

## **THIS PAGE NOT FOR PUBLICATION**

Title of Rule: Quality Based Incentive Payments for Prepaid Inpatient Health Plan (PIHP) Contracts

Rule Number: MSB 08-11-07-A

Division / Contact / Phone: MCPAO / Lesley Reeder / 303-866-5879

### **SECRETARY OF STATE RULES ACTION SUMMARY AND FILING INSTRUCTIONS**

#### **SUMMARY OF ACTION ON RULE(S)**

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 08-11-07-A, Quality Based Incentive Payments for Prepaid Inpatient Health Plan (PIHP) Contracts
3. This action is an adoption of: new rules
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):  
  
Sections(s) C.C.R. 10 2505-10, section 8.079.1 & 8.079.4, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No  
If yes, state effective date:  
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

#### **PUBLICATION INSTRUCTIONS\***

**Please replace text from §8.079 to §8.079.3.A.5 with new text from §8.079 to §8.079.4.E. This change is effective May 30, 2009.**

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Rule Number: MSB 08-11-07-A

Division / Contact / Phone: MCPAO / Lesley Reeder / 303-866-5879

### STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The statute concerning managed care in the Medical Assistance Program, C.R.S. 25.5-5-407.5, was amended to pursuant to House Bill 07-1346. Therefore, a rule has been proposed to implement the program. C.C.R. 10 2505-10, section 8.079 has a proposed rule related to compliance with this legislation entitled Quality Based Incentive Payments for PIHP Contracts. A relevant definition to this rule will be added to the beginning of section 8.079 to support the incentive payment rule.

2. An emergency rule-making is imperatively necessary

☐ to comply with state or federal regulation and/or

☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2008);  
C.R.S. 25.5-5-407.5

Initial Review

**03/13/2009**

Final Adoption

**04/10/2009**

Proposed Effective Date

**06/01/2009**

Emergency Adoption

**DOCUMENT #05**

## **THIS PAGE NOT FOR PUBLICATION**

Title of Rule: Quality Based Incentive Payments for Prepaid Inpatient Health Plan (PIHP) Contracts

Rule Number: MSB 08-11-07-A

Division / Contact / Phone: MCPAO / Lesley Reeder / 303-866-5879

### **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

This rule will affect Medicaid Prepaid Inpatient Health Plan (PIHP) contractors. The PIHP designation is recognized by the Centers for Medicare and Medicaid Services as a type of managed care contract.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Subject to available appropriations, this rule replaces the cost savings provision in current PIHP contracts. Currently, PIHP contracts have a cost savings provision which requires the Department to calculate the savings generated by this type of managed care as compared to the Fee-for-Service program. Subject to available appropriations, the rule would replace the cost savings provision of PIHP contracts with a quality based payment. The contractor will be therefore held accountable for delivering quality care in a cost-effective manner to Medicaid clients.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

No additional costs to the Department or any other agency will be incurred by the addition of this rule.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

There will likely be no change in the probable costs of the proposed rule from the cost savings provisions in current PIHP contracts. The proposed rule will increase the accountability of PIHP contractors to provide high quality health care to Medicaid clients. Inaction would preserve the current cost savings provision, which is difficult to calculate and does not recognize the quality of care and care outcomes.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The proposed rule does not generate any additional cost to the state.

**THIS PAGE NOT FOR PUBLICATION**

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

The proposed rule is a result of a change in statute. There were no other alternatives considered to come into compliance with the change in statute.

## **8.079 QUALITY IMPROVEMENT [Eff. 12/30/2008]**

### **8.079.1 DEFINITIONS**

Incentive payment means an annual payment made to PIHP contractors based on performance measures agreed upon by the Department and the contracted entity. The criteria for the incentive payment must meet all state and federal statutes and regulations.

Managed Care Entity means, for purposes of Section 8.079, any person, public or private institution, agency or business concern with which the Department does business pursuant to a capitated reimbursement contract.

Prepaid inpatient health plan (PIHP) means an entity that- (1) Provides medical services to enrollees under contract with the State agency, and on the basis of prepaid capitation payments, or other payment arrangements that do not use State plan payment rates; (2) Provides, arranges for, or otherwise has responsibility for the provision of any inpatient hospital or institutional services for its enrollees; and (3) Does not have a comprehensive risk contract.

Provider means a Provider, as defined in 8.050.1.4.

### **8.079.2 EXTERNAL QUALITY REVIEW (EQR)**

Providers and Managed Care Entities shall comply with annual EQR activities. EQR may include, but is not limited to the following activities:

1. Performance improvement projects.
2. Performance improvement project validation.
3. Performance improvement measurement.
4. Performance improvement measurement validation.
5. Consumer satisfaction survey.
6. Medical record review.
7. Review of individual cases.
8. PCPP credentialing and recredentialing.

### **8.079.3 MONITORING AND REVIEW**

8.079.3.A. All Providers and Managed Care Entities shall comply with the efforts of the Department, its designees, any investigative entity, or the Medicaid Fraud Control Unit to monitor performance through site visits, reviews, desk audits, emergency site visits, profiling, compliance reporting requirements and other quality and program integrity review activities. Monitoring activities shall be conducted for the purpose of determining compliance with state and federal requirements, contracts or Provider agreements, Medicaid service provision and billing procedures, and/or Medicaid Bulletins and Provider Manuals.

1. Managed Care Entities - The Managed Care Entity shall be subject to annual site visits to determine compliance with established standards. The annual site visit process shall consist of a desk audit component and an onsite visit. The Managed Care Entities and/or its subcontractors shall, upon request, provide and make available staff to assist in the

audit or inspection efforts and provide adequate space on the premises to reasonably accommodate review personnel.

2. Providers –Providers shall be subject to the compliance monitoring provisions of 8.076.2.
3. The Department reserves the right to deem other State agencies or private accreditation organizations approved reviews to constitute compliance with specific contractual obligations or regulatory requirements.
4. The Department may delegate monitoring activities.
5. The Department may conduct emergency site visits when the Department has concerns about patient safety, quality of medical care, fraud, abuse, or Provider financial failure.

#### **8.079.4 QUALITY BASED INCENTIVE PAYMENTS FOR PIHP CONTRACTS**

Performance measures eligible for incentive payment may include but are not limited to measures of quality and effectiveness of care, including process and outcomes; client satisfaction; use of services; and care outcomes; with the intent to provide incentive for delivering the highest quality care with the best outcomes at the best value for Colorado Medicaid clients enrolled in PIHP-contracted managed care plans. Measures shall be credible, comparable and actionable for the purpose of the incentive program.

##### 8.079.4.A Such performance measures may include but are not limited to:

1. Healthcare Effectiveness Data and Information Set (HEDIS) measures;
2. Consumer Assessment of Healthcare Providers and Systems (CAHPS) measures;
3. In-patient hospitalizations for ambulatory sensitive conditions such as: urinary tract infections, immunization preventable disease in pediatric clients, asthma, etc.;
4. Hospital readmissions within 7, 30 and 90 days post-discharge;
5. Behavioral Health Organizations' penetration rates for both children and adults by region;
6. Statewide Behavioral Health Organization measures;
7. Other measures related to quality of care, use of services and care outcomes.

8.079.4.B. Additionally, incentive payments may be made to PIHPs to provide for an increase in the fee paid to the contractor in an reasonable amount calculated to cover the costs of collecting, maintaining and coordinating medical records of recipients among rendering providers through an electronic medical records health information exchange system, provided that the system meets all applicable state and federal statutes and regulations, and is used to measure and enhance the quality of care and care outcomes in accordance with the criteria listed in this rule for the Medicaid clients served.

8.079.4.C. In order to be eligible for any incentive payments, PIHP contractors must meet minimum performance measure criteria determined by the Department. Minimum performance criteria shall include minimum national percentile benchmarks for specific measures, and/or alternate minimum standards for non-HEDIS measures, as determined by the Department and agreed upon by the contractor at the outset of the contract period.

8.079.4.D. Performance measures and minimum performance criteria shall be agreed upon at the outset of the contract period and may vary from PIHP agreement to PIHP agreement at the discretion of the Department to reflect differences in contract type or model (e.g., BHO vs. Health Plan,

network vs. group/staff system, risk vs. non-risk), as well as targeted performance improvement or maintenance objectives.

8.079.4.E. Provision of any incentive payment is contingent upon the continuing availability of state funds for the purpose thereof.

## **THIS PAGE NOT FOR PUBLICATION**

Title of Rule: Revision to the Eligibility Rule for Exemption of 2010 Census Income

Rule Number: MSB 09-01-29-A

Division / Contact / Phone: Client and Community Relations Office / Corinne Lamberson / 303-866-6587

### **SECRETARY OF STATE RULES ACTION SUMMARY AND FILING INSTRUCTIONS**

#### **SUMMARY OF ACTION ON RULE(S)**

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 09-01-29-A, Revision to the Eligibility Rule for Exemption of 2010 Census Income
3. This action is an adoption of: new rules
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):  
  
Sections(s) 8.100.3.L, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No  
If yes, state effective date:  
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

#### **PUBLICATION INSTRUCTIONS\***

**Please replace current text from §8.100.3.L through 8.100.3.L.1.dd with the new text attached. The rule is effective May 30, 2009.**

## THIS PAGE NOT FOR PUBLICATION

Title of Rule: Revision to the Eligibility Rule for Exemption of 2010 Census Income

Rule Number: MSB 09-01-29-A

Division / Contact / Phone: Client and Community Relations Office / Corinne Lamberson / 303-866-6587

### STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The purpose of this rule is to exempt all wages paid by the Census Bureau for temporary employment related to Census 2010 activities. The proposed rule allows Medicaid recipients to accept temporary employment and maintain their medical coverage. By disregarding the temporary income, it lessens the administrative burden on the eligibility sites and prevents deferred medical care.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal regulation and/or
- ☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

42 U.S.C. 1396a(a)(17)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2008);

Initial Review

**03/13/2009**

Final Adoption

**04/10/2009**

Proposed Effective Date

**06/01/2009**

Emergency Adoption

**DOCUMENT #01**

## THIS PAGE NOT FOR PUBLICATION

Title of Rule: Revision to the Eligibility Rule for Exemption of 2010 Census Income

Rule Number: MSB 09-01-29-A

Division / Contact / Phone: OCCR / Corinne Lamberson / x6587

### REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Parents who are eligible for Medicaid and/or have a Medicaid child will be affected by this rule because it will allow the adult to accept temporary employment and maintain medical coverage.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The qualitative impact is that the parent can accept the temporary census employment and maintain medical coverage for their family without having to make a choice between employment or health care.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The exemption of census income will have no fiscal impact. Please see attached memorandum.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The effect of inaction would potentially cause families to lose their Medicaid eligibility for the period of time they are receiving income related to the 2010 Census. Consequently, this would be an administrative burden on eligibility sites who act on these temporary income changes.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

N/A

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

None

### **8.100.3.L. General Income Exemptions**

1. For the purpose of determining eligibility for Medical Assistance the following shall be exempt from consideration as either income or resources:
  - a. A bona fide loan. Bona fide loans are loans, either private or commercial, which have a repayment agreement. Declaration of such loans is sufficient verification.
  - b. Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act.
  - c. Title XVI (SSI) or Title II (Retirement Survivors or Disability Insurance) retroactive payments (lump sum) for nine months following receipt and the remainder countable as a resource thereafter.
  - d. The value of supplemental food assistance received under the special food services program for children provided for in the National School Lunch Act and under the Child Nutrition Act, including benefits received from the special supplemental food program for women, infants and children (WIC).
  - e. Home produce utilized for personal consumption.
  - f. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act; relocation payments to a displaced homeowner toward the purchase of a replacement dwelling are considered exempt for up to 6 months.
  - g. Experimental Housing Allowance Program (EHAP) payments made by HUD under section 23 of the U.S. Housing Act.
  - h. Payments made from Indian judgment funds and tribal funds held in trust by the Secretary of the Interior and/or distributed per capita; and initial purchases made with such funds. (Public Law No 98-64 and Public Law No. 97-458).
  - i. Distributions from a native corporation formed pursuant to the Alaska Native Claims Settlement Act (ANCSA) which are in the form of: cash payments up to an amount not to exceed \$ 2000 per individual per calendar year; stock; a partnership interest; or an interest in a settlement trust. Cash payments, up to \$ 2000, received by a client in one calendar year which is retained into subsequent years is excluded as income and resources; however, cash payments up to \$ 2000 received in the subsequent year would be excluded from income in the month(s) received but counted as a resource if retained beyond that month(s).
  - j. Assistance from other agencies and organizations.
  - k. Major disaster and emergency assistance provided to individuals and families, and comparable disaster assistance provided to states, local governments and disaster assistance organizations shall be exempt as income and resources in determining eligibility for Medical Assistance.
  - l. Payments received for providing foster care.
  - m. Payments to volunteers serving as foster grandparents, senior health aids, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other program under Title I (VISTA) when the value of all such payments adjusted to

reflect the number of hours such volunteers are serving is not equivalent to or greater than the minimum wage, and Title II and Title III of the Domestic Volunteer Services Act.

- o. The benefits provided to eligible persons or households through the Low Income Energy Assistance (LEAP) Program.
- p. Training allowances granted by the Workforce Investment Act (WIA) to enable any individual whether dependent child or caretaker relative, to participate in a training program
- q. Payments received from the youth incentive entitlement pilot projects, the youth community conservation and improvement projects, and the youth employment and training programs under the Youth Employment and Demonstration Project Act.
- r. Social Security benefit payments and the accrued amount thereof to a client when an individual plan for self-care and/or self-support has been developed. In order to disregard such income and resources, it shall be determined that (1) SSI permits such disregard under such developed plan for self-care-support goal, and (2) assurance exists that the funds involved will not be for purposes other than those intended.
- s. Monies received pursuant to the "Civil Liberties Act of 1988" P.L. No. 100-383, (by eligible persons of Japanese ancestry or certain specified survivors, and certain eligible Aleuts).
- t. Effective January 1, 1989, payments made from the Agent Orange Settlement Fund or any fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No 381 (E.D.N.Y).
- u. A child receiving subsidized adoption funds shall be excluded from the Medical Assistance budget unit and his income shall be exempt from consideration in determining eligibility, unless such exclusion results in ineligibility for the other members of the household.
- v. Effective January 1, 1991, the Earned Income Tax Credit (EIC). EIC shall also be exempt as resources for the month it is received and for the following month.
- w. Any money received from the Radiation Exposure Compensation Trust Fund, pursuant to P.L. No. 101-426 as amended by P.L. No. 101-510.
- x. Reimbursement or restoration of out-of-pocket expenses. Out-of-pocket expenses are actual expenses for food, housing, medical items, clothing, transportation, or personal needs items.
- y. Effective 8/1/1994, payments to individuals because of their status as victims of Nazi persecution pursuant to Public Law No. 103-286.
- z. General Assistance, SSI, OAP-A and cash assistance under the Temporary Assistance to Needy Families (TANF) funds.
- aa. Effective March 1, 2000, all wages paid by the United States Census Bureau for temporary employment related to U.S. Census 2000 activities.

Effective April 1, 2009-aAll wages paid by the United States Census Bureau for temporary employment related to U.S. Census 2010 activities.

- bb. Any grant or loan to an undergraduate student for educational purposes made or insured under any programs administered by the Commissioner of Education (Basic Education Opportunity Grants, Supplementary Education Opportunity Grants, National Direct Student Loans and Guaranteed Student Loans), Pell Grant Program, the PLUS Program, the BYRD Honor Scholarship programs and the College Work Study Program.
- cc. Any portion of educational loans and grants obtained and used under conditions that preclude their use for current living cost (need-based).
- dd. Financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act that is made available for attendance cost shall not be considered as income or resources. Attendance cost includes tuition, fees, rental or purchase of equipment, materials or supplies required of all students in the same course of study, books, supplies, transportation, dependent care and miscellaneous personal expenses of students attending the institution on at least a half-time basis, as determined by the institution.