

Title of Rule: Revision to the Medical Assistance Health Information Office Eligibility Rule Concerning MAGI Eligibility, §8.100.4
Rule Number: MSB 15-07-08-B
Division / Contact / Phone: Eligibility Division / Ana Bordallo / 3038663558

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 revision mandated by Executive Order D 2012-002 (EO 2), as codified at Section 24-4-103.3 CRS (2014). The governor has issued an Executive order which requires states 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 A regulatory review is solely for the purpose of identifying those rules which are duplicative, overlapping, outdated and inconsistent.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 section 8.100.4 since all rules 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 § 435.603, 42 CFR § 435.910, 42 CFR § 435.406-407, 42 CFR § 435.940, 42 CFR § 435.495, 42 CFR § 435.910, 42 CFR § 435.112, 42 CFR § 435.116-119, 42 CFR § 435.952, 42 CFR § 435.222, 42 CFR § 435.308, 42 CFR § 435.1109, 42 CFR § 435.145, 42 CFR § 435.965, 42 CFR § 435.1101, 42 USC § 1396 a(a)(10)(A)(i),(ii)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, 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

11/01/2015

Emergency Adoption

DOCUMENT #07

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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 MAGI-covered groups such as children, adults and pregnant women eligible for Medical Assistance. The benefit to the proposed language updates is to eliminate duplicative, overlapping, outdated and inconsistent rules.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, section 8.100.4 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 MAGI-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.

Of the proposed rule changes, only the change for Social Security Disability Insurance (SSDI) for children's eligibility is anticipated to drive additional costs. The Department estimates that between 40 and 50 children would gain eligibility as a result of this change in treatment of income, driving a fiscal impact of approximately \$40,000 annually for Medical Assistance programs.

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

The component of the rule changes driving fiscal impacts is federally required; no alternatives action is available.

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

No alternative methodology for achieving federal compliance is available.

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

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

1 **8.100.4 MAGI Medical Assistance Eligibility [Eff. 01/01/2014]**

2 **8.100.4.A. MAGI Application Requirements**

- 3 1. Persons requesting a MAGI Medical Assistance category need only to complete the
4 Single Streamlined Application.
- 5 2. Parents and Caretaker Relatives, Pregnant Women, Children, and Adults may apply for
6 Medical Assistance at ~~eligibility~~ sites other than the County Department of Social
7 Services, including eligibility sites and -Certified Application Assistance Sites (CAAS).
8 The Department shall approve these sites to receive and initially process these
9 applications. The application used shall be the Single Streamlined Application. The
10 eligibility site shall determine eligibility.
- 11 3. The eligibility sites shall refer Medical Assistance clients who are pregnant and/or age 20
12 and under to EPSDT offices (designated by the Department) by:
- 13 a. Copying the page of the Single Streamlined Application that includes the
14 EPSDT benefit questions. The eligibility site will then forward this page to the
15 EPSDT office within five working days from the date of application approval; or
16 by:
- 17 b. Means of secure, electronic data transfer approved by the Department.

18 **8.100.4.B. MAGI Category Verification Requirements**

- 19 1. Minimal Verification – At minimum, applicants seeking Medical Assistance shall provide
20 all of the following:
- 21 a. Social Security Number: Each individual requesting assistance on the application
22 shall provide a Social Security Number, or each shall submit proof of an
23 application to obtain a Social Security Number. Members of religious groups
24 whose faith will not permit them to obtain Social Security Numbers shall be
25 exempt from providing a Social Security Number.
- 26 b. Verification of citizenship and identity as outlined in section 8.100.3.H under
27 Citizenship and Identity Documentation Requirements.
- 28 c. Earned Income: Income shall be self-attested by an applicant and verified
29 through an electronic data source. Individuals who provide self-attestation of
30 income must also provide a Social Security Number for wage verification
31 purposes.
- 32 If ~~earned income is not or cannot be an applicant cannot provide verification~~
33 ~~through self-attestation, it~~ income shall be verified by wage stubs, tax
34 documents, written documentation from the employer stating the employee's

1 gross income or a telephone call to an employer. Applicants may request that
2 communication with their employers be made in writing.

3 Estimated earned income shall be used to determine eligibility if the
4 applicant/client provides less than a full calendar month of wage stubs for the
5 application month. A single recent wage stub shall be sufficient if the applicant's
6 income is expected to be the same amount for the month of application.
7 Verification of earned income received during the month prior to the month of
8 application shall be acceptable if the application month verification is not yet
9 available. Actual earned income shall be used to determine eligibility if the client
10 provides verification for the full calendar month.

11 d. Unearned income: Unearned income can be self-attested by an applicant.
12 Certain types of unearned income, such as unemployment and survivor benefits
13 may be verified through electronic data sources.

14 ed. Verification of Legal Immigrant Status: Immigration status can be self-declared
15 by registration cards or papers, if applicable, shall be provided for an applicant
16 applying for Medical Assistance, to determine if the household members are
17 eligible for full Medical Assistance benefits. This declaration of legal
18 immigration status will then be verified through the Verify Lawful
19 Presence (VLP) interface. The VLP interface connects to the Systematic Alien
20 Verification for Entitlements (SAVE) program and has three steps to verify legal
21 immigration status. See section 8.100.3.G for these three steps. If status cannot
22 be verified, or if the applicant does not provide the necessary documents within
23 the reasonable opportunity period, then the applicant's Medical Assistance
24 application shall be terminated. If an applicant does not provide this, he/she shall
25 only be eligible for emergency Medical Assistance if they meet all other eligibility
26 requirements

27 2. Additional Verification: No other verification shall be required of the client unless
28 information is found to be questionable on the basis of fact.

29 3. The determination that information is questionable shall be documented in the applicant's
30 case file and CBMS case comments.

31 4. Information that exists in another case record or in CBMS shall be used by the eligibility
32 site to verify those factors that are not subject to change, if the information is reasonably
33 accessible.

34 5. The criteria of age, ~~school attendance~~, and relationship can be declared by the client
35 unless questionable. If questionable, these criteria can be established with information
36 provided from:

37 a. official papers such as: a birth certificate, order of adoption, marriage license,
38 immigration or naturalization papers; or

1 b. records or statements from sources such as: a court, school, government
2 agency, hospital, or physician.

3 6. Establishing that a dependent child meets the eligibility criteria of:

4 a. age, if questionable requires (1) viewing the birth certificate or comparably
5 reliable document at eligibility site discretion, and (2) documenting the source of
6 verification in the case file and CBMS case comments;

7 ~~b. school attendance, if questionable requires (1) obtaining confirmation from the~~
8 ~~school by phone or in writing, and (2) documenting the means of verification in~~
9 ~~the case file and CBMS case comments;~~

10 ~~eb.~~ living in the home of the caretaker relative, if questionable requires (1) viewing
11 the appropriate documents which identify the relationship, (2) documenting these
12 sources of verification in the case file and CBMS case comments.

13 **8.100.4.C. MAGI Methodology for Income Calculation**

14 1. For an in depth treatment of gross income, refer to 26 U.S.C. § 61, which is hereby
15 incorporated by reference. The incorporation of 26 U.S.C. § 61 (2014) excludes later
16 amendments to, or editions of, the referenced material. Pursuant to § 24-4-103(12.5),
17 C.R.S., the Department maintains copies of this incorporated text in its entirety, available
18 for public inspection during regular business hours at: Colorado Department of Health
19 Care Policy and Financing, 1570 Grant Street, Denver CO 80203. Certified copies of
20 incorporated materials are provided at cost upon request. Except as otherwise provided,
21 pursuant to 26 U.S.C. § 61 gross income means all income from all derived sources. The
22 Modified Adjusted Gross Income calculation for the purposes of determining a
23 household's financial eligibility for Medical Assistance shall consist of, but is not limited
24 to, the following:

25 a. Earned Gross Income: Except as otherwise provided, pursuant to 26 U.S.C. § 61
26 gross income means all income from whatever source derived, including (but not
27 limited to) the following items:

28 i) Wages, salaries, tips; Compensation for services, including fees,
29 commissions, fringe benefits and similar items;

30 ii) Gross income derived from business;

31 iii) Gains derived from dealings in property;

32 iv) Distributive share of partnership gross income (not a limited partner);

33 v) Compensation for services, including fees, commissions, fringe benefits
34 and similar items; and;

35 vi) Taxable private disability income.

1 b. Unearned Income:

- 2 iv) Interest (includes tax exempt interest);
- 3 ~~ii~~v) Rents;
- 4 ~~iii~~v) Royalties;
- 5 ~~iv~~vii) Dividends;
- 6 ~~iv~~viii) Alimony payments made directly to the household from a non-household
- 7 member and separate maintenance payments;
- 8 ~~vii~~x) Pensions and annuities;
- 9 ~~vii~~x) Income from life insurance and endowment contracts;
- 10 ~~xi~~) ~~Pensions;~~
- 11 ~~viii~~xii) Income from discharge of indebtedness;
- 12 ~~xiii~~) ~~Distributive share of partnership gross income;~~
- 13 ~~viii~~ixxiv) Income in respect of a decedent; and
- 14 ~~ix~~xv) Income from an interest in an estate or trust.
- 15 ~~xi~~) Social Security (SSA) income
- 16 ~~xii~~) Distributive share of partnership gross income (limited partner)

17 cb. Additional Income: In addition to the types of gross income identified in section

18 8.100.4.C.1.a-b., the following income is included in the MAGI calculation.~~if~~

19 applicable:

- 20 i) Any tax exempt interest income
- 21 ii) Untaxed foreign wages and salaries
- 22 iii) Social Security Title II Benefits (Old Age, Disability and Survivor's
- 23 benefits)

24 dc. The following are Income exclusion~~sections~~: ~~There are three exceptions to gross~~

25 ~~income in the MAGI income calculation:~~

- 26 i) An amount received as a lump sum is counted as income only in the
- 27 month received.

1 ii) Scholarships, awards, or fellowship grants used for educational purposes
2 and not for living expenses.

3 ~~iii) Child support received.~~

4 ~~iv) Worker's Compensation.~~

5 ~~v) Supplemental Security Income (SSI).~~

6 ~~vi) Veteran's Benefits~~

7 ~~vii)~~ American Indian/Alaskan Native income exceptions listed ~~at 42 C.F.R. §~~
8 ~~435.603(e).~~ 42 C.F.R. § 435.603(e) (2012) is hereby incorporated by
9 reference. The incorporation of 42 C.F.R. § 435.603(e) (2012) excludes
10 later amendments to, or editions of, the referenced material. Pursuant to
11 § 24-4-103(12.5), C.R.S., the Department maintains copies of this
12 incorporated text in its entirety, available for public inspection during
13 regular business hours at: Colorado Department of Health Care Policy
14 and Financing, 1570 Grant Street, Denver, CO 80203. Certified copies of
15 incorporated materials are provided at cost upon request.

16
17 ed. Allowable Deductions: For an in depth treatment of allowable deductions from
18 gross income, please refer to 26 U.S.C. 62, which is hereby incorporated by
19 reference. The incorporation of 26 U.S.C. 62 (2014) excludes later amendments
20 to, or editions of, the referenced material. Pursuant to § 24-4-103(12.5), C.R.S.,
21 the Department maintains copies of this incorporated text in its entirety, available
22 for public inspection during regular business hours at: Colorado Department of
23 Health Care Policy and Financing, 1570 Grant Street, Denver CO 80203.
24 Certified copies of incorporated materials are provided at cost upon request. The
25 following deductions are allowed to be subtracted from an individual's taxable
26 gross income, in order to calculate the Adjusted Gross Income including (but not
27 limited to):

28 i) Student loan interest deductions

29 ii) Certain Self-employment expenses (SEP, SIMPLE and qualified plans,
30 and health insurance deductions)

31 iii) Deductible part of self-employment tax

32 iv) Health savings account deduction

33 v) Certain Business expenses of reservists, performing artist, and fee-basis
34 government officials

35 vi) Certain reimbursed expenses of employees

- 1 vii) Moving expenses
- 2 viii) IRA deduction
- 3 ix) Penalty on early withdrawal
- 4 x) Domestic production activities deduction
- 5 xi) Alimony paid outside the home

6

7 f. Income of children and tax dependents:

8 i) The income of a child who is included in the household of their natural,
9 adopted, or step parent will not be included in the household income
10 unless that child has income sufficient to require that the child file a tax
11 return.

12 1) Income from ~~¶~~Title II ~~§~~Social ~~§~~Security benefits and ~~¶~~Tier I
13 ~~¶~~Railroad benefits are excluded when determining if a child is
14 required to file taxes.

15 ii) The income of a person, other than a child or spouse, who expects to be
16 claimed as a tax dependent will not be included in the household income
17 of the taxpayer unless that tax dependent has income sufficient to
18 require that the tax dependent file a tax return.

19 1) Income from ~~¶~~Title II ~~§~~Social ~~§~~Security benefits and ~~¶~~Tier I
20 ~~¶~~Railroad benefits are excluded when determining if a tax
21 dependent is required to file taxes.

22 2. Income verifications: When discrepancies arise between self-attested income and
23 electronic data source results, the applicant shall receive every reasonable opportunity to
24 establish his/her financial eligibility through the test for reasonable compatibility, by
25 providing a reasonable explanation of the discrepancy, or by providing paper
26 documentation in accordance with this section. For Reasonable Opportunity Period
27 please see ~~refer to~~ section 8.100.3.H.9.

28 a. Income information obtained through an electronic data source shall be
29 considered reasonably compatible with income information provided by or on
30 behalf of an applicant in the following circumstances:

31 i) If the amount attested by the applicant and the amount reported by an
32 electronic data source are both below the applicable income standard for
33 the requested program, that income shall be determined reasonably
34 compatible and the applicant shall be determined eligible.

1 ii) If the amount attested by the applicant is below the applicable income
2 standard for that program, but the amount reported by the electronic data
3 source is above, and the difference is within the reasonable compatibility
4 threshold percentage of 10%, the income shall be determined
5 reasonably compatible and the applicant shall be determined eligible.

6 iii) If both amounts are above the applicable income standard for that
7 program, the income shall be determined reasonably compatible, and the
8 applicant shall be determined ineligible due to income.

9 b. If income information provided by or on behalf of an applicant is not determined
10 reasonably compatible with income information obtained through an electronic
11 data source, a reasonable explanation of the discrepancy shall be requested. If
12 the applicant is unable to provide a reasonable explanation, paper
13 documentation shall be requested.

14 i) The Department may request paper documentation only if the
15 Department does not find income to be reasonably compatible and if the
16 applicant does not provide a reasonable explanation or if electronic data
17 are not available.

18 3. Self-Employment – If the applicant is self-employed the ledger included in the Single
19 Streamlined Application ~~Medical Assistance application~~ shall be sufficient verification of
20 earnings, unless questionable.

21 4. Budget Periods for MAGI-based Income determination – The financial eligibility of
22 applicants for Medical Assistance shall be determined based on current or previous
23 monthly household income and family size.

24 5. If an applicant does not meet the financial eligibility requirements for Medical Assistance
25 based on MAGI, but meets all other eligibility requirements, the applicant may shall be
26 found eligible for MAGI Medical Assistance if the applicant's income, as calculated using
27 the methodology for determining eligibility for Advanced Premium Tax Credits or Cost
28 Sharing Reductions through the exchangemarketplace, is below 100% of the federal
29 poverty level.

30 **8.100.4.D. Income Disregard**

31 1. Household income is calculated by including the MAGI-based countable income of
32 those every individuals in the household, minus an amount equivalent to five percentage
33 points of the Federal Poverty Level for the applicable family size. The income disregard is
34 only applied when the individual would otherwise not be eligible for Medical Assistance
35 due to excess income. This five percent (5%) disregard is applied the following for each
36 of the four MAGI programs: Parents and Caretaker Relatives, Pregnant Women, Children
37 and Adults. An income disregard equivalent to five percentage points of the Federal
38 Poverty Level for the applicable family size will be subtracted from MAGI-based income.

1 a. If an individual's ~~countable~~ MAGI-based countable income is above the income
 2 threshold for the applicable MAGI program under title XIX (Medicaid) or title XXI
 3 (CHP+) of the Social Security Act, the five percent (5%) disregard will be applied
 4 for each qualifying MAGI program as the last step ~~in~~to determine eligibility.

5 b. If the countable income is below the income threshold for the applicable MAGI
 6 program, the individual is income eligible and the five percent (5%) disregard will
 7 not be applied ~~in~~to determine eligibility.

8

9 **8.100.4.E. Determining MAGI Household Composition.**

10 1. MAGI household composition ~~is similar to, but not necessarily the same as one's tax~~
 11 ~~household. To determine MAGI household composition, the individual's relationship to~~
 12 ~~the tax filer and must be established as declared on the Single Streamlined Application.~~
 13 ~~is determined by relationships of tax dependency as declared on the Single Streamlined~~
 14 ~~Application.~~

15 a. In the case of an applicant who expects to file a tax return for the taxable year in
 16 which an initial determination or renewal of eligibility is being made, and does not
 17 expect to be claimed as a tax dependent by anyone else, then the applicant's
 18 MAGI household shall consist of the following:

- 19 i) The Tax-Filer;
 20 ii) The Tax-Filer's spouse if living in the home;
 21 iii) All persons whom the Tax-Filer expects to claim as a tax dependent on
 22 their personal income tax return

23

24 b. In the case of an applicant who expects to be claimed as a tax dependent by
 25 another taxpayer for the taxable year in which an initial determination or renewal
 26 of eligibility is being made, ~~than the. The~~ applicant's MAGI household shall be ~~the~~
 27 ~~household of the taxpayer claiming that applicant as a tax dependent, except in~~
 28 ~~the following circumstances:~~

- 29 i) The Tax Dependent;
 30 ii) The Tax-Filer and 's their spouse if living in the home;
 31 iii) The Tax-Filer's other tax dependents;
 32 iv) The Tax Dependent's spouse, if living with the Tax Dependent.

1 c. The MAGI household of an applicant who expects to be claimed as a tax
2 dependent is as outlined in 8.100.4.E.b above, except in the following
3 circumstances:

- 4 i) The applicant expects to be claimed as a tax dependent by someone
5 other than a spouse, biological, adoptive or step parent.
- 6 ii) The applicant is a child under 19 who is expected to be claimed by one
7 parent as a tax dependent and is living with both parents, but the parents
8 do not expect to file a joint tax return.
- 9 iii) The applicant is a child under 19 and who expects to be claimed by as a
10 tax dependent by a-non-custodial parent.

11
12 de. If the applicant meets one of the exceptions in 8.100.4.E.c above or is a Nonnon-
13 File-filer, household composition shall be determined using the following Nonnon-
14 File-filer rules and the applicant's household shall consist of the following:

- 15 i) The applicant;
- 16 ii) The applicant's spouse who lives in the household, if not living
17 separately;
- 18 iii) The applicant's natural, adopted, and step children under the age of 19,
19 who live in the household if not living separately; and
- 20 iv) In the case of applicants under the age of 19, the applicant's natural,
21 adoptive, and step parents and natural, adoptive, and step siblings under
22 age 19, who live in the household if not living separately.

23 2. When calculating the composition of a MAGI-a household which includes a pregnant
24 womean-, regardless of the -for all Medical Assistance category ies -the pregnant
25 womean is counted as herself plus the shall include the number of unborn children(ren)
26 she is expected to deliver. as a child(ren) living in the home, for the purposes of
27 determining eligibility. However, Medical Assistance is not available for unto the unborn
28 child, but only for to the pregnant womenmother.

29 ~~3. Medical Assistance is available to the father of an unborn child under the Adult MAGI~~
30 ~~category when there are no other children in the household.~~

31 ~~4. Dependent children are eligible through the end of the month in which they turn 19 years~~
32 ~~old.~~

33 ~~5. A dependent child is considered to be living in the home of the parent or caretaker~~
34 ~~relative as long as the parent or specified relative exercises responsibility for the care and~~
35 ~~control of the child even though:~~

- 1 a. ~~the child is under the jurisdiction of the court (for example, receiving probation~~
- 2 ~~services);~~
- 3 b. ~~legal custody is held by an agency that does not have physical possession of the~~
- 4 ~~child;~~
- 5 c. ~~the child is in regular attendance at a school away from home;~~
- 6 d. ~~either the child or the relative is away from the home to receive medical~~
- 7 ~~treatment;~~
- 8 e. ~~either the child or the relative is temporarily absent from the home;~~
- 9
- 10 f. ~~the child is in voluntary foster care placement for a period not expected to exceed~~
- 11 ~~three months. Should the foster care plan change within the three months and~~
- 12 ~~the placement become court ordered, the child is no longer considered to be~~
- 13 ~~living in the home as of the time the foster care plan is changed.~~

14 63. Married couples living together will each be included in the other's MAGI household
15 regardless of whether or not they expect to file taxes jointly, separately or if one expects
16 to be claimed as a tax dependent of the other.

17 74. -If a child is claimed as a tax dependent by hisboth parents who are married and who will
18 file taxes jointly but one parent lives outside of the household due to separation or
19 pending divorce, the child's household composition is determined by non-filer rules. The
20 parent living outside of the household will not be counted as part of the household.

21 85. An individual who is both a tax dependent and a tax filer will be considered a tax
22 dependent for the purpose of determining eligibility for Medical Assistance.

24 **8.100.4.F. MAGI Category Presumptive Eligibility**

25 1. A pregnant applicant may apply for presumptive eligibility for ambulatory services through
26 Medical Assistance presumptive eligibility sites. A child under the age of ~~19~~nineteen may
27 apply or have an adult apply on their behalf for presumptive eligibility for State Plan
28 approved medical services through presumptive eligibility sites.

29 2. To be eligible for presumptive eligibility:

- 30 a. a pregnant woman shall have an attested pregnancy, declare that her
- 31 household's income shall not exceed 185% of the federal poverty level (MAGI-
- 32 equivalent) and declare that she is a United States citizen or a documented
- 33 immigrant. Refer to the MAGI-Medicaid income guidelines chart available on the
- 34 Department's website.

1 b. a child under the age of 19 shall have a declared household income that does
2 not exceed 133% of federal poverty level (MAGI-equivalent) and declare that the
3 child is a United States citizen or a documented immigrant, of at least five years.

4 3. Presumptive eligibility sites shall be certified by the Department to make presumptive
5 eligibility determinations. Sites shall be re-certified by the Department every 2 years to
6 remain approved presumptive eligibility sites.

7 ~~4. The presumptive eligibility sites shall attempt to obtain all necessary documentation to~~
8 ~~complete the application within fourteen calendar days of application.~~

9 54. The presumptive eligibility site shall forward the application to the county within five
10 business days, of being completed. ~~If the application is not completed within fourteen~~
11 ~~calendar days, on the fifteenth calendar day following application, the presumptive~~
12 ~~eligibility sites shall forward the application to the appropriate county.~~

13 65. The presumptive eligibility period begins on the date the applicant is determined eligible
14 and ends with the earlier of:

15 a. The day an eligibility determination for Medical Assistance is made for the
16 applicant(s); or

17 b. The last day of the month following the month in which a determination for
18 presumptive eligibility was made.

19 ~~shall be no less than 45 days. The presumptive eligibility period ends on the last day of the month~~
20 ~~following the completion of the 45 day Presumptive Eligibility period. The county~~
21 ~~department shall make a Medical Assistance eligibility determination within 45 days from~~
22 ~~receipt of the application. The effective date of Medical Assistance eligibility shall be the~~
23 ~~date of application.~~

24 76. A presumptive eligible client may not appeal the end of a presumptive eligibility period.

25 87. Presumptively eligible women and Medical Assistance clients may appeal the county
26 department's failure to act on an application within 45 days from date of application or the
27 denial of an application. Appeal procedures are outlined in the State Hearings section of
28 this volume.

29 **8.100.4.G. MAGI Covered Groups**

30 1. For MAGI Medical Assistance, any person who is determined to be eligible for Medical
31 Assistance based on MAGI at any time during a calendar month shall be eligible for
32 benefits during the entire month.

33 2. Children applying for Medical Assistance whose total household income does not exceed
34 133% of the federal poverty level (MAGI-equivalent) shall be determined financially
35 eligible for Medical Assistance. Refer to the MAGI-Medicaid income guidelines chart
36 available on the Department's website.

1 a. ~~Medical Assistance eligibility is guaranteed for 12 continuous months from the~~
2 ~~application month regardless of changes in income or household size.~~
3 Children are eligible for Children's MAGI Medical Assistance through the
4 end of the month in which they turn 19 years old. After turning 19, the individual
5 may be eligible for a different Medical Assistance category.

6
7 3. Parents and Caretaker Relatives applying for Medical Assistance whose total household
8 income does not exceed 60% of the federal poverty level (MAGI-equivalent) shall be
9 determined financially eligible for Medical Assistance. Parents or Caretaker Relatives
10 eligible for this category shall have a dependent child in the household receiving Medical
11 Assistance.

12 a. A dependent child is considered to be living in the home of the parent or
13 caretaker relative as long as the parent or specified relative exercises
14 responsibility for the care and control of the child even if:

15 i) The child is under the jurisdiction of the court (for example, receiving
16 probation services);

17 ii) Legal custody is held by an agency that does not have physical
18 possession of the child;

19 iii) The child is in regular attendance at a school away from home;

20 iv) Either the child or the relative is away from the home to receive medical
21 treatment;

22 v) Either the child or the relative is temporarily absent from the home;

23 vi) The child is in voluntary foster care placement for a period not expected
24 to exceed three months. Should the foster care plan change within the
25 three months and the placement become court ordered, the child is no
26 longer considered to be living in the home as of the time the foster care
27 plan is changed.

28
29 4. ~~Effective January 1, 2014,~~ Adults applying for Medical Assistance whose total household
30 income does not exceed 133% of the federal poverty level shall be determined financially
31 eligible for Medical Assistance. This category includes adults who are parents or
32 caretaker relatives of dependent children whose income exceeds the income threshold to
33 qualify for the Parents and Caretaker Relatives MAGI category and who meet all other
34 eligibility criteria.

35 5. Pregnant Women whose household income does not exceed 185% of the federal poverty
36 level (MAGI-equivalent) -are eligible for the Pregnant Women MAGI Medical Assistance

1 program. Medical Assistance shall be provided to a pregnant woman for a period
 2 beginning with the date of application for Medical Assistance through the last day of the
 3 month following 60 days from the date the pregnancy ends. Once eligibility has been
 4 approved, Medical Assistance coverage must will be provided regardless of changes in
 5 the woman's financial circumstances.

6 6. A pregnant legal immigrant who has been a legal immigrant for less than five years is
 7 eligible for Medical Assistance if she meets the eligibility requirements for expectant
 8 mothers listed in 8.100.4.G.63. This population is referenced as Legal Immigrant
 9 Prenatal.

10 7. A child ~~born to a whose mother woman is~~ receiving Medical Assistance at the time of the
 11 child's birth is continuously eligible for one year. This population is referred to as "Eligible
 12 Needy Newborn". This ~~provision coverage~~ also applies in instances where ~~en~~ the mother
 13 woman received Medical Assistance to cover the child's birth through retroactive Medical
 14 Assistance. The child is not required to live with the mother receiving Medical Assistance
 15 to qualify as an Eligible Needy Newborn.

16 a. To receive Medical Assistance under this category, the birth must be reported
 17 verbally or in writing to the County Department of Human Services or eligibility
 18 site. Information provided shall include the baby's name, date of birth, and
 19 mother's name or Medical Assistance number. A newborn can be reported at any
 20 time by any person. Once reported, a newborn meeting the above criteria shall
 21 be added to the mother's Medical Assistance case, or his or her own case if the
 22 newborn does not reside with the mother, according to timelines defined by the
 23 Department. If adopted, tPlease review the Department User Reference Guide
 24 for the timeline. The newborn's agent individual does not need to not file an
 25 application nor provide a Ssocial Ssecurity Nnumber or proof of application for a
 26 Ssocial Ssecurity Nnumber for the newborn. Anyone can report the birth of the
 27 baby verbally or in writing. Information provided shall include the baby's name,
 28 date of birth, and mother's name or Medical Assistance number. A newborn can
 29 be reported at any time. Once reported, a newborn meeting the above criteria
 30 shall be added to the Medical Assistance case according to timelines defined by
 31 the Department. Please review the Department User Reference Guide for
 32 timeframes. This population is referenced as Eligible Needy Newborn.

33 8.100.4.H. Needy Persons

34 1. Medical Assistance shall be provided to certain needy persons under 21 years of age,
 35 including the following:

36 a. Those receiving care in a Long Term Care Institution eligible for Medical
 37 Assistance reimbursement or receiving active treatment as inpatients in a
 38 psychiatric facility eligible for Medical Assistance reimbursement and whose
 39 household income is less than the MAGI needs standard for his/her family size
 40 when the client applies for assistance. Clients that are receiving benefits under
 41 this category and are still receiving active inpatient treatment in the facility at age
 42 21 shall be eligible to age 22. This population is referenced as Psych <21.

1

2 b. Those for whom the Department of Human Services is assuming full or partial
3 financial responsibility and who are in foster care, in homes or private institutions
4 or in subsidized adoptive homes. A child shall be the responsibility of the county,
5 even if the child may be in a medical institution at that time. See Colorado
6 Department of Human Services "Social Services Staff Manual" section 7 for
7 specific eligibility requirements (12 CCR § 2509-1). 12 CCR § 2509-1 (2013) is
8 hereby incorporated by reference. The incorporation of 12 CCR § 2509-1
9 excludes later amendments to, or editions of, the referenced material. Pursuant
10 to § 24-4-103(12.5), C.R.S., the Department maintains copies of this
11 incorporated text in its entirety, available for public inspection during regular
12 business hours at: Colorado Department of Health Care Policy and Financing,
13 1570 Grant Street, Denver CO 80203. Certified copies of incorporated materials
14 are provided at cost upon request.

15 c. Those for whom the Department of Human Services is assuming full or partial
16 financial responsibility and who are in independent living situations subsequent to
17 being in foster care.

18 d. Those for whom the Department of Human Services is assuming full or partial
19 responsibility and who are receiving services under the state's Alternatives to
20 Foster Care Program and would be in foster care except for this program and
21 whose household income is less than the MAGI needs standard for his/her family
22 size.

23 e. Those for whom the Department of Human Services is assuming full or partial
24 responsibility and who are removed from their home either with or without (court
25 ordered) parental consent, placed in the custody of the county and residing in a
26 county approved foster home.

27 f. Those for whom the Department of Human Services is assuming full or partial
28 responsibility and who are receiving services under the state's subsidized
29 adoption program, including a clause in the subsidized adoption agreement to
30 provide Medical Assistance for the child.

31 g. Those for whom the Department of Human Services is assuming full or partial
32 financial responsibility on their 18th birthday or at the time of emancipation.
33 These individuals also must have received foster care maintenance payments or
34 subsidized adoption payments from the State of Colorado pursuant to article 7 of
35 title 26, C.R.S. immediately prior to the date the individual attained 18 years of
36 age or was emancipated. Eligibility shall be extended until the individual's 21st
37 birthday for these individuals with the exception of those receiving subsidized
38 adoption payments.

39 2. Medical Assistance shall be extended to certain needy persons until the end of the month
40 of the individual's 26th birthday, including the following:

- 1 a. Those individuals that were formerly in foster care under the responsibility of the
2 State or Tribe on their 18th, 19th, 20th or up to their 21st birthday and were
3 receiving Medical Assistance.
 - 4 i) This extension does not apply to youth that are receiving subsidized
5 adoption payments or
 - 6 ii) To youth that are enrolled in mandatory Medical Assistance.
- 7 b) Former Foster Care youth are not subject to either an income or resource test.
- 8 c) Former Foster Care youth's newborn shall be considered a needy newborn.

9 **8.100.4.I. Transitional Medical Assistance and 4 Month Extended Medical Assistance**

- 10 1. Eligibility for Transitional Medical Assistance shall be granted for twelve months
11 (beginning with the first month of ineligibility) ~~to individuals to families who are no longer~~
12 ~~would otherwise become ineligible for the Parent/Caretaker Relative category for~~
13 ~~Medical Assistance~~ due to a change in income.

14 ~~The extension shall be applied to a individuals family who:~~

- 15 a. ~~Were~~ eligible ~~and receiving assistance~~ ~~the Parent/Caretaker Relative~~
16 ~~category~~ in at least ~~three~~3 of the ~~six~~6 months ~~immediately~~ preceding the month
17 in which the ~~individual~~family would have become ineligible ~~Medical Assistance~~,
18 and

- 19 b. ~~Becomes~~ ~~Are~~ no longer ineligible for coverage under the Parent/Caretaker
20 ~~Relative category or Medical Assistance solely~~ because of new or increased
21 income from employment ~~or~~ hours of employment;

- 22 i) ~~At least one Parent/Caretaker Relative adult member of the family must~~
23 ~~continue to be employed and cannot terminate employment without good~~
24 ~~cause. This does not need to be the same person for the whole period~~
25 ~~the family is receiving Transitional Medical Assistance. provided an~~
26 ~~employed member of the family continues to be employed.~~

- 27 2. ~~Required members of the Medical Assistance household who come into the household~~
28 ~~Any dependent child or Parent/Caretaker Relative who was or becomes part of the~~
29 ~~Medical Assistance household after the unit is individual family has begun~~ receiving
30 ~~Transitional Medical Assistance~~ ~~is~~are eligible for the remaining months of Transitional
31 Medical Assistance.

- 32 a. ~~A dependent child in the household who received Medical Assistance through~~
33 ~~continuous eligibility, but is no longer eligible for Medical Assistance~~ ~~id based on a~~
34 ~~redetermination, is eligible for the family's remaining months of~~ Transitional
35 ~~Medical Assistance~~ ~~applies to the members of the Medical Assistance required~~
36 ~~household.~~

1 **b.** An individual in the household who received Medical Assistance, but is no longer
2 eligible for Medical Assistance based on a redetermination, is eligible for the
3 family's remaining months of Transitional Medical Assistance

4 3. **To become or** remain eligible for Transitional Medical Assistance:

5 ~~a. The employed member of the Assistance Unit cannot terminate employment~~
6 ~~without good cause.~~

7 ~~ab.~~ The household must include a dependent child. If it is determined that the
8 household no longer has a child living in the home, Transitional Medicaid
9 Assistance shall discontinue at the end of the month in which the household does
10 not include a dependent child.

11 ~~be.~~ If health insurance is available from the employer to the employee, at no cost to
12 the Medical Assistance recipient, the client shall enroll in the insurance program.

13 4. When Transitional Medical Assistance ends, the ~~case will be reassessed~~ eligibility site
14 ~~shall review the file~~ for all other categories of Medical Assistance for which the family
15 members may be eligible. A new application shall not be required for this process.

16 5. Eligibility for Medical Assistance shall be extended for four months (beginning with the
17 first month of ineligibility) for certain families who become ineligible for Medical
18 Assistance due solely or partially to the receipt of support income, ~~Support income such~~
19 ~~as may be maintenance or~~ alimony. The extension shall be applied for a family which
20 receives assistance under Medical Assistance in at least three of the six months
21 immediately preceding the month in which the family becomes ineligible for assistance.
22 To be eligible for the four month Medical Assistance extension, the family shall meet all
23 ~~other be eligible~~ eligibility criteria for Medical Assistance ~~in all respects~~ before the support
24 alimony income is applied. ~~The support recipient shall be included in the Medical~~
25 ~~Assistance calculation for the extension to apply.~~

26 **8.100.4.J. Express Lane Eligibility**

27 Express Lane Eligibility shall allow for automatic initiation of Medical Assistance enrollment by
28 using available data and findings from other programs as listed below.

29 1. Free/Reduced Lunch Program

30 a. Recipients of the Free/Reduced Lunch Program who have submitted a
31 Free/Reduced Lunch application at a participating school district-

32 i) Families shall be given the option to opt into Medical Assistance
33 coverage for their potentially eligible child.

34 ii) Children who meet all necessary eligibility requirements as outlined in
35 this volume shall be automatically enrolled.

- 1 iii) Children who meet all necessary eligibility requirements except
2 verification of U.S. citizenship and identity shall receive ~~93~~90 days of
3 eligibility while awaiting this verification.

- 4 iv) Any additionally required verification shall be requested from the client
5 through CBMS prior to being automatically enrolled.

- 6 v) Eligibility is based on income declared on the Free/Reduced Lunch
7 application as well as eligibility requirements outlined in this volume.

- 8 vi) If it would be found that a child does not satisfy an eligibility requirement
9 for Medical Assistance, the child's eligibility will be evaluated using the
10 Single Streamlined Application for Medical Assistance.

- 11 b. Recipients of the Free/Reduced Lunch Program who were not required to submit
12 a Free/Reduced Lunch application at a participating school district-

- 13 i) Families who are automatically enrolled Free/Reduced Lunch recipient
14 children shall not be forwarded to the Department for Express Lane
15 Eligibility in compliance USDA confidentiality guidelines.

- 16 ii) These families must apply for Medical Assistance in order to give
17 consent for request of benefits.

- 18 2. Direct Certification

- 19 a. Individuals who have submitted a Food Assistance or Colorado Works
20 application

- 21 i) Families shall be given the option to opt into Medical Assistance
22 coverage for their potentially eligible child.

- 23 ii) Children who meet all necessary eligibility requirements as outlined
24 throughout 8.100.4 shall be automatically enrolled.

- 25 iii) Children who meet all necessary eligibility requirements ~~74~~74s except
26 verification of U.S. citizenship and identity will receive ~~93~~90 days of
27 eligibility while awaiting this verification.

- 28 iv) Any additionally required verification shall be requested from the client
29 through CBMS prior to being automatically enrolled.

- 30 v) Eligibility is based on income declared on the Food Assistance or
31 Colorado Works application as well as eligibility requirements outlined
32 throughout this volume.

- 1 vi) If it would be found that a child does not satisfy an eligibility requirement
- 2 for Medical Assistance, the child's eligibility shall be evaluated using the
- 3 Single Streamlined Application for Medical Assistance.

- 4 vii) Individuals whose eligibility is not determined through Express Lane
- 5 Eligibility can also submit a separate Single Streamlined Application for
- 6 Medical Assistance to determine eligibility.
- 7

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