

Title of Proposed Rule: (8 CCR 1404-1) Rule Section 4.105 – Per-Child Rates and Funding Formula

CDEC Tracking #: 2023-05-004-E

Office, Division, & Program:
Division of Universal
Preschool

Rule Author: Dawn Odean

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RULEMAKING PACKET

Type of Rule:

Regular Emergency

This package is submitted for: (check all that apply)

County
Subcommittee
Review (if
needed)

Rules Advisory
Council Review

Review by
Attorney
General's Office

Final Public Rulemaking
Hearing by the Executive
Director

Estimated Dates – What dates are you hoping to have this reviewed by the following groups?

| | |
|--------------------------------------|--|
| County Subcommittee (if required) | 6/5/23 |
| Rules Advisory Council | 6/8/23 |
| Public Rulemaking Hearing | 6/23/23 |
| Effective Date | 6/23/23 |
| Is this date legislatively required? | No, however the universal preschool program must be in effect for the 2023-2024 school year. |

What other state departments, offices, and/or divisions have been consulted in the creation or revision of this rule package? (examples could include: Colorado Department of Human Services; Colorado Department of Education; Office of Information Technology; CDEC Legislative and Policy Division; etc.):

This rule package impacts the Universal Preschool Program administered by the Colorado Department of Early Childhood (CDEC). The Colorado Department of Education will be consulted on the rule revision.

Comments / Notes from Review by Rules Advisory Council Manager:

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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 Character max***

HB22-1295 created the Universal Preschool Program which the Colorado Department of Early Childhood (Department) is charged with administering starting in the 2023-2024 school year. Because this is a brand-new program, the Department must promulgate all of the rules to implement the program. This set of proposed rules establishes the eligibility criteria for preschool services and additional preschool services.

In accordance with HB 22-1295, specifically (26.5-4-204(4), 26.5-2-208(1)(d), C.R.S.2022, the Department established by rule the following:

- 1) The number of hours of preschool services that a child who is three years of age, or under three years of age in a district with a waiver to serve children under three years of age, and is low income or meets at least one qualifying factor.
- 2) The number of additional hours of preschool services that a child who is low-income and meets at least one qualifying factor and is in the school year preceding the school year in which the child is eligible to enroll in kindergarten.
- 3) The allocation of specified purpose funding to achieve the purpose of increasing whole child developmental outcomes and meeting family needs, by expanding universal access to preschool programs to a minimum of half-day preschool service.
- 4) The formulas for setting the per-child rates for:
 - a) Universal preschool services
 - b) Preschool services for children with disabilities
 - c) Preschool services for children who are three years of age or younger
 - d) Additional preschool services

In addition, to ensure that families have the ability to enroll in a participating preschool program of their choosing, and in an effort to assist families in meeting their needs for a minimum of half-day preschool services, the Department established by rule language to ensure that for families enrolled in a preschool program for more than the number of hours covered by the per child rate, the rate will act as a tuition credit available to all families enrolled in a participating preschool program. It is this language that this revision seeks to repeal due to inconsistencies in its application.

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:

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Statute requires that the Universal Preschool Program be operational by the 2023-24 school year. This proposed rule revision is necessary to deliver universal preschool services to eligible Colorado families by July 2023 and must be effective as soon as possible so that children and providers may begin enrollment in the program.

Executive Director Authority for Rule:

| Code | Description |
|-----------------------------|--|
| 26.5-1-105(1) C.R.S. (2022) | The executive director is authorized to promulgate all rules for the administration of the department and for the execution and administration of the functions specified in <u>section 26.5-1-109</u> and for the programs and services specified in this title 26.5. |

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 |
|------------------------------|--|
| 26.5-4-204(4), C.R.S. (2022) | The Executive Director shall adopt rules to implement the preschool program. The Department must establish by rule the following: 1) The number of hours of preschool services that a child who is three years of age, or under three years of age in a district with a waiver to serve children under three years of age, and is low income or meets at least one qualifying factor. 2) The number of additional hours of preschool services that a child who is low-income and meets at least one qualifying factor and is in the school year preceding the school year in which the child is eligible to enroll in kindergarten. 3) The formulas for setting the per-child rates for: a) Universal preschool services b) Preschool services for children with disabilities c) Preschool services for children who are three years of age or younger d) Additional preschool services |
| 26.5-4-208(1)(d) | The department may by rule distribute funding to achieve a specified purpose, which may include funding for administrative units to provide special education services through the preschool program and funding for measures related to recruiting, training, and retaining preschool educators. |

Does the rule incorporate material by reference? Yes No
 Does this rule repeat language found in statute? Yes No

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If yes, please explain.

The rule includes definitions and other language found in statute.

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? How will the rule impact particular populations, such as populations experiencing poverty, immigrant/refugee communities, non-English speakers, and rural communities?

Families of three and four-year-old children will benefit from this rule, which implements requirements for eligibility to receive preschool program services.

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?

The Department anticipates that there will be approximately 64,000 children eligible for preschool services in the 2023-2024 fiscal year under this rule.

3. Alignment and Coordination.

Do the proposed rules or rule revisions (indicate all that apply):

| | |
|---|--|
| | Reduce the administrative burden on families and providers of accessing programs and services, implementing programs, and providing services |
| | Decrease duplication and conflicts in implementing programs and providing services |
| X | Increase equity in access to programs and services and in child and family outcomes |
| | Increase administrative efficiencies among the programs and services provided by the department |
| X | Ensure that the rules are coordinated across programs and services so that programs are implemented and services are provided with improved ease of access, quality of family and provider experience, and ease of implementation by state, local, and tribal agencies |

4. 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)

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No impact as these changes will not impact existing systems within the Department or other agencies.

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County Fiscal Impact

No impact as the program for which these changes are being made is not administered by counties.

Federal Fiscal Impact

No impact as these changes affect state operations only.

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

No negative impact to families, providers, or local governments as these changes are meant to ensure consistency in the implementation of the new program.

5. Data Description

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

N/A

6. Describe the monitoring and evaluation.

How will implementation of this proposed rule or rule revision be monitored and evaluated? Please include information about measures and indicators that CDEC will utilize, including information on specific populations (identified above).

Section 26.5-4-201, C.R.S. (2022), requires the Department to contract with an independent evaluator to measure the success of the Colorado Universal Preschool Program and that independent evaluator will be selected in the future.

7. 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...”**

There are no alternatives as these rules are required by sections 26.5-4-204 and 26.5-4-208, C.R.S. (2022).

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 RAC Subcommittee):

Discussions on the development of this rule package included the Rules Advisory Council, County Subcommittee of the Rules Advisory Council County Subcommittee, Early Childhood Leadership Commission, and others have been consulted on the per-child rate setting formula in accordance with section 26.5-4-208 C.R.S.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the Rule Advisory Council / CDEC:

Discussion on this rule package included but was not limited to: Local Coordinating Organizations; the Early Childhood Community Coalition; the Rules Advisory Council County Subcommittee; the Rules Advisory Council; school district ECE leaders; Colorado Association of School Executives; Colorado Association of School Boards; and miscellaneous advocacy organizations.

Other State Agencies

Are other State Agencies (such as CDHS, CDE, 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?

RAC County Subcommittee

Do the proposed rules have an impact on the functions, programs or services delivered by counties?

Yes No

If yes, have these rules been reviewed by the County Subcommittee?

Yes No

| | |
|--------------------------------|--|
| Date presented | |
| What issues were raised? | |
| If not presented, explain why. | |

Other Comments

Comments were received from stakeholders on the proposed rules:

Yes No

If "yes," summarize and/or attach the feedback received, 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 stakeholders.