

Title of Rule: Revision to the Medical Assistance Eligibility Rule Concerning Five Percent (5%) Income Disregard, Section 8.100.4.D
Rule Number: MSB 14-09-03-A
Division / Contact / Phone: Eligibility Division / Ana Bordallo / 303-866-3558

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The proposed rule changes amend 10 CCR 2505-10 § 8.100.4.D to incorporate changes to the rule mandated by the Patient Protection and Affordable Care Act of 2010 (ACA) as they pertain to MAGI-based methodologies. Among these changes: modification to the current regulation regarding the five percent (5%) disregard at 8.100.4.D. Currently the five percent (5%) disregard is applied across-the-board for all MAGI populations under title XIX and XXI when determining eligibility. The proposed change will only apply the five percent (5%) disregard to MAGI populations under title XIX or XXI with the highest income threshold identified as the following: MAGI Adult Program (adults), Medicaid and CHP+ program (for children), Medicaid and the CHP+ Prenatal program (for pregnant women). In addition, the five percent (5%) disregard will only be applied as a last step in determining eligibility when the individual is above the income threshold.

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 435.603(d)(4)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2013);

Initial Review **10/10/2014**

Final Adoption **11/14/2014**

Proposed Effective Date **12/30/2014**

Emergency Adoption

DOCUMENT #05

AB

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REGULATORY ANALYSIS

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The proposed rule will impact MAGI populations under title XIX or XXI with the highest income threshold identified as the following: MAGI Adult Program (adults), Medicaid and CHP+ program (for children), and Medicaid and CHP+ Prenatal program (for pregnant women). The benefit of the five percent (5%) disregard is to help those who would otherwise become ineligible.

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

The proposed rule change will apply the five percent (5%) disregard to individuals who are not otherwise eligible due to being over the income threshold.

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.

Changes in Medicaid financing and eligibility loss as a result of implementing the proposed rule would be expected to result in a decrease of approximately \$10.5 million with an offsetting increase of \$10.7 million federal funds and \$500,000 in other state funds.

Additional costs would be incurred for CBMS changes.

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

Implementation of the proposed rule is necessary for compliance with federal regulations. There are several noteworthy potential impacts from implementing the proposed rule.

A. There will be a loss of eligibility for clients in specific circumstances as a result of implementation of these rules. An estimated 272 clients will be expected to either lose eligibility when they reapply and new applicants won't get coverage even though they would have before the rule change. This effect will be limited to parents with FPL between 63% and 68% FPL that were either over the age of 64, or insured by Medicare.

B. Because Medicaid financing can vary from population to population (specifically those with different income levels), changing in the financing source for clients may change as a result of implementing the proposed rule. For example, a client whose income was 67% prior to the implementation of the proposed rule would be 72% post implementation. While the

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expenditure for this example client would be 50% state fund prior to implementation, it would be 100% federally financed afterwards. It is estimated that the rule change would result in a General Fund reduction of approximately 10.5 million dollars.

C. Lastly, a small population of clients that would not have otherwise paid CHP+ premiums will be required to pay premiums. Another subset of clients would be required to pay a higher premium than they did prior to implementation of the rule. This population would be limited to future clients whose income under the current rule would have been 152-157% FPL and 208-213% respectively. The Department has not estimated the fiscal impact of this effect, but anticipates it will be small due to the narrow band of clients to which it applies.

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

There are no alternative implementation strategies. Proposed changes are requested for compliance with federal regulations.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

There are no alternative methods for the proposed rule that were considered.

1 **8.100.4.D. Income Disregard**

2 1. ~~Household income is calculated by including the MAGI-based income of every individual in~~
3 ~~the household, minus an amount equivalent to five percentage points of the Federal~~
4 ~~Poverty Level for the applicable family size. This five percent (5%) disregard is applied for~~
5 ~~each of the four MAGI programs: Parents and Caretaker Relatives, Pregnant Women,~~
6 ~~Children and Adults. An income disregard equivalent to five percentage points of the~~
7 ~~Federal Poverty Level for the applicable family size will be subtracted from MAGI-based~~
8 ~~income.~~

9 a. If an individual's countable MAGI-based countable income is above the income
10 threshold for the applicable MAGI program under title XIX (Medicaid) or title XXI
11 (CHP+) of the Social Security Act, the five percent (5%) disregard will be applied
12 for each qualifying MAGI program as the last step into determining eligibility.

13 b. If the countable income is below the income threshold for the applicable MAGI
14 program, the individual is income eligible and the five percent (5%) disregard will
15 not be applied in to determining eligibility

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