Title of Rule:	Part D Low Income Subsidy Resource Limits, Section 8.1000.4.B
Rule Number:	MSB 07-01-04-B
Division / Contact / Phone:	Client Services Division / Tom Leahey / 303-866-2519

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).

   This rule revision increases the resource limitations for Medicare Part D low-income subsidy eligibility, in compliance with federal regulations.

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:

   The Centers for Medicare and Medicaid Services increased the resource limits used in determining eligibility for the Medicare Part D low-income subsidy. This emergency rule is necessary to bring the Department's regulations into compliance with the new federal resource limits.

3. Federal authority for the Rule, if any:

   Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173, enacted December 8, 2003); 42 C.F.R. §423.773(a)(2); 42 C.F.R. §423.904(a).

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2006);
   25.5-4-106(3), and 25.5-5-503(1), C.R.S. (2006)

Initial Review		Final Adoption	**03/09/2007**
Proposed Effective Date	**02/09/2007**	Emergency Adoption	**02/09/2007**

DOCUMENT #02

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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.

   Medicare-only clients may benefit from the proposed rule because the resource limits for qualifying for the Part D low-income subsidy have increased for 2007.

   Eligibility site technicians will be required to become familiar with the new resource limits to assure the accuracy of eligibility determinations for the Part D low-income subsidy for Medicare-only clients. Since most Medicare-only clients apply for the Part D low-income subsidy through the Social Security Administration, the Department does not believe the proposed rule will impose any new costs for eligibility determinations.

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 Centers for Medicare and Medicaid Services increased the resource limits for the Part D low-income subsidy. Therefore, more Medicare-only clients should qualify for the Part D low-income subsidy. However, the Department does not have data on Medicare-only clients with which to quantify the impact of the proposed rule.

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.

   Most Medicare-only clients apply for the Part D low-income subsidy through the Social Security Administration rather than apply with the Department. Therefore, the Department does not anticipate that the proposed rule will impose any new costs or affect state revenue.

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

   The benefits of the proposed rule are compliance with federal regulations, and correspondingly, the accurate determination of eligibility for the Part D low-income subsidy for Medicare-only clients.

   Inaction would mean the Department is out of compliance with federal regulations and would be at risk of losing federal matching funds.

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

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Not applicable.

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.

   Not applicable.

8.1000.4 ELIGIBILITY FOR THE LOW-INCOME SUBSIDY

8.1000.4.A. Deemed Eligible.

1. An Applicant shall be deemed eligible for the full LIS if the Applicant is:

    a. A Full-Benefit Dual Eligible;

    b. A recipient of Supplemental Security Income benefits under title XVI of the Social Security Act; or

    c. Eligible for Medicaid as a Qualified Medicare Beneficiary (QMB), Specified Low Income Medicare Beneficiary (SLMB), or a Qualifying Individual (QI).

8.1000.4.B. Low-Income Subsidy.

1. Full premium subsidy. An Applicant shall be eligible for the Part D full premium subsidy if the Applicant meets the following requirements:

    a. Has income below 135 percent of the Federal Poverty Limit (FPL).

    b. Does not have resources that exceed $6,120 if single or $9,190 if married. ~~three times the amount of resources an Applicant may have and still be eligible for benefits under the Title XVI SSI program.~~ An Applicant's resources include the assets or resources of the Applicant's spouse.

2. Low-Income Subsidy. An Applicant shall be eligible for a Part D partial subsidy if the Applicant meets the following requirements:

    a. Has income less than 150 percent of the FPL; and

    b. Does not have resources that exceed $10,210 ~~$10,000~~ if single or $20,410 ~~$20,000~~ if married. An Applicant's resources include the assets or resources of the Applicant's spouse.