

Title of Rule: Revision to the Medical Assistance Rule Concerning Updates to the Agreement Not to Sponsor for Section 8.100.3.D.6  
Rule Number: MSB 23-06-09-A  
Division / Contact / Phone: Office of Medicaid Operations / Nicole Mason / 303-866-5052

## 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 aims to amend 10 CCR 2505-10 Section 8.100.3.D.6 to align with Senate Bill 23-1117 effective August 7, 2023. This change will remove the rule requirement for legal immigrants to agree to execute an affidavit of support when enrolling or receiving Medical Assistance. By removing this requirement, legal immigrants who receive Medical Assistance will no longer face the risk of losing their benefits if they choose to sponsor someone for immigration purposes. The U.S. Centers for Medicare & Medicaid Services (CMS) informed Colorado in 2014 the rule to execute an agreement not to sponsor may violate the equal protection clause under the 14<sup>th</sup> amendment of Constitution. Federal regulations do not exist for legal immigrants or U.S. citizens to sign an agreement not to sponsor, thereby leaving Colorado susceptible to federal audits. The removal of this rule provides legal Colorado immigrants equitable access in enrolling and receiving Medical Assistance while ensuring Colorado aligns with federal health equity standards. The Department will update the Colorado Benefits Management System (CBMS) to reflect this change.

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:

It is necessary to enact an emergency rule change for Medical Assistance and initiate a CBMS project to implement the required adjustments and ensure alignment with Senate Bill 23-1117.

3. Federal authority for the Rule, if any:

There is no federal policy for this rule.

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2023);  
C.R.S 25.5-3-105, 25.5-5-101(5), and 26-2-111.8(5.5)

Initial Review  
Proposed Effective Date

**08/07/23**

Final Adoption  
Emergency Adoption

**09/08/23**  
**07/14/23**  
**DOCUMENT #07**

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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 benefits legal Colorado immigrants who are applying for or are enrolled in Medical Assistance coverage. This includes individuals who may have been previously deterred from seeking Medical Assistance due to the sponsorship agreement requirement. By removing this barrier, the proposed rule will enable a broader range of individuals to receive the necessary healthcare and assistance they require. The proposed rule change does not anticipate any negative impacts on any classes of persons as it is designed to promote equitable access to benefits and ensure that legal immigrants in Colorado are not unfairly burdened by unnecessary restrictions.

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 impacts of the proposed rule in removing the requirement to sign an agreement not to sponsor will lead to an increase in the utilization of Medical Assistance resulting in higher enrollment rates and greater access to healthcare services. Legal permanent residents who were previously hesitant to apply for Medical Assistance due to the sponsorship agreement requirement may experience financial relief and improve their overall well-being in having accessibility to timely medical care, preventive services, and necessary treatments. They will no longer need to make the difficult choice between sponsoring a family member and accessing essential healthcare. The proposed rule can contribute to a more inclusive and equitable society by ensuring that legal immigrants have equal access to necessary healthcare and critical assistance.

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 expects that removing the prohibition on legal permanent residents enrolled in Medicaid executing an Affidavit of Support to sponsor an immigrant, will have no costs to the Department because this will only require minimal system changes to the Colorado Benefits Management System (CBMS), which could be

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absorbed within current appropriated resources for system changes. In addition, the Department does not expect this to impact the eligibility of current Medicaid members because there is no specific federal requirement that prevents a sponsor from receiving medical assistance if they choose to sponsor an immigrant, while the law placed limits on Medicaid eligibility for immigrants, it did not specifically place limits on sponsors.

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

There is no cost to the Department associated with this policy. The probable benefit of this policy is to be in line with state regulations and eligibility criteria. The cost of inaction is that the Department will not be in compliance with state statutes. There are no obvious benefits to inaction.

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

There are no less costly methods of removing the prohibition on sponsorship.

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 were no alternative methods considered for the proposed rule.

1 **8.100 MEDICAL ASSISTANCE ELIGIBILITY**

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4 **8.100.3. Medical Assistance General Eligibility Requirements**

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8 **8.100.3.D. Processing Requirements**

9 1. The eligibility site shall process a Single Streamlined Application for Medical Assistance Program  
10 benefits within the following deadlines:

11 a. 90 days for persons who apply for the Medical Assistance Program and a disability  
12 determination is required.

13 b. 45 days for all other Medical Assistance Program applicants.

14 c. The above deadlines cover the period from the date of receipt of a complete application  
15 to the date the eligibility site mails a notice of its decision to the applicant.

16 d. In unusual circumstances, documented in the case record and in CBMS case comments,  
17 the eligibility site may delay its decision on the application beyond the applicable deadline  
18 at its discretion. Examples of such unusual circumstances are a delay or failure by the  
19 applicant or an examining physician to take a required action such as submitting required  
20 documentation, or an administrative or other emergency beyond the agency's control.

21 e. Due to the Coronavirus COVID-19 Public Health Emergency, required through the  
22 Federal CARES Act for the Maintenance of Effort (MOE), the Department will continue  
23 eligibility for all Medical Assistance categories, regardless of changes made for a  
24 redetermination or additional documentation for current Medicaid enrollees. The  
25 Department will allow these individuals to continue eligibility through the period of the  
26 COVID-19 pandemic federal emergency declaration. Once the federal emergency  
27 declaration has concluded, the Department will process eligibility redeterminations and  
28 /or changes for all members whose eligibility was maintained during the emergency  
29 declaration. Effective May 11, 2023 the coronavirus COVID-19 pandemic federal  
30 emergency has been declared to end. To ensure the Department Maintains access to  
31 State and Federal funding provided by the Federal 'Families First Coronavirus Response  
32 Act' Pub.L. 116-127, and the Federal "Consolidated Appropriations Act, 2023", the  
33 Department will process eligibility redeterminations and take appropriate action for all  
34 members whose eligibility was maintained during the emergency declaration. By May  
35 2024 all members whose eligibility has been maintained due to the Public Health  
36 Emergency will have completed the renewal process. A member's eligibility may no  
37 longer be maintained after May 31, 2023 if they have completed the renewal process  
38 and/or a change is reported, and they are found ineligible. Members whose eligibility has  
39 been maintained during the Public Health Emergency and whose renewal is not due yet

- 1 will remain in their current category until their renewal due month, regardless if there is a  
2 change reported that makes them ineligible.
- 3 2. Upon request, applicants will be given an extension of time within the application processing  
4 timeframe to submit requested verification. Applicants may request an extension of time beyond  
5 the application processing timeframe to obtain necessary verification. The extension may be  
6 granted at the eligibility site's discretion. The amount of time given should be determined on a  
7 case-by-case basis and should be based on the amount of time the individual needs to obtain the  
8 required documentation.
- 9 3. The eligibility site shall not use the above timeframes as a waiting period before determining  
10 eligibility or as a reason for denying eligibility.
- 11 4. For clients who apply for the Medical Assistance Program and a disability determination is  
12 required, the eligibility site shall send a notice informing the applicant of the reason for a delay  
13 beyond the applicable deadline, and of the applicant's right to appeal if dissatisfied with the delay.  
14 The eligibility site shall send this notice no later than 91 days following the application for the  
15 Medical Assistance Program.
- 16 5. For information regarding continuation of benefits during the pendency of an appeal to the Social  
17 Security Administration (SSA) based upon termination of disability benefits see section 8.057.5.C.
- 18 ~~6. Effective July 1, 1997, as a condition of eligibility for the Medical Assistance Program, any legal  
19 immigrant who is applying for or receiving Medical Assistance shall agree in writing that, during  
20 the time period the client is receiving Medical Assistance, he or she will not sign an affidavit of  
21 support for the purpose of sponsoring an alien who is seeking permission from the United States  
22 Immigration and Citizenship Services to enter or remain in the United States. A legal immigrant's  
23 eligibility for Medical Assistance shall not be affected by the fact that he or she has signed an  
24 affidavit of support for an alien before July 1, 1997.~~
- 25 67. Eligibility sites at which an individual is able to apply for Medical Assistance benefits shall also  
26 provide the applicant the opportunity to register to vote.
- 27 a. The eligibility site shall provide to the applicant the prescribed voter registration  
28 application.
- 29 b. The eligibility site shall not:
- 30 i) Seek to influence the applicant's political preference or party registration;
- 31 ii) Display any political preference or party allegiance;
- 32 iii) Make any statement to the applicant or take any action, the purpose or effect of  
33 which is to discourage the applicant from registering to vote; and
- 34 iv) Make any statement to an applicant which is to lead the applicant to believe that  
35 a decision to register or not to register has any bearing on the availability of  
36 services or benefits.
- 37 c. The eligibility site shall ensure the confidentiality of individuals registering and declining to  
38 register to vote.

1 d. Records concerning registration and declination to register to vote shall be maintained for  
2 two years by the eligibility site. These records shall not be part of the public assistance  
3 case record.

4 e. A completed voter registration application shall be transmitted to the county clerk and  
5 recorder for the county in which the eligibility site is located not later than ten (10) days  
6 after the date of acceptance; except that if a registration application is accepted within  
7 five (5) days before the last day for registration to vote in an election, the application shall  
8 be transmitted to the county clerk and recorder for the county not later than five (5) days  
9 after the date of acceptance.

10 7g. Individuals who transfer from one Colorado county to another shall be provided the same  
11 opportunity to register to vote in the new county of residence. The new county of residence shall  
12 follow the above procedure. The new county of residence shall notify its county clerk and recorder  
13 of the client's change in address within five (5) days of receiving the information from the client.

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