

Title of Rule: Revision to the Child Health Plan Plus Rule Concerning Section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Section 110  
Rule Number: MSB 15-02-23-B  
Division / Contact / Phone: Eligibility Division / Ana Bordallo / 303-866-3558

**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 the rule change is to make revisions to the current policy regarding lawfully residing children who do not meet the 5-year waiting period. In 2009 Colorado House Bill 09-1353 authorized the Department to remove the 5-year waiting period for all lawfully residing children and pregnant women. Changes to the Colorado Benefits Management System (CBMS) will be made to be in alignment with federal and state regulations effective July 1, 2015.

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:

Section 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) which amends section 2107 of the Act, codified at 42 U.S.C 1396b(v)(4)(A).

4. State Authority for the Rule:

Colorado House Bill 09-1353, codified as sections 25.5-5-101(2)(b)(II);25.5-5-201(2)(b);25.5-8-109(6).

Initial Review **04/10/2015**

Final Adoption **05/08/2015**

Proposed Effective Date **07/01/2017**

Emergency Adoption

**DOCUMENT #03**

AB

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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.

The proposed rule will impact children and pregnant women who are lawfully residing and who have not met the 5-year waiting period. The proposed rule will benefit these children and pregnant women by eliminating the 5-year waiting period and making them eligible for CHP+, as long as all other eligibility criteria are met.

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 proposed rule will allow lawfully residing children and pregnant women who have not met the 5-year waiting period to be eligible for CHP+.

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.

Eliminating the 5-year waiting period for children and pregnant women that are lawfully residing in the United States for less than 5 years will increase the State's expenditure as this change will expand eligibility for CHP+. See tables for details on cost estimates. This rule needs to be implemented for CHP+ children and pregnant women.

CHP+ Expenditures		
	FFY 2014-15	FFY 2015-16
CHP+ Children	236	1,082
Medical Per Capita	\$170.86	\$172.27
Dental Per Capita	\$19.05	\$19.36
CHP+Children's Expenditure	\$44,819	\$207,344
CHP+ Prenatal	16	71
Medical Per Capita	\$1,093.51	\$1,107.27
CHP+ Prenatal Expenditure	\$17,496	\$78,616
Total Expenditure	\$62,315	\$285,960
State Share	\$21,368	\$32,886
Federal Share	\$40,947	\$253,074

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

The Department expects an increase in expenditure of \$898,378 total funds in FFY 2014-15 and \$4,056,176 in FFY 2015-16. This rule was approved under HB 09-1353 and was partially implemented. Currently Colorado provides Medicaid coverage to legally residing pregnant women that have not met the 5-year waiting period. This proposed rule change would complete the implementation of HB 09-1353. Inaction would leave CHP+ eligible children and CHP+ eligible pregnant women who have been lawfully residing in the United States for less than 5 years without medical assistance.

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

There is not a less costly method to achieve the purpose of this proposed rule

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.

There are no alternative methods for the proposed rule the Department considered.

1 **110 INDIVIDUALS ASSISTED UNDER THE PROGRAM**

2 110.1 To be eligible for the Children's Basic Health Plan, an eligible person shall:

3 A.

4 1. Be less than 19 years of age; or

5 2. Be a pregnant woman

6 B. Meet one of the following categories:

7 1. A citizen or national of the United States, the District of Columbia, Puerto  
8 Rico, Guam, the United States Virgin Islands, the Northern Mariana  
9 Islands, American Samoa, or Swain's Island; or

10 2. An alien or immigrant who entered the United States ~~at least five years~~  
11 ~~prior to the date of application~~ and who is:

12 a. Lawfully admitted for permanent residence under the U.S.  
13 Immigration and Nationality Act; or

14 b. Paroled into the United States for at least one year under  
15 Section 212(d)(5) of the U.S. Immigration and Nationality Act; or

16 c. Granted conditional entry under Section 203(a)(7) of the U.S.  
17 Immigration and Nationality Act; or  
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1   **170   PRESUMPTIVE ELIGIBILITY**

2   170.1   An eligible person may apply for presumptive eligibility for immediate temporary medical  
3           services through designated presumptive eligibility sites.

4           A.       To be eligible for presumptive eligibility, an applicant household's declared  
5                   income shall be greater than 133% but not exceed 250% of federal poverty level  
6                   for children under the age of 19; or

7           B.       To be eligible for presumptive eligibility, an applicant household's declared  
8                   income shall be greater than 185% but not exceed 250% of the federal poverty  
9                   level for pregnant women; and

10          C.       He/she shall be a United States citizen or a documented immigrant ~~of at least~~  
11                   five years.

12   170.2   Presumptive eligibility sites shall be certified by the Department of Health Care Policy and  
13           Financing to make presumptive eligibility determinations. Sites shall be re-certified by the  
14           Department of Health Care Policy and Financing every 2 years to remain approved  
15           presumptive eligibility sites.

16          A.       The presumptive eligibility sites shall attempt to obtain all necessary  
17                   documentation to complete the application within ten business days of  
18                   application.

19          B.       The presumptive eligibility site shall forward the application to the county within  
20                   five business days of being completed. If the application is not completed within  
21                   ten business days, on the eleventh business day following application, the  
22                   presumptive eligibility sites shall forward the application to the appropriate  
23                   county.

24   170.3   The presumptive eligibility period will be no less than 45 days. The presumptive eligibility  
25           period will end on the last day of the month following the completion of the 45 day  
26           presumptive eligibility period.

27   170.4   The county or medical assistance site shall make an eligibility determination within 45  
28           days from the date of application. The effective date of eligibility will be the date of  
29           application.

30          A.       Presumptively eligible clients may appeal the county or medical assistance site's  
31                   failure to act on an application within 45 days from date of application or the  
32                   denial of an application. Appeal procedures are outlined in Section 600.

33          B.       A presumptively eligible client may not appeal the end of a presumptive eligibility  
34                   period.

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