



## COLORADO DEPARTMENT OF HEALTH CARE POLICY & FINANCING

1570 Grant Street, Denver, CO 80203-1818 • (303) 866-2993 • (303) 866-4411 Fax • (303) 866-3883 TTY

John W. Hickenlooper, Governor • Susan E. Birch MBA, BSN, RN, Executive Director

March 30, 2011

The Honorable Rollie Heath, Chair  
State, Veterans & Military Affairs Committee  
200 East 14<sup>th</sup> Avenue  
Denver, CO 80203

Dear Senator Heath:

The Department of Health Care Policy and Financing (Department) presents this report with respect to its compliance with requirements for verifying lawful presence in the U.S. of applicants applying for the Colorado Indigent Care Program (CICP), as stipulated in Section 24-76.5-103, C.R.S., which reads:

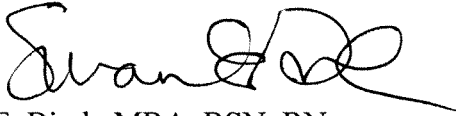
*“(9) It shall be unlawful for an agency or a political subdivision of this state to provide a federal public benefit or a state or local public benefit in violation of this section. On or before January 15, 2009, and on or before January 15 each year thereafter, each state agency or department that administers a program that provides state or local public benefits shall provide a report with respect to its compliance with this section to the state, veterans, and military affairs committees of the senate and house of representatives, or any successor committees.”*

The Department administers the CICP, which is a state only program. Participants must prove they are lawfully present in the U.S., in compliance with Section 24-76.5-103, C.R.S. Under the CICP, participating providers determine eligibility, including establishing that applicants are lawfully present in the U.S. The Medical Services Board promulgated rules in December 2007 regarding complying with lawful presence for the CICP, and the Department updated its CICP provider manual and conducted training. Lawful presence requirements are included in the annual CICP provider training, and providers must have an audit performed annually regarding compliance with the CICP eligibility requirements, and implement corrective actions as necessary.

While the Department is complying with lawful presence requirements in its administration of the CICP, the Department has failed to submit the report as required by law. The Department has recognized this oversight and will provide the reports by January 15 each year in the future.

Questions regarding the Department's compliance with lawful presence requirements and this report can be addressed by Nancy Dolson, Manager Safety Net Programs Section, at 303-866-3698.

Sincerely,



Susan E. Birch, MBA, BSN, RN  
Executive Director

SEB:cln

Cc: Senator Bob Bacon, Vice –Chair, State, Veterans, and Military Affairs Committee  
Senator Betty Boyd, State, Veterans, and Military Affairs Committee  
Senator Bill Cadman, State, Veterans, and Military Affairs Committee  
Senator Kevin Grantham, State, Veterans and Military Affairs Committee  
Lorez Meinhold, Senior Policy Analyst for Health Care, Governor's Office  
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State Library (4 copies)  
Susan E. Birch, Executive Director  
Laurel Karabatsos, Acting Medical and CHP+ Program Administration Office Director  
John Bartholomew, Financial & Administrative Services Office Director  
Phil Kalin, Center for Improving Value in Health Care (CIVHC) Director  
Joanne Lindsay, Public Information Officer



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John W. Hickenlooper, Governor • Susan E. Birch MBA, BSN, RN, Executive Director

March 30, 2011

The Honorable James Kerr, Chair  
State, Veterans & Military Affairs Committee  
200 East 14<sup>th</sup> Avenue  
Denver, CO 80203

Dear Representative Kerr:

The Department of Health Care Policy and Financing (Department) presents this report with respect to its compliance with requirements for verifying lawful presence in the U.S. of applicants applying for the Colorado Indigent Care Program (CICP), as stipulated in Section 24-76.5-103, C.R.S., which reads:

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Sincerely,



Susan E. Birch, MBA, BSN, RN  
Executive Director

SEB:cln

Cc: Representative Don Coram, Vice –Chair, State, Veterans, and Military Affairs Committee  
Representative Randy Baumgardner, State, Veterans, and Military Affairs Committee  
Representative Joe Miklosi, State, Veterans, and Military Affairs Committee  
Representative Nancy Todd, State, Veterans and Military Affairs Committee  
Representative Lois Court, State, Veterans and Military Affairs Committee  
Representative Larry Liston, State, Veterans and Military Affairs Committee  
Representative Mark Waller, State, Veterans and Military Affairs Committee  
Representative Claire Levy, State, Veterans and Military Affairs Committee  
Lorez Meinhold, Senior Policy Analyst for Health Care, Governor's Office  
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**COLORADO DEPARTMENT OF HEALTH CARE  
POLICY AND FINANCING**

**REPORT TO COLORADO HOUSE OF REPRESENTATIVES AND  
SENATE STATE, VETERANS, & MILITARY AFFAIRS COMMITTEES**

**COLORADO INDIGENT CARE PROGRAM  
FY 2010-11 LAWFUL PRESENCE COMPLIANCE**

**MARCH 30, 2011**

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## **EXECUTIVE SUMMARY**

This report is presented to the Colorado State, Veterans, and Military Affairs Committee as required by Section 24-76.5-103, C.R.S.

During the 2006 and 2007 legislative sessions, House Bill 06S-1023 and House Bill 07-1314 were passed and directed the Department of Revenue to establish rules to ensure that recipients of public benefits demonstrate that they are legally residing in the U.S. The Department of Revenue promulgated “Rules of Evidence of Lawful Presence” at 1 CCR 201-17, effective August 1, 2007.

The Department of Health Care Policy and Financing (Department) administers the Colorado Indigent Care Program (CICP), a state only program whose participants must prove they are lawfully present in the U.S. in compliance with Section 24-76.5-103, C.R.S.

In order to comply with the new Rules of Evidence of Lawful Presence promulgated by the Department of Revenue, the Department amended its rules pertaining to the CICP’s application process, effective January 1, 2008. The legislation requires annual reporting commencing on or before January 15, 2009, and on or before January 15 each year thereafter, by state agencies or departments of their compliance with lawful presence requirements.

While the Department is complying with lawful presence requirements in its administration of the CICP, the Department has failed to submit the report as required by law. The Department recognizes this oversight and will provide the required reports by January 15 each year in the future.

This initial report will provide an overview of the CICP, changes implemented in the program’s application process to address lawful presence requirements and the program provider’s audit reporting on lawful presence compliance since the requirements were implemented.

## **INTRODUCTION**

This report is presented to the Colorado State, Veterans, and Military Affairs Committee as required by Section 24-76.5-103, C.R.S., which reads:

*“(9) It shall be unlawful for an agency or a political subdivision of this state to provide a federal public benefit or a state or local public benefit in violation of this section. On or before January 15, 2009, and on or before January 15 each year thereafter, each state agency or department that administers a program that provides state or local public benefits shall provide a report with respect to its compliance with this section to the state, veterans, and military affairs committees of the senate and house of representatives, or any successor committees.”*

## **PROGRAM OVERVIEW**

The Colorado General Assembly enacted the “Reform Act for the Provision of Health Care for the Medically Indigent” in 1983. This law made it possible to use state funds to partially reimburse providers for services provided to the state’s medically indigent residents. This article was amended in 2006 and now stands as the enactment of the “Colorado Indigent Care Program.”

The Colorado Indigent Care Program (CICP) provides a partial solution to the health care needs of the state’s medically indigent citizens and does not provide a comprehensive benefits package. The program is not an insurance program, but rather a financial vehicle for providers to recoup some of the costs for providing medical services to the medically indigent who are not eligible for Medicaid or Child Health Plan *Plus*. The benefits offered under this program vary from provider to provider. By statute, providers participating in the CICP are required to prioritize care in the following order:

1. Emergency care for the full year,
2. Additional medical care for those conditions determined to be the most serious threat to the health of indigent persons, and
3. Any other medical care.

The CICP includes these requirements in its agreements with providers to ensure that indigent clients have access to emergency care throughout the year.

The Department administers the CICP by distributing funding to qualified health care providers who serve eligible persons. The Department issues procedures to ensure the funding is used to serve the indigent population in a uniform method. Any significant departure from these procedures may result in termination of the agreement with, and the funding to, a health care provider.



## **CICP LAWFUL PRESENCE REQUIREMENTS**

Under the CICP, participating providers determine eligibility, including establishing that applicants are lawfully present in the U.S. The Medical Services Board promulgated rules in December 2007 regarding compliance with lawful presence for the CICP. In anticipation of the January 1, 2008 effective date for the CICP Lawful Presence rules, the Department updated its program manual and conducted training. Additionally, lawful presence requirements and updates are included in the topics presented during the annual training for CICP providers.

### **CICP Applicant Eligibility and Lawful Presence**

The provider manual, which is distributed to all CICP providers, stipulates the following in *Section I, Article II. Client Eligibility for CICP, Section 5.09 Lawful Presence*:

*“All first-time applicants and applicants re-applying to receive discounted health care services, aged 18 and older, must sign the “Affidavit for Lawful Presence, Colorado Indigent Care Program” and provide an approved document that demonstrates that the applicant is lawfully present in the United States.”*

The Department redesigned the CICP Affidavit for Lawful Presence to comply with the new rules guiding evidence of lawful presence. Effective January 1, 2008 the revised version of the Affidavit is used for all applicants. A copy of the Affidavit is included in the CICP provider manual, located in Section VI. A list of the various types of documents that can be accepted to prove lawful presence is located on the back of the Affidavit.

### **Provider Compliance Audit**

To meet its fiduciary responsibility, the Department requires that CICP participating providers submit a provider compliance audit statement to the Department along with a Corrective Action Plan (CAP) when required. The purpose of the provider audit is to furnish the Department with a report that attests to the provider’s compliance with specified provisions of the CICP contract, regulations and manual. Providers must have an annual audit performed to determine compliance with the following three components of the CICP:

- Eligibility,
- Billing, and
- Programmatic Internal Controls.

Verification of the CICP client’s Affidavit for Lawful Presence is one of the nine required items to be included and reported in the provider’s annual audit regarding eligibility. Providers that are found to be out of compliance with any of the CICP’s guidelines must implement a Corrective Action Plan. A statement from the provider’s administration must be submitted to the Department with the compliance audit report describing the plan of corrective action and implementation date. Failure to submit a CAP will result in withholding CICP payment until such a plan is received or the CICP may redirect payments to compliant providers.

The following table lists the number of participating CICP providers per fiscal year and results of their audit reporting related to the lawful presence requirements implemented January 1, 2008.

**Table 1**  
**Provider Audit and Lawful Presence Requirements**

Fiscal Year	Participating Providers	Compliance Audits Received	Non-compliant with Lawful Presence Requirements
FY 2008-09	60	60	1
FY 2009-10	62	62	10
FY 2010-11 <sup>1</sup>	68	35	3

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<sup>1</sup> Partial reporting as of date of this report. Providers must submit annual compliance audits within six months after a determined audit period. Audit periods vary by providers and may be based on one of the following: State's fiscal year, calendar year or provider's fiscal year.