

Title of Rule: Revision to the Special Financing Division Colorado Indigent Care Program Rule Concerning Halfway House Residents, Section 8.904F  
Rule Number: MSB 16-07-18-A  
Division / Contact / Phone: Special Financing / Taryn Jorgensen / 303-866-5634

## 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).

New Centers for Medicare and Medicaid Services (CMS) guidance (SHO #16-007 dated April 28, 2016) on Federal Financial Participation for people residing in community correctional facilities (halfway houses) has caused Colorado Medicaid to change its policy and allow this population to qualify for Medicaid. Since the Colorado Indigent Care Program (CICP) is a safety net program, the CICP's rules must be updated to coincide with this policy change. Access to health care for this population is in the best interests of the public welfare.

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:

Emergency rule-making is imperatively necessary in order for the Colorado Indigent Care Program (CICP) to implement changes to coincide with new Medicaid policy regarding Colorado residents residing in halfway houses who have freedom of movement and association becoming eligible for Medicaid. The people within this population who do not qualify for Medicaid due to being over income or who are legal immigrants who have not been in the country for more than five years would instead be eligible for the Colorado Indigent Care Program's discount health care services under the new rule. Access to health care for this population is a matter of public welfare. Immediate action is required to allow access to discounted health care services. Denying them access would cause unnecessary risks associated with delayed care.

3. Federal authority for the Rule, if any:

State Health Official directive #16-007, dated April 28, 2016, Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);  
25.5-3-104, C.R.S. (2016)

Initial Review

Proposed Effective Date

**09/09/16**

Final Adoption

Emergency Adoption

**09/09/16**

**DOCUMENT #01**

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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.

This rule currently specifically excludes any Colorado resident residing in a halfway house from qualifying for the Colorado Indigent Care Program (CICP) unless they have been released on parole. This rule update will simply allow these individuals to be screened for the CICP and made eligible if they meet all qualifying criteria, and will not change any processes currently in place, nor will it place any new requirements on the Department, CICP providers, CICP clients, or CICP applicants.

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

This rule will allow Colorado residents residing in community corrections facilities (halfway houses) who have freedom of movement and association to be eligible for the CICP if they are found to be ineligible for Medicaid due to being over income or if they are legal immigrants who have not been in the country for at least five years. The Department and the Department of Public Safety have determined that all but one community corrections facility in Colorado (Gateway Through the Rockies in Colorado Springs) allow residents freedom of movement and association and meet the definition provided by CMS.

It is not possible to quantify the impact of this proposed change because although the Department of Health Care Policy and Financing has determined that about 4,000 people will be affected by this change for Medicaid, the Department does not know how many of those 4,000 or on top of those 4,000 will qualify for the CICP. However, the Department does assume the number to be fewer than 4,000.

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 of Health Care Policy and Financing sees no fiscal impact of this rule change for the Department. The funds for the Colorado Indigent Care Program are appropriated, and this rule update will have no effect on the appropriation.

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

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The update to this rule will help to ensure that people who are transitioning from the prison system back into the general public will be eligible for more affordable health care through the CICP should they not qualify for Medicaid. Otherwise, this population may go without access to affordable health care until they can purchase a plan through Connect for Health Colorado during open enrollment or qualify for coverage through their employer.

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

Since the Department of Health Care Policy and Financing does not foresee any fiscal impact of this rule change, there are not any less costly methods that were considered.

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.

No other methods were considered.

1 **8.904 PROVISIONS APPLICABLE TO CLIENTS**

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5 F. Applicants Not Eligible

6 1. The following individuals are not eligible to receive discounted services under  
7 available CICIP funds:

- 8 a. Individuals for whom lawful presence cannot be verified.
- 9 b. Individuals who are being held or confined involuntarily under  
10 governmental control in State or federal prisons, jails, detention facilities  
11 or other penal facilities. This includes those individuals residing in  
12 detention centers awaiting trial, at a wilderness camp, residing in half-  
13 way houses who ~~have not been released on parole~~ do not have freedom  
14 of movement and association, and those persons in the custody of a law  
15 enforcement agency temporarily released for the sole purpose of  
16 receiving health care.
- 17 c. College students whose residence is from outside Colorado or the United  
18 States that are in Colorado for the purpose of higher education. These  
19 students are not Colorado residents and cannot receive services under  
20 the CICIP.
- 21 d. Visitors from other states or countries temporarily visiting Colorado and  
22 have primary residences outside of Colorado.

23 2. Persons who qualify for Medicaid. However, applicants whose only Medicaid  
24 benefits are the following shall not be excluded from consideration for CICIP  
25 eligibility:

- 26 a. QMB benefits described at section 10 C.C.R. 2505-10, Section 8.111.1  
27 (2007) of these regulations;
- 28 b. SLMB benefits described at section 10 C.C.R. 2505-10, Section 8.122  
29 (2007), or
- 30 c. The QI1 benefits described at section 10 C.C.R. 2505-10, Section 8.123  
31 (2007).

32 3. Individuals who are eligible for the Children's Basic Health Plan. However,  
33 individuals who are waiting to become an enrollee in the Children's Basic Health

1 Plan and/or have incurred charges at a participating qualified health care  
2 provider in the 90 days prior to the application date shall not be excluded from  
3 consideration for eligibility on a temporary basis. Once the applicant becomes  
4 enrolled in the Children's Basic Health Plan, the applicant is no longer eligible to  
5 receive discounted health care services under available CICP funding.

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