.09	21%	\$ 11,752,773.07	53%

**3. Fiscal Impact**

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

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

Deloitte estimates this project will take 1,729 hours. All of these hours will come from the Division's existing allocation, making this cost-neutral. All other administrative costs will be covered by the existing appropriation.

**County Fiscal Impact**

There is no additional cost to counties. Counties are required to meet the MOE established in the annual Long Bill. There are no additional requirements as a result of these rules.

**Federal Fiscal Impact**

There is no additional cost to federal TANF funds. Federal funds are appropriated to the County TANF Block Grant in the annual Long Bill. There are no additional requirements as a result of these rules.

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

No impact as this change relates to how the state accounts for expenditures. There are no additional requirements due to these changes.

**4. Data Description**

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

Federal rule (45 CFR 261.23) requires each state to achieve a 90% minimum two-parent participation rate. Since Jan. 2014, Colorado's monthly Two-Parent WPR has averaged 17%, ranging from 6% to 31%. Thus, on average, Colorado is 73 percentage points below the federally-required rate every month.

In contrast, federal rule (45 CFR 261.21) requires each state to achieve a 50% minimum all-family participation rate, the sole measure to which Colorado will be held accountable after this proposed rule change is effected. Since Jan. 2014, Colorado's monthly All-Family WPR has averaged 20.5%, ranging from 14% to 31%. Thus, on average, Colorado is 29.5 percentage points below the federally-required rate every month.

The difference in the gaps between the federal requirement and Colorado's actual performance for each rate highlights the reason for this proposed rule change. This change eliminates the need for Colorado to close the relatively much larger 73 percentage point gap.

	Avg Since 1/14	Goal	Gap
2 Parent	17%	90%	<b>73 pp</b>
All Family	20.50%	50%	<b>29.5 pp</b>

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**5. Alternatives to this Rule-making**

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

A workgroup has been established to determine how to avoid the possibility of the sanction. The workgroup consists of the members from Employment and Benefits Division and county partners. The group considered three other options in addition to the one being submitted for this proposed rule change:

1. Continue Two-Parent intervention and "Not-Job Ready" program as is

This is current process, State could risk \$59 million sanction

Status quo- this is the current practice, and the state will not meet WPR for the Two-Parent household using the current process.

County feedback-They all agreed

2. Eliminate the Two-Parent WPR rate-pay only one parent

Counties would spend less of the TANF block grant, but the families would receive less which potentially would increase dependency on the Colorado Works program

Eliminate Two-Parent caseload, pay only one parent.

Group all agreed that this option would not best support the overall well-being of the family.

3. Create a State funded program for Two-Parent families

This option would require rule change. The option would require the Department to request \$12-\$15 million in general funds to cover the current cost of the Two-Parent caseload.

Workgroup agreed that this option is not likely because it would require general funds.

These options were not prioritized by the workgroup due to the possible consequences associated with those options.

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**OVERVIEW OF PROPOSED RULE**

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

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
3.601	New Definitions needed	None	<p>“County TANF Block Grant” shall mean the block grant outlined in the annual long bill appropriation which includes federal TANF and county maintenance of effort.</p> <p>“County Maintenance of Effort (MOE)” shall mean the required local cash funds portion of the county TANF block grant appropriation.</p>	Implement new policy	NO
3.604.2	Need to add new type	None	Two parent household cases will be paid with County MOE funds. All other single parent and child only cases will be paid with County TANF Block Grant Funds.	Implement new policy	NO

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**STAKEHOLDER COMMENT SUMMARY**

**Development**

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

Sub-PAC sanctioned 2-Parent Household Workgroup

**This Rule-Making Package**

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

County Human Services Directors Association; Colorado Legal Services; The Legal Center; All Families Deserve a Chance (AFDC) Coalition; Policy Advisory Committee (PAC), Economic Security Sub-PAC; Legal Aid of Metropolitan Denver; Colorado Center on Law and Policy; and Colorado Counties, Inc.

**Other State Agencies**

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

Yes  No

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

**Sub-PAC**

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

Yes  No

Name of Sub-PAC			
Date presented	April 6, 2017		
What issues were raised?	None		
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	0	0	0
If not presented, explain why.			

**PAC**

Have these rules been approved by PAC?

Yes  No

Date presented	April 6, 2017		
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
	0	0	0
If not presented, explain why.			

**Other Comments**

Comments were received from stakeholders on the proposed rules:

Yes  No

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

(9 CCR 2503-6)

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## 3.600 Colorado Works Program

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### 3.601 PROGRAM DEFINITIONS

“Application” shall mean a request on a state approved form for benefits and/or services, which can include the electronic state prescribed form.

“Authorized representative” shall mean someone acting for the applicant, recipient, or participant with the authority to make decisions on behalf of the applicant/participant and who has taken responsibility for the case including but not limited to signing documents and speaking with county departments. If an authorized representative is needed, the appropriate authorized representative release form shall be included in the case file.

“Payments and Services”

- A. “Cash assistance shall mean payments, vouchers, and other forms of benefits designed to meet a family’s ongoing basic needs such as food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses. Cash assistance includes supportive services to families based upon the assessment completed, such as transportation and child care assistance. All short-term payments of less than four (4) consecutive months are not cash assistance.
- B. “Basic Cash Assistance” shall mean a recurrent cash payment. In addition to a cash payment, an eligible assistance unit also may receive cash assistance in the form of a cash-equivalent payment, voucher, or other form of cash benefit that is designed to meet the basic ongoing needs of the persons in the assistance unit. Components that basic cash assistance are intended to cover include: food, clothing, shelter, utilities, household goods, personal care items, general incidental expenses, and other items deemed necessary per the assessment by the county department to address an ongoing need. In addition to cash assistance, persons in an assistance unit that are eligible for ongoing assistance may receive supportive services and/or special needs payments.
- C. “Diversion Payment” shall mean a needs-based, cash or cash-equivalent payment designed to meet the short-term needs of the participant. A diversion payment is designed to address a specific crisis situation or episode of need and is not designed to meet the basic ongoing needs of the participant. A diversion payment may not extend beyond four (4) months. In addition to a diversion payment, a participant who is eligible for diversion may receive supportive services. Diversion payment includes two types:
  - 1. A state diversion is a needs-based, cash or cash-equivalent payment made to a participant who is eligible for basic cash assistance;
  - 2. A county diversion is a needs-based, cash or cash-equivalent payment made to a participant who is eligible for assistance pursuant to the maximum eligibility criteria for non-recurrent, short-term benefits established in the state plan, in the county-defined expanded eligibility based on federal poverty and other standardized guidelines, and in county policies.
- D. “Supportive Services” shall mean a payment and/or a service based on an assessed need. An eligible participant/recipient may receive supportive services, including but not limited to:
  - 1. Supportive services such as child care and transportation provided to families who are employed or working toward self-sufficiency; or,

- 2. Other or additional supportive services the county department deems appropriate/ necessary; or,
  - 3. Additional payments made to the assistance unit to benefit the child.
- E. "Other assistance/special needs payments" shall mean assistance provided to a participant including, but not limited to, cash assistance in addition to the basic cash assistance grant. Such assistance shall be based upon a participant's assessed needs.
- F. "Non-assistance" shall mean a payment and/ or service based on an assessed need. Such payment and/ or service shall:
- 1. Be designed to deal with a specific crisis situation or episode of need;
  - 2. Not be intended to meet recurrent or ongoing needs; and,
  - 3. Not extend beyond four months.

An eligible participant/ recipient may receive non-assistance including, but not limited to:

- 1. Work subsidies such as payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training.
- 2. Services such as counseling, case management, peer support, child care information and referral, transitional services, job retention, job advancement and other employment-related services that do not provide basic income support.

G. ~~"CO-MINGLED FUNDS" SHALL MEAN FEDERAL FUNDS. ANY CASE PAID FROM THIS SOURCE IS PAID USING FEDERAL TANF DOLLARS. "COUNTY TANF BLOCK GRANT" SHALL MEAN THE BLOCK GRANT OUTLINED IN THE ANNUAL LONG BILL APPROPRIATION WHICH INCLUDES FEDERAL TANF AND COUNTY MAINTENANCE OF EFFORT.~~

H. ~~"SEGREGATED FUNDS" SHALL MEAN THE COUNTY MAINTENANCE OF EFFORT (MOE) SHARE OF THE COUNTY BLOCK GRANT, NOT FEDERAL FUNDS. ANY CASE PAID FROM THIS SOURCE IS PAID FROM THE COUNTY MAINTENANCE OF EFFORT (MOE) SHARE OF THE COUNTY BLOCK GRANT, AND NOT FROM FEDERAL FUNDS. "COUNTY MAINTENANCE OF EFFORT (MOE)" SHALL MEAN THE REQUIRED LOCAL CASH FUNDS PORTION OF THE COUNTY TANF BLOCK GRANT APPROPRIATION.~~

"Collateral Contact" shall mean a verbal or written confirmation of a household's circumstances by a person outside the household who has first-hand knowledge of the information, made either in person, electronically submitted or by telephone. Acceptable collateral contacts include but are not limited to: employers, landlords, social/migrant service agencies, and medical providers who can be expected to provide accurate third party verification. The name/title of the collateral contact as well as the information obtained must be documented in the case file and/or statewide benefit management system.

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### 3.604.2 Assistance Unit

#### A. Assistance Unit

An assistance unit consists of members of the household who live together and whose income and other circumstances are considered to determine eligibility and payment amount.



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

~~SINGLE PARENT HOUSEHOLDS ARE PAID OUT OF CO-MINGLED FUNDS. TWO PARENT HOUSEHOLDS ARE PAID OUT OF SEGREGATED FUNDS. ALL ELIGIBILITY CRITERIA AND PROGRAM PARTICIPATION APPLIES TO ALL COLORADO WORKS BASIC CASH ASSISTANCE UNITS. TWO PARENT HOUSEHOLD CASES WILL BE PAID WITH COUNTY MOE FUNDS. ALL OTHER SINGLE PARENT AND CHILD ONLY CASES WILL BE PAID WITH COUNTY TANF BLOCK GRANT FUNDS.~~

- B. Persons not required to be in one assistance unit, but residing in the same household, shall have the option of applying for Colorado Works as separate units. Each assistance unit shall be budgeted using the appropriate need standard for the unit.

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