



COLORADO CENTER  
on LAW & POLICY

# Due Process and Notice

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June 24, 2016

Colorado Center on Law and Policy  
789 Sherman St., Suite 300, Denver, CO 80203

[www.cclponline.org](http://www.cclponline.org)

# Legal requirements



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Notice must include enough information so that a recipient can decide whether a challenge is warranted.

Goldberg v. Kelly, 397 U.S. 254 (1970)

Federal law: 42 CFR § § 431.206 and 431.210

State law: 10 CCR 2505-10 § 8.057.1

# Elements



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**Timeliness:** mailed at least 10 days prior to the action

**Adequacy:**

- 1) The action that will occur
- 2) The reasons for the action
- 3) The regulations that support the action
- 4) An explanation of the right to request a hearing
- 5) An explanation of the right to continuing benefits pending appeal

# Reasons Given: Generalized vs. Individualized



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“You did not give us everything needed to complete your application.”

**OR**

“You did not give us a paystub or letter from your employer that shows your income.”

# Reasons Given: Generalized vs. Individualized



“Your income is more than the limit for the program.”

OR

**[REDACTED]** (MAGI Adult)

+/-/=	Amount	Field	Description
	\$816.00	Earned Income	Countable income that you receive from work
+	\$0.00	Self-Employment	Countable income from self-employment
+	\$0.00	Unearned Income	Countable income you receive that is not from work
=	\$816.00	Total Countable Income	Total Countable Income
-	\$0.00	5% Income Disregard (disregard not applicable in all cases)	The amount of your earnings that we don't count.
=	\$816.00	Net Countable Income	Your countable income after allowable deductions.
	\$2,227.00	Income Standard	Income standard for the household
	Pass	Result	Your net countable income compared to the income standard.



# The Cost of Confusion



Inadequate  
Notice: Due  
Process Violation

Confusion results in  
**repeated calls** to PEAK  
support and county.

Confusion leads to  
unnecessary loss of benefits  
and adds to churn in and out of  
Medicaid.



At the same time, uncertainty  
about the facts means that an  
individual must request a  
**conference** or **appeal** while  
getting further information.