

Title of Rule: Revision to the Medical Assistance Eligibility Rules concerning Buy-in Monthly Premium Waiver Extension, 8.100.6.Q.1.f.vii and 8.100.6.P.1.f.vi
Rule Number: MSB 24-03-19-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 8.100.6.Q.1.f.vii. and 8.100.6.P.1.f.vi to incorporate changes to the duration of the extension period for the Working Adults with Disabilities (WAWD) and the Children’s Buy-In with Disabilities (CBWD) programs. Currently, it is stated that the Department will continue to waive premiums until the last day of the twelfth month following the end of the COVID - 19 Public Health Emergency. The change will reflect that this extension will continue past the end of the emergency declaration and until further notice from the Department.

The rule must be updated to reflect an additional extension to waive the collection of monthly premiums. The Department has issued a memo to reflect the extension of waiving of premiums and no additional Colorado Benefits Management System changes are needed since we have already been waiving premiums.

2. An emergency rule-making is imperatively necessary

to comply with state or federal law or federal regulation and/or
 for the preservation of public health, safety and welfare.

Explain: The benefit of this change will be to potentially eliminate barriers to continued access to coverage for individuals and families once the public health emergency has concluded.

3. Federal authority for the Rule, if any:
N/A

4. State Authority for the Rule:
Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2023)

Initial Review
Proposed Effective Date

06/01/24

Final Adoption
Emergency Adoption

07/12/24
05/10/24

DOCUMENT #15

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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, applicants and/or recipients of the Working Adults with Disabilities (WAWD) and the Children's Buy-In with Disabilities (CBwD) programs will continue to have their monthly premiums waived until further notice. This change may help members stay enrolled in the program since there is no monthly expense associated with continuous coverage.

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 will remove the requirement that applicants and/or recipients of the Working Adults with Disabilities (WAWD) and the Children's Buy-In with Disabilities (CBwD) programs will not have to incur the expense of paying a monthly premium.

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.

For FFY 23-24, the cost of continuing to waive monthly premiums for this population is \$3,713,593 in total funds and \$1,856,297 in HAS Fee funds.

For FFY 24-25, the cost of continuing to waive monthly premiums for this population is \$5,197, 631 in total funds and \$2,598,816 in HAS Fee funds.

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

Our budget department has advised that reinstating premiums could impact access to affordable care for the buy-in program population. Inaction could lead to a potential cost decrease in caseload and associated program costs due to reduced member enrollment.

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 or less intrusive methods for achieving the purpose of the proposed rule.

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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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5 **8.100.6 Aged, Blind, and Disabled Medical Assistance Eligibility**

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13 **8.100.6.P. Medicaid Buy-In Program for Working Adults with Disabilities.**

14 1. To be eligible for the Medicaid Buy-In Program for Working Adults with Disabilities:

15 a. Applicants must be at least age 16.

16 b. Income must be less than or equal to 450% of FPL after income allocations and
17 disregards. See 8.100.5.F for Income Requirements and 8.100.5.H for Income allocations
18 and disregards. Only the applicant's income will be considered.

19 c. Resources are not counted in determining eligibility.

20 d. Individuals must have a disability as defined by Social Security Administration medical
21 listing or a limited disability as determined by a state contractor.

22 e. Individuals must be employed. Please see Verification Requirements at 8.100.5.B.1.c.

23 i) Due to the federal COVID-19 Public Health Emergency, and required by the
24 Federal CARES Act for the Maintenance of Effort (MOE), members who had a
25 loss of employment will remain in the Buy-In program until the end of the federal
26 Public Health Emergency. At the end of the federal Public Health Emergency
27 effective May11, 2023, members will be redetermined based on their current
28 employment status and be required to be employed to be eligible for the
29 program. New applicants enrolled will still need to meet the work requirement.

30 f. Individuals will be required to pay monthly premiums on a sliding scale based on income.

31 i) The amount of premiums cannot exceed 7.5% of the individual's income.

- 1 ii) Premiums are charged beginning the month after determination of eligibility. Any
- 2 premiums for the months prior to the determination of eligibility will be waived.
- 3 iii) Premium amounts are as follows:
- 4 1) There is no monthly premium for individuals with income at or below 40%
- 5 FPL.
- 6 2) A monthly premium of \$25 is applied to individuals with income above
- 7 40% of FPL but at or below 133% of FPL.
- 8 3) A monthly premium of \$90 is applied to individuals with income above
- 9 133% of FPL but at or below 200% of FPL.
- 10 4) A monthly premium of \$130 is applied to individuals with income above
- 11 200% of FPL but at or below 300% of FPL.
- 12 5) A monthly premium of \$200 is applied to individuals with income above
- 13 300% of FPL but at or below 450% of FPL./
- 14 iv) The premium amounts will be updated at the beginning of each State fiscal year
- 15 based on the annually revised FPL if the revised FPL would cause the premium
- 16 amount (based on percentage of income) to increase by \$10 or more.
- 17 v) A change in a member’s net income may impact the monthly premium amount
- 18 due. Failure to pay premium payments in full within 60 days from the premium
- 19 due date will result in the member’s assistance being terminated prospectively.
- 20 The effective date of the termination will be the last day of the month following
- 21 the 60 days from the date on which the premium became past due. The
- 22 Department will waive premiums for the Medicaid Buy-In for Working Adults with
- 23 Disability Program for member’s who are within their 12 months postpartum
- 24 period.
- 25 vi) Due to the federal COVID-19 Public Health Emergency, the Department ~~will~~
- 26 ~~waived~~ premiums for the Medicaid Buy-In for Working Adults with Disability
- 27 Program during the federal COVID-19 emergency declaration. ~~Effective May 11,~~
- 28 ~~2023 the COVID-19 Public Health Emergency has ended.~~ The Department will
- 29 continue to waive premiums ~~until the last day of the twelfth month following the~~
- 30 ~~end of the COVID-19 Public Health past the end of the E~~emergency ~~declaration~~
- 31 ~~and until further notice.~~ The Department will notify all members as to when
- 32 required premiums will resume.

- 33 2. Retroactive coverage is available according to 8.100.3.E, however is not available prior to
- 34 program implementation
- 35 3. Individuals have the option to request to be disenrolled if they have been enrolled into the
- 36 Medicaid Buy-In Program for Working Adults with Disabilities. This is also called “opt out.”

8.100.6.Q. Medicaid Buy-In Program for Children with Disabilities

- 38 1. To be eligible for the Medicaid Buy-In Program for Children with Disabilities:
- 39 a. Applicants must be age 18 or younger.

- 1 b. Household income will be considered and must be less than or equal to 300% of FPL
2 after income disregards. The following rules apply:
 - 3 i) 8.100.4.E - MAGI Household Requirements
 - 4 ii) 8.100.5.F - Income Requirements
 - 5 iii) 8.100.5.F.6 - Income Exemptions
 - 6 iv) An earned income of \$90 shall be disregarded from the gross wages of each
7 individual who is employed
 - 8 v) A disregard of a 33% (.3333) reduction will be applied to the household's net
9 income.
- 10 c. Resources are not counted in determining eligibility.
- 11 d. Individuals must have a disability as defined by Social Security Administration medical
12 listing.
- 13 e. Children age 16 through 18 cannot be employed. If employed, children age 16 through 18
14 shall be determined for eligibility through the Medicaid Buy-In Program for Working Adults
15 with Disabilities.
- 16 f. Families will be required to pay monthly premiums on a sliding scale based on household
17 size and income.
 - 18 i) For families whose income does not exceed 200% of FPL, the amount of
19 premiums and cost-sharing charges cannot exceed 5% of the family's adjusted
20 gross income. For families whose income exceeds 200% of FPL but does not
21 exceed 300% of FPL, the amount of premiums and cost-sharing charges cannot
22 exceed 7.5% of the family's adjusted gross income.
 - 23 ii) Premiums are charged beginning the month after determination of eligibility. Any
24 premiums for the months prior to the determination of eligibility will be waived.
 - 25 iii) For households with two or more children eligible for the Medicaid Buy-In
26 Program for Children with Disabilities, the total premium shall be the amount due
27 for one eligible child.
 - 28 iv) Premium amounts are as follows:
 - 29 1) There is no monthly premium for households with income at or below
30 133% of FPL.
 - 31 2) A monthly premium of \$70 is applied to households with income above
32 133% of FPL but at or below 185% of FPL.
 - 33 3) A monthly premium of \$90 is applied to individuals with income above
34 185% of FPL but at or below 250% of FPL.
 - 35 4) A monthly premium of \$120 is applied to individuals with income above
36 250% of FPL but at or below 300% of FPL.

- 1 v) The premium amounts will be updated at the beginning of each State fiscal year
2 based on the annually revised FPL if the revised FPL would cause the premium
3 amount (based on percentage of income) to increase by \$10 or more.
- 4 vi) A change in household net income may impact the monthly premium amount
5 due. Failure to pay premium payments in full within 60 days from the premium
6 due date will result in a member's assistance being terminated prospectively. The
7 effective date of the termination will be the last day of the month following the 60
8 days from the date on which the premium became past due. The Department will
9 waive premiums for the Children with Disabilities Program members who are
10 within their 12 months postpartum period.
- 11 vii) Due to the federal COVID-19 Public Health Emergency, the Department ~~will~~
12 ~~waived~~ premiums for the ~~Department's~~ Children with Disabilities Program during
13 the federal ~~COVID-19~~ emergency declaration. ~~Effective May 11, 2023 the COVID~~
14 ~~-19 Public Health Emergency has ended.~~ The Department will continue to waive
15 premiums past the end of the emergency declaration and until further notice, until
16 the last day of the twelfth month following the end of the COVID-19 Public
17 Health Emergency. The Department will notify all members as to when required
18 premiums will resume.
- 19 2. Retroactive coverage is available according to 8.100.3.E, however is not available prior to
20 program implementation.
- 21 3. Verification requirements will follow the MAGI Category Verification Requirements found at
22 8.100.4.B.
- 23 4. Individuals have the option to request to be disenrolled if they have been enrolled into the
24 Medicaid Buy-In Program for Children with Disabilities. This is also called "opt out."
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