

Title of Rule: Revision to the Medical Assistance Health Information Office
General Eligibility Rules, Sections 8.100.1 and 8.100.3
Rule Number: MSB 15-07-08-A
Division / Contact / Phone: Eligibility Division / Geoffrey Oliver / 303-866-2686

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 proposed rule change is to incorporate revisions mandated by Executive Order D 2012-002 (EO 2), as codified at Section 24-4-103.3 CRS (2014). The governor has issued and an Executive Order which requires state agencies to review state rules every five years to ensure rules are effective, efficient and essential. A regulatory review is solely for the purpose of identifying those rules which are duplicative, overlapping, outdated and inconsistent. The Colorado Benefits Management System (CBMS) does not need to be updated for sections 8.100.1 and 8.100.3 since all CBMS algorithms are in alignment with our federal regulations.

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:

42 CFR §435.949, 42 CFR §435.603, 42 CFR §435.907, 42 CFR §431.305, 42 CFR §435.4, 26 USC §131, and IRS Notice 2014-7.

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2014);
Executive Order D 2013-002 (EO 2), as codified at section 24-4-103.3 C.R.S. (2014);
25.5-4-104 C.R.S. (2014).

Initial Review

08/14/2015

Final Adoption

09/11/2015

Proposed Effective Date

11/1/2015

Emergency Adoption

DOCUMENT #03

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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 all Medical Assistance covered groups. The benefit to the proposed language is to eliminate duplicative, overlapping, outdated and inconsistent rules.

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

To achieve regulatory review goals, sections 8.100.1 and 8.100.3 has been revised and updated to assure state rules are current and are in alignment with federal regulations. This will have a positive impact on all Medical Assistance covered groups by eliminating any confusion on duplicative, overlapping, outdated and inconsistent rules.

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.

While the majority of the changes provide clarifying language that codifies current practice, and subsequently have no fiscal impact, two changes have a potential to increase state expenditures; specifically, changes in treatment of home care allowance income and treatment of business expenses effectively expand Medicaid eligibility under very specific circumstances. However, the Department anticipates a de minimus increase in caseload as a result of the rule change would only occur when an individual received enough income from these sources to put them over income for Medicaid eligibility previously, but that they would fall under income after the rule change was implemented. Given the sources of income and type of business expenses in question, such cases should be relatively rare and will not drive a significant fiscal impact.

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

Proposed changes with associated costs are required for compliance with federal regulations; inaction is not a viable option.

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

Proposed changes with associated costs are required for compliance with federal regulations; alternative methods are not available.

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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 rules the Department considered.

1 **8.100 MEDICAL ASSISTANCE ELIGIBILITY**

2 **8.100.1 Definitions**

3 300% Institutionalized Special Income Group is a Medical Assistance category that provides
4 Long-Term Care Services to aged or disabled individuals.

5 1619b is section 1619b of the Social Security Act which allows individuals who are eligible for
6 Supplemental Security Income (SSI) to continue to be eligible for Medical Assistance coverage
7 after they return to work.

8 AB - Aid to the Blind is a program which provides financial assistance to low-income blind
9 persons.

10 ABD - Aged, Blind and Disabled Medical Assistance is a group of Medical Assistance categories
11 for individuals that have been deemed to be aged, blind, or disabled by the Social Security
12 Administration or the Department.

13 Adult MAGI Medical Assistance Group provides Medical Assistance to eligible adults from the
14 age of 19 through the end of the month that the individual turns 65, who do not receive or who are
15 ineligible for Medicare.

16 AND - Aid to Needy Disabled is a program which provides financial assistance to low-income
17 persons over age 18 who have a total disability which is expected to last six months or longer and
18 prevents them from working.

19 AFDC - Aid to Families with Dependent Children is the Title IV federal assistance program in
20 effect from 1935 to 1997 which was administered by the United States Department of Health and
21 Human Services. This program provided financial assistance to children whose families had low
22 or no income.

23 AP-5615 is the form used to determine the patient payment for clients in nursing facilities
24 receiving Long Term Care.

25 Alien is a person who was not born in the United States and who is not a naturalized citizen.

26 Ambulatory Services is any medical care delivered on an outpatient basis.

27 Annuity is an investment vehicle whereby an individual establishes a right to receive fixed
28 periodic payments, either for life or a term of years.

29 Applicant is an individual who is seeking an eligibility determination for Medical Assistance
30 through the submission of an application.

31 Application Date is the date the application is received and date-stamped by the eligibility site or
32 the date the application was received and date-stamped by an Application Assistance site or
33 Presumptive Eligibility site. In the absence of a date-stamp, the application date is the date that
34 the application was signed by the client.

35 Application for Public Assistance is the designated application used to determine eligibility for
36 financial assistance. It can also be used to determine eligibility for Medical Assistance.

- 1 Blindness is defined in this volume as the total lack of vision or vision in the better eye of 20/200
2 or less with the use of a correcting lens and/or tunnel vision to the extent that the field of vision is
3 no greater than 20 degrees.
- 4 Burial Spaces are burial plots, gravesites, crypts, mausoleums, urns, niches and other customary
5 and traditional repositories for the deceased's bodily remains provided such spaces are owned by
6 the individual or are held for his or her use, including necessary and reasonable improvements or
7 additions to or upon such burial spaces such as: vaults, headstones, markers, plaques, or burial
8 containers and arrangements for opening and closing the gravesite for burial of the deceased.
- 9 Burial Trusts are irrevocable pre-need funeral agreements with a funeral director or other entity to
10 meet the expenses associated with burial for Medical Assistance applicants/recipients. The
11 agreement can include burial spaces as well as the services of the funeral director.
- 12 Caretaker Relative is any relation by blood, marriage or adoption who is within the fifth degree of
13 kinship to the dependent child, such as: a parent; a brother, sister, uncle, aunt, first cousin, first
14 cousin once removed, nephew, niece, or persons of preceding generations denoted by prefixes of
15 grand, great, great great, or great-great-great; a spouse of any person included in the above
16 groups even after the marriage is terminated by death or divorce; or stepparent, stepbrother,
17 stepsister, step-aunt, etc.
- 18 Case Management Services are services provided by community mental health centers,
19 clinics, community centered boards, and EPSDT case managers to assist in providing services to
20 Medical Assistance clients in gaining access to needed medical, social, educational and other
21 services.
- 22 Cash Surrender Value is the amount the insurer will pay to the owner upon cancellation of the
23 policy before the death of the insured or before maturity of the policy.
- 24 Categorically Eligible means persons who are eligible for Medical Assistance due to their
25 eligibility for one or more Federal categories of public assistance.
- 26 CBMS - Colorado Benefits Management System is the computer system that determines an
27 applicant's eligibility for public assistance in the state of Colorado.
- 28 CDHS -Colorado Department of Human Services is the state department responsible for
29 administering the social service and financial assistance programs for Colorado.
- 30 Children MAGI Medical Assistance group provides Medical Assistance coverage to tax
31 dependents or otherwise eligible applicants through the end of the month that the individual turns
32 19 years old.
- 33 Child Support Services is a CDHS program that assures that all children receive financial and
34 medical support from each parent. This is accomplished by locating each parent, establishing
35 paternity and support obligations, and enforcing those obligations.
- 36 Citizen is a person who was born in the United States or who has been naturalized.
- 37 Client is a person who is eligible for the Medical Assistance Program. "Client" is used
38 interchangeably with "recipient" when the person is eligible for the program.
- 39 CMS - Centers for Medicare and Medicaid Services is the Federal agency within the US
40 Department of Health and Human Services that partners with the states to administer Medicaid
41 and CHP+ via State Plans in effect for each State. Colorado is in Region VIII.

- 1 CHP+ - Child Health Plan Plus is low-cost health insurance for Colorado's uninsured children and
2 pregnant women. CHP+ is public health insurance for children and pregnant women who earn too
3 much to qualify for The Medical Assistance Program, but cannot afford private health insurance.
- 4 COLA - Cost of Living Adjustment is an annual increase in the dollar value of benefits made
5 automatically by the United States Department of Health and Human Services or the state in
6 OASDI, SSI and OAP cases to account for rises in the cost of living due to inflation.
- 7 Colorado State Plan is a written statement which describes the purpose, nature, and scope of the
8 Colorado's Medical Assistance Program. The Plan is submitted to the CMS and assures that the
9 program is administered consistently within specific requirements set forth in both the Social
10 Security Act and the Code of Federal Regulations (CFR) in order for a state to be eligible for
11 Federal Financial Participation (FFP).
- 12 Common Law Marriage is legally recognized as a marriage in the State of Colorado under certain
13 circumstances even though no legally recognized marriage ceremony is performed or civil
14 marriage contract is executed. Individuals declaring or publicly holding themselves out as a
15 married couple through verbal or written methods may be recognized as legally married under
16 state law. C.R.S. § 14-2-104(3).
- 17 Community Centered Boards are private non-profit organizations designated in statute as the
18 single entry point into the long-term service and support system for persons with developmental
19 disabilities.
- 20 Community Spouse is the spouse of an institutionalized spouse.
- 21 Community Spouse Resource Allowance is the amount of resources that the Medical Assistance
22 regulations permit the spouse staying at home to retain.
- 23 Complete Application means an application in which all questions have been answered, which is
24 signed, and for which all required verifications have been submitted.
- 25 The Department is defined in this volume as the Colorado Department of Health Care Policy and
26 Financing which is responsible for administering the Colorado Medical Assistance Program and
27 Child Health Plan Plus programs as well as other State-funded health care programs.
- 28 Dependent Cehild is ~~defined in this volume as~~ a child who lives with a parent, legal guardian,
29 caretaker relative or foster parent and is under the age of 19, a full-time student, and expected to
30 graduate by age 19, residing in the home or between the ages of 18 and 19 who is a full time
31 student in a secondary school or in the equivalent level of vocational or technical training and
32 expected to complete the program before age 19.
- 33 Dependent Relative for purposes of this rule is defined as one who is claimed as a dependent by
34 an applicant for federal income tax purposes.
- 35 Difficulty of Care Ppayments is a payment to an individual as compensation for providing
36 additional care to an individual who qualifies for foster care and lives in the home of the care
37 provider. This additional care must be e ~~State must determine that the care required is due to a~~
38 physical, mental, or emotional handicap suffered by the foster care individual.
- 39 Disability means the inability to do any substantial gainful activity (or, in the case of a child,
40 having marked and severe functional limitations) by reason of a medically determinable physical
41 or mental impairment(s) which can be expected to result in death or which has lasted or can be
42 expected to last for a continuous period of 12 months or more.

- 1 Dual **E**ligible clients are Medicare beneficiaries who are also eligible for Medical Assistance.
- 2 Earned Income is defined for purposes of this volume as any compensation from participation in a
3 business, including wages, salary, tips, commissions and bonuses.
- 4 Earned Income Disregards are the allowable deductions and exclusions subtracted from the
5 gross earnings. Income disregards vary in amount and type, depending on the category of
6 assistance.
- 7 Electronic **D**ata **S**ource is an interface established with a federal or state agency, commercial
8 entity, or other data sources obtained through data sharing agreements to verify data used in
9 determining eligibility. The active interfaces are identified in the Department's verification plan
10 submitted to CMS.
- 11 Eligibility **S**ite is defined in this volume as a location outside of the Department that has been
12 deemed by the Department as eligible to accept applications and determine eligibility for
13 applicants.
- 14 Employed means that an individual has earned income and is working part time, full time or is
15 self-employed, and has proof of employment. Volunteer or in-kind work is not considered
16 employment.
- 17 EPSDT- Early Periodic Screening, Diagnosis and Treatment is the child health component of the
18 Medical Assistance Program. It is required in every state and is designed to improve the health of
19 low-income children by financing appropriate, medically necessary services and providing
20 outreach and case management services for all eligible individuals.
- 21 Equity **V**alue is the fair market value of land or other asset less any encumbrances.
- 22 Ex Parte Review is an administrative review of eligibility during a redetermination period in lieu of
23 performing a redetermination from the client. This administrative review is performed by verifying
24 current information obtained from another current aid program.
- 25 Face **V**alue of a **L**ife **I**nsurance **P**olicy is the basic death benefit of the policy exclusive of
26 dividend additions or additional amounts payable because of accidental death or other special
27 provisions.
- 28 Fair **M**arket **V**alue is the average price a similar property will sell for on the open market to a
29 private individual in the particular geographic area involved. Also, the price at which the property
30 would change hands between a willing buyer and a willing seller, neither being under any
31 pressure to buy or to sell and both having reasonable knowledge of relevant facts.
- 32 FBR - The Federal Benefit Rate is the monthly Supplemental Security Income payment amount
33 for a single individual or a couple. The FBR is used by the Aged, Blind and Disabled Medical
34 Assistance Programs as the eligibility income limits.
- 35 FFP - Federal Financial Participation as defined in this volume is the amount or percentage of
36 funds provided by the Federal Government to administer the Colorado Medical Assistance
37 Program.
- 38 FPL - Federal Poverty Level is a simplified version of the federal poverty thresholds used to
39 determine financial eligibility for assistance programs. The thresholds are issued each year in the
40 Federal Register by the Department of Health and Human Services (HHS).

- 1 Good Cause is the client's justification for needing additional time due to extenuating
2 circumstances, usually used when extending deadlines for submittal of required documentation.
- 3 Good Cause for Cchild Support is the specific process and criteria that can be applied when a
4 client is refusing to cooperate in the establishment of paternity or establishment and enforcement
5 of a child support order due to extenuating circumstances.
- 6 HCBS are Home and Community Based Services are also referred to as "waiver programs".
7 HCBS provides services beyond those covered by the Medical Assistance Program that enable
8 individuals to remain in a community setting rather than being admitted to a Long-Term Care
9 institution.
- 10 In-Kind Income is income a person receives in a form other than money. It may be received in
11 exchange for work or service (earned income) or a non-cash gift or contribution (unearned
12 income).
- 13 Inpatient is an individual who has been admitted to a medical institution on recommendation of a
14 physician or dentist and who receives room, board and professional services for 24 hours or
15 longer, or is expected to receive these services for 24 hours or longer.
- 16 Institution is an establishment that furnishes, in single or multiple facilities, food, shelter and some
17 treatment or services to four or more persons unrelated to the proprietor.
- 18 Institutionalization is the commitment of a patient to a health care facility for treatment.
- 19 An Institutionalized Individual is ~~one~~ a person who is institutionalized in a medical facility, a
20 Long-Term Care institution, or applying for or receiving Home and Community Based Services
21 (HCBS) or the Program of All Inclusive Care for the Elderly (PACE).
- 22 Institutionalized Spouse is a Medicaid eligible client who begins a stay in a medical institution or
23 nursing facility on or after September 30, 1989, or is first enrolled as a Medical Assistance client
24 in the Program of All Inclusive Care for the Elderly (PACE) on or after October 10, 1997, or
25 receives Home and Community Based Services (HCBS) on or after July 1, 1999; and is married
26 to a spouse who is not in a medical institution or nursing facility. An institutionalized spouse does
27 not include any such individual who is not likely to be in a medical institution or nursing facility or
28 to receive HCBS or PACE for at least 30 consecutive days. Irrevocable means that the contract,
29 trust, or other arrangement cannot be terminated, and that the funds cannot be used for any
30 purpose other than outlined in the document.
- 31 Insurance Affordability Program (IAP) refers to Medicaid, Child Health Plan *Plus* (CHP+), and
32 premium and cost-sharing assistance for purchasing private health insurance through state
33 insurance marketplace.
- 34 Legal Immigrant is an individual who is not a citizen or national and has been permitted to remain
35 in the United States by the United States Citizenship and Immigration Services (USCIS) either
36 temporarily or as an actual or prospective permanent resident or whose extended physical
37 presence in the United States is known to and allowed by USCIS.
- 38 Legal Immigrant Prenatal is a medical program that provides medical coverage for pregnant legal
39 immigrants who have been legal immigrants for less than five years.
- 40 Limited Disability for the Medicaid Buy-In Program for Working Adults with Disabilities means that
41 an individual has a disability that would meet the definition of disability under SSA without regard
42 to Substantial Gainful Activity (SGA).

- 1 Long-Term Care is Medical Assistance services that provides nursing-home care, home-health
2 care, personal or adult day care for individuals aged at least 65 years or with a chronic or
3 disabling condition.
- 4 Long-Term Care Institution means class I nursing facilities, intermediate care facilities for the
5 mentally retarded (ICF/MR) and swing bed facilities. Long-Term Care institutions can include
6 hospitals.
- 7 Managed care system is a system for providing health care services which integrates both the
8 delivery and the financing of health care services in an attempt to provide access to medical
9 services while containing the cost and use of medical care.
- 10 Medical Assistance is defined as all medical programs administered by the Department of Health
11 Care Policy and Financing. Medical Assistance/Medicaid is the joint state/federal health benefits
12 program for individuals and families with low income and resources. It is an entitlement program
13 that is jointly funded by the states and federal government and administered by the state. This
14 program provides for payment of all or part of the cost of care for medical services.
- 15 Medical Assistance Required Household is defined for purposes of this volume as all parents or
16 caretaker relatives, spouses, and dependent children residing in the same home.
- 17 Minimal Verification is defined in this volume as the minimum amount of information needed to
18 process an application for benefits. No other verification can be requested from clients unless the
19 information provided is questionable or inconsistent.
- 20 MMMNA - Minimum Monthly Maintenance Needs Allowance is the calculation used to determine
21 the amount of institutionalized spouse's income that the community spouse is allowed to retain to
22 meet their monthly living needs.
- 23 **MAGI** - Modified Adjusted Gross Income (**MAGI**) refers to the methodology by which income and
24 household composition are determined for the MAGI Medical Assistance groups under the
25 Affordable Care Act. These MAGI groups include Parents and Caretaker Relatives, Pregnant
26 Women, Children, and Adults. For a more complete description of the MAGI categories and
27 pursuant rules, please refer to section 8.100.4.
- 28 **MAGI-equivalent Equivalent** is the resulting standard identified through a process that converts a
29 state's net-income standard to equivalent MAGI standards.
- 30 MIA - Monthly Income Allowance is the amount of institutionalized spouse's income that the
31 community spouse is allowed to retain to meet their monthly living needs.
- 32 MSP - Medicare Savings Program is a Medical Assistance Program to assist in the payment of
33 Medicare premium, coinsurance and deductible amounts. There are four groups that are eligible
34 for payment or part-payment of Medicare premiums, coinsurance and deductibles: Qualified
35 Medicare Beneficiaries (QMBs), Specified Low-Income Medicare Beneficiaries (SLIMBs),
36 Qualified Disabled and Working Individuals (QDWIs), and Qualifying Individuals – 1 (QI-1s).
- 37 Non-Filer is an individual who neither files a tax return nor is claimed as a tax dependent. For a
38 more complete description of how household composition is determined for the MAGI Medical
39 Assistance groups, please refer to the MAGI household composition section at 8.100.4.E.
- 40 Nursing Facility is a facility or distinct part of a facility which is maintained primarily for the care
41 and treatment of inpatients under the direction of a physician. The patients in such a facility

- 1 require supportive, therapeutic, or compensating services and the availability of a licensed nurse
2 for observation or treatment on a twenty-four-hour basis.
- 3 OAP - Old Age Pension is a financial assistance program for low income adults age 60 or older.
- 4 OASDI - Old Age, Survivors and Disability Insurance is the official term Social Security uses for
5 Social Security Act Title II benefits including retirement, survivors, and disability. This does not
6 include SSI payments.
- 7 Outpatient is a patient who is not hospitalized overnight but who visits a hospital, clinic, or
8 associated facility for diagnosis or treatment. Is a patient who does not require admittance to a
9 facility to receive medical services.
- 10 PACE - Program of All-inclusive Care for the Elderly is a unique, capitated managed care benefit
11 for the frail elderly provided by a not-for-profit or public entity. The PACE program features a
12 comprehensive medical and social service delivery system using an interdisciplinary team
13 approach in an adult day health center that is supplemented by in-home and referral services in
14 accordance with participants' needs.
- 15 Parent and Caretaker Relative is a MAGI Medical Assistance group that provides Medical
16 Assistance to adults who are parents or Caretaker Relatives of dependent children.
- 17 Patient is an individual who is receiving needed professional services that are directed by a
18 licensed practitioner of the healing arts toward maintenance, improvement, or protection of
19 health, or lessening of illness, disability, or pain.
- 20 PEAK – the Colorado Program Eligibility and Application Kit is a web-based portal used to apply
21 for public assistance benefits in the State of Colorado, including Medical Assistance.
- 22 PNA - Personal Needs Allowance means moneys received by any person admitted to a nursing
23 care facility or Long-Term Care Institution which are received by said person to purchase
24 necessary clothing, incidentals, or other personal needs items which are not reimbursed by a
25 Federal or state program.
- 26 Pregnant Women is a MAGI Medical Assistance group that provides Medical Assistance
27 coverage to pregnant women whose MAGI-based income calculation is less than 185% FPL,
28 including women who are 60 days post-partum.
- 29 Premium means the monthly amount an individual pays to participate in a Medicaid Buy-In
30 Program.
- 31 Provider is any person, public or private institution, agency, or business concern enrolled under
32 the state Medical Assistance program to provide medical care, services, or goods and holding a
33 current valid license or certificate to provide such services or to dispense such goods.
- 34 Psychiatric Facility is a facility that is licensed as a residential care facility or hospital and that
35 provides inpatient psychiatric services for individuals under the direction of a licensed physician.
- 36 Public Institution means an institution that is the responsibility of a governmental unit or over
37 which a governmental unit exercises administrative control.
- 38 Questionable is defined as inconsistent or contradictory tangible information, statements,
39 documents, or file records.

- 1 Reasonable Compatibility refers to an allowable difference or discrepancy between the income an
2 applicant self attests and the amount of income reported by an electronic data source. For a more
3 complete description of how reasonable compatibility is used to determine an applicant's financial
4 eligibility for Medical Assistance, please refer to the MAGI Income section at 8.100.4.C
- 5 Reasonable Explanation refers to the opportunity afforded an applicant to explain a discrepancy
6 between self-attested income and income as reported by an electronic data source, when the
7 difference is above the threshold percentage for reasonable compatibility.
- 8 Recipient is any person who has been determined eligible to receive benefits.
- 9 Resident is any individual who is living within the state and considers the state as their place of
10 residence. Residents include any unemancipated child whose parent or other person exercising
11 custody lives within the state.
- 12 RRB - Railroad Retirement Benefits is a benefit program under Federal law 45 U.S.C.A. § 231 et
13 seq that became effective in 1935. It provides retirement benefits to retired railroad workers and
14 families from a special fund, which is separate from the ~~Ssocial security~~ Security fund.
- 15 Secondary School is a school or educational program that provides instruction or training towards
16 a high school diploma or an equivalent degree such as a ~~General Educational Development~~
17 ~~(GED) certificate~~ High School Equivalency Diploma (HSED).
- 18
- 19 SGA – Substantial Gainful Activity is defined by the Social Security Administration. SGA is the
20 term used to describe a level of work activity and earnings. Work is “substantial” if it involves
21 performance of significant physical or mental activities or a combination of both, which are
22 productive in nature. For work activity to be substantial, it does not need to be performed on a
23 full-time basis. Work activity performed on a part-time basis may also be substantial gainful
24 activity. “Gainful” work activity is work performed for pay or profit; or work of a nature generally
25 performed for pay or profit; or work intended for profit, whether or not a profit is realized.
- 26 Single Entry Point Agency means the organization selected to provide case management
27 functions for persons in need of Long-Term Care services within a Single Entry Point District.
- 28 Single Streamlined Application or “SSAp” is the general application for health assistance benefits
29 through which applicants will be screened for Medical Assistance programs including Medicaid,
30 CHP+, or premium and cost-sharing assistance for purchasing private health insurance through a
31 state insurance marketplace.
- 32 SISC- Supplemental Income Status Codes are system codes used to distinguish the different
33 types of state supplementary benefits (such as OAP) a recipient may receive. Supplemental
34 Income Status Codes determine the FFP for benefits paid on behalf of groups covered under the
35 Medical Assistance program.
- 36 SSA - Social Security Administration is an agency of the United States federal government that
37 administers Social Security, a social insurance program consisting of retirement, disability, and
38 survivors' benefits.
- 39 SSI - Supplemental Security Income is a Federal income supplement program funded by general
40 tax revenues (not Social Security taxes) that provides income to aged, blind or disabled
41 individuals with little or no income and resources.

1 SSI ~~E~~eligible means an individual who is eligible to receive Supplemental Security Income under
2 Title XVI of the Social Security Act, and may or may not be receiving the monetary payment.

3 TANF - Temporary ~~A~~assistance to ~~N~~eedy ~~F~~amilies is the Federal assistance program which
4 provides supportive services and federal benefits to families with little or no income or resources.
5 ~~The program began on July 1, 1997, and succeeded the Aid to Families with Dependent Children~~
6 ~~program.~~ It is the Block Grant that was established under the Personal Responsibility and Work
7 Opportunity Reconciliation Act in Title IV of the Social Security Act.

8 Tax Dependent is anyone expected to be claimed as a dependent by a Tax-~~F~~iler.

9 Tax-Filer is an individual, head of household or married couple who is required to and who files a
10 personal income tax return.

11 Third Party is an individual, institution, corporation, or public or private agency which is or may be
12 liable to pay all or any part of the medical cost of an injury, a disease, or the disability of an
13 applicant for or recipient of Medical Assistance.

14 Title XIX is the portion of the federal Social Security Act which authorizes a joint federal/state
15 Medicaid program. Title XIX contains federal regulations governing the Medicaid program.

16 TMA - Transitional Medical Assistance is a Medical Assistance category for families that lost
17 Medical Assistance coverage due to increased earned income or loss of earned income
18 disregards.

19 ULTC 100.2 is an assessment tool used to determine level of functional limitation and eligibility
20 for Long-Term Care services in Colorado.

21 Unearned ~~I~~income is the gross amount received in cash or kind that is not earned from
22 employment or self-employment.

23 VA - Veterans Affairs is The Department of Veterans Affairs which provides patient care and
24 Federal benefits to veterans and their dependents.
25

1 **8.100.3. Medical Assistance General Eligibility Requirements [Eff. 03/30/2009]**

2 **8.100.3.A. Application Requirements**

- 3 1. The eligibility site shall advise individuals concerning the benefits of the Medical
 4 Assistance Program and determine ~~and or~~ redetermine eligibility for Medical Assistance
 5 in accordance with rules and regulations of the Department. A person who is applying for
 6 the Medical Assistance Program or a client who is determined ineligible for the Medical
 7 Assistance Program in one category shall be evaluated under all other categories of
 8 eligibility. There is no time limit for Medical Assistance coverage as long as the client
 9 remains categorically eligible.
- 10 2. If the applicant applied for Medical Assistance on the Single Streamlined Application and
 11 was found ineligible, this application shall be reviewed for all other Medical Assistance
 12 eligibility programs, the Child Health Plan Plus (CHP+) program and premium and cost-
 13 sharing assistance for purchasing private health insurance through the state insurance
 14 marketplace.
- 15 a. The application data and verifications shall be automatically transferred to the
 16 state insurance marketplace through a system interface when applicants are
 17 found ineligible for Medical Assistance eligibility programs. If an individual is
 18 pending for a Non-MAGI Medical Assistance eligibility program but has been
 19 found financially ineligible for MAGI Medical Assistance eligibility programs, the
 20 application data and verifications shall be transferred to the state insurance
 21 marketplace.
- 22 ~~3. The applicant must sign the application form, give declaration in lieu of a signature by~~
 23 ~~telephone, or may opt to use an electronic signature in order to receive Medical~~
 24 ~~Assistance.~~
- 25 43. Persons applying ~~to the eligibility site~~ for assistance need complete only one application
 26 form to apply for both Medical Assistance and Financial Assistance under the Federal or
 27 State Financial Assistance Programs administered in the county. The application will be
 28 the Application for Public Assistance.
- 29 54. If an applicant is found to be ineligible for a particular program, the Application for Public
 30 Assistance shall be reviewed and processed for other financial programs the household
 31 has requested on the Application for Public Assistance and all other Medical Assistance
 32 Programs. Referrals to other community agencies and organizations shall be made for
 33 the applicant whenever available or requested.
- 34 ~~5.~~ The applicant must sign the application form, give declaration in lieu of a signature by
 35 telephone, or may opt to use an electronic signature in order to receive Medical
 36 Assistance.
- 37 ~~86.~~ A family member, adult in the applicant's Medical Assistance Required Household or
 38 authorized representative may submit an application and request assistance on behalf of
 39 an applicant.
- 40 67. If the applicant is not able to participate in the completion of the application forms
 41 because they are a minor (as defined in C.R.S. § 13-22-101) ,or due to physical or
 42 mental incapacity, the spouse, other relative, friend, or representative acting responsibly
 43 on behalf of the applicant may complete the forms. When no such person is available to

1 assist in these situations, the eligibility site shall assist the applicant in the completion of
2 the necessary forms. This type of situation should be identified clearly in the case record.

3 ~~78.~~ For the purpose of Medical Assistance, when an applicant is incompetent or
4 incapacitated and unable to sign an application, or in case of death of the applicant, the
5 application shall be signed under penalty of perjury, by someone acting responsibly on
6 behalf of the applicant either:

7 a. A parent, or other specified relative, or legally appointed guardian or conservator,
8 or

9 b. For a person in a medical institution for whom none of the above in A-8.a. are
10 available, an authorized official of the institution may sign the application.

11 ~~8. Any family member or specified representative may submit an application and request~~
12 ~~assistance on behalf of an applicant.~~

13 9. Application interviews or requested visits to the eligibility site for Medical Assistance shall
14 not be required. All correspondence may occur by mail, email or telephone.

15 10. During normal business hours, eligibility sites shall not restrict the hours in which
16 applicants may file an application. The eligibility site must afford any individual wishing to
17 do so the opportunity to apply for Medical Assistance without delay.

18 11. ~~The applicant has the right to withdraw his or her application at any time. Each person's~~
19 ~~household composition shall be calculated separately under the MAGI category rules.~~
20 ~~Each MAGI Medical Assistance Household shall be budgeted using the appropriate need~~
21 ~~standard/income level for that unit. See section 8.100.4.E for more information on MAGI~~
22 ~~household composition.~~
23

8.100.3.D. Processing Requirements

1. The eligibility site shall process a Ssingle Sstreamlined Aapplication for Medical Assistance Program benefits within the following deadlines:
 - a. 90 days for persons who apply for the Medical Assistance Program and a disability determination is required.
 - b. 45 days for all other Medical Assistance Program applicants.
 - c. The above deadlines cover the period from the date of receipt of a complete application to the date the eligibility site mails a notice of its decision to the applicant.
 - d. In unusual circumstances, documented in the case record and in CBMS case comments, the eligibility site may delay its decision on the application beyond the applicable deadline at its discretion. Examples of such unusual circumstances are a delay or failure by the applicant or an examining physician to take a required action such as submitting required documentation, or an administrative or other emergency beyond the agency's control.
2. Upon request, applicants will be given an extension of time within the application processing timeframe to submit requested verification. Applicants may request an extension of time beyond the application processing timeframe to obtain necessary verification. The extension may be granted at the eligibility site's discretion. The amount of time given should be determined on a case-by-case basis and should be based on the amount of time the individual needs to obtain the required documentation.
3. The eligibility site shall not use the above timeframes as a waiting period before determining eligibility or as a reason for denying eligibility.
4. For clients who apply for the Medical Assistance Program and a disability determination is required, the eligibility site shall send a notice informing the applicant of the reason for a delay beyond the applicable deadline, and of the applicant's right to appeal if dissatisfied with the delay. The eligibility site shall send this notice no later than 91 days following the application for the Medical Assistance Program.
5. For information regarding continuation of benefits during the pendency of an appeal to the Social Security Administration (SSA) based upon termination of disability benefits see section 8.057.5.C.
6. Effective July 1, 1997, as a condition of eligibility for the Medical Assistance Program, any legal immigrant who is applying for or receiving Medical Assistance shall agree in writing that, during the time period the client is receiving Medical Assistance, he or she will not sign an affidavit of support for the purpose of sponsoring an alien who is seeking permission from the United States Immigration and Citizenship Services to enter or remain in the United States. A legal immigrant's eligibility for Medical Assistance shall not be affected by the fact that he or she has signed an affidavit of support for an alien before July 1, 1997.
7. Eligibility sites at which an individual is able to apply for Medical Assistance benefits shall also provide the applicant the opportunity to register to vote.

- 1 a. The eligibility site shall provide to the applicant the prescribed voter registration
2 application.
- 3 b. The eligibility site shall not:
 - 4 i) Seek to influence the applicant's political preference or party registration;
 - 5 ii) Display any political preference or party allegiance;
 - 6 iii) Make any statement to the applicant or take any action, the purpose or
7 effect of which is to discourage the applicant from registering to vote; and
 - 8 iv) Make any statement to an applicant which is to lead the applicant to
9 believe that a decision to register or not to register has any bearing on
10 the availability of services or benefits.
- 11 c. The eligibility site shall ensure the confidentiality of individuals registering and
12 declining to register to vote.
- 13 d. Records concerning registration and declination to register to vote shall be
14 maintained for two years by the eligibility site. These records shall not be part of
15 the public assistance case record.
- 16 e. A completed voter registration application shall be transmitted to the county clerk
17 and recorder for the county in which the eligibility site is located not later than ten
18 (10) days after the date of acceptance; except that if a registration application is
19 accepted within five (5) days before the last day for registration to vote in an
20 election, the application shall be transmitted to the county clerk and recorder for
21 the county not later than five (5) days after the date of acceptance.
- 22 8. Individuals who transfer from one Colorado county to another shall be provided the same
23 opportunity to register to vote in the new county of residence. The new county of
24 residence shall follow the above procedure. The new county of residence shall notify its
25 county clerk and recorder of the client's change in address within five (5) days of
26 receiving the information from the client.
27

1 **8.100.3.G. General and Citizenship Eligibility Requirements**

2 1. To be eligible to receive Medical Assistance, an eligible person shall:

3 a. Be a resident of Colorado;

4 b. Not be an inmate of a public institution, except as a patient in a public medical
5 institution or as a resident of an Long Term Care Institution or as a resident of a
6 publicly operated community residence which serves no more than 16 residents;

7 c. Not be a patient in an institution for tuberculosis or mental disease, unless the
8 person is under 21 years of age or has attained 65 years of age and is eligible for
9 the Medical Assistance Program and is receiving active treatment as an inpatient
10 in a psychiatric facility eligible for Medical Assistance reimbursement. See
11 section 8.100.4.H for special provisions extending Medical Assistance coverage
12 for certain patients who attain age 21 while receiving such inpatient psychiatric
13 services;

14 d. Meet all financial eligibility requirements of the Medical Assistance Program for
15 which application is being made;

16 e. Meet the definition of disability or blindness, when applicable. Those definitions
17 appear in this volume at 8.100.1 under Definitions;

18 f. Meet all other requirements of the Medical Assistance Program for which
19 application is being made; and

20 g. Fall into one of the following categories:

21 i) Be a citizen or national of the United States, the District of Columbia,
22 Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands,
23 American Samoa or Swain's Island; or

24 ii) Be a lawfully admitted non-citizen who entered the United States prior to
25 August 22, 1996, or

26 iii) Be a non-citizen who entered the United States on or after August 22,
27 1996 and is applying for Medical Assistance benefits to begin no earlier
28 than five years after the non-citizen's date of entry into the United States
29 who falls into one of the following categories:

30 1) lawfully admitted for permanent residence under the Immigration
31 and Nationality Act (hereafter referred to as the "INA");

32 2) paroled into the United States for at least one year under section
33 212(d)(5) of the INA; or

34 3) granted conditional entry under section 203(a)(7) of the INA, as
35 in effect prior to April 1, 1980; or

36 4) determined by the eligibility site, in accordance with guidelines
37 issued by the U.S. Attorney General, to be a spouse, child,
38 parent of a child, or child of a parent who, in circumstances

- 1 specifically described in 8 U.S.C. sec. 1641, has been battered
2 or subjected to extreme cruelty which necessitates the provision
3 of Medical Assistance (Medicaid); or
- 4 5) lawfully admitted for permanent residence under the INA with 40
5 qualifying quarters as defined under Title II of the Social Security
6 Act. The 40 quarters is counted based on a combination of the
7 quarters worked by the individual, the individual's spouse as long
8 as they remain married or spouse is deceased, and/or the
9 individual's parent while the individual is under age 18; or
- 10 6) The statutes and acts listed at 8.100.3.G.1.g.iii.1 through
11 8.100.3.G.1.g.iii.5 are incorporated herein by reference. No
12 amendments or later editions are incorporated. Copies are
13 available for inspection from the following person at the following
14 address: Custodian of Records, Colorado Department of Health
15 Care Policy and Financing, 1570 Grant Street, Denver, Colorado
16 80203-1714. Any material that has been incorporated by
17 reference in this rule may be examined at any state publications
18 depository library.
- 19 7) Be a non-citizen who arrived in the United States on any date,
20 who falls into one of the following categories:
- 21 a) lawfully residing in Colorado and is an honorably
22 discharged military veteran (also includes spouse,
23 unremarried surviving spouse and unmarried, dependent
24 children); or
- 25 b) lawfully residing in Colorado and is on active duty
26 (excluding training) in the U.S. Armed Forces (also
27 includes spouse, unremarried surviving spouse and
28 unmarried, dependent children); or
- 29 c) granted asylum under section 208 of the INA for seven
30 years after the date of entry into the United States; or
- 31 d) refugee under section 207 of the INA for seven years
32 after the date of entry into the United States; or
- 33 e) deportation withheld under section 243(h) (as in effect
34 prior to September 30, 1996) or section 241(b)(3) (as
35 amended by P.L. 104-208) of the INA for seven years
36 after the date of entry into the United States; or
- 37 f) Cuban or Haitian entrant, as defined in section 501(e)(2)
38 of the Refugee Education Assistance Act of 1980 for
39 seven years after the date of entry into the United
40 States; or
- 41 g) an individual who (1) was born in Canada and
42 possesses at least 50 percent American Indian blood, or
43 is a member of an Indian tribe as defined in 25 U.S.C.
44 sec. 450b(e); or

- 1 h) admitted to the U.S. as an Amerasian immigrant
2 pursuant to section 584 of the Foreign Operations,
3 Export Financing, and Related Programs Appropriations
4 Act of 1988 (as amended by P.L. 100-461) for seven
5 years after the date of entry into the United States; or
- 6 i) lawfully admitted permanent resident who is a Hmong or
7 Highland Lao veteran of the Vietnam conflict; or
- 8 j) a victim of a severe form of trafficking in persons, as
9 defined in section 103 of the Trafficking Victims Act of
10 2000, 22 U.S.C. 7102; or
- 11 k) An alien who arrived in the United States on or after
12 December 26, 2007 who is an Iraqi special immigrant
13 under section 101(a)(27) of the INA for seven years after
14 the date of entry into the United States; or
- 15 l) An alien who arrived in the United States on or after
16 December 26, 2007 who is an Afghan Special Immigrant
17 under section 101(a)(27) of the INA for seven years after
18 the date of entry into the United States.
- 19 m) The statutes and acts listed at 8.100.3.G.1.g.iii.7.c
20 through 8.100.3.G.1.g.iii.7.l are incorporated herein by
21 reference. No amendments or later editions are
22 incorporated. Copies are available for inspection from
23 the following person at the following address: Custodian
24 of Records, Colorado Department of Health Care Policy
25 and Financing, 1570 Grant Street, Denver, Colorado
26 80203-1714. Any material that has been incorporated by
27 reference in this rule may be examined at any state
28 publications depository library.
- 29 iv) Exception: The exception to these requirements is that persons who
30 apply for and meet the criteria for one of the categorical Medical
31 Assistance programs, but do not meet the criteria of citizenship shall
32 receive Medical Assistance benefits for emergency medical care only.
33 The rules on confidentiality prevent the Department or eligibility site from
34 reporting to the United States Citizenship and Immigration Services
35 persons who have applied for or are receiving assistance. These
36 persons need not select a primary care physician as they are eligible
37 only for emergency medical services.
- 38 For non-qualified aliens receiving Medical Assistance emergency only
39 benefits, the following medical conditions will be covered:

40 An emergency medical condition (including labor and delivery) which
41 manifests itself by acute symptoms of sufficient severity (including
42 severe pain) such that the absence of immediate medical attention could
43 reasonably be expected to result in:
 - 44 1) placing the patient's health in serious jeopardy;

- 1 2) serious impairment of bodily function; or
- 2 3) serious dysfunction of any bodily organ or part.

3 A physician shall make a written statement certifying the
4 presence of an emergency medical condition when services are
5 provided and shall indicate that services were for a medical
6 emergency on the claim form. Coverage is limited to care and
7 services that are necessary to treat immediate emergency
8 medical conditions. Coverage does not include prenatal care or
9 follow-up care.

10 2. For determinations of eligibility for Medical Assistance, legal immigration status must be
11 verified. This requirement applies to a non-citizen individual who meets the criteria of any
12 category defined at 8.100.3.G(1)(g)(ii) or (iii) and has declared that he or she has a legal
13 immigration status.

14 a. ~~An electronic interface with a federally approved electronic data source will be
15 used to verify legal immigration status.~~

16 b. ~~The Verify Lawful Presence (VLP) interface is an acceptable interface will be
17 used to verify immigration status. The VLP interface connects to the Department
18 of Homeland Security's Systematic Alien Verification for Entitlements (SAVE)
19 Program. The VLP interface has three steps to verify legal immigration status.~~

20 i) ~~An automated response from VLP confirms that the data information
21 submitted is consistent with VLP data for immigration status verification
22 requirements. No further action is required for the individual and no
23 additional documentation of immigration status is required. If Step 1
24 does not verify the legal immigration status of the individual and the VLP
25 interface indicates additional information is required, Step 2 will
26 automatically be initiated.~~

27 ii) ~~Step 2: A response from the VLP interface confirms that the information
28 submitted verifies the legal immigration status of the individual. No
29 further action is required for the individual and no additional
30 documentation of immigration status is required. If Step 2 does not verify
31 the legal immigration status of the individual and the VLP interface
32 indicates additional information is required Step 3 will automatically be
33 initiated.~~

34 iii) ~~Step 3: The individual will be contacted by a state appointed designee
35 with a request for additional documents and/or information needed to
36 verify their legal immigration status through the VLP interface. A
37 response from the VLP interface confirms that the documents and/or
38 information received from the individual verifies their legal immigration
39 status. No further action is required for the individual and no additional
40 documentation of immigration status is required.~~

41 3. Reasonable Opportunity Period

42 a. If the verification through Step 1 of the electronic interface is unsuccessful then
43 the applicant will be provided a reasonable opportunity period, of 90 calendar
44 days, to submit documents indicating a legal immigration status. The reasonable

1 opportunity period will begin as of the date of the Notice of Action. The
 2 required documentation must be received within the reasonable opportunity
 3 period.

4 b. If the verification through Step 2 of the electronic interface is unsuccessful and
 5 Step 3 is initiated, the reasonable opportunity period will be reset to 90 calendar
 6 days which will commence on the date of the failure of Step 2.

7 b.c. If the applicant does not provide the necessary documents within the reasonable
 8 opportunity period, then the applicant's Medical Assistance application shall be
 9 terminated.

10 e.d. The reasonable opportunity period ~~is 90 calendar days and~~ applies to MAGI,
 11 Adult and Buy-In Programs.

12 i) ~~for persons covered pursuant to 8.100.4.G or 8.100.4.I.~~ For the purpose
 13 of this section only, MAGI Programs for persons covered pursuant to
 14 8.100.4.G or 8.100.4.I. include the following:

Commonly Used Program Name	Rule Citation
<u>Children's Medical Assistance Parent and Caretaker Relative Medical Assistance</u>	<u>8.100.4.G.28.100.4.G.3</u>
<u>Transitional Medical Assistance Parent and Caretaker Relative Medical Assistance</u>	<u>8.100.4.I.1-58.100.4.G.3</u>
<u>Children's Medical Assistance Adult Medical Assistance</u>	<u>8.100.4.G.28.100.4.G.4</u>
Pregnant Women Medical Assistance	8.100.4.G.5
Legal Immigrant Prenatal Medical Assistance	8.100.4.G.6
<u>Adult Medical Assistance Transitional Medical Assistance</u>	<u>8.100.4.G.48.100.4.I.1-5</u>

15 d.ii) ~~The reasonable opportunity period is 90 calendar days; and applies to~~
 16 ~~Adult Programs for persons covered pursuant to 8.100.3.F, 8.100.6.P,~~
 17 ~~8.100.6.Q, or 8.715.~~ For the purpose of this section only, Adult and Buy-
 18 In Programs for persons covered pursuant to 8.100.3.F, 8.100.6.P,
 19 8.100.6.Q, or 8.715. include the following:

Commonly Used Program Name	Rule Citation
Old Age Pension A (OAP-A)	8.100.3.F.1.c
Old Age Pension B (OAP-B)	8.100.3.F.1.c
Qualified Disabled Widow/Widower	8.100.3.F.1.e
Pickle	8.100.3.F.1.e
Long-Term Care	8.100.3.F.1.f-h
<u>Breast and Cervical Cancer Program (BCCP) Medicaid Buy-In Program for Working Adults with Disabilities</u>	<u>8.7158.100.6.P</u>
<u>Medicaid Buy-In Program for Working Adults with Disabilities Medicaid Buy-In Program for Children with Disabilities</u>	<u>8.100.6.P8.100.6.Q</u>
<u>Medicaid Buy-In Program for Children with Disabilities Breast and Cervical Cancer Program (BCCP)</u>	<u>8.100.6.Q8.715</u>

20 **8.100.3.H. Citizenship and Identity Documentation Requirements**

21 1. For determinations of initial eligibility and redeterminations of eligibility for Medical
 22 Assistance made on or after July 1, 2006, citizenship or nationality and identity status

1 must be verified unless such satisfactory documentary evidence has already been
2 provided, as described in 8.100.3.H.4.b. This requirement applies to an individual who
3 declares or who has previously declared that he or she is a citizen or national of the
4 United States.

5 a. The following electronic interfaces shall be accepted as proof of citizenship
6 and/or identity as listed and should be used prior to requesting documentary
7 evidence from applicants/clients:

8 i) SSA Interface is an acceptable interface to verify citizenship and identity.
9 An automated response from SSA that confirms that the data submitted
10 is consistent with SSA data, including citizenship or nationality, meets
11 citizenship and identity verification requirements. No further action is
12 required for the individual and no additional documentation of either
13 citizenship or identity is required.

14 ii) Department of Motor Vehicles (DMV) Interface is an acceptable interface
15 to verify identity. An automated response from DMV confirms that the
16 data submitted is consistent with DMV data for identity verification
17 requirements. No further action is required for the individual and no
18 additional documentation of identity is required.

19 b. This requirement does not apply to the following groups:

20 i) Individuals who are entitled to or who are enrolled in any part of
21 Medicare.

22 ii) Individuals who receive Supplemental Security Income (SSI).

23 iii) Individuals who receive child welfare services under Title IV-B of the
24 Social Security Act on the basis of being a child in foster care.

25 iv) Individuals who receive adoption or foster care assistance under Title IV-
26 E of the Social Security Act.

27 v) Individuals who receive Social Security Disability Insurance (SSDI).

28 vi) Children born to a woman who has applied for, has been determined
29 eligible, and is receiving Medical Assistance on the date of the child's
30 birth, as described in 8.100.4.G.5. This includes instances where the
31 labor and delivery services were provided before the date of application
32 and were covered by the Medical Assistance Program as an emergency
33 service based on retroactive eligibility.

34 1) A child meeting the criteria described in 8.100.3.H.1.f. shall be
35 deemed to have provided satisfactory documentary evidence of
36 citizenship or nationality and shall not be required to provide
37 further documentary evidence at any time in the future,
38 regardless of any subsequent changes in the child's eligibility for
39 Medical Assistance.

40 2) Special Provisions for Retroactive Reversal of a Previous Denial

1 a) If a child described at 8.100.3.H.1.f. was previously
2 determined to be ineligible for Medical Assistance solely
3 for failure to meet the citizenship and identity
4 documentation requirements, the denial shall be
5 reversed. Eligibility shall be effective retroactively to the
6 date of the child's birth provided all of the following
7 criteria are met:

8 (1) The child was determined to be ineligible for
9 Medical Assistance during the period between
10 July 1, 2006 and October 1, 2009 solely for
11 failure to meet the citizenship and identity
12 documentation requirements as they existed
13 during that period;

14 (2) The child would have been determined to be
15 eligible for Medical Assistance had
16 8.100.3.H.1.f. and/or 8.100.3.H.1.f.ii.1) been in
17 effect during the period from July 1, 2006
18 through October 1, 2009; and

19 (3) The child's parent, caretaker relative, or legally
20 appointed guardian or conservator requests that
21 the denial of eligibility for Medical Assistance be
22 reversed. The request may be verbal or in
23 writing.

24 b) A child for whom denial of eligibility for Medical
25 Assistance has been retroactively reversed shall be
26 subject to the eligibility redetermination provisions
27 described at 8.100.3.P.1. Such redetermination shall
28 occur twelve months from the retroactive eligibility date
29 determined when the denial was reversed pursuant to
30 this subsection 1.

31 c) A child granted retroactive eligibility for Medical
32 Assistance shall be subject to the requirements
33 described at 8.100.4.G.2. for continued eligibility.

34 vii) Individuals receiving Medical Assistance during a period of presumptive
35 eligibility.

36 2. Satisfactory documentary evidence of citizenship or nationality includes the following:

37 a. Primary Evidence of Citizenship and Identity. The following evidence shall be
38 accepted as satisfactory documentary evidence of both identity and citizenship:

39 i) A U.S. passport issued by the U.S. Department of State that:

40 1) includes the applicant or recipient, and

41 2) was issued without limitation. A passport issued with a limitation
42 may be used as proof of identity, as outlined in 8.100.3.H.3.

- 1 i) A U.S. public birth certificate.
- 2 1) The birth certificate shall show birth in any one of the following:
- 3 a) One of the 50 States,
- 4 b) The District of Columbia,
- 5 c) Puerto Rico (if born on or after January 13, 1941),
- 6 d) Guam (if born on or after April 10, 1899),
- 7 e) The Virgin Islands of the U.S. (if born on or after January
- 8 17, 1917),
- 9 f) American Samoa,
- 10 g) Swain's Island, or
- 11 h) The Northern Mariana Islands (NMI) (if born after
- 12 November 4, 1986 (NMI local time)).
- 13 2) The birth record document shall have been issued by the State,
- 14 Commonwealth, Territory or local jurisdiction.
- 15 3) The birth record document shall have been recorded before the
- 16 person was 5 years of age. A delayed birth record document that
- 17 is recorded at or after 5 years of age is considered fourth level
- 18 evidence of citizenship, as described in 8.100.3.H.2.d.
- 19 ii) A Certification of Report of Birth (DS-1350) issued by the U.S.
- 20 Department of State to U.S. citizens who were born outside the U.S. and
- 21 acquired U.S. citizenship at birth.
- 22 iii) A Report of Birth Abroad of a U.S. Citizen (Form FS-240) issued by the
- 23 U.S. Department of State consular office overseas for children under age
- 24 18 at the time of issuance. Children born outside the U.S. to U.S. military
- 25 personnel usually have one of these.
- 26 iv) A Certification of birth issued by the U.S. Department of State (Form FS-
- 27 545 or DS-1350) before November 1, 1990.
- 28 v) A U.S. Citizen I.D. card issued by the U.S. Immigration and
- 29 Naturalization Services (INS):
- 30 1) Form I-179 issued from 1960 until 1973, or
- 31 2) Form I-197 issued from 1973 until April 7, 1983.
- 32 vi) A Northern Mariana Identification Card (I-873) issued by INS to a
- 33 collectively naturalized citizen of the U.S. who was born in the NMI
- 34 before November 4, 1986.

- 1 vii) An American Indian Card (I-872) issued by the Department of Homeland
2 Security with the classification code "KIC."
- 3 viii) A final adoption decree that:
- 4 1) shows the child's name and U.S. place of birth, or
- 5 2) a statement from a State approved adoption agency that shows
6 the child's name and U.S. place of birth. The adoption agency
7 must state in the certification that the source of the place of birth
8 information is an original birth certificate.
- 9 ix) Evidence of U.S. Civil Service employment before June 1, 1976. The
10 document shall show employment by the U.S. government before June
11 1, 1976.
- 12 x) U.S. Military Record that shows a U.S. place of birth such as a DD-214
13 or similar official document showing a U.S. place of birth.
- 14 xi) Data verification with the Systematic Alien Verification for Entitlements
15 (SAVE) Program for naturalized citizens.
- 16 xii) Child Citizenship Act. Adopted or biological children born outside the
17 United States may establish citizenship obtained automatically under
18 section 320 of the Immigration and Nationality Act (8 USC § 1431), as
19 amended by the Child Citizenship Act of 2000 (Pub. L. 106-395, enacted
20 on October 30, 2000). section 320 of the Immigration and Nationality Act
21 (8 USC § 1431), as amended by the Child Citizenship Act of 2000 (Pub.
22 L. 106-395, enacted on October 30, 2000) is incorporated herein by
23 reference. No amendments or later editions are incorporated. Copies are
24 available for inspections from the following person at the following
25 address: Custodian of Records, Colorado Department of Health Care
26 Policy and Financing, 1570 Grant Street, Denver, CO 80203-1818. Any
27 material that has been incorporated by reference in this rule may be
28 examined at any state publications repository library.
- 29 Documentary evidence must be provided at any time on or after
30 February 27, 2001, if the following conditions have been met:
- 31 1) At least one parent of the child is a United States citizen by
32 either birth or naturalization (as verified under the requirements
33 of this part);
- 34 2) The child is under the age of 18;
- 35 3) The child is residing in the United States in the legal and physical
36 custody of the U.S. citizen parent;
- 37 4) The child was admitted to the United States for lawful permanent
38 residence (as verified through the Systematic Alien Verification
39 for Entitlements (SAVE) Program); and
- 40 5) If adopted, the child satisfies the requirements of section
41 101(b)(1) of the Immigration and Nationality Act (8 USC §

1 1101(b)(1)) pertaining to international adoptions (admission for
2 lawful permanent residence as IR-3 (child adopted outside the
3 United States), or as IR-4 (child coming to the United States to
4 be adopted) with final adoption having subsequently occurred. 8
5 USC § 1101(b)(1) is incorporated herein by reference. No
6 amendments or later editions are incorporated. Copies are
7 available for inspections from the following person at the
8 following address: Custodian of Records, Colorado Department
9 of Health Care Policy and Financing, 1570 Grant Street, Denver,
10 CO 80203-1818. Any material that has been incorporated by
11 reference in this rule may be examined at any state publications
12 repository library.

13 c. Third Level Evidence of U.S. Citizenship. Third level evidence of U.S. citizenship
14 is documentary evidence of satisfactory reliability that is used when neither
15 primary nor secondary evidence is available. Third level evidence shall be used
16 only when primary evidence cannot be obtained within 10 business days,
17 secondary evidence does not exist or cannot be obtained, and the applicant or
18 recipient alleges being born in the U.S. A second document from the list in
19 8.100.3.H.3. to establish identity shall also be presented.

20 i) Extract of a hospital record on hospital letterhead.

- 21 1) The record shall have been established at the time of the
22 person's birth;
- 23 2) The record shall have been created at least 5 years before the
24 initial application date; and
- 25 3) The record shall indicate a U.S. place of birth;
- 26 4) For children under 16 the document shall have been created
27 near the time of birth or at least 5 years before the date of
28 application.
- 29 5) Souvenir "birth certificates" issued by a hospital are not
30 acceptable.

31 ii) Life, health, or other insurance record.

- 32 1) The record shall show a U.S. place of birth; and
- 33 2) The record shall have been created at least 5 years before the
34 initial application date.
- 35 3) For children under 16 the document must have been created
36 near the time of birth or at least 5 years before the date of
37 application.

38 iii) Religious record.

- 39 1) The record shall have been recorded in the U.S. within 3 months
40 of the date of the individual's birth;

- 1 e. Evidence of Citizenship for Collectively Naturalized Individuals. If a document
2 shows the individual was born in Puerto Rico, the Virgin Islands of the U.S., or
3 the Northern Mariana Islands before these areas became part of the U.S., the
4 individual may be a collectively naturalized citizen. A second document from
5 8.100.3.H.3. to establish identity shall also be presented.
- 6 i) Puerto Rico:
- 7 1) Evidence of birth in Puerto Rico on or after April 11, 1899 and
8 the applicant's statement that he or she was residing in the U.S.,
9 a U.S. possession or Puerto Rico on January 13, 1941; OR
- 10 2) Evidence that the applicant was a Puerto Rican citizen and the
11 applicant's statement that he or she was residing in Puerto Rico
12 on March 1, 1917 and that he or she did not take an oath of
13 allegiance to Spain.
- 14 ii) US Virgin Islands:
- 15 1) Evidence of birth in the U.S. Virgin Islands, and the applicant's
16 statement of residence in the U.S., a U.S. possession or the U.S.
17 Virgin Islands on February 25, 1927; OR
- 18 2) The applicant's statement indicating residence in the U.S. Virgin
19 Islands as a Danish citizen on January 17, 1917 and residence
20 in the U.S., a U.S. possession or the U.S. Virgin Islands on
21 February 25, 1927, and that he or she did not make a declaration
22 to maintain Danish citizenship; OR
- 23 3) Evidence of birth in the U.S. Virgin Islands and the applicant's
24 statement indicating residence in the U.S., a U.S. possession or
25 Territory or the Canal Zone on June 28, 1932.
- 26 iii) Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the
27 Pacific Islands (TTPI)):
- 28 1) Evidence of birth in the NMI, TTPI citizenship and residence in
29 the NMI, the U.S., or a U.S. Territory or possession on
30 November 3, 1986 (NMI local time) and the applicant's statement
31 that he or she did not owe allegiance to a foreign state on
32 November 4, 1986 (NMI local time); OR
- 33 2) Evidence of TTPI citizenship, continuous residence in the NMI
34 since before November 3, 1981 (NMI local time), voter
35 registration prior to January 1, 1975 and the applicant's
36 statement that he or she did not owe allegiance to a foreign state
37 on November 4, 1986 (NMI local time); OR
- 38 3) Evidence of continuous domicile in the NMI since before January
39 1, 1974 and the applicant's statement that he or she did not owe
40 allegiance to a foreign state on November 4, 1986 (NMI local
41 time).

- 1 photograph of the individual or has other personal identifying information relating
2 to the individual such as age, weight, height, race, sex, and eye color; or
- 3 h) Three or more documents that together reasonably corroborate the identity of an
4 individual provided such documents have not been used to establish the
5 individual's citizenship and the individual submitted evidence of citizenship listed
6 under 8.100.3.H.2.b. or 8.100.3.H.2.c. The following requirements must be met:
- 7 i) No other evidence of identity is available to the individual;
- 8 ii) The documents must at a minimum contain the individual's name, plus
9 any additional information establishing the individual's identity; and
- 10 iii) All documents used must contain consistent identifying information.
- 11 iv) These documents include, but are not limited to, employer identification
12 cards, high school and college diplomas from accredited institutions
13 (including general education and high school equivalency diplomas),
14 marriage certificates, divorce decrees, and property deeds/titles.
- 15 i) Special identity rules for children. For children under 16, the following records are
16 acceptable:
- 17 i) Clinic, doctor, or hospital records; or
- 18 ii) School records.
- 19 1) The school record may include nursery or daycare records and
20 report cards; and
- 21 2) The school, nursery, or daycare record must be verified with the
22 issuing school, nursery, or daycare.
- 23 3) If clinic, doctor, hospital, or school records are not available, an
24 affidavit may be used if it meets the following requirements:
- 25 a) It shall be signed under penalty of perjury by a parent or
26 guardian;
- 27 b) It shall state the date and place of birth of the child; and
- 28 c) It cannot be used if an affidavit for citizenship was
29 provided.
- 30 d) The affidavit is not required to be notarized.
- 31 e) An affidavit may be accepted on behalf of a child under
32 the age of 18 in instances when school ID cards and
33 drivers' licenses are not available to the individual until
34 that age.
- 35 j) Special identity rules for disabled individuals in institutional care facilities.

- 1 i) An affidavit may be used for disabled individuals in institutional care
2 facilities if the following requirements are met:
 - 3 1) It shall be signed under penalty of perjury by a residential care
4 facility director or administrator on behalf of an institutionalized
5 individual in the facility; and
 - 6 2) No other evidence of identity is available to the individual.
 - 7 3) The affidavit is not required to be notarized.
- 8 k) Expired identity documents.
 - 9 i) Identity documents do not need to be current to be acceptable. An
10 expired identity document shall be accepted as long as there is no
11 reason to believe that the document does not match the individual.
- 12 l) Referrals for Colorado Identification Cards
 - 13 i) An applicant or client who does not possess a Colorado driver's license
14 or identification card shall be referred to the Department of Revenue
15 Division of Motor Vehicles by the county department to obtain an
16 identification card at no charge, pursuant to C.R.S. § 42-2-306(1)(a)(II).
 - 17 ii) The referral shall be provided on county department letterhead and shall
18 include the following:
 - 19 1) The name and address of the applicant or client;
 - 20 2) A statement that the county department requests that the
21 Department of Revenue Division of Motor Vehicles waive the
22 identification card fee, pursuant to C.R.S § 42-2-306(1)(a)(II).;
23 and
 - 24 3) The name and contact telephone number for the county
25 caseworker responsible for the referral.
 - 26 iii) An applicant or client who has been referred to the Division of Motor
27 Vehicles to obtain an identification card shall not be required to present a
28 Colorado identification card to satisfy the identity documentation
29 requirement at 8.100.3.H.3. The applicant or client shall have the right to
30 use any of the documents listed under 8.100.3.H.3. to satisfy the identity
31 documentation requirement.

32 4. Documentation Requirements

- 33 a. Effective January 1, 2008, all citizenship and identity documents must either be
34 originals or copies certified by the issuing agency, except as provided in
35 8.100.3.H.4.b. Uncertified copies, including notarized copies, are not acceptable.
- 36 b. Individuals who submitted notarized copies of citizenship and identity documents
37 as part of an application or redetermination before January 1, 2008 shall not be
38 required to submit originals or copies certified by the issuing agency for any
39 application or redetermination processed on or after January 1, 2008.

- 1 c. All citizenship and identity documents shall be presumed to be genuine unless
2 the authenticity of the document is questionable.
- 3 d. Individuals shall not be required to submit citizenship and identity documentation
4 in person. Documents shall be accepted from a Medical Assistance applicant or
5 client or from his or her guardian or authorized representative in person or by
6 mail.
- 7 i) Individuals are strongly encouraged to use alternatives to mailing original
8 documents to counties, such as those described in 8.100.3.H.4.e.
- 9 e. Individuals may present original citizenship and identity documents or copies
10 certified by the issuing agency to Medical Assistance (MA) sites, School-based
11 Medical Assistance sites, Presumptive Eligibility (PE) sites, Federally Qualified
12 Health Centers (FQHCs), Disproportionate Share Hospitals (DSHs), or any other
13 location designated by the Department by published agency letter.
- 14 i) Staff at these locations shall make a copy of the original documents and
15 shall complete a "Citizenship and Identity Documentation Received"
16 form, stamp the copy, or provide other verification that identifies that the
17 documents presented were originals. The verification shall include the
18 name, telephone number, organization name and address, and signature
19 of the individual who reviewed the document(s). This form, stamp, or
20 other verification shall be attached to or directly applied to the copy.
- 21 ii) Upon request by the client or eligibility site, the copy of the original
22 document with the "Citizenship and Identity Documentation Received"
23 form, stamp, or other verification as described in 8.100.3.H.4.e. i) shall
24 be mailed or delivered directly to the eligibility site within five business
25 days.
- 26 f. Counties shall accept photocopies of citizenship and identity documents from any
27 location described in 8.100.3.H.4.e provided the photocopies include the form,
28 stamp, or verification described in 8.100.3.H.4.e.i).
- 29 g. Counties shall develop procedures for handling original citizenship and identity
30 documents to ensure that these documents are not lost, damaged, or destroyed.
- 31 i) Upon receiving the original documents, eligibility site staff shall make a
32 copy of the original documents and shall complete a "Citizenship and
33 Identity Documentation Received" form, stamp the copy, or provide other
34 verification that identifies that the documents presented were originals,
35 as described in 8.100.3.H.4.e. i). This form, stamp, or other verification
36 shall be attached to or directly applied to the copy.
- 37 ii) The original documents shall be sent by mail or returned to the individual
38 in person within five business days of the date on which they were
39 received.
- 40 iii) To limit the risk of original documents being lost, damaged, or destroyed,
41 counties are strongly encouraged to make copies of documents
42 immediately upon receipt and to return original documents to the
43 individual while he or she is present.

- 1 h. Once an individual has provided the required citizenship and identity
2 documentation, he or she shall not be required to submit the documentation
3 again unless:
- 4 i) Later evidence raises a question about the individual's citizenship or
5 identity; or
- 6 ii) There is a gap of more than five years between the ending date of the
7 individual's last period of eligibility and a subsequent application for The
8 Medical Assistance Program and the eligibility site has not retained the
9 citizenship and identity documentation the individual previously provided.
- 10 5. Record Retention Requirements
- 11 a. The eligibility site shall retain a paper or electronically scanned copy of an
12 individual's citizenship and identity documentation, including any verification
13 described in 8.100.3.H.4.e.i), for at least five years from the ending date of the
14 individual's last period of Medical Assistance eligibility.
- 15 6. Name Change Provisions
- 16 a. An individual who has changed his or her last name for reasons including, but not
17 limited to, marriage, divorce, or court order shall not be required to produce any
18 additional documentation concerning the name change unless:
- 19 i) With the exception of the last name, the personal information in the
20 citizenship and identity documentation provided by the individual does
21 not match in every way;
- 22 ii) In addition to changing his or her last name, the individual also changed
23 his or her first name and/or middle name; or
- 24 iii) There is a reasonable basis for questioning whether the citizenship and
25 identity documents belong to the same individual.
- 26 7. Reasonable Level of Assistance
- 27 a. The eligibility site shall provide a reasonable level of assistance to applicants and
28 clients in obtaining the required citizenship and identity documentation.
- 29 b. Examples of a reasonable level of assistance include, but are not limited to:
- 30 i) Providing contact information for the appropriate agencies that issue the
31 required documents;
- 32 ii) Explaining the documentation requirements and how the client or
33 applicant may provide the documentation; or
- 34 iii) Referring the applicant or client to other agencies or organizations which
35 may be able to provide further assistance.
- 36 c. The eligibility site shall not be required to pay for the cost of obtaining required
37 documentation.

- 1 8. Individuals Requiring Additional Assistance
- 2 a. The eligibility site shall provide additional assistance beyond the level described
- 3 in 8.100.3.H.7 to applicants and clients in obtaining the required citizenship and
- 4 identity documentation if the client or applicant:
- 5 i) Is unable to comply with the requirements due to physical or mental
- 6 impairments or homelessness; and
- 7 ii) The individual lacks a guardian or representative who can provide
- 8 assistance.
- 9 b. Examples of additional assistance include, but are not limited to:
- 10 i) Contacting any known family members who may have the required
- 11 documentation;
- 12 ii) Contacting any known current or past health care providers who may
- 13 have the required documentation; or
- 14 iii) Contacting other social services agencies that are known to have
- 15 provided assistance to the individual.
- 16 c. The eligibility site shall document its efforts to provide additional assistance to the
- 17 client or applicant. Such documentation shall be subject to the record retention
- 18 requirements described in 8.100.3.H.5.a.

- 19 9. Reasonable Opportunity Period
- 20 a. If a Medical Assistance applicant does not have the required documentation, he
- 21 or she must be given a reasonable opportunity period to provide the required
- 22 documentation. The reasonable opportunity period will begin as of the date of the
- 23 ~~N~~notice of ~~A~~action. The required documentation must be received within the
- 24 reasonable opportunity period. If the applicant does not provide the required
- 25 documentation within the reasonable opportunity period, then the applicant's
- 26 Medical Assistance benefits shall be terminated.
- 27 b. The reasonable opportunity period is 90 calendar days; ~~and it and~~ applies to
- 28 MAGI, ~~Adult, and Buy-In~~ Programs.
- 29 ~~i) _____ for persons covered pursuant to 8.100.4.G or 8.100.4.I.~~ For the purpose
- 30 of this section only, MAGI Programs ~~for persons covered pursuant to~~
- 31 ~~8.100.4.G or 8.100.4.I,~~ include the following:

Commonly Used Program Name	Rule Citation
Parent and Caretaker Relative Medical Assistance <u>Children's Medical Assistance</u>	8.100.4.G.38. <u>100.4.G.2</u>
Transitional Medical Assistance <u>Parent and Caretaker Relative Medical Assistance</u>	8.100.4.I.1- <u>58.100.4.G.3</u>
Children's Medical Assistance <u>Adult Medical Assistance</u>	8.100.4.G.28. <u>100.4.G.4</u>
Pregnant Women Medical Assistance	8.100.4.G.5
Adult Medical Assistance <u>Transitional Medical Assistance</u>	8.100.4.G.48. <u>100.4.I.1-5</u>

- 1 c. ~~ii) The reasonable opportunity period is 90 calendar days; and~~
 2 ~~applies to Adult Programs for persons covered pursuant to 8.100.3.F,~~
 3 ~~8.100.6.P, 8.100.6.Q, or 8.715.~~ For the purpose of this section only,
 4 Adult and Buy-In Programs for persons covered pursuant to 8.100.3.F,
 5 8.100.6.P, 8.100.6.Q, or 8.715 include the following:

Commonly Used Program Name	Rule Citation
Old Age Pension A (OAP-A)	8.100.3.F.1.c
Old Age Pension B (OAP-B)	8.100.3.F.1.c
Qualified Disabled Widow/Widower	8.100.3.F.1.e
Pickle	8.100.3.F.1.e
Long-Term Care	8.100.3.F.1.f-h
Breast and Cervical Cancer Program (BCCP) Medicaid Buy-In Program for Working Adults with Disabilities	8.715 <u>8.100.6.P</u>
Medicaid Buy-In Program for Working Adults with Disabilities Medicaid Buy-In Program for Children with Disabilities	8.100.6.P <u>8.100.6.Q</u>
Medicaid Buy-In Program for Children with Disabilities Breast and Cervical Cancer Program (BCCP)	8.100.6.Q <u>8.715</u>

6 10. Good Faith Effort

- 7 a. In some cases, a Medical Assistance client or applicant may not be able to obtain
 8 the required documentation within the applicable reasonable opportunity period.
 9 If the client or applicant is making a good faith effort to obtain the required
 10 documentation, then the reasonable opportunity period should be extended. The
 11 amount of time given should be determined on a case-by-case basis and should
 12 be based on the amount of time the individual needs to obtain the required
 13 documentation.

14 Examples of good faith effort include, but are not limited to:

- 15 i) Providing verbal or written statements describing the individual's effort at
 16 obtaining the required documentation;
- 17 ii) Providing copies of emails, letters, applications, checks, receipts, or
 18 other materials sent or received in connection with a request for
 19 documentation; or
- 20 iii) Providing verbal or written statements of the individuals' efforts at
 21 identifying people who could attest to the individual's citizenship or
 22 identity, if citizenship and/or identity are included in missing
 23 documentation.

24 An individual's verbal statement describing his or her efforts at securing the
 25 required documentation should be accepted without further verification unless the
 26 accuracy or truthfulness of the statement is questionable. The individual's good
 27 faith efforts should be documented in the case file and are subject to all record
 28 retention requirements.
 29

1 **8.100.3.J. Supplemental Security Income (SSI) And Aid To The Needy Disabled (AND)**
 2 **Recipients**

- 3 1. Persons who may be eligible for benefits under either MAGI Medical Assistance or SSI:
- 4 a. shall be advised of the benefits available under each program;
- 5 b. may apply for a determination of eligibility under either or both programs, and
- 6 c. have the option to receive benefits under the program of their choice, but may
 7 not receive benefits under both programs at the same time;
- 8 d. may change their selection if their circumstances change or if they decide later
 9 that it would be more advantageous to receive benefits from the other program.
- 10 2. Any family member who is receiving financial assistance from SSI or OAP-A is not
 11 considered a member of the Medical Assistance required household, is not counted as a
 12 member of the household, and the individual's income and resources are disregarded in
 13 making the determination of need for Medical Assistance.

14 a. Exception: For MAGI Medical Assistance a family member who is receiving SSI,
 15 when appropriate can be counted as a member of the household and their
 16 income when appropriate can be considered in making the determination of
 17 eligibility for MAGI Medical Assistance. For treatment of income and household
 18 construction for MAGI Medical Assistance cases, see section 8.100.4.

- 19 3. An individual receiving Aid to the Needy Disabled (AND) may also receive MAGI Medical
 20 Assistance. ~~An AND recipient shall be eligible for MAGI Medical Assistance,~~ if the
 21 recipient meets ~~all the~~ eligibility requirements ~~of for~~ MAGI Medical Assistance. For these
 22 individuals, eligibility sites shall not include the applicant's AND payment when
 23 calculating as unearned income to determine the household's financial eligibility for MAGI
 24 Medical Assistance, the Medical Assistance required household along with all other
 25 income. If the AND individual's AND payment and other income makes the Medical
 26 Assistance required household ineligible, eligibility sites shall disregard the AND
 27 individual and give the remaining members MAGI Medical Assistance as long as they
 28 meet the income requirements for the appropriate MAGI Medical Assistance category.

29 **8.100.3.K. Consideration of Income**

- 30 1. Income or resources of an alien sponsor or an alien sponsor's spouse shall be countable
 31 to the sponsored alien effective December 19, 1997. Forms used prior to December 19,
 32 1997, including but not limited to forms I-134 or I-136 are legally unenforceable affidavits
 33 of support. The attribution of the income and resources of the sponsor and the sponsor's
 34 spouse to the alien will continue until the alien becomes a U.S. citizen or has worked or
 35 can be credited with 40 qualifying quarters of work, provided that an alien crediting the
 36 quarters to the applicant/client has not received any public benefit during any creditable
 37 quarter for any period after December 31, 1996.
- 38 2. Income, in general, is the receipt by an individual of a gain or benefit in cash or in kind
 39 during a calendar month. Income means any cash, payments, wages, in-kind receipt,
 40 inheritance, gift, prize, rents, dividends, interest, etc., that are received by an individual or
 41 family.

- 1 3. Earned income is payment in cash or in kind for services performed as an employee or
2 from self-employment.
- 3 4. Earned in kind income shall be income produced as a result of the performance of
4 services by the applicant/client, for which he/she is compensated in shelter or other items
5 in lieu of wages.
- 6 5. Received means "actually" received or legally becomes available, whichever occurs first;
7 the point at which the income first is available to the individual for use. For example,
8 interest income on a savings account is counted when it is credited to the account.
- 9 6. All Home Care Allowance (HCA) income paid to a Medical Assistance applicant/client by
10 the HCA recipient to provide home care services is countable earned income.
- 11 ~~a. Exception: When a HCA recipient lives in the home of the Medical Assistance~~
12 ~~applicant/client, HCA income paid payments made to the a-Medical Assistance~~
13 ~~applicant/client by the for providing home care services to the HCA recipient to~~
14 ~~provide home care services is not countable income for the purpose of~~
15 ~~calculating the MAGI-Medical Assistance applicant/client's MAGI-based income.~~
16 ~~when the HCA recipient lives in the home of the Medical Assistance~~
17 ~~applicant/client.~~
- 18 ~~b. This exception does not apply if when the Medical Assistance applicant/client~~
19 ~~receives HCA and/or difficulty of care foster care payments for caring for more~~
20 ~~than 10 individuals under the age of 19, or for more than 5 individuals age 19 or~~
21 ~~older. Under such circumstances, income derived from HCA and/or difficulty of~~
22 ~~care payments is countable as earned income is caring for more than 10~~
23 ~~individuals receiving HCA and/or difficulty of care foster care payments under the~~
24 ~~age of 19; or for more than 5 individuals receiving HCA and/or difficulty of care~~
25 ~~foster care payments age 19 or older.~~
- 26 7. Participation in the Workforce Investment Act (WIA) affects eligibility for Medical
27 Assistance as follows:
- 28 a. Wages derived from participation in a program carried out under WIA (work
29 experience or on-the-job training) and paid to a caretaker relative is considered
30 countable earned income.
- 31 b. Training allowances granted by WIA to a dependent child or a caretaker relative
32 of a dependent child to participate in a training program is exempt.
- 33 c. Wages derived from participation in a program carried out the under Workforce
34 Investment Act (WIA) and paid to any dependent child who is applying for or
35 receiving Medical Assistance are exempt in determining eligibility for a period not
36 to exceed six months in each calendar year.
- 37 8. An individual involved in a profit making activity as a sole proprietor, partner in a
38 partnership, independent contractor, or consultant shall be classified as self-employed.
- 39 a. To determine the net profit of a self-employed applicant/client deduct the cost of
40 doing business from the gross income. These business expenses include, but
41 are not limited to:
- 42 i) the rent of business premises,

- 1 ii) wholesale cost of merchandise,
- 2 iii) utilities,
- 3 iv) taxes,
- 4 v) labor, and
- 5 vi) upkeep of necessary equipment.
- 6 b. The following are not allowed as business expenses:
- 7 i) Depreciation of equipment;
- 8 1-) Exception: For the purpose of calculating MAGI-based income,
9 depreciation of equipment is an allowable business expense if
10 the equipment is not used for capital improvements.
11 Depreciation of equipment is an allowable business expense for
12 MAGI Medical Assistance so long as the equipment is not used
13 for capital improvements.
- 14 ii) The cost of and payment on the principal of loans for capital asset or
15 durable goods;
- 16 iii) Personal expenses such as personal income tax payments, lunches, and
17 transportation to and from work.
- 18 c. Appropriate allowances for cost of doing business for Medical Assistance clients
19 who are licensed, certified or approved day care providers are (1) \$ 55 for the
20 first child for whom day care is provided, and (2) \$ 22 for each additional child. If
21 the client can document a cost of doing business which is greater than the
22 amounts above set forth, the procedure described in A, shall be used.
- 23 d. When determining self employment expenses and distinguishing personal
24 expenses from business expenses it is a requirement to only allow the
25 percentage of the expense that is business related.
- 26 9. Self-employment income includes, but is not limited to, the following:
- 27 a. Farm income - shall be considered as income in the month it is received. When
28 an individual ceases to farm the land, the self-employment deductions are no
29 longer allowable.
- 30 b. Rental income - shall be considered as self-employment income only if the
31 Medical Assistance client actively manages the property at least an average of
32 20 hours per week.
- 33 c. Board (to provide a person with regular meals only) payment shall be considered
34 earned income in the month received to the extent that the board payment
35 exceeds the maximum food stamp allotment for one-person household per
36 boarder and other documentable expenses directly related to the provision of
37 board.

1 d. Room (to provide a person with lodging only) payments shall be considered
2 earned income in the month received to the extent that the room payment
3 exceeds documentable expenses directly related to the provision of the room.

4 e. Room and board payments shall be considered earned income in the month
5 received to the extent that the payment for room and board exceeds the food
6 stamp allotment for a one-person household per room and boarder and
7 documentable expenses directly related to the provision of room and board.

8 10. Unearned income is the gross amount received in cash or kind that is not earned from
9 employment or self-employment. Unearned income includes, but is not limited to, the
10 following:

11 a. Pensions and other period payments, such as:

12 i) Private pensions or disability benefits

13 1-) Exception: Refer to section 8.100.4 for treatment of private
14 disability benefits for MAGI Medical Assistance.

15 ii) Social Security benefits (Retirement, survivors, and disability)

16 iii) Workers' Compensation payments

17 iv) Railroad retirement annuities

18 v) Unemployment insurance payments

19 vi) Veterans benefits other than Aid and Attendance (A&A) and Unusual
20 Medical Expenses (UME).

21 vii) Alimony and support payments

22 viii) Interest, dividends and certain royalties on countable resources
23

1 **8.100.3.N. Confidentiality**

- 2 1. All information obtained by the eligibility site concerning an applicant for or a recipient of
3 Medical Assistance is confidential information.
- 4 2. A signature on the Single Streamlined Application and the Application for Public
5 Assistance allows an eligibility site worker to consult banks, employers, or any other
6 agency or person to obtain information or verification to determine eligibility. The
7 identification of the worker as an eligibility site employee will, in itself, disclose that an
8 application for the Medical Assistance Program has been made by an individual. In this
9 type of contact, as well as other community contacts, the eligibility site should strive to
10 maintain confidentiality. The signature on the Single Streamlined Application and the
11 Application for Public Assistance also provides permission for the release of the client's
12 medical information to be provided by health care providers to the State and its agents for
13 purpose of administration of the Medical Assistance Program.
- 14 3. Eligibility site staff may release a client's Medical Assistance state identification number
15 and approval eligibility spans to a Medical Assistance provider for billing purposes.
- 16 Eligibility site staff may inform a Medical Assistance provider that an application has been
17 denied but may not inform them of the reason why.
- 18 4. Access to information concerning applicants or recipients must be restricted to persons or
19 agency representatives who are subject to standards of confidentiality that are
20 comparable to those of the State and the eligibility site.
- 21 5. The eligibility site must obtain permission from a family, individual, or authorized
22 representative, whenever possible, before responding to a request for information from
23 an outside source, unless the information is to be used to verify income, eligibility and the
24 amount of Medical Assistance payment. This permission must be obtained unless the
25 request is from State authorities, federal authorities, or State contractors acting within the
26 scope of their contract. If, because of an emergency situation, time does not permit
27 obtaining consent before release, the eligibility site must notify the family or individual
28 immediately after supplying the information.
- 29 6. The eligibility site policies must apply to all requests for information from outside sources,
30 including government bodies, the courts, or law enforcement officials. If a court issues a
31 subpoena for a case record or for any eligibility site representative to testify concerning
32 an applicant or recipient, the eligibility site must inform the court of the applicable
33 statutory provisions, policies, and regulations restricting disclosure of information.
- 34 7. The following types of information are confidential and shall be safeguarded:
- 35 a. Names and addresses of applicants for and recipients of the Medical Assistance
36 Program;
- 37 b. Medical services provided;
- 38 c. Social and economic conditions or circumstances;
- 39 d. Agency evaluation of personal information;
- 40 e. Medical data, including diagnosis and past history of disease or disability;

- 1 f. All information obtained through the Income and Eligibility Verification System
2 (IEVS), Colorado Department of Labor and Employment, SSA ~~and~~ Internal
3 Revenue Service;
- 4 g. Any information received in connection with identification of legally liable third
5 party resources;
- 6 h. Any information received for verifying income and resources if applicable, or
7 other eligibility and the amount of Medical Assistance payments;
- 8 i. Social Security Numbers.

9 8. The confidential information listed above may be released to persons outside the
10 eligibility site only as follows:

- 11 a. In response to a valid subpoena or court order;
- 12 b. To State or Federal auditors, investigators or others designated by the Federal or
13 State departments on a need-to-know basis;
- 14 c. To individuals executing Income and Eligibility Verification System;
- 15 d. Child Support enforcement officials;
- 16 e. To a recipient or applicant themselves or their designated representative.
- 17 f. To a Long Term Care institution on the AP-5615 form.

18 9. The applicant/recipient may give a formal written release for disclosure of information to
19 other agencies, such as hospitals, or the permission may be implied by the action of the
20 other agency in rendering service to the client. Before information is released, the
21 eligibility site should be reasonably certain the confidential nature of information will be
22 preserved, the information will be used only for purposes related to the function of the
23 inquiring agency, and the standards of protection established by the inquiring agency are
24 equal to those established by the State Department. If the standards for protection of
25 information are unknown, a written consent from the recipient shall be obtained.