

<b>Colorado Department of Health Care Policy and Financing</b> <b>1570 Grant St., Denver, CO 80203-1818</b>	<b>NUMBER:</b> HCPF 14-017
	<b>SUPRECEDES</b> <b>NUMBER:</b> HCPF 14-003
<b>DIVISION OR OFFICE:</b> Health Information Office	<b>DATE:</b> 12/08/2014
<b>SUBJECT AREA:</b> Medical Assistance	
<b>SUBJECT:</b> CIVIL UNIONS VS. MARRIAGE AND MEDICAID ELIGIBILITY	<b>APPROVED BY:</b>  Chris Underwood
<b>TYPE: Information</b>	

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[www.colorado.gov/hcpf](http://www.colorado.gov/hcpf) >> Partners & Researchers >> County and Medical Assistance Site >> Agency Letters

**Purpose:**

The purpose of this agency letter is to advise eligibility sites on how to determine Medicaid eligibility for individuals in a civil union or in a marriage.

**Background:**

The Colorado General Assembly passed SB 13-011, the Colorado Civil Union Act (the Act), which was signed into law by the Governor on March 21, 2013. The Act allows for individuals in a civil union to obtain the same benefits, protections, and responsibilities as spouses to a marriage. Under Colorado law, individuals in a civil union are not considered spouses to a marriage.

On June 25, 2014, the Tenth Circuit Court of Appeals found Utah's ban on same-sex marriage unconstitutional, but stayed its ruling pending review by the United States Supreme Court. On October 6, 2014 the Supreme Court declined to hear an appeal of that decision. On October 7, 2014 the Tenth Circuit lifted stays in the Utah case and another case that both struck down same-sex marriage bans, Colorado's ban has the same key language as both of these other state bans. Effective October 7, 2014, Colorado recognizes same-sex marriage.

**Procedure or Information:**

The following is clarification on how civil union or marriage will be looked at for Medicaid eligibility.

**Civil Union**

The Colorado Medical Assistance Act provides that Colorado's Medicaid programs shall conform to the requirements of Title XIX of the Social Security Act. C.R.S. § 25.5-4-104(1). Title XIX has specific provisions that apply only to married couples. Medicaid determinations must still be conducted under the requirements provided by federal law. Therefore, Colorado does not recognize the parties to a civil union as being married. In compliance with federal and state law, the Medicaid eligibility determination for individuals in a civil union must be completed in separate households. Other arrangements from other states, such as a domestic partnership or a civil union, should be treated as a civil union in Colorado.

## **Marriage**

The October 7, 2014 decision requires Medicaid to treat all married couples the same whether same-sex or opposite sex. The couple should be entered as married for the Medicaid eligibility determination. Same-sex couples who were married out of state in a state that permits same-sex marriage will be recognized as a married couple in Colorado and for the Medicaid eligibility determination.

### **Effective Date:**

10/7/2014

### **Contact:**

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