

Title of Rule: Revision to the Medical Assistance Rule Concerning the Rural Provider Access and Affordability Stimulus Grant Program, Section 8.8000
Rule Number: MSB 22-11-08-A
Division / Contact / Phone: Special Financing / Nancy Dolson / 303-866-3698

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).

Create rules to administer the Rural Provider Access and Affordability Stimulus Grant Program established through the enactment of Senate Bill 22-200 including a methodology to determine which rural providers are qualified for grant funds, permissible uses of grant money, and reporting requirements for grant recipients.

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:

The enabling legislation, Senate Bill 22-200, requires that the Medical Services Board promulgate rules for the administration of the Rural Provider Access and Affordability Stimulus Grant Program on or before December 31, 2022. The legislation also created the Rural Provider Access and Affordability Advisory Committee to begin meeting in September 2022 and charged the committee with making formal recommendations to the Department on the administration of the grant program including the proposed rule. The timeline for the advisory committee's work necessitates emergency rule-making to meet the December 2022 rule deadline established by the legislation in law at Section 25.5-1-207 (5), C.R.S.

3. Federal authority for the Rule, if any:

American Rescue Plan Act of 2021 (ARPA), Public Law 117-2

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2022);
Section 25.5-1-207 (5), C.R.S. (2022)

Initial Review
Proposed Effective Date

12/09/22

Final Adoption
Emergency Adoption

12/09/22
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.

Colorado hospitals in rural communities and their associated clinics will benefit from the proposed rule by helping these providers modernize their information technology systems which tend to lag behind their urban and suburban counterparts. Residents of rural Colorado will benefit as the program will support reducing health care costs in communities, add jobs, stimulate the economy, improve access to care, and mitigate rural health disparities.

The funding for the Rural Provider Access and Affordability Stimulus Grant Program comes from federal funds with no cost to the state or local communities.

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 Rural Provider Access and Affordability Stimulus Grant Program will drive financial sustainability for hospitals and clinics in rural areas of Colorado by investing \$9.6 million in health care affordability and health care access related projects:

- \$4.8 million in health care affordability projects, such as shared analytics platforms, telehealth supports, and enabling shared care management between rural providers
- \$4.8 million in health care access projects, such as extending hours for primary and behavioral health care, telemedicine including remote monitoring supports, new or expanded access sites including surgery, chemotherapy, and advanced imaging

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 General Assembly appropriated \$400,000 to the Department to administer the Rural Provider Access and Affordability Stimulus Grant Program when it enacted Senate Bill 22-200. These funds are sufficient to administer the program and no costs to other agencies are expected. The funds for the Rural Provider Access and Affordability Stimulus Grant Program are federal funds from the American Rescue Plan Act of 2021 (ARPA) and there is no impact on state revenues.

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

Adopting the proposed rules to administer the Rural Provider Access and Affordability Stimulus Grant Program will allow the Department to grant \$9.6 million of federal funds to rural providers as directed by the General Assembly to improve health care affordability and access and stimulate the economies in rural Colorado.

Because the legislation directs the Medical Services Board to promulgate rules so the Department can administer the grant program, 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.

Because the legislation directs the Medical Services Board to promulgate rules so the Department can administer the grant program, there are no less costly or intrusive methods for achieving 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.

Because the legislation directs the Medical Services Board to promulgate rules so the Department can administer the grant program, there are no alternatives to rule making than the proposed rule. The proposed rule includes those elements necessary to administer the grant program and were developed and supported by the Rural Provider Access and Affordability Advisory Committee established by the legislation.

1 **8.8000 Rural Provider Access and Affordability Stimulus Grant Program**

2 **8.8001 PURPOSE AND LEGAL BASIS**

3 Pursuant to C.R.S. § 25.5-1-207, the Rural Provider Access and Affordability Stimulus Grant Program
4 provides grants to qualified providers to improve health care affordability and access to health care
5 services in rural communities and to drive financial sustainability for rural hospitals and clinics.

6 **8.8002 DEFINITIONS**

7 A. Advisory Committee means the rural provider access and affordability advisory
8 committee as defined in section 25.5-1-207 (3), C.R.S.

9 B. Department means the Colorado Department of Health Care Policy and Financing.

10 C. Health Care Access Project means a project that expands access to health care in Rural
11 Communities including but not limited to:

12 1. Extending hours for access to primary care or behavioral health services,

13 2. Investing in dual track emergency department management,

14 3. Expanding access to Telemedicine including remote monitoring support,

15 4. Providing new or replacement Hospital beds,

16 5. Expanding access to long term care and recovery care in skilled nursing facilities,
17 and

18 6. Creating or expanding sites that provide surgical care, chemotherapy, imaging,
19 and advanced imaging including computerized tomography scans.

20 D. Health Care Affordability Project means a project that modernizes the information
21 technology infrastructure of Qualified Rural Providers including but not limited to:

22 1. Creating a shared analytics platform and care coordination platforms among
23 Qualified Rural Providers, and

24 2. Enabling technologies, including telehealth and e-consult systems, that allow
25 Qualified Rural Providers to communicate, share clinical information, and consult
26 electronically to manage patient care.

27 E. Hospital means a hospital licensed or certified pursuant to section 25-1.5-103 (1)(a),
28 C.R.S. or an affiliate owned or controlled as defined in section 25.5-4-402.8 (1)(b),
29 C.R.S., by the hospital.

30 F. Qualified Rural Provider means a Hospital located in a Rural Community in Colorado that
31 has a lower net patient revenue or fund balance compared with other Rural Hospitals.

32 G. Rural Community means a county with a population of fewer than fifty thousand
33 residents; or a municipality with a population of fewer than twenty-five thousand residents
34 if the municipality is not contiguous to a municipality with a population of twenty-five
35 thousand or more residents.

1 H. Rural Stimulus Grant means funding received from the rural provider access and
2 affordability grant program established in section 25.5.1-207, C.R.S.

3 I. Telemedicine means the delivery of medical services as defined at section 12-240-104
4 (6), C.R.S.

5 **8.8003 GRANT AWARD PROCEDURES**

6 A. Rural Stimulus Grants will be awarded through an application process.

7 1. A request for grant application form shall be issued by the Department and
8 posted for public access on the Department's website at
9 <https://hcpf.colorado.gov/research-data> at least 30 days prior to the application
10 due date.

11 2. A Qualified Rural Provider may submit applications for more than one project or
12 may submit a joint application with another Qualified Rural Provider.

13 3. The application will include:

14 a. Project overview.

15 b. Proposed budget including:

16 i. Total funds requested not to exceed \$650,000 per project per
17 applicant.

18 ii. Itemized direct expenses.

19 iii. Indirect expenses limited to federal Negotiated Indirect Costs
20 Rate Agreement (NICRA) or de minimis rate of 10 percent if the
21 applicant does not have an NICRA.

22 iv. If applicable, documentation of quotes or estimates for
23 construction, equipment, or other expenditures, and

24 v. If applicable other sources of funding that will be utilized to
25 complete the proposed project.

26 c. Project timeline to commence no earlier than July 1, 2023 and to
27 conclude no later than December 31, 2026.

28 d. Description of Qualified Rural Provider's diversity, equity, and inclusion
29 strategy and how diverse community needs are met by the project.

30 e. Demonstration of financial need.

31 i. Qualified Rural Providers in the bottom 40% of net patient
32 revenues for the three-year average of 2016, 2017, and 2018 or
33 the bottom 6% fund balance for 2019 as determined by the
34 Department's review of CMS 2552-10 Medicare Cost Reports
35 are considered to meet the financial health requirement.

1 2. The Department may change Rural Stimulus Grant amounts depending on the
2 final number of Rural Stimulus Grants awarded, the availability of Rural Stimulus
3 Grant funds, or the goals stated in the Rural Stimulus Grant application.

4 3. Rural Stimulus Grant applicants may request reconsideration of Rural Stimulus
5 Grant awards within 5 business days of award notification in writing to the
6 Department's executive director. The executive director will respond to the
7 request for reconsideration within 10 business days of receipt.

8 4. The Department will execute a grant agreement with each Rural Stimulus Grant
9 recipient.

10 D. The Department will disburse Rural Stimulus Grant funds no earlier than July 1, 2023 and
11 no later than July 1, 2024. Any money not disbursed by July 1, 2024 will revert to the
12 Economic Recovery and Relief Cash Fund created pursuant section 24-75-228 (2)(a),
13 C.R.S.

14 E. Rural Stimulus Grant recipients will expend Rural Stimulus Grant funds by the timeline in
15 their grant agreement and no later than December 31, 2026. Any Rural Stimulus Grant
16 funds not expended by Rural Stimulus Grant recipients by December 31, 2026 will be
17 recovered by the Department to be returned to the U.S. Department of the Treasury.

18 **8.8004 PERMISSIBLE USES OF GRANT AWARDS**

19 A. Rural Stimulus Grant funds must be used for Health Care Affordability Projects or Health
20 Care Access Projects to improve health care affordability and access in Rural
21 Communities.

22 B. Rural Stimulus Grant funds may not be deposited into a pension fund and may not be
23 used to service debt, satisfy a judgment or settlement, or contribute to a "rainy day" fund.

24 **8.8005 REPORTING REQUIREMENTS FOR GRANT RECIPIENTS**

25 A. Recipients of Rural Stimulus Grant funds for capital expenditures must submit a written
26 justification as set forth in 31 Code of Federal Regulations 35.6 (b)(4) to the Department.

27 B. For the duration of the grant agreement, Rural Stimulus Grant recipients must submit a
28 quarterly report to the Department no later than the 10th day of the month following the
29 end of each quarter including but not limited to a brief narrative and itemized expenditure
30 and performance metric data.

31 C. Rural Stimulus Grant recipients will submit a final report to the Department within 30
32 calendar days following the end of the grant agreement including an overall narrative and
33 itemization of all expenditures and performance metric data for the total Rural Stimulus
34 Grant award.

35 **8.8006 RECORD RETENTION AND ACCESS**

36 A. Rural Stimulus Grant recipients must maintain records of expenditures for a minimum of
37 five years after funds have been expended or returned to the Department, whichever is
38 later.

39 A.B. Rural Stimulus Grant recipients must allow the Department and state and federal
40 auditors access to records related to the expenditure of Rural Stimulus Grant funds.