



**COLORADO**  
Department of Health Care  
Policy & Financing

Department of Health Care Policy and Financing  
1570 Grant Street  
Denver, CO 80203

January 15, 2017

The Honorable Mike Foote, Chair  
State, Veterans, and Military Affairs Committee  
200 E. Colfax Avenue  
Denver, CO 80203

Dear Representative Foote:

Enclosed please find a legislative report to the House State Veterans and Military Affairs Committee from the Department of Health Care Policy and Financing (the Department) on compliance with requirements for verifying lawful presence in the U.S. for applicants applying for the Colorado Indigent Care Program (CICP). This report also includes information regarding lawful presence compliance for the Colorado Dental Health Care Program for Low-Income Seniors (Senior Dental Program) which commenced on July 1, 2015.

Section 24-76.5-103, C.R.S., requires the Department to 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 on or before January 15 each year.

The Department administers the CICP and the Senior Dental Program, which are state only programs. Under both programs, participating providers determine eligibility, including establishing that applicants are lawfully present in the U.S. Lawful presence requirements are included in provider training, and audits are routinely performed with corrective actions plans required as necessary.

If you require further information or have additional questions, please contact the Department's Legislative Liaison, Zach Lynkiewicz, at [Zach.Lynkiewicz@state.co.us](mailto:Zach.Lynkiewicz@state.co.us) or 720-854-9882.

Sincerely,

A handwritten signature in black ink that reads "Susan E. Birch".

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

SEB/nad

Enclosure(s): Annual Report on Lawful Presence Compliance for the CICP and the Senior Dental Program



Cc: Representative Susan Lontine, Vice-Chair, State, Veterans, and Military Affairs Committee  
Representative Adrienne Benavidez, State, Veterans, and Military Affairs Committee  
Representative Edie Hooton, State, Veterans, and Military Affairs Committee  
Representative Stephen Humphrey, State, Veterans, and Military Affairs Committee  
Representative Tim Leonard, State, Veterans, and Military Affairs Committee  
Representative Jovan Melton, State, Veterans, and Military Affairs Committee  
Representative Mike Weissman, State, Veterans, and Military Affairs Committee  
Representative Dave Williams, State, Veterans, and Military Affairs Committee  
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John Bartholomew, Finance Office Director, HCPF  
Gretchen Hammer, Health Programs Office Director, HCPF  
Dr. Judy Zerzan, Client and Clinical Care Office Director, HCPF  
Chris Underwood, Health Information Office Director, HCPF  
Jed Ziegenhagen, Community Living Office Director, HCPF  
Tom Massey, Policy, Communications, and Administration Office Director, HCPF  
Rachel Reiter, External Relations Division Director, HCPF  
Zach Lynkiewicz, Legislative Liaison, HCPF





**COLORADO**  
Department of Health Care  
Policy & Financing

Department of Health Care Policy and Financing  
1570 Grant Street  
Denver, CO 80203

January 15, 2017

The Honorable Ray Scott, Chair  
State, Veterans, and Military Affairs Committee  
200 E. Colfax Avenue  
Denver, CO 80203

Dear Senator Scott:

Enclosed please find a legislative report to the Senate State Veterans and Military Affairs Committee from the Department of Health Care Policy and Financing (the Department) on compliance with requirements for verifying lawful presence in the U.S. for applicants applying for the Colorado Indigent Care Program (CICP). This report also includes information regarding lawful presence compliance for the Colorado Dental Health Care Program for Low-Income Seniors (Senior Dental Program) which commenced on July 1, 2015.

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

SEB/nad

Enclosure(s): Annual Report on Lawful Presence Compliance for the CICP and the Senior Dental Program



Cc: Senator Vicki Marble, Vice-Chair, State, Veterans, and Military Affairs Committee  
Senator Steve Fenberg, State, Veterans, and Military Affairs Committee  
Senator Michael Merrifield, State, Veterans, and Military Affairs Committee  
Senator Jerry Sonnenberg, State, Veterans, and Military Affairs Committee  
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Zach Lynkiewicz, Legislative Liaison, HCPF



# Lawful Presence Compliance

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*Colorado Indigent Care Program*

*Colorado Dental Health Care Program for Low-Income Seniors*

**January 15, 2017**

**Submitted to: State, Veterans, and Military Affairs House  
and Senate Committees**



**COLORADO**

Department of Health Care  
Policy & Financing

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## Executive Summary

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

The Department of Health Care Policy and Financing (Department) administers the Colorado Indigent Care Program (CICP) and the Colorado Dental Health Care Program for Low-Income Seniors (Senior Dental Program), which are state only programs.

Under both programs, participating providers determine eligibility, including establishing that applicants are lawfully present in the U.S in compliance with Section 24-76.5-103, C.R.S. Lawful presence requirements are included in provider training, and audits are routinely performed with corrective actions plans required as necessary

This report provides an overview of the CICP, how the program's application process addresses lawful presence requirements, and the program provider's audit reporting on lawful presence compliance for Fiscal Year (FY) 2014-15 and partial reporting for audits received in the FY 2015-16. This report also provides an overview of the Senior Dental Program and its application of audit reporting practices that ensure lawful presence requirements are met, including reporting of audit findings in FY 2015-16.



## Introduction

This report is presented to the Colorado State, Veterans, and Military Affairs Committees 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.”*

## Colorado Indigent Care Program

### 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 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* (CHP+). Services provided 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. Urgent care, and
3. Any other additional medical care.

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



The Department administers the CICIP 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.

### **CICIP Lawful Presence Requirements**

Under the CICIP, 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 CICIP. Effective January 1, 2008, the Department updated its program manual and conducted training for CICIP Lawful Presence rules. Additionally, lawful presence requirements and updates are included in the topics presented during the annual training for CICIP providers.

### **CICIP Applicant Eligibility and Lawful Presence**

The FY 2015-16 provider manual, which is distributed to all CICIP providers, stipulates the following in Section I, Article II. Client Eligibility for CICIP, 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 CICIP Affidavit for Lawful Presence to comply with the rules guiding evidence of lawful presence. A copy of the Affidavit is included in the CICIP 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.

### **CICIP Provider Compliance Audit**

To meet its fiduciary responsibility, the Department requires that CICIP 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 CICIP provider agreement, regulations, and manual. Providers



must have an annual audit performed to determine compliance with the following three components of the CICIP:

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

Verification of the CICIP client's Affidavit for Lawful Presence is one of the nine (9) 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 CICIP's guidelines must implement a CAP. 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 CICIP payment until such a plan is received or the CICIP may redirect payments to compliant providers.

Each participating CICIP provider submits to the Department an annual Provider Compliance Audit Report. A review of compliance with verification of lawful presence is one of the nine (9) attributes, regarding client eligibility procedures, required in the audit report. Exceptions to lawful presence requirements are reported regarding the following:

- (9a) Verification that the Affidavit for Lawful Presence was signed and dated by the client. The client must have either checked the line indicating that they are a U.S. citizen or checked the line indicating that they are a Legal Permanent Resident or otherwise lawfully present in the U.S.
- (9b) Verification that the provider filled out the shaded box on the Affidavit called "For Eligibility Technician Use," noting the type of document that verified lawful presence. Verification of lawful presence must be confirmed in Systematic Alien Verification for Entitlements (SAVE) for all non-U.S. citizens. The date the provider completed the lawful presence verification must be indicated in the shaded box on the affidavit.
- (9c) Verification that photocopies of legal presence documents submitted by the client are retained in the client's application file. For clients who are not U.S.

citizens, the printout of the Verification Result Screen from the SAVE search must also be retained in the client’s application file. Note that U.S. citizens who sign the optional self-declaration statement at the bottom of the Affidavit do not need to submit documentation as proof of lawful presence in the United States.

Each provider must review a minimum sample size of 25 applications, unless in the event the provider completed fewer than 25 in the audit period, then all applications completed by the provider must be included. An attribute is out of compliance if the error rate exceeds 10% for the specific attribute tested. Each provider found to be out of compliance must implement a CAP.

The following table lists the number of participating CICP providers per fiscal year 2014-15, partial reporting of fiscal year 2015-16, and results of their audit reporting related to the lawful presence requirements.

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

<b>Fiscal Year</b>	<b>Participating Providers</b>	<b>Compliance Audits Received</b>	<b>Non-compliant with Lawful Presence Requirements</b>
FY 2014-15	70	69	8
FY 2015-16 <sup>1</sup>	70	24	1

## Colorado Dental Health Care Program for Low-Income Seniors

### Program Overview

The Colorado Dental Health Care Program for Low-Income Seniors (Senior Dental Program) was created with the passage of Senate Bill 14-180 (25.5-3-401, C.R.S.), and commenced on July 1, 2015. The Senior Dental Program grants funds to Area Agencies on Aging, community-based organizations and foundations, community health centers, safety-net clinics, health districts, and private dental practices to promote the health and welfare of Colorado’s low-income seniors. This program provides access to dental

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<sup>1</sup> Partial reporting as of date of this report. Providers must submit annual compliance audits within six (6) 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.



care to individuals age 60 and over who are not eligible for services under any other dental health care program, such as Medicaid, the Old Age Pension Health and Medical Care Program, or private dental insurance. The Senior Dental Advisory Committee advises the Department of Health Care Policy and Financing (the Department) on the operation of the Senior Dental Program and makes recommendations to the Medical Services Board regarding rules.

The Department administers the Senior Dental Program by distributing grant funds to eligible entities and also ensures the funding is used to serve the low-income senior population. The eligible entities must:

- Provide outreach to eligible seniors and dental care providers;
- Identify eligible seniors;
- Demonstrate collaboration with community organizations;
- Ensure the eligible seniors receive covered dental services without duplication of services;
- Maintain records of seniors served, services provided, and moneys spent; and
- Distribute funds to qualified dental providers or directly provide dental services to eligible seniors in their area.

### **Senior Dental Program Lawful Presence Requirements**

Under the Senior Dental Program, qualified grantees determine eligibility, including establishing that applicants are lawfully present in the U.S. The Department designed the Senior Dental Program Affidavit for Lawful Presence to comply with the rules guiding evidence of lawful presence. A copy of the Affidavit is provided to grantees and is also available on the Department's website.

### **Senior Dental Program Provider Compliance Audit**

To meet its fiduciary responsibility, the Department randomly selects 10% or 15 files, whichever is less, of each qualified grantee's files for auditing purposes during the year. The audit ensures that the qualified grantees are in compliance with specified provisions of the Senior Dental Program contract. Qualified grantees must have this audit performed to determine compliance with the following factors of the Senior Dental Program:



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

Qualified grantees that are found to be out of compliance with any of the Senior Dental Program guidelines must implement a CAP. Failure to submit a CAP will result in loss of grant funds and/or termination from the Senior Dental Program.

A review of compliance with verification of lawful presence is one of the client eligibility procedures reviewed during the audit. Exceptions to lawful presence requirements are reported regarding the following:

- Verification that the Affidavit for Lawful Presence was signed and dated by the client. The client must either check the line indicating that they are a U.S. citizen or check the line indicating that they are a Legal Permanent Resident or otherwise lawfully present in the U.S.
- Verification that the provider filled out the shaded box on the Affidavit called “For Eligibility Technician Use,” noting the type of document that was verified. Verification of lawful presence must be confirmed in SAVE for all non-U.S. citizens. The date the provider completed the lawful presence verification must be indicated in the shaded box on the affidavit.
- Verification that photocopies of legal presence documents submitted by the client are retained in the client’s application file. For clients who are not U.S. citizens, the printout of the Verification Result Screen from the SAVE search must also be retained in the client’s application file. Note that U.S. citizens who sign the optional self-declaration statement or have an individual sign the third-party declaration at the bottom of the Affidavit do not need to submit documentation as proof of lawful presence in the United States.

The following tables list the number of participating Senior Dental Program grantees for FY 2015-16 and results of the audits related to the lawful presence requirements.



**Table 2: Senior Dental Program Audit and Lawful Presence Requirements**

Fiscal Year	Participating Grantees	Files Reviewed	Non-compliant with Lawful Presence Requirements
FY 2015-16	21	221	39

Out of the 221 client files reviewed during the audit, 39, or 18%, showed lack of full compliance with lawful presence documentation requirements. Note: there was no indication that services were provided to persons who are not lawfully present in the state. The findings were as follows:

**Table 3: Senior Dental Program Lawful Presence Findings**

Reason for Non-compliance	Number
Top portion of affidavit not completed	1
Client did not check if they were a U.S. citizen, legal permanent resident, or lawfully present in the U.S.	2
No photocopy of documents in file	2
No affidavit in file	6
Lack of indication that grantee checked the client's documents	8
Client signed in wrong area of affidavit	20
<b>Total</b>	<b>39</b>

