

Title of Proposed Rule: Child Care Assistance Program Rules

Rule-making#: 16-3-16-1E

Office/Division or Program:
OEC/Early Care and Learning

Rule Author: Tamara Schmidt

Phone: 303-866-4556

E-Mail:
tamara.schmidt@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for the rule or rule change. *(State what the rule says or does, explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. How do these rule changes align with the outcomes that we are trying to achieve, such as those measured in C-Stat?)*

- A review of the rule was completed to come into compliance with Child Care Assistance Program regulation by the designated deadlines that are outlined in State Statute and Federal Regulations.
 - Rule changes to come into compliance with the remaining provisions of HB14-1317, which amended C.R.S §§ 26-2-802, 26-2-802.5, 26-2-803, 26-2-804, 26-2-805, 26-2-805.5, 26-2-809, 26-2-703, no later than July 1, 2016.
 - Tiered Reimbursement
 - Tiered Reduced Co-Pay
 - County opt out process for State recommended provider reimbursement rates
 - Rule changes to come into compliance with the CCDBG Federal Reauthorization Act of 2014, no later than June 1, 2016.
 - Three months of Job Search activity
 - Collection of asset information
 - School Age children receiving care while public school is available
- Because the Federal requirements have a different implementation deadline than those required by State Statute, we will be adopting the Federal requirements with an effective date of June 1, 2016. The statutory requirements will be adopted with an effective date of July 1, 2016. This is also being done with consideration on the burden of the counties as the statutory requirements will require more time for the State and County Departments to prepare for the implementation.
- Changes proposed by the Child Care Rule Rewrite Task Group, comprised of County Child Care Program Staff, were also incorporated in these emergency rules in order to better facilitate clear processes for counties and providers.

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

- | | |
|---|---|
| X | to comply with state/federal law and/or |
| | to preserve public health, safety and welfare |

Explain: Federal reauthorization of the Child Care and Development Fund (CCDF) requires certain provisions related to Job Search activity, Collection of asset information and Rules School Age children receiving care while public school is available to be in effect by June 1, 2016.

State statute requires the provisions of rule related to tiered reimbursement, tiered reduced co-pay and the county opt out process for State recommended provider reimbursement be in effect by July 1, 2016.

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Authority for Rule:

State Board Authority: 26-1-107, C.R.S. (2015) - State Board to promulgate rules; 26-1-109, C.R.S. (2015) - state department rules to coordinate with federal programs; 26-1-111, C.R.S. (2015) - state department to promulgate rules for public assistance and welfare activities.

Program Authority:

26-1-107 (5), (6), C.R.S. (2015) - State Board to promulgate rules;
26-1-109 (5), C.R.S. (2015) - State Board rules to coordinate with Federal Programs;
26-2-803 (3), C.R.S. (2015) - State Board to promulgate rules related to the structure of tiered reimbursement;
26-2-803 (4) (a) (II), C.R.S (2015) – State Board to promulgate rules related to a tiered reduced copayment structure for children attending high-quality care.

Does the rule incorporate material by reference?

<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

Does this rule repeat language found in statute?

If yes, please explain.

The program has sent this proposed rule-making package to which stakeholders?

- Child Care Assistance Program Rule Re-write committee, which includes County representatives and CDHS staff from CCCAP and Colorado Works;
- HB14-1317 Joint Task Force;
- Office of Early Childhood (OEC) Sub-PAC
- Office of Children, Youth and Families

[Note: Changes to rule text are identified as follows: deletions are shown as “strikethrough”, additions are in “all caps”, and changes made between initial review and final adoption are in brackets.]

Attachments:

- Regulatory Analysis
- Overview of Proposed Rule
- Stakeholder Comment Summary

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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?

Counties who administer Colorado Child Care Assistance Program (CCCAP) benefits will both benefit and bear the burdens of this rule. Changes to this rule will alter the way they administer benefits to families.

Households receiving CCCAP benefits will largely benefit from the revision of this rule.

Child care providers who serve the families receiving child care subsidy (CCCAP) will benefit from tiered reimbursement based on quality.

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?

Families and Child care providers:

These changes will be beneficial to approximately 24,000 children receiving CCCAP benefits and approximately 1,700 CCCAP Child care providers (numbers as of February 2016) in the following ways:

Families will now be able to utilize more care while in a Job Search activity which will promote economic security. Families that choose child care facilities that have high quality ratings will also see an economic benefit because they will receive a reduced parent fee. The incentive that is created by the reduced parent fee will lead to long term benefits for the children that are enrolled in CCCAP and are attending a high quality child care facility.

Because there is a strong focus on encouraging higher quality ratings, most providers will see an increase in payment rates for improved quality.

Counties:

While these changes were made to align with the requirements of Federal regulation and State Statute as well as to further assist families, all 64 counties will bear some administrative burden initially implementing the changes proposed in the revised rule. County staff will need to adapt their practices and will likely need training on these new rules, which will be an initial burden.

For instance, in order to comply with the Federal requirements around equal access to quality child care for children enrolled through CCCAP, any county wishing to opt out of the State recommended provider rates will now have a more defined process to do so. This may initially be a larger burden on counties that decide to opt out.

County rates must also be based on provider quality, and as providers improve their quality ratings, payment rates will increase. Over the long-term, this will mean counties will be paying higher rates, and without additional resources, will change the way families are served. (Essentially, without additional resources, counties will eventually serve fewer families for longer periods of time at higher quality settings.)

Based on the changes to the Child Care Development Block Grant Federal Reauthorization Act of 2014, all sixty-four (64) counties will now be required to offer three months of care while an adult caretaker is in a Job Search activity 658E(c)(2)(N)(iii).

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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.

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)

The federal reauthorization and HB14-1317 necessitate rule change as well as improvements in the Child Care Automated Tracking System (CHATS).

Funding was already approved by the State Legislature to make necessary changes in CHATS through the CHATS Modernization effort in the amount of \$2,991,250 in Federal CCDF funds.

County Fiscal Impact

Counties may have to dedicate additional staff time to learn and adopt the new rules. As mentioned above, the State is investing in updates in CHATS to ensure automation of most of the new requirements in order to minimize county staff time as much as possible.

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Federal Fiscal Impact

Although the Child Care Development Fund funds the majority of the CCCAP program (approximately 70%), these rule changes do not change the amounts dedicated to the program itself. The rules only impact the way in which the existing funds are managed. Therefore, we do not expect a significant impact to the federal funds.

However, if these rules do not pass, we will be in danger of being out of compliance with Federal regulation. That could lead to the State incurring financial penalties or even losing the federal funding all together.

4. Data Description:

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

The 2014 Federal Child Care and Development and Development Fund requirements for FFY 2016-2018 was used to ensure that we will be compliant with the Federal reauthorization and requirements of our Federal funder, the Child Care and Development Fund (CCDF).

The CCCAP Rule Re-write committee directed all aspects of the revised rule package, including advising the Department on language and provisions.

The HB14-1317 Joint Task Force advised on all language regarding the implementation of all HB14-1317 related provisions in rule.

Tiered reimbursement was also informed by a national Cost Modeling methodology (Mitchell & Brodsky) which is endorsed by the federal Office of Child Care.

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.

To be in full compliance with State Statute and Federal Regulations, the changes and additions were necessary.

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.
See attached table "CCCAP_EmergencyRuleCrosswalk"

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):

The CCCAP Rule Re-write committee directed all aspects of the revised rule package, including advising the Department on language and provisions.

The HB14-1317 Joint Task Force advised on all language regarding the implementation of all HB14-1317 related provisions in rule.

Tiered reimbursement was also informed by a national Cost Modeling methodology (Mitchell & Brodsky) which is endorsed by the federal Office of Child Care.

These changes were presented and reviewed by 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:

Are other State Agencies (such as Colorado Department of Health Care Policy and Financing) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

Yes No

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

Yes No

Date presented February 4, 2016. Were there any issues raised? Yes No

Because the rule was created in partnership with the counties and the HB14-1317 Joint Task Force, the group felt that the information was properly vetted and had no concerns.

Comments were received from stakeholders on the proposed rules:

Yes No

See attached table for overview of public comment and response.