Title of Rule: CBHP Eligibility identification and affadavit documentation

Rule Number: MSB 06-07-13-A

Division / Contact / Phone: Children's Basic Health Plan / Joanne C. Lindsay / 3144

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 purpose of this rule is to comply with HB 06S-1023 addressing necessary documentation for persons 18 and over to be enrolled into CBHP.

2. An emergency rule-making is imperatively necessary

   ☒ to comply with state or federal regulation and/or

   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2005);
   HB 06S-1023

Initial Review

Proposed Effective Date **08/01/06**

Final Adoption **09/08/06**

Emergency Adoption **07/31/06**

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.

On and after August 1, 2006, this rule will require CBHP eligible persons eighteen years of age or older to present identification that verifies their lawful presence in the United States at the time of enrollment in order to receive CBHP benefits. In addition, the eligible person shall be required to execute an affidavit stating that he or she is a United States citizen or legal permanent resident, or that he or she is otherwise lawfully present in the United States pursuant to federal law.

Per HB 06S-1023, each applicant eighteen years of age or older shall produce the following identification: 1) a valid Colorado driver's license or Colorado identification card; 2) a United States military card or a military dependent's identification card; 3) a United States Coast Guard Merchant Mariner Card; or 4) a Native American Tribal document.

County departments of social service and medical assistance sites shall be required to obtain and verify applicant identification and obtain the signed affidavit required by HB 06S-1023. Affidavits do not need to be verified.

For an applicant who has executed an affidavit stating that he or she is an alien lawfully present in the United States, the provider will need to perform verification of lawful presence through the Federal Systematic Alien Verification of Entitlement Program operated by the United States Department of Homeland Security.

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 affected clients will be required to submit documentation that is not currently required. This may be an administrative burden to some clients who cannot easily retrieve the required forms. In addition, the inability to obtain the documentation may affect citizens from receiving timely health care. It is also possible that the process will identify illegal immigrants who have been receiving services, and those clients would only be able to obtain emergency services from this point forward. The Department believes that there will also be a cost for accessing the Federal Systematic Alien Verification of Entitlement Program (SAVE), including by month and per query charges.

County departments of social services and medical assistance sites who process eligibility for these clients will be required to take on additional tasks and costs to comply with the rules.

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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 there are costs for the Department to oversee compliance with this rule (statute), for the county departments of social services, Medical Assistance sites and contractors to process and file additional paperwork, and system changes to record the information. However, the bill indicates that the "general assembly anticipates that there may be a need for supplemental appropriations to comply with the provisions of this act that cannot be accommodated within existing resources." Therefore, the Department plans to submit a request for an emergency supplemental to address these costs in September 2006.

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

The costs of inaction are noncompliance with State statute, which is not an option at this time.

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

The Department proposed a process that is least intrusive for the State, counties, and providers, while still being able to ensure that the law was implemented.

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.

The Department considered doing all verifications on August 1, 2006, and this was discarded due to the dramatic impact that processing all clients at once, each year, would have on the entire welfare system for years to come. Therefore, the Department decided to complete verifications at the clients' annual redetermination time. The Department also considered requiring in person visits so original documents could be viewed. This option was discarded because many clients mail-in or drop off applications. Allowing notarized copies allows for the intent of the statute to be met while still permitting mail in or drop off applications.

f. A Cuban or Haitian entrant, as defined under Section 501(e)(2) of the U.S. Refugee Education Assistance Act of 1980; or

g. An individual who:

1. Was born in Canada and possesses at least 50 percent American Indian blood; or

2. Is a member of an Indian tribe, as defined in 25 U.S.C. Section 450(b)e.

h. Admitted into the United States as an Amerasian immigrant under Section 584 of the U.S. Foreign Operations, Export Financing, and Related Programs Appropriation Act of 1988, as amended by P.L. 100-461; or

i. A lawfully admitted, permanent resident, who is a Hmong or Highland Lao veteran of the Vietnam conflict; and

C. Be a resident of Colorado; and

D. Have family income less than or equal to 200% of the Federal Poverty Level, adjusted for family size.

120 INSUFFICIENT ACCESS TO OTHER HEALTH COVERAGE

120.1 To be eligible for the Children's Basic Health Plan, an eligible person shall not:

A. Be covered under a group health plan or under health insurance coverage; or

B. Currently have, or have had within the three months prior to application, comparable (as defined in Title XXI of the Social Security Act, Section 2103) health coverage through an employer where the employer contributes at least fifty percent of the premium cost for the individual unless the individual lost health coverage due to a change in or loss of employment; or

C. Be a member of a family that is eligible for health benefits coverage under a State health benefits plan on the basis of a family member's employment with a public agency in the State of Colorado; or

D. Be eligible to receive assistance under Title XIX of the Social Security Act; or

E. Be an inmate of a public institution or a patient in an institution for mental diseases.

130 DOCUMENTATION

130.1 To be eligible for the Children's Basic Health Plan, an eligible person shall provide the following:

A. Verification of earned income for the family of the applicant if money has been earned within 30 days of the date of application. Verification may include one of the following:

1. Current wage stubs; or
2. A note from an employer; or
3. A phone call to an employer (if permitted by applicant); or
4. Ledgers or receipts for self-employed applicants.

B. Eligible persons age 18 and over applying for benefits on and after August 1, 2006, shall provide the following certified, notarized photocopies or original documents prior to being enrolled in the Children's Basic Health Plan:
1. A valid Colorado driver's license or a Colorado state issued identification card; or
2. A United States military card or a military dependent's identification card; or
3. A United States Coast Guard Merchant Mariner card; or
4. A Native American tribal document; or
5. Other forms of identification or a waiver process to ensure that an individual proves lawful presence in the United States as authorized by the Executive Director of the Colorado Department of Revenue pursuant to 24-76.5-130(5)(a),C.R.S.

AND

C. An executed and notarized affidavit stating:
1. That he or she is a United States citizen or legal permanent resident; or
2. That he or she is otherwise lawfully present in the United States pursuant to federal law.

D. For an applicant who has executed an affidavit stating that he or she is an alien lawfully present in the United States, verification of lawful presence shall be made through the Federal Systematic Alien Verification of Entitlement Program operation by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security. Until such verification of lawful presence is made, the affidavit may be presumed to be proof of lawful presence.

E. Photocopies of the identification listed in 130.1 B and C shall be acceptable identification if the photocopies meet the following criteria:
1. A notary public must have certified that he or she saw the original document and that the photocopy is a true copy of that original; or
2. A county caseworker or medical assistance site worker attests in writing on the photocopy that he or she saw the original documentation and that the photocopy is a true copy of that original.

F. The person described in §110.1.A.2. shall be presumed eligible for the Children's Basic Health Plan if their self reported income meets self-declared income guidelines.

140. REDETERMINATION

140.1 Eligibility shall be redetermined when twelve (12) months have passed since the last eligibility determination.

150 CALCULATION OF FAMILY INCOME

150.1 Income includes all employment, self-employment, and unearned income, with the following exceptions: