

Title of Rule: Revision to the Medical Assistance Rule Concerning the Hospital Community Benefit Accountability, 8.5000  
Rule Number: MSB 24-01-03-C  
Division / Contact / Phone: Special Financing / James Johnston / 3073

## 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 adds new requirements to the Medical Assistance Act Rule Concerning Hospital Community Benefit Accountability, Section 8.5000. With recently enacted legislation, House Bill 23-1243: Hospital Community Benefit, hospitals are required to host an annual public meeting to discuss the hospital's community health needs assessment and annual community benefit implementation plan as well as report discrete community investment activities, public meeting information, and community health needs assessments and implementation plans annually to HCPF. This rule will define best practices for hospitals to engage and solicit stakeholder feedback during the annual public meeting, establish standard accommodation practices for the annual public meetings, outline annual submission requirements for hospitals, and detail corrective action plans for non-compliance with community benefit reporting.

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:

N/A

3. Federal authority for the Rule, if any:

26 C.F.R. § 1.501(r)-3

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2023); Sections 25.5-1-702 through 25.5-1-704, C.R.S (2023)

Initial Review  
Proposed Effective Date

**05/10/24**  
**07/30/24**

Final Adoption  
Emergency Adoption

**06/14/24**

**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 proposed rule requires non-profit, general, acute care hospitals including University of Colorado Hospital and Denver Health and Hospital Authority to conduct an annual public meeting to discuss the hospital's previous year's community benefit activities and investments; to submit annual documentation around the annual public meeting and discrete community benefit investment amounts. If a reporting hospital is determined to be out of compliance of the proposed rule, a monetary fine will be imposed on the reporting hospitals to be spent on community identified health needs. Citizens of Colorado will benefit from this rule as the general public will have more influence over hospital community benefit activities and investment spending through public meeting engagement and solicitation of feedback on implementation plans. Additionally, the proposed rule will require HCPF to compare reporting hospitals' reported community investments with that of its community health needs and determine if those are in alignment. This review could affect reporting hospital's compliance and could result in a monetary fine to be spent on community identified needs.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

This proposed rule will affect reporting hospitals by requiring them to allocate additional resources to advertising or otherwise informing the public of upcoming meetings, as well as conducting follow-up communications with their communities. As a part of the proposed rule, reporting hospitals will be required to inform their communities, as defined by Federal regulations, of the incorporation of community feedback received during its annual community benefit meeting. Reporting hospitals must also allocate additional administrative resources for the completion and submission of new annual reporting requirements. This proposed rule will also require reporting hospitals to respond to its community members' concerns surrounding hospitals' investment priorities within their communities and the community implementation plans.

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.

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With the adoption of House Bill 19-1320, Hospital Community Benefit Accountability, the original legislation enacting hospital community benefit accountability requirements, the General Assembly appropriated the necessary resources to implement and administer the data collection and analysis of hospital community benefits. No additional resources are necessary with this rule change. There is no impact to the General Fund.

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

This proposed rule provides appropriate guidance so hospitals can submit accurate information in compliance with the new law. The proposed rules are needed to implement the legislation, create no additional costs, and there are no benefits of inaction. Costs of inaction include additional confusion and administrative burden to both hospitals and HCPF to provide clarity on statute requirements.

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

Because House Bill 19-1320 and House Bill 23-1243 require the Medical Services Board to adopt rules implementing the included requirements for reporting hospitals' community benefit accountability activities, there is no less costly 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.

House Bill 19-1320 and House Bill 23-1243 require the adoption of rules such as these and do not grant the Department the discretion to consider alternative methods for implementing the legislation. However, some federal statutes require hospitals to collect data for purposes similar to the purposes of House Bills 19-1320 and 23-1243; for example, Internal Revenue Service Form 990 (for federally designated non-profit hospitals) and Community Health Needs Assessments.

## 1 8.5000 HOSPITAL COMMUNITY BENEFIT ACCOUNTABILITY

2 PURPOSE: To require hospitals to report to the Department of Health Care Policy and Financing ~~the~~  
3 ~~Department~~) information on their Community Benefit activities, planning and investments.

### 4 8.5001 DEFINITIONS

5 “Community” means the community that a hospital has defined as the community that it serves pursuant to  
6 26 CFR § 1.501(r)-3(b).

7 “Community Based Organization” means a public or private nonprofit organization of that represents a  
8 community or significant segments of a community or work towards community-focused goals beyond one  
9 particular community and provides educational or related services to individuals in the community under 20  
10 USC § 7801(5).

11 “Community Benefit” means the actions that hospitals take to qualify as an organization organized and  
12 operated for the charitable purpose of promoting health pursuant to § 501(c)(3) of federal Internal Revenue  
13 Code. These actions include demonstrating that the hospital provides benefits to a class of persons that is  
14 broad enough to benefit the community, and that it operates to serve a public rather than private interest.  
15 Community Benefit may also refer to the dollar amount spent on the community in the form of Free or  
16 Discounted Health Care Services; Provider Recruitment, Education, Research and Training; and  
17 Community spending activities.

18 “Community Benefit Implementation Plan” means a plan that satisfies the requirements of an implementation  
19 strategy as described in 26 CFR § 1.501(r)-3(c).

20 “Community Benefit Priorities” means Community Benefit activities that are documented within the Reporting  
21 Hospital’s Community Health Needs Assessment or otherwise established pursuant to the IRS Form 990,  
22 Schedule H and its instructions.

23 “Community Health Center” means a federally qualified health center as defined in 42 U.S.C. § 1395x (aa)(4)  
24 or a rural health clinic as defined in 42 U.S.C. § 1395x (aa)(2).

25 “Community Health Needs Assessment” means a community health needs assessment that satisfies the  
26 requirements of 26 CFR § 1.501(r)-3(b).

27 “Community Identified Health Need” means a health need of a Community that is identified in a Community  
28 Health Needs Assessment.

29 “Free or Discounted Health Care Services” means health care services provided by the hospital to persons  
30 who meet the hospital’s criteria for financial assistance and are unable to pay for all or a portion of the  
31 services, or physical or behavioral health care services funded by the hospital but provided without charge to  
32 patients by other organizations in the Community. Free or Discounted Health Care Services do not include  
33 the following:

- 34 1. Services reimbursed through the Colorado Indigent Care Program (CICP);
- 35 2. Bad debt or uncollectable amounts owed that the hospital recorded as revenue but wrote off  
36 due to a patient’s failure to pay, or the cost of providing care to such patients;
- 37 3. The difference between the cost of care provided under Medicaid or other means-tested  
38 government programs or under Medicare and the revenue derived therefrom;
- 39 4. Self-pay or prompt pay discounts; or
- 40 5. Contractual adjustments with any third-party payers.

41 “Health System” means a larger corporation or organizational structure that owns, contains, or operates more  
42 than one hospital.

1 "Local Public Health Agency" means a county or district public health agency established pursuant to C.R.S.  
 2 § 25-1-506, or a local department of public health.

3 "Medicaid Shortfall" means the cost of Medicaid reflected on the IRS Form 990, Schedule H, Worksheet 3.

4 "Programs that Address Behavioral Health" means funding or in-kind programs or services intended to  
 5 improve an individual's mental and emotional well-being and are reportable on the IRS Form 990, Schedule  
 6 H and its instructions. Programs that Address Behavioral Health are designed to address, but are not limited  
 7 to:

- 8 1. Mental health disorders;
- 9 2. Serious psychological distress;
- 10 3. Serious mental disturbance;
- 11 4. Unhealthy stress;
- 12 5. Tobacco use prevention; and
- 13 6. Substance use.

14 "Programs that Address Health Behaviors or Risk" means programs funded by the hospital and provided by  
 15 the hospital or other Community organizations that provide education, mentorship, or other supports that help  
 16 people make or maintain healthy life choices or manage chronic disease, including addiction prevention and  
 17 treatment programs, suicide prevention programs and mental health treatment, programs to prevent tobacco  
 18 use, disease management programs, nutrition education programs, programs that support maternal health,  
 19 including screening, referral and treatment for perinatal and postpartum depression and anxiety, and healthy  
 20 birth outcomes, and programs that help seniors and people with disabilities live as independently as possible  
 21 in the Community.

22 "Programs that Address Community Based Health Care" means funding or in-kind programs or services that  
 23 improve types of person-centered care delivered in the home and community and are not billable to a third  
 24 party. A variety of health and human services can be provided. Community Based Health Care addresses the  
 25 needs of people with functional limitations who need assistance with everyday activities such as getting  
 26 dressed or bathing.

27 "Programs that Address the Social Determinants of Health" means funding or in-kind programs or services  
 28 that improve social, economic, and environmental conditions that impact health in the Community. Social and  
 29 economic conditions that impact health include education; employment; income; family and social support;  
 30 and Community safety. Environmental conditions that impact health include air and water quality, housing,  
 31 and transit. Programs that Address the Social Determinants of Health include but are not limited to the  
 32 following:

- 33 1. Job training programs;
- 34 2. Support for early childhood and elementary, middle, junior-high, and high school education;
- 35 3. Programs that increase access to nutritious food and safe housing;
- 36 4. Medical Legal Partnerships; and
- 37 5. Community-building activities that could be included in Part II of Schedule H of the Form 990.

38 "Provider Recruitment, Education, Research and Training," "Workforce development," "Health professions  
 39 education," and "Research" defined within the Internal Revenue Service form 990 as:

- 40 1. "Workforce development" means the recruitment of physicians and other health professionals  
 41 to medical shortage areas or other areas designated as underserved, and collaboration with

1 educational institutions to train and recruit health professionals needed in the Community (other  
2 than the health professions education activities entered on Part I, line 7f),

3 2. "Health Professions Education" means educational programs that result in a degree, a  
4 certificate, or training necessary to be licensed to practice as a health professional, as required  
5 by C.R.S. 12-240-110, or continuing education necessary to retain state license or certification by  
6 a board in the individual's health profession specialty,

7 a. Health Professions Education does not include education or training programs available  
8 exclusively to the organization's employees and medical staff or scholarships provided to  
9 those individuals. However, it does include education programs if the primary purpose of  
10 such programs is to educate health professionals in the broader community. Costs for  
11 medical residents and interns can be included, even if they are considered employees for  
12 purposes of Form W-2, Wage and Tax Statement.

13 3. "Research" means any study or investigation the goal of which is to generate increased  
14 generalized knowledge made available to the public (for example, knowledge about underlying  
15 biological mechanisms of health and disease, natural processes, or principles affecting health or  
16 illness; evaluation of safety and efficacy of interventions for disease such as clinical trials and  
17 studies of therapeutic protocols; laboratory-based studies; epidemiology, health outcomes, and  
18 effectiveness; behavioral or sociological studies related to health, delivery of care, or prevention;  
19 studies related to changes in the health care delivery system; and communication of findings and  
20 observations, including publication in a medical journal). The organization can include the cost of  
21 internally funded research it conducts, as well as the cost of research it conducts funded by a  
22 tax-exempt or government entity.

23 "Reporting Hospital" means

- 24 1. A hospital licensed as a general hospital pursuant to Part 1 of Article 3 of Title 25 of the  
25 Colorado Revised Statutes and exempt from federal taxation pursuant to Section 501(c)(3) of  
26 the federal Internal Revenue Code, but not including a general hospital that is federally  
27 certified or undergoing federal certification as a long-term care hospital pursuant to 42 CFR §  
28 412.23(e) or that is federally certified or undergoing federal certification as a critical access  
29 hospital pursuant to 42 CFR § 485 Subpart F,
- 30 2. A hospital established pursuant to C.R.S. § 25-29-103, or
- 31 3. A hospital established pursuant to C.R.S. § 23-21-503.

32 "Safety Net Clinic" means a Community clinic licensed or certified by the Department of Public Health and  
33 Environment pursuant to C.R.S. § 25-1.5-103 (1)(a)(I) or (1)(a)(II).

## 34 **8.5002 HOSPITAL REQUIREMENTS**

### 35 8.5002.A PUBLIC MEETING REQUIREMENTS

- 36 1. Each Reporting Hospital shall convene a public meeting at least once per year to seek  
37 feedback regarding the hospital's Community Benefit activities during the previous year and  
38 the hospital's Community Benefit Implementation Plan for the upcoming year.
- 39 2. Reporting Hospitals may convene a joint public meeting with one or more other participating  
40 hospitals that share some or all of the hospital's Community.
- 41 3. Reporting Hospitals may convene multiple Community Benefit meetings throughout the year.
- 42 4. During at least one public meeting the Reporting Hospitals shall at minimum:
  - 43 a. Present priority areas identified in the Reporting Hospital's most recent Community  
44 Health Needs Assessment and any other Community spending options

1 recommended by the Reporting Hospital. Each priority recommendation presented  
 2 shall clearly identify the source of the recommendation;

3 a. Solicit public input for the Reporting Hospital's recommendations and any additional  
 4 Community Benefit activity;

5 c. Present the Reporting Hospital's specific Community Benefit activities;

6 d. Present the amount funded for each specific Community Benefit activity; and

7 e. Present a description of how the Community Benefit activities and funding amounts  
 8 align with the Community Identified Needs.

9 5. Reporting Hospitals may only add Community Benefit Priorities to the Reporting Hospital's  
 10 Community Benefit Implementation Plan if:

11 a. The Community Benefit Priorities were presented during at least one public meeting;

12 b. The public was provided an opportunity to provide feedback through either public  
 13 testimony to be recorded in the minutes of the public meeting(s) or through  
 14 correspondence including, but not limited to email, written letter, or phone call. The  
 15 Reporting Hospital will summarize this feedback in its annual submission materials;

16 c. The Reporting Hospital shall maintain a submission period of 30 days following the  
 17 Community public meeting to allow for additional comments and recommendations  
 18 from Community members. Nothing in this process will preclude hospitals from  
 19 integrating priorities pursuant to the Internal Revenue Service's Community Health  
 20 Needs Assessment process;

21 d. The reporting hospital shall inform all community members through a public  
 22 communication of a summary of the feedback received, whether or not the  
 23 recommendation was incorporated into the Reporting Hospital's Community Benefit  
 24 Implementation Plan, and if the recommendation was not incorporated, an  
 25 explanation for its absence. A Reporting Hospital may post the summary of feedback  
 26 on a public facing website and provide notice through the Reporting Hospitals  
 27 standard community outreach practices; and

28 e. The Reporting Hospital shall indicate that the implemented Community Benefit  
 29 Priorities are either a result of community feedback or based upon the Reporting  
 30 Hospital's recommendation.

31 6. Reporting Hospitals may conduct a public meeting combines the purpose of this Section  
 32 8.5002.A with other purposes, such as those required by the Community Health Needs  
 33 Assessment process provided at 26 CFR § 1.501(r)-3, or other Community engagement  
 34 efforts, so long as the public meeting meets the minimum requirements in this section.

35 7. Each Reporting Hospital shall invite, at a minimum, representatives from the following  
 36 entities to participate in the meeting if any such entities operate in the hospital's Community:

37 a. Local Public Health Agencies;

38 b. Local chambers of commerce and economic development organizations;

39 c. Local health care consumer organizations;

40 d. School districts;

41 e. County governments;

42 f. City and town governments;

- 1 g. Community Health Center;
- 2 h. Certified rural health clinics or primary care clinics located in a county that has been  
3 designated as a rural or frontier county;
- 4 i. Area agencies on aging;
- 5 j. Safety Net Clinics; ~~and~~
- 6 k. Health care consumer advocacy organizations;
- 7 l. The general public.
- 8 m. Tribal councils of Colorado's land-based tribes, specifically including members of the  
9 tribal council or its designees;
- 10 n. Urban Indian Organizations, specifically including their members; and
- 11 o. Institutions of higher learning, specifically including their members.
- 12 8. Each Reporting Hospital shall invite, at a minimum, representatives from the following  
13 agencies to participate in the meeting:
- 14 a. The Department of Health Care Policy and Financing,
- 15 b. The Department of Public Health and Environment,
- 16 c. The Department of Human Services,
- 17 d. The Colorado Commission on Higher Education,
- 18 e. The Office of Saving People Money on Health Care, and
- 19 f. The Division of Insurance within the Department of Regulatory Agencies
- 20 9. Each Reporting Hospital shall ~~invite the general public to the annual meeting and shall~~ issue  
21 invitations by:
- 22 a. Placing in an advertisements placed in each major newspaper published in the  
23 hospital's Community at least 30 days prior to the scheduled meeting. A major  
24 newspaper is a newspaper that is accessible, known to the members of the  
25 Reporting Hospital's Community, and is a newspaper of record for the Reporting  
26 Hospital's Community;
- 27 b. Posting invitations at least 30 days prior to the meeting date, including but not limited  
28 to:
- 29 i. On the Reporting Hospital's website and social media page(s),
- 30 ii. In the Reporting Hospital's e-newsletters, and
- 31 iii. Through email lists dedicated to Community outreach.
- 32 10. Reporting Hospitals shall request anonymous demographic information such as race,  
33 ethnicity, primary language spoken, and income from attendees. Reporting Hospitals shall inform  
34 meeting attendees that demographic data is voluntary and will not be publicly disclosed by the  
35 Reporting Hospital or by the Department. The Department will only share demographic  
36 information in a deidentified, aggregate manner. Reporting Hospitals may deidentify and  
37 aggregate this data during their submission to the Department.



- 1        11.     Reporting Hospitals shall undertake the following efforts to promote broad Community  
2            notification and participation in the public meetings and to make meetings accessible:
- 3            a.        Collaborate with Community Based Organizations and other Community partners to  
4            distribute invitations to the public,
- 5            b.        Engage with organizations that specialize in the representation of under-served  
6            groups within the Reporting Hospital's Community,
- 7            b.        When hosting in-person meetings ensure that locations are accessible to those with  
8            physical disabilities and those that utilize mobility aids,
- 9            c.        Advertise that American Sign Language services and interpretation services for  
10           individuals with limited English proficiency are available upon request,
- 11           d.        Upon request, provide American Sign Language services and, for individuals with  
12           limited English proficiency, provide language and interpretation services to ensure  
13           meaningful access such as those described in 45 C.F.R. § 92.201.
- 14           e.        Reporting Hospitals may also undertake additional activities including but not limited  
15           to the following:
- 16                i.        Advertise the public meeting in additional newspapers in the Community,  
17                including those that are published in languages other than English;
- 18                ii.        Advertise the public meeting via radio stations broadcast in the Community,  
19                including radio stations that broadcast in languages other than English;
- 20                iii.        Use neutral or external facilitators to lead Community meetings. To the  
21                extent possible facilitators should represent the demographics of the  
22                Community members being engaged and, if possible, the facilitator should  
23                not be employed by the Reporting Hospital;
- 24                iv.        Schedule the public meeting outside of the typical workday hours and  
25                consider hosting meeting(s) at Community locations other than hospital  
26                campuses;-and
- 27                v.        Provide multiple avenues for Community meetings by conducting hybrid  
28                meetings, with simultaneous in-person and virtual participation options. For  
29                virtual meetings, Reporting Hospital staff should provide appropriate  
30                orientation, technical assistance, captioning, and other assistive services;
- 31                vi.        Schedule multiple meetings to be held on different days or at different times  
32                in order to accommodate a broader range of participants' schedules;
- 33                vii.        Provide transportation and childcare for participants in the public meeting,  
34                and
- 35                viii.        Provide reimbursement for transportation and childcare expenses incurred  
36                for the purposes of participating in the public meeting.
- 37                ix.        Collaborate with Local Public Health Agencies operating wholly or partially in  
38                the Reporting Hospital's Community on public meetings planning and  
39                execution including but not limited to:
- 40                        a. Meeting time and location;
- 41                        b. Meeting topics; and
- 42                        c. Communications notifying Community members of the meeting.

12. Reporting Hospitals should ensure that Community engagement goals reflect partnerships and collaboration with the Community and not solely state or federal requirements.

8.5002.B HOSPITAL REPORTING REQUIREMENTS

1. Each Reporting Hospital shall complete a Community Health Needs Assessment ~~on or before July 1, 2020, and then on or before July 1~~ at least every three (3) years and shall submit a copy of the Community Health Needs Assessment to the Department on or before September 13, 2024, and then on or before July 1 every year thereafter.
- a. Acquired or new hospitals shall complete their first Community Health Needs Assessment as described under 26 CFR § 1.501(r)-3(d).
2. Each Reporting Hospital shall complete a Community Benefit Implementation Plan that addresses the needs described in the Community Health Needs Assessment and that shall submitted to the Department on or before September 13, 2024 ~~July 1, 2020~~, and then on or before July 1 every year thereafter.
- a. Each Reporting Hospital is required to complete a Community Benefit Implementation Plan that:
- i. Addresses the needs described by the Reporting Hospital's Community Health Needs Assessment,
- ii. Includes an explanation of the Community served by the hospital facility, and
- iii. Describes how the Community was determined pursuant to 26 CFR § 1.501(r)-3(b).
3. Each Reporting Hospital shall submit to the Department on or before September 13, 2024, and then on or before July 1 every year thereafter ~~the Department on or before July 1, 2020~~ a report on its most recent public meeting held to satisfy its Community Health Needs Assessment requirements under 26 CFR § 1.501(r)-3.
4. ~~Beginning July 1, 2021 and then on or before July 1 every year thereafter~~ Each Reporting Hospital shall submit to the Department the Department a report on the public meetings held during the previous reporting cycle on or before September 13, 2024, and then shall provide a report on the public meeting held after the submission date from the previous year on or before July 1 every year thereafter.
5. Each public meeting report shall include at minimum ~~but is not limited to the following:~~
- a. Date, time, and location of the meeting;
- b. Outreach efforts to ensure broad Community participation and accessibility;
- c. Individuals and organizations, including the populations served by the organizations, invited to the meeting;
- d. To the extent this information is provided by attendees, a list of individual meeting attendees and organizations represented;
- e. Meeting agenda;
- f. A summary of the meeting discussion; ~~and~~
- g. Actions taken as a result of feedback from meeting participants;
- h. Content of meeting discussion including the Community Benefit Priorities discussed and the decisions made regarding those Community Benefit Priorities;

1 i. Community feedback received and how the Reporting Hospital plans to incorporate  
 2 the feedback into the Reporting Hospital's Community Benefit Implementation Plan;  
 3 and

4 j. Any demographic data collected voluntarily from attendees, such as data concerning  
 5 race, ethnicity, and income. This data may be reported in a deidentified and  
 6 aggregate manner.

7 6. Each Reporting Hospital shall submit to the Department on or before September 13, 2024,  
 8 July 1, 2020 and then on or before July 1 every year thereafter a report on Community  
 9 Benefits that shall include the following:

10 a. The most recent Community Health Needs Assessment.

11 b. The most recent Community Benefit Implementation Plan for the coming year.

12 a. A copy of the most recently submitted Form 990 to the federal Internal Revenue  
 13 Service including Schedule H. Associated worksheets may be submitted.

14 i. Reporting Hospitals that are part of a Health System or other corporate  
 15 structure that files a consolidated form 990 to the federal Internal Revenue  
 16 Service shall provide information that was included in Parts I, II, III, and V of  
 17 Schedule H of Form 990 for each Reporting Hospital separately. Associated  
 18 worksheets may be submitted.

19 ii. Reporting Hospitals not required to submit Schedule H of the Form 990 to  
 20 the federal Internal Revenue Service shall complete Parts I, II, III, and V of  
 21 Schedule H of Form 990 available on the federal Internal Revenue Service's  
 22 website. Associated worksheets may be submitted.

23 b. A description of spending investments made by the Reporting Hospital or related  
 24 entities that were included in Parts I, II, and III of Schedule H of Form 990 that  
 25 includes at a minimum the following:

26 i. Cost of the Community Benefit spending investment, the amount funded for  
 27 each activity,

28 1. If a Reporting Hospital receives grants or philanthropic funding that  
 29 would be classified as restricted funding by the Internal Revenue  
 30 Service and cannot be counted for the purposes of Community  
 31 Benefit, the reporting hospital may provide additional information to  
 32 the Department about the activity.

33 ii. Indicate if the Community Benefit activity investment addressed a  
 34 Community Identified Health Need.

35 iii. For any Community Benefit activity spending investment that addressed a  
 36 Community Identified Health Need identify the Reporting Hospital shall  
 37 provide each specific Community Benefit activity within the following  
 38 applicable categories, and shall distinguish if the activity was funded through  
 39 direct cash or cash expenditures from in-kind contributions:

40 1. Free or Discounted Health Care Services;

41 2. Programs that Address Behavioral Health; ~~Behaviors or Risk, and~~

42 3. Programs that Address the Social Determinants of Health;-

43 4. Programs that Address Community Based Health Care;

1 5. Provider Recruitment, Education, Research, and Training;  
 2 distinguishing if educational activities were invested internally or  
 3 externally; and

4 6. All services and programs that addressed Community Identified  
 5 Health Needs.

6 iv. For any **Community Benefit activity investment** that addressed **one or more**  
 7 Community Identified Health Needs ~~provide describe available~~ evidence that  
 8 shows how the ~~spending investment~~ improves Community health outcomes  
 9 and directly corresponding to the relevant Community Identified Health  
 10 Needs.

11 c. The Reporting Hospital's total expenses included in Line 18 of Section 1 of the  
 12 submitted Form 990. Reporting Hospitals not required to submit Form 990 to the  
 13 federal Internal Revenue Service shall complete Line 18 of Section 1 of Form 990  
 14 available on the federal Internal Revenue Service's website.

15 d. The Reporting Hospital's revenue less expenses included in Line 19 of Section 1 of  
 16 the submitted form 990. Reporting Hospitals not required to submit Form 990 to the  
 17 federal Internal Revenue Service shall complete Line 19 of Section 1 of Form 990  
 18 available on the federal Internal Revenue Service's website.

19 7. In the event that the due date falls on a weekend or state holiday, the reporting deadline shall  
 20 be extended to the next business day.

21 8. Each Reporting Hospital shall post the report to their public website and submit to the  
 22 Department the website address where the report has been posted.

23 9. A hospital licensed as a general hospital pursuant to part 1 of Article 3 of Title 25 that is not a  
 24 Reporting Hospital may report on Community Benefits, costs, and shortfalls consistent with  
 25 this section.

26 10. Reporting Hospitals may provide additional information on **Community Benefit spending** that  
 27 are not reportable on the IRS Form 990, Schedule H that address Community-Identified  
 28 Health Needs.

### 29 **8.5003 DEPARTMENT REQUIREMENTS**

30 1. The Department shall develop a website or web-based reporting platform for each Reporting  
 31 Hospital to submit its reports and ensure that the reports are available to the public on the  
 32 Department's website.

33 2. The Department shall review each Reporting Hospital's Community Health Needs  
 34 Assessment and each Reporting Hospital's annual Community Benefit Implementation Plan  
 35 before the release of the report authorized in C.R.S. § 25.5-4-402.8, to identify the highest  
 36 priority areas reported by Reporting Hospital's Communities.

37 3. As part of the report authorized in C.R.S. § 25.5-4-402.8, the Department shall submit to the  
 38 General Assembly a summary report ~~of the hospital reports submitted~~ that includes the  
 39 following:

40 a. Community Benefits as defined in Part I and Part II of the Schedule H as a  
 41 percentage of total expenses.

42 b. **Community Benefit as defined in Part I and Part II of the Schedule H as a**  
 43 **percentage of total operating expenses.**

- 1 c. The amount each Reporting Hospital invested in the following areas, including that  
2 amount as a percentage of total Community Benefit spending in Part I and II of  
3 Schedule H:
- 4 i. Free or Discounted Health Care Services that addressed Community  
5 identified health needs;
- 6 ii. Programs that Address Behavioral Health Behaviors or Risks;
- 7 iii. Programs that Address Social Determinants of Health; ~~and~~
- 8 iv. Programs that Address Community Based Health Care;
- 9 v. Provider Recruitment, Education, Research and Training; and
- 10 vi. All services and programs that addressed Community identified health  
11 needs.
- 12 d. Community Benefits as defined in Part I and Part II of the Schedule H as a  
13 percentage of Reporting Hospital's patient revenues.
- 14 e. A summary of Community Benefits as defined in Part I and Part II of the Schedule H  
15 for each Reporting Hospitals compared to comparable categories expensed by for  
16 profit hospitals within Colorado, if available.
- 17 f. The reported Medicaid Shortfall for each Reporting Hospital.
- 18 g. Relevant service line spending or activity reported by each Reporting Hospital that  
19 are not reportable as Community Benefit to the Internal Revenue Service but do  
20 address Community-Identified Health Needs.
- 21 h. A summary of Community Benefit legislation or activities being performed outside of  
22 Colorado.
- 23 i. A summary of each Reporting Hospital's Community Benefit spending investments  
24 and evidence that shows how the spending investment improves Community health  
25 outcomes.
- 26 j. A summary of each Reporting Hospital's compliance with Community Benefit  
27 requirements. Reporting Hospitals deemed non-compliant with Community Benefit  
28 reporting will be provided an opportunity to comment on the department's  
29 assessment of compliance prior to the publication of the report pursuant to C.R.S. §  
30 25.5-1-703.
- 31 k. The highest priority areas as reported by Communities from the Reporting Hospital's  
32 Community Health Needs Assessment and Implementation Plan compared to the  
33 Reporting Hospital's reported spending..
- 34 l. The highest priority areas as identified in Local Public Health Agencies community  
35 health assessments and public health improvement plans to the extent possible that  
36 the information is provided to the Department.
- 37 m. Legislative recommendations for the General Assembly.
- 38 n. The estimated federal and state income tax exemptions and the property tax  
39 exemptions received by each Reporting Hospital, which shall be calculated by the  
40 Colorado Department of Revenue.
- 41 o. Any other information the Department determines will be useful for the General  
42 Assembly and members of the public to understand the effectiveness of Reporting

Hospitals' Community Benefit and other financial implications to the Reporting Hospital, such as Medicaid Shortfall.

4. The Department shall post the reports submitted to the General Assembly to a public web page created for that purpose.

5. The Department shall provide documentation submitted by Reporting Hospital's under Section 8.5002.B to Local Public Health Agencies upon request. Information that contains personally identifiable information shall be deidentified prior to delivery to Local Public Health Agencies.

**8.5004 HOSPITAL COMMUNITY BENEFIT ACCOUNTABILITY COMPLIANCE AND CORRECTIVE ACTION PROCESS**

1. If the Department finds that a reporting hospital is not in compliance with the state's Community Benefit requirements under C.R.S. § 25.5-1-702-703, the Department shall:

a. Notify the Reporting Hospital of its noncompliance and identify the information that needs to be provided;

b. Notify the non-compliant Reporting Hospital of the due date of requested information;

c. If the Reporting Hospital does not provide the requested information, the Department shall require the Reporting Hospital to submit a corrective action plan within 120 days for approval by the Department. The Department shall not publicly report on noncompliance until after a corrective action plan would be due to the Department.

d. If noncompliance continues or the Reporting Hospital fails to submit a corrective action plan, or if the Department determines the Reporting Hospital's noncompliance is knowing or willful or a repeated pattern of noncompliance exists the Department shall consider the size of the hospital and the seriousness of the violation in setting a fine amount,

i. For Reporting Hospitals owned by or affiliated with a hospital system comprised of three or more hospitals, the fine shall not be more than \$20,000 per week, per violation.

ii. For all other Reporting Hospitals, the fine shall not be more than \$5,000 per week, per violation.

e. Reporting Hospitals shall expend the amount fined on Community Benefit priorities described in the Reporting Hospital's current Community Benefit Implementation Plan within one year after the fine is imposed. Each Reporting Hospital shall report on how the money collected through fines is expended in the Reporting Hospital's annual report to the Department.