

Title of Rule: Revision to the Medical Assistance Act Rule concerning Immunization Services.  
Rule Number: MSB 20-11-25-A  
Division / Contact / Phone: Health Program Office / Whitney McOwen/303-866-4441 / Christina Winship/303-866-5578

## 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).

This rule revision is required for the Department to comply with section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136. Specifically, the Department must reimburse providers for COVID-19 testing services and treatments, including vaccines and the administration of such vaccines, provided to Medicaid enrollees. The Department will otherwise no longer qualify for the temporary 6.2 percentage point increase to the Federal Medical Assistance Percentage (FMAP) (the federal government's contribution toward Colorado's Medicaid expenditure) and will be subject to clawback. Current Department policy limits reimbursement for vaccine administration to members 18 and under exclusively through the Vaccines for Children (VFC) program. This revision will allow the Department to reimburse providers for pediatric administration of any and all vaccines provided free of cost by the federal government.

2. An emergency rule-making is imperatively necessary

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

Explain:

This revision is necessary to comply with section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136. This provision requires the Department to be able to reimburse for administration of the COVID-19 vaccine currently being developed.

3. Federal authority for the Rule, if any:

Section 6008(b)(4) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2020);

Initial Review  
Proposed Effective Date

**12/11/2020**

Final Adoption

Emergency Adoption **12/11/2020**

**DOCUMENT #13**

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## 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.

Health First Colorado members aged 18 and under, and providers licensed to administer vaccines, will benefit from the flexibility provided by this rule revision for providers to administer the COVID-19 vaccine regardless of whether it's distributed specifically through the Vaccines for Children (VFC) program. Current policy limits reimbursement to pediatric vaccines provided through VFC. There are no actual costs anticipated due to this change to members, providers, or the Department.

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 impact to the Department is the avoidance of federal noncompliance and clawback of the increased FMAP percentage. For members aged 18 and under, this revision ensures timely access to the COVID-19 vaccine. This will also expand the number of providers eligible for reimbursement for administration of the COVID-19 vaccine.

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.

There are no associated costs to the Department or any other agency for the implementation and enforcement of the proposed rule. This revision is anticipated to be budget neutral.

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

The benefit of the proposed rule is federal compliance and expansion of COVID-19 vaccine administration to the pediatric population. The cost of inaction would be exposure to the risk of clawback of the enhanced FMAP claimed by the Department during the Public Health Emergency and a smaller pool of providers eligible to administer the COVID-19 vaccine to the pediatric population.

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

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There are no less costly or intrusive methods to achieve the purpose of the proposed rule.

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.

There are no alternative methods for achieving the purpose of the proposed rule because the current rule language is explicit in restricting eligible providers for the pediatric population to those participating in the VFC program.

1 **8.815 IMMUNIZATION SERVICES**

2 **8.815.1 Definitions**

3 8.815.1.A. Advisory Committee on Immunization Practices (ACIP) means ~~the~~ group of medical and  
4 public health experts that develops recommendations on how to use vaccines to control diseases  
5 in the United States. ACIP was established under Section 222 of the Public Health Service Act  
6 (42 U.S.C. § 217a).

7 8.815.1.B. Immunization means the process whereby a person is made immune or resistant to an  
8 infectious disease, typically by the administration of a vaccine.

9 8.815.1.C. School District means any board of cooperative services established pursuant to article 5  
10 of title 22, C.R.S., any state educational institution that serves students in kindergarten through  
11 twelfth grade including, but not limited to, the Colorado ~~S~~school for the ~~d~~Deaf and ~~b~~Blind, created  
12 in article 80 of title 22, C.R.S., and any public ~~s~~School ~~d~~District organized under the laws of  
13 Colorado except a junior college district.

14 8.815.1.D. Vaccine means a biological preparation that improves immunity to a particular disease.

15 8.815.1.E. Vaccine Administration Services means the provision of an injection, nasal absorption, or  
16 oral administration of a vaccine product.

17 8.815.1.F. Vaccines for Children (VFC) means ~~the~~ federally funded program administered through  
18 the Centers for Disease Control for the purchase and distribution of pediatric vaccines to  
19 program-registered providers for the Immunization of vaccine-eligible children 18 years of age  
20 and younger.

21 **8.815.2 Client Eligibility**

22 8.815.2.A. All Colorado Medicaid clients are eligible for Immunization and Vaccine Administration  
23 Services.

24 **8.815.3 Provider Eligibility**

25 8.815.3.A. Rendering Providers

26 1. Colorado Medicaid enrolled providers are eligible to administer Vaccines and Vaccine  
27 Administration Services as follows:

28 a. If it is within the scope of the provider's practice;

29 b. In accordance with the requirements at 10 CCR 2505-10, Section 8.200.2.; and

30 c. If the provider is administering Vaccines and Vaccine Administration Services to  
31 a client 18 years of age or younger, the provider is using Vaccines provided free  
32 of cost by the federal government, including through the ~~must also be enrolled as~~  
33 ~~a-VFC-program provider.~~

34 8.815.3.B. Prescribing Providers

35 1. Colorado Medicaid enrolled providers are eligible to prescribe Vaccines and Vaccine  
36 Administration Services in accordance with Section 8.815.3.A.1.a.-b.

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### 3 8.815.4 Covered Services

4 8.815.4.A. Vaccines identified in the ACIP Vaccine Recommendations and Guidelines are updated  
5 routinely and are covered as follows:

6 1. For clients 18 years of age and younger, Vaccines are either provided through the VFC  
7 program or are otherwise provided without cost by the federal government. ~~are covered~~  
8 ~~by the VFC program.~~

9 2. For clients 19 years of age and older, Vaccines are covered by Colorado Medicaid.

10 8.815.4.B. Administration of Vaccines identified in the ACIP Vaccine Recommendations and  
11 Guidelines is a covered service for all clients.

12 8.815.4.C. Immunization and Vaccine Administration Services that are provided by home health  
13 agencies, physicians, or other non-physician practitioners to ~~groups of~~ clients at nursing facilities,  
14 group homes, or residential treatment centers ~~that are provided by home health agencies,~~  
15 ~~physicians, or other non-physician practitioners~~ are covered only as follows:

16 1. Immunization services for ~~C~~clients who are residents of nursing facilities and clients  
17 receiving home health services ~~may receive immunization services~~ are covered only if  
18 ordered by their physician. The skilled nursing component for Immunization  
19 administration provided at a nursing facility is included in the facility's rate or part of a  
20 regularly scheduled home health service for clients receiving home health services.

21 2. Clients who are residents of an Alternative Care Facility, as defined at Section 8.495.1,  
22 may receive Immunization services from their own physician. They may also receive  
23 Immunization services as part of a home health service in accordance with Section  
24 8.815.4.C.1.

### 25 8.815.5 Prior Authorization Requirements

26 8.815.5.A. Prior authorization is not required for this benefit.

### 27 8.815.6 Non-covered Services

28 8.815.6.A. The following services are not covered by Colorado Medicaid:

29 1. For clients 18 years of age and younger, Vaccines that have been obtained from a  
30 source other than ~~VFC~~ the federal government;

31 2. Immunization and Vaccine Administration Services provided by a ~~S~~school ~~d~~District  
32 provider; and

33 3. Travel-related Immunization and Vaccine Administration Services.

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