

Title of Rule: Revision of CHP Rule concerning changes to expand the exception criteria for citizenship under Colorado House Bill 22-1289 Cover All Coloradans, Sections 110.1.B and 110.1.C
Rule Number: CHP 24-07-18-A
Division / Contact / Phone: Medicaid Operations Office / Megan Crabtree /

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).

The proposed rule change will amend 10 CCR 2505-3 Section 110.1.B.4.p and 110.1.C.3 effective 1/1/2025. This policy revision will reference proposed revisions to Medicaid policy Section 8.100.3.g.viii. for the same purpose. Section 8.100.3.g.viii will remove current citizenship requirements and barriers to provide full coverage Medicaid and Child Health Plan Plus (CHP+) to non-citizens who are pregnant, and/or postpartum, and/or 18 years of age and younger, if they are eligible and enrolled. These requirements are to expand coverage for the described non-citizen population in accordance with the approved Colorado House Bill 22-1289 Cover All Coloradans. The exception criteria will specifically remove the requirement for those non-citizens in the described population from requiring a qualified immigration status or meeting the 5 year bar to enroll. This described population will then move through the eligibility requirements for possible enrollment. Presently, non-citizens in the described population have limited options to include Emergency Medical Services or limited Reproductive Health Care Services with no full coverage category available through Medicaid or Child Health Plan Plus (CHP+).

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:

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2024).
Sections 25.5-8-109

Initial Review
Proposed Effective Date

10/09/24
12/30/24

Final Adoption
Emergency Adoption

11/08/24

DOCUMENT #03

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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.

The rule update will benefit all members who are found eligible and enrolled in Medicaid or CHP+ coverage who are under 18 years of age and younger or who report a pregnancy or in postpartum period despite their immigration status. These members will be eligible for full Medicaid coverage versus only receiving Emergency Medical Services or Reproductive Health benefits, which is permitted today. The Department will be updating the Colorado Benefits Management System (CBMS) to reflect these changes. There are no projected negative impacts to any classes of people with these proposed rule changes.

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 proposed rule to make exception to citizenship rules in order to cover pregnant, postpartum and persons 18 years of age and younger has the potential to improve overall health care coverage and advance equity health outcomes for our Medicaid and CHP + eligible members.

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.

The Department anticipates that this policy will increase Medicaid caseload by approximately 4,400 members and increase CHP+ caseload by approximately 280 members in calendar year 2025. The Department anticipates that the estimated total fiscal impact of coverage of Medicaid and CHP+ programs for these members will be \$27 million and \$2.1 million, respectively. Additional individuals covered under this policy will be the beneficiaries of two new programs that mirror the existing Medicaid and CHP+ programs but do not receive funding or support through a federal partnership. Instead, the two new programs will be exclusively funded and operated solely by the State of Colorado. The new Medicaid-like program is expected to have a caseload of approximately 600 individuals, while the CHP+-like program is expected

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to have a caseload of approximately 800 individuals. The Department anticipates that the estimated total impact of the new state-only funded Medicaid-like and CHP+-like programs will be approximately \$2 million each, or \$4 million total. The Department continues to evaluate its caseload and expenditure estimates and expects to provide updated estimates as part of the Governor's November 1 Budget Request.

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

The probable costs of this policy include approximately \$33.4 million in additional Medicaid and CHP+ spending necessary to provide benefits to new members. The probable benefits to this policy include providing medical care to individuals in need, improving health outcomes, and preventing or reducing severity of illness or injury among the population targeted by this rule.

Inaction will cause the Department to be out of compliance with the changes to its statutory mandate implemented by Colorado House Bill 22-1289. It is possible that inaction will increase costs elsewhere relative to action particularly as it relates to uncompensated costs for providers of emergency services for individuals whose income is above the Medicaid threshold but within the CHP+ threshold. There are no benefits to inaction

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

The Department does not have any less costly method of enrolling 6,000 newly eligible members.

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.

No alternative methods were seriously considered.

1 **100 ELIGIBILITY**

2 **110 INDIVIDUALS ASSISTED UNDER THE PROGRAM**

3 110.1 To be eligible for the Children's Basic Health Plan, an eligible person shall:

4 A.

5 1. Be less than 19 years of age; or

6 2. Be a pregnant woman

7 B. Fall into one of the following categories:

8 1. Be a citizen or national of the United States, the District of Columbia, Puerto
9 Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands,
10 American Samoa, or Swain's Island; or

11 2. Be a lawfully admitted non-citizen who entered the United States prior to August
12 22, 1996, or

13 3. Be a non-citizen who entered the United States on or after August 22, 1996 and
14 is applying for Medical Assistance who falls into one of the following categories:

15 a. Lawfully admitted for permanent residence under the U.S. Immigration
16 and Nationality Act (hereafter referred to as the "INA"); or

17 b. Paroled into the United States for at least one year under 8 U.S.C §
18 1182(d)(5); or

19 c. Granted conditional entry under Section 203(a)(7) of the INA, as in effect
20 prior to April 1, 1980; or

21 d. determined by the Eligibility site, in accordance with guidelines issued by
22 the U.S. Attorney General, to be a spouse, child, parent of a child, or
23 child of a parent who, in circumstances specifically described in 8 U.S.C.
24 §1641(c), has been battered or subjected to extreme cruelty which
25 necessitates the provision of Medical Assistance (Children's Basic
26 Health Plan); or

27 4. Be a non-citizen who arrived in the United States on any date, who falls into one
28 of the following categories:

29 a. Lawfully residing in Colorado and is an honorably discharged military
30 veteran; or

31 1. A spouse of such military veteran; or

32 2. An unremarried surviving spouse of such military veteran; or

33 3. An unmarried dependent child of such military veteran.7

- 1 b. Lawfully residing in Colorado and is on active duty in the United States
2 Armed Forces, excluding military training; or
- 3 1. A spouse of such individual; or
- 4 2. An unremarried surviving spouse of such individual; or
- 5 3. An unmarried dependent child of such individual.
- 6 c. Granted asylum under Section 208 of the INA; or
- 7 d. Refugee under Section 207 of the INA; or
- 8 e. An individual with deportation withheld:
- 9 1. Under Section 243(h) of the INA, as in effect prior to September
10 30, 1996; or
- 11 2. Under Section 241(b)(3), as amended by P.L. 104-208 of the
12 INA.
- 13 f. A Cuban or Haitian entrant, as defined under Section 501(e) of the U.S.
14 Refugee Education Assistance Act of 1980; or
- 15 g. An individual who:
- 16 1. Was born in Canada and possesses at least 50 percent
17 American Indian blood; or
- 18 2. Is a member of an Indian tribe, as defined in 25 U.S.C. Section
19 450(b)e.
- 20 h. Admitted into the United States as an Amerasian immigrant under
21 Section 584 of the U.S. Foreign Operations, Export Financing, and
22 Related Programs Appropriation Act of 1988, as amended by P.L. 100-
23 461; or
- 24 i. A lawfully admitted, permanent resident, who is a Hmong or Highland
25 Lao veteran of the Vietnam conflict; or
- 26 j. An alien who was admitted in the United States on or after December 26,
27 2007 who is an Iraqi Special Immigrant under section 101(a)(27) of the
28 INA; or
- 29 k. An alien who was admitted in the United States on or after December
30 26,2007 who is an Afghan Special Immigrant under section 101(a)(27) of
31 the INA; and
- 32 5. Be a lawfully admitted non-citizen in the United States who falls into one of the
33 categories:
- 34 a. granted temporary resident status in accordance with section 8 U.S.C.
35 1160 or 1255a; or

- 1 b. granted Temporary Protected Status (TPS) in accordance with section 8
2 U.S.C 1254a and pending applicants for TPS granted employment
3 authorization;
- 4 c. granted employment authorization under section 8 CFR 274a.12(c);or
- 5 d. Family Unity beneficiary in accordance with section 301 of Pub. L. 101-
6 649, as amended.
- 7 e. Deferred Enforced Departure (DED), pursuant to a decision made by the
8 President
- 9 f. Granted Deferred Action status (excluding Deferred Action for Childhood
10 Arrivals (DACA)) as described in the Secretary of Homeland Security's
11 June 15,2012 memorandum;
- 12 g. Granted an administrative stay of removal under section 8 CFR 241; or
- 13 h. Beneficiary of approved visa petition who has a pending application for
14 adjustment of status.
- 15 i. Pending an application for asylum under section 8 U.S.C. 1158, or for
16 withholding of removal under section 8 U.S.C. 1231, or under the
17 Convention Against Torture who-
 - 18 1. as been granted employment authorization; or
 - 19 2. Is under the age of 14 and has had an application pending for at
20 least 180 days.
- 21 j. Granted withholding of removal under the Convention Against Torture;
- 22 k. Citizens of Micronesia, the Marshall Islands, and Palau; or
- 23 l. Is lawfully present American Samoa under the immigration of laws of
24 American Samoa.
- 25 m. A non-citizen in a valid nonimmigrant status, as defined in section 8
26 U.S.C. 1101(a)(15) or under section 8 U.S.C. 1101(a)(17); or
- 27 n. A non-citizen who has been paroled into the United States for less than
28 one year under section U.S.C. 1182(d)(5), except for an individual
29 paroled for prosecution, for deferred inspection or pending removal
30 proceedings; or
- 31 o. A child who has a pending application for Special Immigrant Juvenile
32 status under 8 U.S.C 1101(a)(27)(J).
- 33 p. Exception: Persons who are under the age of 19, whose 19th birthday
34 occurred in the current month, who are pregnant, or who are within 12
35 months of the beginning of their postpartum period, and who meet the
36 criteria for one of the specific Child Basic Health Plan Programs, but who
37 are not citizens or qualified non-citizens according to the criteria set forth
38 in 110.1.B, shall receive Medical Assistance benefits for programs
39

~~included under the CRS 25.5-8-109. Exception: The exception to these requirements are that persons who apply for and meet the criteria for one of the specific Child Basic Health Plan programs, but who are not citizens, and/or not qualified non-citizens, according to the criteria set forth in 110.1.B, shall receive Medical Assistance benefits for programs included under the CRS 25.5-8-109. The rules on confidentiality prevent Neither the Department nor eligibility site from any person or entity responsible for verifying eligibility under this exception are bound under rules of confidentiality that prohibit reporting those the USCIS persons who have applied for or are receiving assistance to persons or entities charged with the enforcement of immigration law.~~

~~1. The rules on confidentiality indicated under CRS § 24-74-103 prevent the Department or eligibility site from reporting to the USCIS persons who have applied for or are receiving assistance.~~

~~Persons applying must also be:~~

~~1) Under the age of 18 through the end of the month in which they turn 19 and/or~~

~~2) Pregnant and/or~~

~~3) Members within 12 months postpartum period~~

C. For determinations of eligibility for the Children’s Basic Health Plan, legal immigration status must be verified. This requirement applies to a non-citizen individual who meets the criteria of any category defined at 110.1.B and has declared that he or she has a legal immigration status.

1. The Verify Lawful Presence (VLP) interface will be used to verify immigration status as required in 10 CCR 2505-10-8.100.3.G.2

2. If the state cannot verify immigration status the individual will receive a Reasonable Opportunity Period as required in 10 CCR 2505-10-8.100.3.H.9

3. This requirement does not apply to the following groups:

a. Individuals applying for Child Healthcare Plan covered by Cover All Coloradans detailed in Sections 8.100.3.g.viii and 110.1.B.5.p

D. Be a resident of Colorado; and residence shall be retained until abandoned. A person temporarily absent from the state, inside or outside the United States, retains Colorado residence. Temporarily absent means that at the time he/she leaves, the person intends to return.

E. Have a household income greater than 142% but not exceeding 260% of the Federal Poverty Level, adjusted for household size for children under the age of 19; or

F. Have a household income greater than 195% but not exceeding 260% of the Federal Poverty Level, adjusted for household size for pregnant women.

- 1 G. Failure to complete an application or to provide required documentation in Section 130
- 2 will result in the denial of the incomplete application or individual applicant (s).