

Title of Rule: Revision to the Medical Assistance Eligibility Rule Concerning a Rule Citation Correction, 10 CCR 2505 § 8.100.7.B.1.c and 8.100.7.B.2.c
Rule Number: MSB 14-10-31-A
Division / Contact / Phone: Eligibility Policy / Eric Stricca / 303-866-4475

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 is a technical correction to the rule cite in 10 CCR 2505-10 § 8.100.7.B that refers to Working Adults with Disabilities at 10 CCR 2505-10 § 8.100.6.O for when it should be § 8.100.6.P.

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:

3. Federal authority for the Rule, if any:

The federal authority for this rule is located in Section 201 of the Ticket to Work and Work Incentive Improvement Act of 1999, Public Law 106-170.

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2013);
25.5-5-201(1)(o) and 25.5-6-1401 through 1406 C.R.S. (2014)

EMS.
12/2/14

Initial Review **12/12/2014**
Proposed Effective Date **03/02/2015**

Final Adoption **01/09/2015**
Emergency Adoption

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.

Individuals who are financially eligible under the Working Adults with Disabilities Buy-in program that meet the level of care for the Elderly, Blind and Disabled or Community Mental Health Supports waivers.

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

Correcting the rule cite will stop any misinterpretations and incorrect eligibility determinations.

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 rule cite correction will not have any costs to the Department or any other agency.

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

Without the correction of the cite reference, the rule can be misinterpreted which could cause eligibility to be determined incorrectly.

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

N/A

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.

N/A

8.100.7.B. Persons Requesting Long-term Care through Home and Community Based Services (HCBS) or the Program of All Inclusive Care for the Elderly (PACE)

1. HCBS or PACE shall be provided to persons who have been assessed by the Single Entry Point/Case Management Agency to have met the functional level of care and will remain in the community by receiving HCBS or PACE; and
 - a. are SSI (including 1619b) or OAP Medicaid eligible; or
 - b. are eligible under the Institutionalized 300% Special Income category described at 8.100.7.A; or
 - c. are eligible under the Medicaid Buy-In Program for Working Adults with Disabilities described at 8.100.6.⓪P. For this group, access to HCBS:
 - i) Is limited to the Elderly, Blind and Disabled and Community Mental Health Supports waivers; and
 - ii) Is contingent on the Department receiving all necessary federal approval for the waiver amendments that extend access to HCBS to the Working Adults with Disabilities population described at 8.100.6.⓪P.
2. A client who is already Medicaid eligible does not need to submit a new application. The client must request the need for Long-Term Care services and the Eligibility Site must redetermine the client's eligibility.
 - a. All individuals applying for or requesting Long-Term Care services must disclose and provide documentation of:
 - i) any transfer of assets without fair consideration as described at 8.100.7.F; and
 - ii) any interest in an annuity as described at 8.100.7.I; and
 - iii) any interest in a trust as described at 8.100.7.E.
 - b. Failure to disclose and provide documentation of the assets described at 8.100.7.B.2.a may result in the denial of Long-Term Care services.
 - c. The requirements at 8.100.7.B.2.a and 8.100.7.B.2.b do not apply to individuals who have been determined eligible under the Medicaid Buy-In Program for Working Adults with Disabilities described at 8.100.6.⓪P.
3. For individuals served in Alternative Care Facilities (ACF), income in excess of the personal needs allowance and room and board amount for the ACF shall be applied to the Medical Assistance charges for ACF services. The total amount allowed for personal need and room and board cannot exceed the State's Old Age Pension Standard.

8.100.7.C. Treatment of Income and Resources for Married Couples