

Title of Rule: Revision to the CHP Plus Rule Concerning Changes to Expand the Postpartum Period to 12 months for Sections 110, 170, 310, and 430
Rule Number: CHP 21-01-06-B
Division / Contact / Phone: Office of Medicaid Operations / Melissa Torres / 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 will amend 10 CCR 2505-3 sections 110, 170, 310, and 430, to include requirements to expand Postpartum coverage to 12 months from 60 days for members who are eligible and enrolled in Medicaid and Child Health Plan Plus (CHP+). These requirements are to expand coverage according to the new state plan option offered under Sections 9812 and 9822 of the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117-2). The 12 months of the extended postpartum option will be available to all Medicaid or CHP+ members enrolled in the pregnant group defined under 42 C.F.R. § 435.116, including pregnant individuals enrolled in any other eligible Medicaid category. These changes require members who are within their 12 months of extended postpartum to receive continuous postpartum coverage, regardless of any changes in circumstances. Similar to the current 60-day postpartum period, the 12-month postpartum period will begin on the last day of a member's pregnancy ending and extends through the end of the month in which the 12-month period ends. The Department will be updating the Colorado Benefits Management System (CBMS) to reflect these changes. Lastly, updates to the rule will correct the listed federal poverty level (FPL) for the income eligibility levels from 250% to 260% of the FPL to align with Colorado's current income eligibility levels in accordance with 42 C.F.R. §457.315. No System changes are needed for the FPL updates.

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:

42 C.F.R §457.315 and §435.116

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2021);
25.5-8-103(b)(I)

Initial Review
Proposed Effective Date

04/08/22
06/30/22

Final Adoption
Emergency Adoption

05/13/22

DOCUMENT #09

Title of Rule: Revision to the CHP Plus Rule Concerning Changes to Expand the Postpartum Period to 12 months for Sections 110, 170, 310, and 430
Rule Number: CHP 21-01-06-B
Division / Contact / Phone: Office of Medicaid Operations / Melissa Torres / 5052

REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The rule update will benefit all members who are found eligible and enrolled in Medicaid or CHP+ coverage during a reported pregnancy. These members will be eligible for an extended 12 months of postpartum coverage versus only receiving 60 days postpartum, which is permitted today. There are no projected negative impacts to any classes of persons with these proposed rule changes.

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

The proposed rule to extend postpartum coverage has the potential to improve postpartum care and advance equity in health outcomes for our Medicaid and CHP+ eligible members.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The Department was appropriated \$559,372 total funds, including \$77,993 General Fund in FY 2021-22 and \$19,064,229 total funds, including \$8,035,348 General Fund in FY 2022-23 to implement SB 21-194 which expands postpartum coverage from 60 days to 12 months. The funds will be used for administrative staff to manage the program, making necessary changes in the interchange and CBMS, determining member eligibility, and reimbursing providers.

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

The cost of this policy is paying for services for eligible individuals under the expanded benefit, as well as the costs associated with setting up and running the program.

The probable benefit of this policy is providing eligible Coloradans with additional months of coverage and reducing gaps in coverage while members transition off of Medicaid and CHP.

Title of Rule: Revision to the CHP Plus Rule Concerning Changes to Expand the Postpartum Period to 12 months for Sections 110, 170, 310, and 430
Rule Number: CHP 21-01-06-B
Division / Contact / Phone: Office of Medicaid Operations / Melissa Torres / 5052

The cost of inaction is being out of compliance with state statute.

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 implementing SB 21-194

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 **FINANCIAL MANAGEMENT OF THE CHILDREN'S BASIC HEALTH PLAN**

2
3 **110 INDIVIDUALS ASSISTED UNDER THE PROGRAM**

4 110.1 To be eligible for the Children's Basic Health Plan, an eligible person shall:

5 A.

- 6 1. Be less than 19 years of age; or
7 2. Be a pregnant woman

8 B. Fall into one of the following categories:

- 9 1. Be a citizen or national of the United States, the District of Columbia, Puerto
10 Rico, Guam, the United States Virgin Islands, the Northern Mariana Islands,
11 American Samoa, or Swain's Island; or
12 2. Be a lawfully admitted non-citizen who entered the United States prior to August
13 22, 1996, or
14 3. Be a non-citizen who entered the United States on or after August 22, 1996 and
15 is applying for Medical Assistance who falls into one of the following categories:
16 a. Lawfully admitted for permanent residence under the U.S. Immigration
17 and Nationality Act (hereafter referred to as the "INA"); or
18 b. Paroled into the United States for at least one year under 8 U.S.C §
19 1182(d)(5); or
20 c. Granted conditional entry under Section 203(a)(7) of the INA, as in effect
21 prior to April 1, 1980; or
22 d. determined by the Eligibility site, in accordance with guidelines issued by
23 the U.S. Attorney General, to be a spouse, child, parent of a child, or
24 child of a parent who, in circumstances specifically described in 8 U.S.C.
25 §1641(c), has been battered or subjected to extreme cruelty which
26 necessitates the provision of Medical Assistance (Children's Basic
27 Health Plan); or
28 4. Be a non-citizen who arrived in the United States on any date, who falls into one
29 of the following categories:
30 a. Lawfully residing in Colorado and is an honorably discharged military
31 veteran; or
32 1. A spouse of such military veteran; or
33 2. An unremarried surviving spouse of such military veteran; or
34 3. An unmarried dependent child of such military veteran.7

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

- 1 b. granted Temporary Protected Status (TPS) in accordance with section 8
- 2 U.S.C 1254a and pending applicants for TPS granted employment
- 3 authorization;
- 4 c. granted employment authorization under section 8 CFR 274a.12(c);or
- 5 d. Family Unity beneficiary in accordance with section 301 of Pub. L. 101-
- 6 649, as amended.
- 7 e. Deferred Enforced Departure (DED), pursuant to a decision made by the
- 8 President
- 9 f. Granted Deferred Action status (excluding Deferred Action for Childhood
- 10 Arrivals (DACA)) as described in the Secretary of Homeland Security's
- 11 June 15,2012 memorandum;
- 12 g. Granted an administrative stay of removal under section 8 CFR 241; or
- 13 h. Beneficiary of approved visa petition who has a pending application for
- 14 adjustment of status.
- 15 i. Pending an application for asylum under section 8 U.S.C. 1158, or for
- 16 withholding of removal under section 8 U.S.C. 1231, or under the
- 17 Convention Against Torture who-
- 18 1. as been granted employment authorization; or
- 19 2. Is under the age of 14 and has had an application pending for at
- 20 least 180 days.
- 21 j. Granted withholding of removal under the Convention Against Torture;
- 22 k. Citizens of Micronesia, the Marshall Islands, and Palau; or
- 23 l. Is lawfully present American Samoa under the immigration of laws of
- 24 American Samoa.
- 25 m. A non-citizen in a valid nonimmigrant status, as defined in section 8
- 26 U.S.C. 1101(a)(15) or under section 8 U.S.C. 1101(a)(17); or
- 27 n. A non-citizen who has been paroled into the United States for less than
- 28 one year under section U.S.C. 1182(d)(5), except for an individual
- 29 paroled for prosecution, for deferred inspection or pending removal
- 30 proceedings; or
- 31 o. A child who has a pending application for Special Immigrant Juvenile
- 32 status under 8 U.S.C 1101(a)(27)(J).

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

1 ~~A. The day an eligibility determination for Medical Assistance is made for the applicant(s).~~

2 ~~B. The last day of the month following the month in which a determination for presumptive eligibility~~
3 ~~was made.~~

4 170.4 The county or Medical Assistance site shall make an eligibility determination within 45 days from
5 the date of application.

6 A. Presumptively eligible clients may appeal the county or Medical Assistance site's failure
7 to act on an application within 45 days from date of application or the denial of an
8 application. Appeal procedures are outlined in Section 600.

9 B. A presumptively eligible client may not appeal the end of a presumptive eligibility period.

12 **310 ANNUAL ENROLLMENT FEES AND DUE DATE**

13 310.1 For eligible children, the following annual enrollment fees shall be due prior to enrollment in the
14 Children's Basic Health Plan:

15 A. For families with income, at the time of eligibility determination, less than 1574% of the
16 Federal Poverty Level, the annual enrollment fee shall be waived.

17 B. For families with income, at the time of eligibility determination, between 1574% and
18 21305% of the Federal Poverty Level (~~MAGI equivalent~~), the annual enrollment fee shall
19 be:

20 1. \$25.00 for a single eligible child; and

21 2. \$35.00 for two or more eligible children.

22 3. Waived for families who include an eligible pregnant woman.

23 C. For families with income, at the time of eligibility determination, greater than 21305% and
24 up to 2650% of the Federal Poverty Level, the annual enrollment fee shall be:

25 1. \$75.00 for a single eligible child; and

26 2. \$105.00 for two or more eligible children.

27 3. Waived for families who include an eligible pregnant woman

28 310.2 If the required enrollment fee is not received with the application for the Children's Basic Health
29 Plan, the Department or its designee shall notify the applicant:

30 A. That applicable enrollment fees are a requirement for enrollment;

31 B. That fees shall be due within thirty (30) days of the date of notification;

32 C. Of effective date of enrollment if payment is received; and

1 D. That the application shall be denied if payment is not received by the due date indicated.

2 310.3 The application shall be denied if payment is not received by the due date indicated on the
3 notification.

4 310.5 Once enrollment has occurred, the annual enrollment fee is non-refundable.

5 310.6 Due to the Coronavirus COVID-19 Public Health Emergency, an eligible applicant will be charged
6 an enrollment fee. Existing members who are being re-enrolled will not be charged enrollment
7 fees until after the Public Health Emergency has ended.

8

9

10 **430 ENROLLMENT DATE**

11 430.1 Eligibility for the Children's Basic Health Plan shall be effective on the latter of:

12 A. The first day of the month of application for Medical Assistance; or

13 B. The first day of the month the person becomes eligible for the Children's Basic Health
14 Plan program.

15 430.2 Upon being enrolled in the Children's Basic Health Plan, continuous eligibility applies to children
16 under the age of 19, who through an eligibility determination, reassessment or redetermination
17 are found eligible for the Children's Basic Health Plan program. The continuous eligibility period
18 may last for up to 12 months and will begin on the month of application or from the authorization
19 date.

20 A. The continuous eligibility period applies without regard to changes in income or other
21 factors that would otherwise cause the child to be ineligible.

22 i) A 14-day no fault period shall begin on the date the child is determined eligible
23 for Medical Assistance. During the 14-day period, updates or corrections may be
24 made to the child's case. Any changes to the child's case made during the 14-
25 day no fault period may impact his or her eligibility for Medical Assistance.

26 B. A child's continuous eligibility period will end effective the earliest possible month, if any
27 of the following occur:

28 i) Child is deceased

29 ii) Becomes an inmate of a public institution

30 iii) The child states that she/he has moved out of the household permanently

31 iv) Is no longer a Colorado resident

32 v) Is unable to be located based on evidence or reasonable assumption

33 vi) Requests to be withdrawn from continuous eligibility

- 1 vii) Fails to provide documentation during a reasonable opportunity period as
2 specified in section 8.100.3.H.9
- 3 viii) Fails to provide a reasonable explanation or paper documentation when self-
4 attested income is not reasonably compatible with income information from an
5 electronic data source, by the end of the 90-day reasonable opportunity period.
6 This exception only applies the first-time income is verified following an initial
7 eligibility determination or an annual redetermination.
- 8 ix) An eligible person shall not be enrolled in other health insurance coverage
- 9 430.3. If determined eligible, the enrollment date of a pregnant woman shall be effective as of the first of
10 the month of the date of application or the first day of the month the pregnant woman becomes
11 eligible. The enrollment span shall end ~~on the last day at the end of the month following 60~~
12 ~~days~~ 12 months after the birth of the child or termination of the pregnancy. Once eligibility has
13 been approved, coverage must be provided regardless of changes in the woman's financial
14 circumstances, once the income verification requirements are met.
- 15 A. A pregnant women's eligibility period will end effective the earliest possible month, if any
16 of the following occur:
- 17 i) Fails to provide a reasonable explanation or paper documentation when self-
18 attested income is not reasonably compatible with income information from an
19 electronic data source, by the end of the 90-day reasonable opportunity period.
20 This exception only applies the first-time income is verified following an initial
21 eligibility determination or an annual redetermination.
- 22 430.4 An eligible person's enrollment date in the selected MCO shall be no later than:
- 23 A. The first of the month following eligibility determination and MCO selection if eligibility is
24 determined before the 17th of the month.
- 25 B. The first of the second month following eligibility determination and MCO selection if
26 eligibility is determined on or after the 17th of the month.
- 27 430.5 A child born to a mother who is enrolled in the Children's Basic Health Plan at the time of the
28 child's birth is guaranteed coverage for one year.
- 29 A. To receive Medical Assistance under the Children's Basic Health Plan, the birth must be
30 reported verbally or in writing to the County Department of Human Services or Eligibility
31 site. Information provided shall include the baby's name, date of birth, and mother's name
32 or Medical Assistance number. A newborn can be reported at any time by any person.
33 Once reported, a newborn meeting the above criteria shall be added to the mother's
34 Medical Assistance case, or his or her own case if the newborn does not reside with the
35 mother, according to timelines defined by the Department. If adopted, the newborn's
36 agent does not need to file an application or provide a Social Security Number or proof of
37 application for a Social Security Number for the newborn.