

Title of Rule: Revision to Reentry Services for Incarcerated Individuals, Section 8.100.3.G.b.ii

Rule Number: MSB 25-11-20-A

Division / Contact / Phone: Office of Medicaid Operations/ Nancy Brenes / 303-866-2897

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 2505-10 8.100.3.G.b, 120.1.C. and 210.U to add reentry services authorized through the 1115 Demonstration Waiver as a benefit to incarcerated individuals 90 days before their release. These changes are being implemented to clarify an exception to current language that limits services for incarcerated individuals to an inpatient stay of 24 hours or longer in a medical institution.

The Department has issued memo IM 24-008 which provides details on the 1115 waiver demonstration and available benefits. No updates will be needed for 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:

3. Federal authority for the Rule, if any:

Section 1115(a)(1) of the Social Security Act

1115 Demonstration Waiver titled Colorado Expanding the Substance Use Disorder (SUD) Continuum of Care which was approved on October 14, 2025

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S.

Initial Review

Proposed Effective Date

01/09/26

04/02/26

Final Adoption

Emergency Adoption

02/13/26

DOCUMENT #08

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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.

With the proposed rule, incarcerated individuals will now be eligible for services 90 days before their release date, in addition to the current inpatient stay of 24 hours or longer in a medical institution.

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 change will impact incarcerated individuals that are 90 days from their release, it will allow incarcerated members to receive services that will assist with their reentry process.

Colorado will cover reentry services for certain individuals who are incarcerated in state prisons or local jails, tribal jails, and secure youth centers (herein after referred to as "correctional facilities"). To qualify for services covered under Colorado's 1115 Waiver Amendment Approval, individuals residing in a correctional facility must have been determined eligible for Medicaid or CHP+ (or be eligible for CHP+ except for their incarceration status) pursuant to an application filed before or during incarceration and have an expected release date within 90 days.

The expected outcomes of justice-involved members receiving these services are captured in the project goals:

- Increase coverage, continuity of coverage, and appropriate service uptake through assessment of eligibility and availability of coverage for benefits in carceral settings just prior to release;
- Improve access to services prior to release and improve transitions and continuity of care into the community upon release and during reentry;
- Improve coordination and communication between correctional systems, Medicaid systems, administrative services organizations, and community-based providers;
- Increase additional investments in health care and related services, aimed at improving the quality of care for beneficiaries in carceral settings and in the community to maximize successful reentry post-release;

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- Improve connections between carceral settings and community services upon release to address physical health, behavioral health (BH), and health-related social needs (HRSN);
- Reduce all-cause deaths in the near-term post-release; and
- Reduce the number of emergency department (ED) visits and inpatient hospitalizations among recently incarcerated Medicaid beneficiaries through increased receipt of preventive and routine physical and BH care.

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.

Through the implementation of the authority granted by the 1115 Waiver, the Department expects to cover the following reentry services: Behavioral and Physical Health Screenings, Medication Assisted Treatment services, Parole Medication services and eventually, Case Management Services. The Department expects approximately 5,400 people will qualify for Medicaid coverage for the Behavioral and Physical Health Screenings, while approximately 1,000 people will qualify for Medicaid coverage for the remaining services. This indicates the Department will incur a total cost of \$2,195,794 for reentry services in FY 2025-26, \$576,176 of which will come from the General Fund. All population and service costs are forecasted estimates. Because the 1115 Waiver Amendment gives the State the authority to draw federal funds for reentry services that had previously been paid by state funds exclusively, this financing mechanism represents a savings opportunity for the state. The exact federal matching funds will be dependent on which eligibility categories individual service recipients fall into.

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

In order to create the statewide infrastructure to allow other state agencies to bill HCPF as a Medicaid service provider, there are some initial administrative implementation costs that total \$1,122,782 in total funds in FY 2025-26. These costs are not specific to this rule. This rule creates technical alignment and clarification between CCR and the Department's novel 1115 waiver authority to draw federal match on reentry services and health related social needs. There are no costs associated with the implementation of this rule. The probable benefits associated with this rule change include savings to the State's general fund, as the 1115 Waiver

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grants the State the authority to draw federal match on services that were previously exclusively state-funded. Therefore, the net impact on state expenditures through the implementation of this rule change is expected to be either budget neutral or budget positive.

The probable costs associated with inaction include the State continuing to fund reentry services exclusively with State funds. Additionally, if this rule were to fail to be implemented, it would create a significant operational barrier for the State's implementation of the 1115 Waiver authority, and could drive other additional costs for the State. 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.

There are costs associated with implementing 1115 Waiver authority, as described in the response to the first and second question, but this rule itself is not driving new administrative burden or implementation costs. Additionally, the implementation of 1115 Waiver authority is expected to have a net neutral or net positive effect on the State's budget. Therefore, there are no less costly methods or less 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.

There were no alternative methods considered for the proposed rule.

1 **8.100 MEDICAL ASSISTANCE ELIGIBILITY**

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6 **8.100.3. Medical Assistance General Eligibility Requirements**

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11 **8.100.3.G. General and Citizenship Eligibility Requirements**

12 1. To be eligible to receive Medical Assistance, an eligible person shall:

13 a. Be a resident of Colorado;

14 b. Meet the following requirements while being an inmate, in-patient or resident of a public
15 institution:

16 i) The following individuals, if eligible, may be enrolled for Medical Assistance

17 1. Patients in a public medical institution

18 2. Residents of a Long-Term Care Institution

19 3. Prior inmates who have been paroled

20 4. Residents of a publicly operated community residence which serves no
21 more than 16 residents

22 5. Individuals participating in community corrections programs or residents
23 in community corrections facilities ("halfway houses") who have freedom
24 of movement and association which includes individuals who:

25 a) are not precluded from working outside the facility in employment
26 available to individuals who are not under justice system
27 supervision;

28 b) can use community resources (e.g., libraries, grocery stores,
29 recreation, and education) at will;

- c) can seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state; and/or
 - d) are residing at their home, such as house arrest, or another location.

ii)- Inmates who are incarcerated in a correctional institution such as a city, county, state or federal prison may be enrolled, if eligible, with benefits limited to:

- a) an in-patient stay of 24 hours or longer in a medical institution
or and

b) 90 days prior to release, Reentry Demonstration Initiative Services authorized by the 1115 Demonstration Waiver titled Colorado Expanding the Substance Use Disorder (SUD) Continuum of Care and described in Attachment G to the Center for Medicare & Medicaid Services' ("CMS") Demonstration Approval dated October 14, 2025 Reentry services authorized through the 1115 Demonstration Waiver 90 days prior to their release. Reentry Demonstration Initiative Services are only available while approved by CMS. CMS's Demonstration Approval dated October 14, 2025 is hereby incorporated by reference.

- c. Not be a patient in an institution for tuberculosis or mental disease, unless the person is under 21 years of age or has attained 65 years of age and is eligible for the Medical Assistance Program and is receiving active treatment as an inpatient in a psychiatric facility eligible for Medical Assistance reimbursement. See [section-Section](#) 8.100.4.H for special provisions extending Medical Assistance coverage for certain patients who attain age 21 while receiving such inpatient psychiatric services;
 - d. Meet all financial eligibility requirements of the Medical Assistance Program for which application is being made;
 - e. Meet the definition of disability or blindness, when applicable. Those definitions appear in this volume at [Section](#) 8.100.1 under Definitions;
 - f. Meet all other requirements of the Medical Assistance Program for which application is being made; and
 - g. Fall into one of the following categories:
 - i) Be a citizen or national of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa or Swain's Island; or
 - ii) Be a lawfully admitted non-citizen who entered the United States prior to August 22, 1996^{or} or
 - iii) Be a non-citizen who entered the United States on or after August 22, 1996 and is applying for Medical Assistance benefits to begin no earlier than five years after the non-citizen's date of entry into the United States who falls into one of the following categories:
 - 1) lawfully admitted for permanent residence under the Immigration and Nationality Act (hereafter referred to as the "INA"); [or](#)

- 2) paroled into the United States for at least one year under 8 U.S.C. § 1182(d)(5); or
 - 3) granted conditional entry under section 203(a)(7) of the INA, as in effect prior to April 1, 1980; or
 - 4) determined by the eligibility site, in accordance with guidelines issued by the U.S. Attorney General, to be a spouse, child, parent of a child, or child of a parent who, in circumstances specifically described in 8 U.S.C. § 1641(c), has been battered or subjected to extreme cruelty which necessitates the provision of Medical Assistance (Medicaid); or

iv) Be a non-citizen who arrived in the United States on any date, who falls into one of the following categories:

 - 1) lawfully residing in Colorado and is an honorably discharged military veteran (also includes spouse, unremarried surviving spouse and unmarried, dependent children); or
 - 2) lawfully residing in Colorado and is on active duty (excluding training) in the U.S. Armed Forces (also includes spouse, unremarried surviving spouse and unmarried, dependent children); or
 - 3) granted asylum under section 208 of the INA; or
 - 4) refugee under section 207 of the INA; or
 - 5) deportation withheld under section 243(h) (as in effect prior to September 30, 1996) or section 241(b)(3) (as amended by P.L. 104-208) of the INA; or
 - 6) Cuban or Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980; or
 - 7) an individual who (1) was born in Canada and possesses at least 50 percent American Indian blood, or is a member of an Indian tribe as defined in 25 U.S.C. see: § 5304(e) (2016); or
 - 8) admitted to the United States as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as amended by P.L. 100-461); or
 - 9) lawfully admitted permanent resident who is a Hmong or Highland Lao veteran of the Vietnam conflict; or
 - 10) a victim of a severe form of trafficking in persons, as defined in section 103 of the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106-386; (as amended by 22 U.S.C. § 7105(b) (2016)); or
 - 11) An alien who arrived in the United States on or after December 26, 2007 who is an Iraqi special immigrant under section 101(a)(27) of the INA; or

- 12) An-an alien who arrived in the United States on or after December 26, 2007 who is an Afghan Special Immigrant under section 101(a)(27) of the INA; or

13) Compact of Free Association (COFA) migrants, including citizens of Micronesia, the Marshall Islands, and Palau, pursuant to section 208 of the Consolidated Appropriations Act of 2021 (in effect December 27, 2020).

The incorporations by reference (as indicated within) throughout statutes listed this Section at sections 8.100.3.G.1.g.iii.1-5 and at 8.100.3.G.1.g.iv.3-11 are incorporated herein by reference, exclude later amendments to, or editions of the referenced material. Pursuant to § 24-4-103(12.5), C.R.S., the Department maintains copies of this incorporated text in its entirety, available for inspection during regular business hours at 303 E. 17th Ave., Denver, CO, 80203. Certified copies of incorporated materials are provided at cost upon request. Incorporated materials may also be obtained from the original issuers at www.ecfr.gov or www.medicaid.gov or www.dhs.gov, respectively. No amendments or later editions are incorporated. These regulations are available for public inspection at the Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Pursuant to C.R.S. 24-4-103(12.5)(b)(2016), the agency shall provide certified copies of the material incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule.

Be a lawfully admitted non-citizen who is a pregnant women-woman or a child under the age of 19 years in the United States who falls into one of the categories listed in Section 8.100.3.G.1.g.iii or into one of the following categories listed below. These individuals are exempt from the 5-year waiting period:

 - 1) granted temporary resident status in accordance with 8 U.S.C. § 1160 or 1255a; or
 - 2) granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. § 1254a and pending applicants for TPS granted employment authorization; or
 - 3) granted employment authorization under 8 CFR 274a.12(c) (July 1, 2015, which is hereby incorporated by reference); or
 - 4) Family Unity beneficiary in accordance with section 301 of Pub. L. 101-649, as amended; or
 - 5) Deferred Enforced Departure (DED), pursuant to a decision made by the President; or
 - 6) granted Deferred Action status (excluding Deferred Action for Childhood Arrivals (DACA)) as described in the Secretary of Homeland Security's June 15, 2012 memorandum, which is hereby incorporated by reference; or

- 7) granted an administrative stay of removal under 8 CFR 241.6 (2016), which is hereby incorporated by reference; or

8) Beneficiary beneficiary of approved visa petition who has a pending application for adjustment of status; or

9) Pending pending an application for asylum under 8 U.S.C. § 1158, or for withholding of removal under 8 U.S.C. § 1231, or under the Convention Against Torture who-

 - has been granted employment authorization; or
 - is under the age of 14 and has had an application pending for at least 180 days; or

10) granted withholding of removal under the Convention Against Torture; or

11) Aa child who has a pending application for Special Immigrant Juvenile status under 8 U.S.C. § 1101(a)(27)(J); or

12) Citizens citizens of Micronesia, the Marshall Islands, and Palau; or

13) is lawfully present American Samoa under the immigration of laws of American Samoa; or

14) Aa non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. § 1101(a)(15) or under 8 U.S.C. 1101(a)(17); or

15) A non-citizen who has been paroled into the United States for less than one year under 8 U.S.C. § 1182(d)(5), except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings.

vii) Be an Afghan Humanitarian Parolee who falls into one of the following categories listed below, as defined in Section 2502 of the Extending Government Funding and Delivering Emergency Assistance Act of 2021 (HR 5305). These individuals are exempt from the 5-year waiting period until March 31, 2023, or through the termination of their parole period, whichever is later:

 - 1) paroled into the United States between July 31, 2021 – September 30, 2022; or
 - 2) paroled into the United States after September 30, 2022, and
 - a) is the spouse or child of an individual in subparagraph 1 as defined under section 101(b) of the Immigration and Nationality Act (8 U.S.C. § 1101(b)); or
 - b) is the parent or legal guardian of an individual in subparagraph 1 who is determined to be an unaccompanied child under 6 U.S.C. § 279(g)(2).

viii) Exception: Criteria set forth at Section 8.100.3.G.1.g does not apply to persons who apply for and meet the criteria for one of the specific Medical Assistance programs:

- 1 1) Persons who are under the age of 19, whose 19th birthday occurred in
2 the current month, who are pregnant, or who are within 12 months of the
3 beginning of their postpartum period shall not be excluded from the
4 following Medical Assistance Categories on the basis of immigration
5 status:
- 6 a) MAGI Children, MAGI Pregnant, Psych <21, Transitional Medical
7 Assistance, 4 Month Extended Medical Assistance, MAGI
8 Prenatal Presumptive Eligibility, MAGI Child Presumptive
9 Eligibility
- 10 b) Medical Buy-In Program for Working Adults with Disabilities
11 (including with Home and Community Based Services), Medicaid
12 Buy-In Program for Children with Disabilities, and Long-Term
13 Care waivers except Program of All Inclusive Care for the Elderly
14 (PACE)
- 15 2) Persons requesting limited emergency medical care only and/or
16 reproductive care shall not be excluded on the basis of immigration
17 status.

18 For non-qualified non-citizens receiving Medical Assistance emergency only
19 benefits, the following medical conditions will be covered:

20 An emergency medical condition (including labor and delivery) which manifests
21 itself by acute symptoms of sufficient severity (including severe pain) such that
22 the absence of immediate medical attention could reasonably be expected to
23 result in:

- 24 a) placing the patient's health in serious jeopardy;
25 b) serious impairment of bodily function; or
26 c) serious dysfunction of any bodily organ or part.

27 These persons need not select a primary care physician as they are eligible only
28 for emergency medical services and/or reproductive health care services.
29 Applicants are not required to obtain a written statement by their physician for
30 their application to be complete and processed. For emergency care, a physician
31 must certify and declare the presence of an emergency medical condition when
32 services are provided and shall indicate that services were for a medical
33 emergency on the claim form. This will suffice as the physician statement for an
34 emergency medical condition when services were provided. Medical Assistance
35 coverage for emergency medical care only is limited to care and services that are
36 necessary to treat immediate emergency medical conditions. Coverage does not
37 include prenatal care or follow-up care. Medical Assistance benefits for
38 reproductive health care services are limited to care and services that provide
39 reproductive health and/or family planning services only. Once a member has
40 been determined eligible for either of these emergency and/or reproductive
41 health services, the member will not be required to submit a new application
42 before 12 months for any other emergency and/or reproductive health services.
43 Members will have the option to advise the Department, at any time, that they no
44 longer need the services. Members receiving emergency and/or limited
45 reproductive health services will receive a renewal at 12 months to redetermine
46 their eligibility.

2.
 - 3) The rules on confidentiality indicated under C.R.S. § 24-74-103 prevent the Department or eligibility site from reporting to the USCIS persons who have applied for or are receiving assistance.

- a. The Verify Lawful Presence (VLP) interface will be used to verify immigration status. The VLP interface connects to the Systematic Alien Verification for Entitlements (SAVE) Program to verify legal immigration status.

- i) If an automated response from VLP confirms that the information submitted is consistent with VLP data for immigration status verification requirements, no further action is required for the individual and no additional documentation of immigration status is required.

- ii) If the VLP cannot automatically confirm the information submitted, the individual will be contacted with a request for additional documents and/or information needed to verify their legal immigration status through the VLP interface. If a response from the VLP interface confirms that the additional documents and/or information received from the individual verifies their legal immigration status, no further action is required for the individual and no additional documentation of immigration status is required.

- ### 3. Reasonable Opportunity Period

- a. If the verification through the electronic interface is unsuccessful then the applicant will be provided a reasonable opportunity period, of 90 days, to submit documents indicating a legal immigration status, as listed in [Section](#) 8.100.3.G.1.g. The reasonable opportunity period will begin as of the date of the Notice of Action. The required documentation must be received within the reasonable opportunity period.

- b If the applicant does not provide the necessary documents within the reasonable opportunity period, then the applicant's Medical Assistance application shall be terminated.

- c. The reasonable opportunity period applies to MAGI, Adult and Buy-In Programs.

- i) For the purpose of this section only, MAGI Programs for persons covered pursuant to [Sections 8.100.4.G or 8.100.4.I](#) include the following:

Commonly Used Program Name	Rule Citation
Children's Medical Assistance	8.100.4.G.2
Parent and Caretaker Relative Medical Assistance	8.100.4.G.3
Adult Medical Assistance	8.100.4.G.4
Pregnant Women Medical Assistance	8.100.4.G.5
Legal Immigrant Prenatal Medical Assistance	8.100.4.G.6
Transitional Medical Assistance	8.100.4.I.1-5

- ii) For the purpose of this section only, Adult and Buy-In Programs for persons covered pursuant to [Sections](#) 8.100.3.F, 8.100.6.P, 8.100.6.Q, or 8.715- include the following:

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Commonly Used Program Name	Rule Citation
Old Age Pension A (OAP-A)	8.100.3.F.1.c
Old Age Pension B (OAP-B)	8.100.3.F.1.c
Qualified Disabled Widow/Widower	8.100.3.F.1.e
Pickle	8.100.3.F.1.e
Long-Term Care	8.100.3.F.1.f-h
Medicaid Buy-In Program for Working Adults with Disabilities	8.100.6.P
Medicaid Buy-In Program for Children with Disabilities	8.100.6.Q
Breast and Cervical Cancer Program (BCCP)	8.715

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