



COLORADO

Department of Health Care
Policy & Financing

Medical Services Board

MAY 2023 EMERGENCY JUSTIFICATION FOR MEDICAL ASSISTANCE RULES ADOPTED AT THE MAY 12, 2023 EMERGENCY MEDICAL SERVICES BOARD MEETING

MSB 23-05-03-A, Revision to the Medical Assistance Rule concerning Provider Enrollment, Sections 8.125.11, 8.125.12, 8.125.13

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The purpose of this emergency rule is to temporarily change regulatory requirements for Department of Health Care Policy and Financing rules to provide enhanced flexibility, reduction to programmatic limitations, and alignment with existing federal guidance related to processes under the COVID-19 pandemic. The temporary changes to regulatory requirements in order to provide enhanced flexibility, reduction to programmatic limitations, and alignment with existing federal guidance related to processes under the COVID-19 pandemic is imperatively necessary for the preservation of public health safety, and welfare.

MSB 23-05-03-B, Revision to the Medical Assistance Act Rule concerning Emergency Medical Transportation, Sections 8.018.1.F. and 8.018.4.D.1

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Due to the Coronavirus (COVID-19) public health emergency ending this rule needs to be updated for the State to be in compliance with federal regulations and is imperatively necessary for the preservation of public health, safety, and welfare.

MSB 23-05-03-C, Revision to the Medical Assistance Act Rule concerning Non-Emergent Medical Transportation, Sections 8.014.1.N, 8.014.3.C.2, 8.014.3.D.1, 8.014.4.A, 8.014.6.A.3

For the preservation of public health, safety and welfare



Emergency rule-making is imperatively necessary. Due to the Coronavirus (COVIS-19) public health emergency ending this rule needs to be updated for the State to be in compliance with federal regulations and is imperatively necessary for the preservation of public health, safety, and welfare.

MSB 23-05-03-D, Revision to the Medical Assistance Act Rule concerning Subacute Care, Section 8.300

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Due to the Coronavirus (COVIS-19) public health emergency ending this rule needs to be updated for the State to be in compliance with federal regulations and is imperatively necessary for the preservation of public health, safety, and welfare.

MSB 23-05-01-A, Revision to the Medical Assistance Rule concerning Dental Therapists, Section 8.201.1

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. This rule clarifies that dental therapists are dental provider types who can be reimbursed by Medicaid, as part of implementing Colorado Senate Bill 22-219 and is imperatively necessary for the preservation of public health, safety, and welfare.

MSB 23-05-10-A, Revision to the Medical Assistance Rule concerning Medical Assistance program rule updates, Sections 8.100.1,8.100.3, 8.100.4, 8.100.5 and 8.100.6

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The proposed rule change will amend 10 CCR 2505-10 sections 8.100.1,8.100.3, 8.100.4, 8.100.5 and 8.100.6 based on the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Families First Coronavirus Response Act (FFCRA) and the Affordable Care Act (ACA), which includes the Maintenance of Effort (MOE) provision. All policy revisions will align with federal regulations for the state to be in compliance during the federal Coronavirus (COVID-19) Public Health Emergency. These changes will impact all Medical Assistance categories and these policy changes will stay in place until the end of the federal Coronavirus (COVID-19) Public Health Emergency. Effective May 11,2023 the coronavirus COVID-19 pandemic federal emergency has been declared to end. To ensure the Department maintains access to Federal funding provided by the Federal “Families First Coronavirus Response Act” Pub.L. 116-127, and the Federal “Consolidated Appropriations Act, 2023”, the Department will process redeterminations and take appropriate action for all members whose eligibility has been maintained due to the Public Health Emergency will have completed the renewal process. A member’s eligibility may no longer be maintained after May 31,2023 if they have completed the renewal process and / or change is reported, and they are found ineligible. Members whose eligibility has been maintained during



the Public Health Emergency and whose renewal is not yet due yet will remain in their current eligibility category until their renewal due month, regardless if there is a change reported that makes them ineligible. With the expiration of the COVID-19 pandemic federal emergency declaration effective May 11, 2023 the limited COVID-19 benefit group will end. Federal financial participation (FFP) is not available for services after the last day of the PHE. The Department will use state-only funds to continue to provide coverage for individual who were enrolled in the limited COVID-19 benefit group until May 31, 2023. The following policy changes were updated to be in compliance with the Consolidated Appropriations Act, 2023: Self-attestation for most verifications will no longer be acceptable, When a member is not reasonable compatible based off income a member self-attests, documentation will be required at the end of their renewal period for the member to remain eligible for Medical Assistance. Self-attestation of resources will no longer be acceptable for Non-MAGI programs. Premiums for the Buy-In program will continue to be waived. Members who had a loss of employment will be required to be employed to remain in the Buy-In program. Newly enrolled members will still need to meet the work requirements. The economic stimulus relief package designed to provide direct assistance to individuals to help offset the financial impacts of the COVID-19 Public Health Emergency will be exempt for MAGI and Non-MAGI eligibility determinations, this rule will be made permanent for auditing and historical purposes. The economic stimulus will not be a countable resource for 12 months for any Non-MAGI financial eligibility determinations that include a resource test, this rule will be made permanent for auditing and historical purposes. Lastly, the Federal Pandemic Unemployment Compensation (FPUC) program which provides an extra \$600.00 a week is not countable unearned income for Medical Assistance categories, this rule will be made permanent for auditing and historical purposes.

Due to the Coronavirus (COVID-19) Public Health Emergency the state rules need to be updated to comply with federal regulations. This rule change is crucial for the preservation of public health, safety, and welfare.

