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		CCR		9 CCR 2503-5								
Office,	Division,	& Prograi	m: Office	Office of Economic Security, Phone: 720-8				20-812	-0825			
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	AG Ini Reviev		Initial Readi			AG 2'	nd Review			econd Adopti	Board Rea	ding
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Is this o	date legisla	atively red	quired?						`	<u>Yes</u>		
				rule-making a d Policy Unit,								ed.
Office	Director A	Approval	:					_ Da	ate:			
REVIE	W TO BE	COMPLE	ETED BY ST	ATE BOARD	) ADI	MINIST	RATION					
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Estima Dates:		st Board	August 4, 2023	2nd Boa		Septer r 8, 20		Eff	fective	Date	August (Emer) October (Perm)	7, 30

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Office, Division, & Program:	Office of Economic Security,	Phone	720-812-0825			
	Division of Economic &					
	Workforce Support					
Rule Author:	Abbey Frazier	E-Mail	abbey.frazier@state.co.us			

# 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. **1500 Char max** 

HB 23-1117 eliminated the requirement that a legal non-citizen receiving public assistance refrain from sponsoring a non-citizen from entering or remaining in the United States. Currently, a legal non-citizen is required to sign an affidavit pledging to abstain from sponsoring a non-citizen while receiving public assistance. The bill removed the requirement from statute. This rule change removes the language from Adult Financial rule for consistency with state law.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

Χ	to comply with state/federal law and/or					
	to preserve public health, safety and welfare					

Justification for emergency:

To meet the statutory requirement in HB 23-1117 that the repealed prohibition on legal non-citizens sponsoring another non-citizen while receiving public benefits is effective 90 days after the final adjournment of the General Assembly. The General Assembly adjourned on May 8, 2023.

State Board Authority for Rule:

Code	Description			
26-1-107, C.R.S. (2023)	State Board to promulgate rules			

**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
26-1-109, C.R.S. (2022)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2022)	State department Executive Director to administer or supervisor all public
	assistance and welfare activities of the state
25.5-3-105 C.R.S.	Eligibility of legal immigrants for public assistance
(2023)	

Does the rule incorporate material by reference?	Yes	Χ	No
Does this rule repeat language found in statute?	Yes	Χ	No
If yes, please explain.			

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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?

This rule change will impact all Adult Financial (AF) clients who are legal immigrants.

This rule change will impact all county departments of human services as they administer the AF programs.

### 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?

This rule will positively impact Adult Financial (AF) clients who are legal immigrants and are no longer prohibited from sponsoring another non-citizen while receiving public assistance. In SFY 2021-22, there were 5,614 non-citizens on AF, and in SFY 2022-23 (to date) there were 5,293.

Based on the number of AF application denials due to failure to sign the 'Agreement Not to Sponsor' form, the quantitative impact is likely minimal. In SFY 2019-20 there were 5 denials for this reason, in SFY 2020-21 there were 9, and in SFY 2021-22, there were 6.

This rule may minimally increase AF caseload on an ongoing basis if enrollment in public assistance programs increases as a result of the repealed requirement. Any increase will likely be minimal, as it is assumed that most persons in need of public assistance under current law will seek assistance and refrain from sponsoring a bid for immigration.

### 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...."** 

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

Based on the number of AF application denials due to failure to sign the Agreement Not to Sponsor form, the quantitative impact is likely minimal. In SFY 2019-20 there were 5 denials for this reason, in SFY 2020-21 there were 9, and in SFY 2021-22, there were 6. At an average payment amount of \$311 per case across AF programs (Aid to the Needy Disabled, Old Age Pension, and Home Care Allowance), between \$18,638 and \$33,588 in annual AF costs were previously avoided as a result of the agreement not to sponsor form.

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The AF programs are annually appropriated at \$78.9 million for Old Age Pension, \$13.4 million for Aid to the Needy Disabled, and \$8.7 million for Home Care Allowance in the SFY 2023-24 Long Bill and are expected to absorb any increased costs related to this rule change.

This rule change requires an estimated 1338 hours of contractor computer programming to modify CBMS, PEAK, and mobile applications, with an approximate cost of \$165,845.10 at the current project hour tier rate. This cost will be shared (50/50) with Health Care Policy and Financing who must also make the change, and the amount can be absorbed within existing CBMS pool hours.

### County Fiscal Impact

This rule change may result in increased programmatic costs to counties if the repealed requirement results in increased AF enrollment on an ongoing basis. Counties contribute approximately 20.9% of costs for Aid to the Needy Disabled and 5% of costs related to Home Care Allowance. Old Age Pension is 100% State funded. There may also be increased administrative costs related to processing additional AF cases if the rule change increases enrollment, however, this rule also reduces administrative burden to counties by eliminating required paperwork. Any increased expenditures to counties are expected to be minimal.

Operational and administrative impacts to counties resulting from this rule change may also require changes to the Single Paper Application (SPA), result in increased calls to call centers, and additional training needs to inform clients and county staff of the eligibility change.

### Federal Fiscal Impact

The AF programs are State funded programs. There is no anticipated federal fiscal impact.

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

There are no additional fiscal impacts expected.

# 4. Data Description

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

CBMS data was used in developing this rule, including denials by reason data and caseload counts by citizenship status.

### 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..."

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This rule is a legislative mandate therefore there is no alternative because HB 23-1117 repealed the requirement that legal non-citizens refrain from sponsoring while applying for/receiving public benefits and directed the Department to remove all materials referencing the repealed prohibition.

# **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
3.520.69	Rule requires non-citizens to not sign an affidavit of support for the purpose of sponsoring a non-citizen, this requirement was repealed with HB 23-1117.	3.520.69 Sponsorship of Qualified Non-Citizens  A. As a condition of eligibility for financial assistance, any legal non-citizen applying for or receiving financial assistance shall agree that, during the time period the client is receiving financial assistance, the client shall not sign an affidavit of support for the purpose of sponsoring a noncitizen seeking permission from USCIS to enter or remain in the United States. A legal noncitizen's eligibility for financial assistance shall not be affected by the fact that the legal noncitizen has signed an affidavit of support for a non-citizen prior to his or her application for benefits.	3.520.69 Sponsorship of Qualified Non-Citizens  A. As a condition of eligibility for financial assistance, any legal non-citizen applying for or receiving financial assistance shall agree that, during the time period the client is receiving financial assistance, the client shall not sign an affidavit of support for the purpose of sponsoring a noncitizen seeking permission from USCIS to enter or remain in the United States. A legal noncitizen's eligibility for financial assistance shall not be affected by the fact that the legal noncitizen prior to his or her application for benefits.	Removes the requirement for non-citizens to agree in writing that they will not sign an affidavit of support for the purpose of sponsoring a non-citizen to align with HB 23-1117.	Yes/See Stakehold er Comment Section of the Rule Package
		B. If a client is a sponsored qualified noncitizen, he or she shall be responsible for the provision of any information and documentation related to the sponsor(s) and shall obtain cooperation from the sponsor(s) necessary to determine: 1. The identity and current address and contact information of the sponsor(s); 2. The relationship of the sponsor(s) to the qualified non-citizen; 3. Income and resources of the sponsor(s), which	BA. If a client is a sponsored qualified noncitizen, he or she shall be responsible for the provision of any information and documentation related to the sponsor(s) and shall obtain cooperation from the sponsor(s) necessary to determine: 1. The identity and current address and contact information of the sponsor(s); 2. The relationship of the sponsor(s) to the qualified non-citizen; 3. Income and resources of the sponsor(s), which		

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OF COLORADO REGULATIONS 9 CCR 2603-5 Income Maintenance (Volume 3) 32 D. Income and resources of the sponsor of shall be follows: 1. Sponsor deeming shall not apply to qualified non-critzens admitted as refugees or as political asylees. A non-critzen whose status as a political asylees. A non-critzen whose status as a political asylee or refugee has not yet been determined to finalized because his or her an appeal of the subject because his or her appeal of the continent of the subject because his or her appeal of the continent of the subject because his or her appeal of the client, as apolitical asylees. A non-citzens appeal on refuse his or the appeal of the client, as apolitical asylees or application to become a application to become a application to become a palified non-citzens application to become a palified non-c			
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after December 19, 1997, agreements signed on or			
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Title of Proposed Rule:	HB 23-1117 Removal of the Agreement Not to Sponsor for Public Assistance			
CDHS Tracking #:	23-05-17-01			
CCR #:	9 CCR 2503-5			
Office, Division, & Program:	Office of Economic Security,	Phone:	720-812-0825	
	Division of Economic &			
	Workforce Support			
Rule Author:	Abbey Frazier	E-Mail	abbey.frazier@state.co.us	

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relationship to the client.	no matter the sponsor's	
<ol><li>Because the sponsor,</li></ol>	relationship to the client.	
not the non-citizen, is	<ol><li>Because the sponsor,</li></ol>	
solely liable for	not the non-citizen, is	
repayment, the sponsor	solely liable for	
cannot use the	repayment, the sponsor	
sponsored non-citizen's	cannot use the	
grant payments to repay	sponsored non-citizen's	
the payments.	grant payments to repay	
E. If the qualified non-	the payments.	
citizen fails to provide	ED. If the qualified non-	
information related to the	citizen fails to provide	
sponsor(s), as outlined in	information related to the	
Section 3.520.69.B,	sponsor(s), as outlined in	
assistance shall be	Section 3.520.69.B,	
denied or discontinued	assistance shall be	
following the policies	denied or discontinued	
outlined in Section 3.554.	following the policies	
If it is determined that the	outlined in Section 3.554.	
client received Adult	If it is determined that the	
Financial program grant	client received Adult	
payments because the	Financial program grant	
client failed to provide	payments because the	
necessary information	client failed to provide	
related to the sponsor(s)	necessary information	
or the sponsor(s) failed to	related to the sponsor(s)	
cooperate with the county	or the sponsor(s) failed to	
department in	cooperate with the county	
determining income and	department in	
resources that are	determining income and	
resources that are required to be deemed to	resources that are	
the client, the county	required to be deemed to	
department shall recover	the client, the county	
such funds, as outlined in	department shall recover	
Section 3.520.69.D.	such funds, as outlined in	
F. Income and resources	Section 3.520.69.D.	
shall be deemed as	₽E. Income and	
outlined in Sections	resources shall be	
3.534, C, and 3.520.72.	deemed as outlined in	
	Sections 3.534, C, and	
	3.520.72.	

# **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):

**Economic Security Sub-PAC** 

### 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, Economic Security Sub-PAC & PAC, Colorado Department of Health Care Policy and Financing, Family Voice Council

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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?  X Yes No If yes, who was contacted and what was their input?  HCFP has been contacted and will need to submit a separate rule package specific to HCPF rules.					
Sub-PAC Have these rules been reviewed  X Yes No	by the appropriate Sub	-PAC Committee?			
Name of Sub-PAC	Economic Security				
Date presented	June 8, 2023				
What issues were raised?	None				
Vote Count	For Against Abstain				
	15	0	3		
If not presented, explain why.	N/A				
PAC Have these rules been approved by PAC?  X Yes No					
Date presented	Date presented July 6, 2023				
What issues were raised?	Counties expressed concern surrounding potential workload and administrative impacts.				
Vote Count	For	Against	Abstain		
	16	0	0		
If not presented, explain why. N/A					
Other Comments Comments were received from stakeholders on the proposed rules:  Yes X 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 2503-5 Adult Financial Programs

### 3.520.69 SPONSORSHIP OF QUALIFIED NON-CITIZENS

This section shall apply to qualified non-citizens who entered the country on or after August 22, 1996.

A. As a condition of eligibility for financial assistance, any legal non-citizen applying for or receiving financial assistance shall agree that, during the time period the client is receiving financial assistance, the client shall not sign an affidavit of support for the purpose of sponsoring a noncitizen seeking permission from USCIS to enter or remain in the United States. A legal noncitizen's eligibility for financial assistance shall not be affected by the fact that the legal noncitizen has signed an affidavit of support for a non-citizen prior to his or her application for benefits.

BA. If a client is a sponsored qualified non-citizen, he or she shall be responsible for the provision of any information and documentation related to the sponsor(s) and shall obtain cooperation from the sponsor(s) necessary to determine:

- 1. The identity and current address and contact information of the sponsor(s);
- 2. The relationship of the sponsor(s) to the qualified non-citizen;
- 3. Income and resources of the sponsor(s), which may be deemed available to the qualified non-citizen or recovered for repayment of grant payments paid to or on behalf of the qualified non-citizen.

CB. It shall be presumed that an affidavit of support demonstrates the sponsor's ability to make income and resources available to a non-citizen whom he or she sponsors at a minimum of one hundred twenty-five percent (125%) of the Federal Poverty Guidelines, as defined in 3.510. Sponsors are expected to meet their financial commitments to the qualified non-citizen whom they sponsor and for whom they signed an affidavit of support until such time as the:

- 1. Qualified non-citizen has obtained U.S. citizenship; or,
- 2. Qualified non-citizen has worked, or can be credited with forty (40) qualifying quarters of coverage under Title II of the Federal Social Security Act, 42 U.S.C. Section 413 (2018); or
- 3. Qualified non-citizen leaves the United States and gives up lawful permanent resident status; or,
- 4. Qualified non-citizen dies; or,
- 5. Sponsor of the qualified non-citizen dies. The death of one sponsor does not terminate the support obligation of a joint sponsor. The sponsor's estate shall be required to repay public benefits: or-

6. Qualified non-citizen becomes subject to removal proceedings, but he or she applies for and obtains a new grant of admission status in those proceedings based on a new affidavit of support, if one is required.

<del>DC.</del> Income and resources of the sponsor(s) shall be deemed to the client, as follows:

- 1. Sponsor deeming shall not apply to qualified non-citizens admitted as refugees or as political asylees. A non-citizen whose status as a political asylee or refugee has not yet been determined or finalized because his or her application to become a qualified non-citizen is in a pending status or for some other reason shall not be considered a qualified non-citizen admitted as a political asylee or refugee, and therefore, such non-citizen is not eligible to receive grant payments.
- 2. Sponsors who signed sponsorship agreements prior to December 19, 1997, shall not be subject to resource and income deeming.
- 3. Effective December 19, 1997 through December 31, 2013, sponsor deeming shall apply only to the qualified non-citizen's spouse and/or non-relative sponsor(s) identified in sponsorship agreements signed on or after December 19, 1997.
- a. A relative is defined as any relation by blood, adoption, or marriage.
- b. Kinship relations by marriage continue to exist even if the marriage is terminated by death or divorce.
- 4. Effective January 1, 2014, sponsor deeming shall apply to all of the qualified non-citizen's sponsors identified in sponsorship agreements signed on or after December 19, 1997, no matter the sponsor's relationship to the client.
- 5. Because the sponsor, not the non-citizen, is solely liable for repayment, the sponsor cannot use the sponsored non-citizen's grant payments to repay the payments.
- ED. If the qualified non-citizen fails to provide information related to the sponsor(s), as outlined in Section 3.520.69. BA, assistance shall be denied or discontinued following the policies outlined in Section 3.554.

If it is determined that the client received Adult Financial program grant payments because the client failed to provide necessary information related to the sponsor(s) or the sponsor(s) failed to cooperate with the county department in determining income and resources that are required to be deemed to the client, the county department shall recover such funds, as outlined in Section 3.520.69.<del>DC</del>.

**FE**. Income and resources shall be deemed as outlined in Sections 3.534, 3.520.69.B€, and 3.520.72.