

Title of Proposed Rule: Emergency Rulemaking for the Colorado Commission for the Deaf, Hard of Hearing, and DeafBlind's Communications Technology Program

CDHS Tracking #: 22-11-28-01

Office, Division, & Program: Rule Author: JoAnne Hirsch

Phone: 303-866-2097

E-Mail:

joanne.hirsch@state.co.us

RULEMAKING PACKET

Type of Rule: (complete a and b, below)

a. Board Executive Director

b. Regular Emergency

This package is submitted to State Board Administration as: (check all that apply)

AG Initial Review

Initial Board Reading

AG 2nd Review

Second Board Reading / Adoption

This package contains the following types of rules: (check all that apply)

Number
 Amended Rules
 New Rules
 Repealed Rules
 Reviewed Rules

What month is being requested for this rule to first go before the State Board?	February 2023
What date is being requested for this rule to be effective?	February 2023
Is this date legislatively required?	No

I hereby certify that I am aware of this rule-making and that any necessary consultation with the Executive Director's Office, Budget and Policy Unit, and Office of Information Technology has occurred.

Office Director Approval: _____ Date: _____

REVIEW TO BE COMPLETED BY STATE BOARD ADMINISTRATION

Comments:

Estimated Dates: 1st Board 2/3/2023 2nd Board 3/3/2023 Effective Date 2/3/2023 (Emer) 4/30/23 (Perm)

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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. **1500 Char max***

The Colorado Commission for the Deaf, Hard of Hearing, and DeafBlind’s Communications Technology Program (CTP) was established in 2002. Under the Federal “Americans with Disabilities Act,” Colorado has a duty to provide the deaf, hard of hearing and deafblind equivalent access to governmental services. This is accomplished by the dissemination of communications technology in the form of amplified and captioned phones, cellular devices, such as smartphones, flip phones and tablets, ring signalers and amplified tools, as well as specialized communications technology for deafblind through a federal grant.

The proposed rule changes are necessary to update 27.130 ELIGIBILITY FOR THE COMMUNICATIONS TECHNOLOGY PROGRAM, Section F, in order for the numbers to reflect the current year’s (2023) Federal Poverty Guidelines. The 2023 poverty guidelines will be posted the week of January 16-20, 2023.

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

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

Justification for emergency:

Federal Poverty Guidelines for 2023 will be announced between January 16-20, 2023, effective immediately. CDHS regulations contain reference to the 2022 figures and need to be adjusted to comply with federal law.

State Board Authority for Rule:

Code	Description
26-1-107(5), (6), C.R.S. (2022)	State Board to promulgate rules for programs administered and services provided by the state department under Titles 26 and 27. The CTP is administered by the Department under section 26-21-106, C.R.S. (2022).

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
Section 26-21-106(1)(d), (3), C.R.S. (2022)	Assessing how communications technology has affected the needs of deaf, hard of hearing, and deafblind persons. The commission shall assess the type and amount of equipment needed by deaf, hard-of-hearing, and deafblind persons who qualify under the federal poverty guidelines established in accordance with the “Omnibus Budget Reconciliation Act of 1981”, 42 U.S.C. 9902(2).

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	The commission shall establish and coordinate a communications technology program that is consistent with the findings of subsection (1) of this section to obtain and distribute interactive telecommunications and other communications technology equipment needed by deaf, hard-of-hearing, and deafblind persons.

Does the rule incorporate material by reference?

Yes

No

Does this rule repeat language found in statute?

Yes

No

If yes, please explain.

The 2023 federal poverty guidelines are found at the U.S. Department of Health & Human Services web site (<https://aspe.hhs.gov/poverty-guidelines>), 85 Fed. Reg. 3060, and are repeated in this rule.

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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?

Deaf, hard of hearing and deafblind individuals/consumers
Colorado Division of Vocational Rehabilitation
Colorado Public Utilities Commission (Telephone Users with Disabilities Fund)
Government Services
Communications technology businesses, such as, Teltex Inc. and Weitbrecht Communications, Inc., etc.

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?

None

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...."***

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)

There is a potential fiscal impact as the Federal Poverty Guidelines has increased and therefore more people may qualify for assistance.

County Fiscal Impact

None

Federal Fiscal Impact

None

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

None

4. Data Description

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

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None

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..."

No alternative because this technical update is required to align with the current Federal Poverty Guidelines.

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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
7.000	<i>Incorrect Statutory Reference</i>	Section 26.5.103 C.R.S.	Section 26.5-101(3) C.R.S.		
27.130	Federal Poverty Guidelines will need to be updated as revised guidelines will take effect between Jan. 16-20, 2023.	Table consisting of 2022 Federal Poverty Guidelines for 100% and 400%	Table consisting of 2023 Federal Poverty Guidelines for 100% and 400%	Federal Poverty Guidelines will take effect between Jan. 16-20, 2023.	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):

none

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:

none

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	Rules Related to the Commission for the Deaf, Hard of Hearing, and DeafBlind do not go before a Sub-PAC.		
Date presented			
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

Yes No

Date presented	Rules Related to the Commission for the Deaf, Hard of Hearing, and DeafBlind do not go before PAC.		
What issues were raised?			
Vote Count	<i>For</i>	<i>Against</i>	<i>Abstain</i>
If not presented, explain why.			

Other Comments

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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.

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12 CCR 2516-1 § 130

- F. The applicant's household income must be less than 400% of the Federal Poverty Guidelines (FPG) based on family size as indicated by the United States Department of Health and Human Services (HHS). FPG refers to figures set by the HHS annually. These figures, based on gross yearly income levels for corresponding household size, are included in the below table. Effective ~~January 17, 2022~~, JANUARY 12, 2023 yearly gross income levels, for one hundred percent (100%) and four hundred percent (400%) of the FPG for the corresponding household size are as follows:

Family Size	100% Federal Poverty Guidelines	400% Federal Poverty Guidelines
1	\$13,590 \$14,580	\$54,360 \$58,320
2	\$18,310 \$19,720	\$73,240 \$78,880
3	\$23,030 \$24,860	\$92,120 \$99,440
4	\$27,750 \$30,000	\$111,000 \$120,000
5	\$32,470 \$35,140	\$129,880 \$140,560
6	\$37,190 \$40,280	\$148,760 \$161,120
7	\$41,910 \$45,420	\$167,640 \$181,680
8	\$46,630 \$50,560	\$186,520 \$202,240
Each Additional person	\$4,720 \$5,140	\$18,880 \$20,560