



COLORADO
Department of Health Care
Policy & Financing

1570 Grant Street
Denver, CO 80203

January 18, 2022

The Honorable Chris Kennedy, Chair
House State, Civic, Military, & Veterans Affairs Committee
200 E. Colfax Avenue
Denver, CO 80203

Dear Representative Kennedy:

Enclosed please find a legislative report to the House State Civic, Military, and Veterans 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, Jo Donlin at Jo.Donlin@state.co.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'K Donlin'.



Kim Bimestefer
Executive Director

KB/CV

Enclosure(s): Lawful Presence FY2020-21 Annual Report

cc: Representative Steven Woodrow, Vice Chair, State, Civic, Military & Veterans Affairs Committee
Representative Judy Amabile, State, Civic, Military & Veterans Affairs Committee
Representative Jennifer Bacon, State, Civic, Military & Veterans Affairs Committee
Representative Tracey Bernett, State, Civic, Military & Veterans Affairs Committee
Representative Rod Bockenfeld, State, Civic, Military & Veterans Affairs Committee
Representative Andrew Boesenecker, State, Civic, Military & Veterans Affairs Committee
Representative Mary Bradfield, State, Civic, Military & Veterans Affairs Committee
Representative Patrick Neville, State, Civic, Military & Veterans Affairs Committee
Representative Alex Valdez, State, Civic, Military & Veterans Affairs Committee
Representative Dan Woog, State, Civic, Military & Veterans Affairs Committee
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Tracy Johnson, Medicaid Director, HCPF
Tom Massey, Policy, Communications, and Administration Office Director, HCPF
Bettina Schneider, Finance Office Director, HCPF
Bonnie Silva, Community Living Interim Office Director, HCPF
Anne Saumur, Cost Control Office Director, HCPF
Parrish Steinbrecher, Health Information Office Director, HCPF
Rachel Reiter, External Relations Division Director, HCPF
Jo Donlin, Legislative Liaison, HCPF





COLORADO
Department of Health Care
Policy & Financing

1570 Grant Street
Denver, CO 80203

January 18, 2022

The Honorable Julie Gonzales, Chair
Senate State, Veterans, & Military Affairs Committee
200 E. Colfax Avenue
Denver, CO 80203

Dear Senator Gonzales:

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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If you require further information or have additional questions, please contact the Department's Legislative Liaison, Jo Donlin at Jo.Donlin@state.co.us.

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Kim Bimestefer

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Executive Director

KB/CV

Enclosure(s): Lawful Presence FY2020-21 Annual Report

Cc: Senator James Coleman, Vice Chair, State, Veterans, & Military Affairs Committee
Senator Sonya Jaquez Lewis, State, Veterans & Military Affairs Committee
Senator Cleave Simpson, State, Veterans & Military Affairs Committee
Senator Jerry Sonnenberg, State, Veterans & Military Affairs Committee
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Lawful Presence Compliance Report FY2020-21

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

January 18, 2022

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

Contents

Executive Summary	3
Introduction.....	4
Colorado Indigent Care Program	4
A. Program Overview	4
B. CICP Lawful Presence Requirements.....	5
C. CICP Applicant Eligibility and Lawful Presence	5
D. CICP Provider Compliance Audit.....	6
Colorado Dental Health Care Program for Low-Income Seniors	10
E. Program Overview	10
F. Senior Dental Program Lawful Presence Requirements	10
G. Senior Dental Program Provider Compliance Audit	11



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 (the 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) 2019-20 and partial reporting for audits received in the FY 2020-21. 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 2019-20.

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

A. 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 Health First Colorado (Colorado’s 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 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.

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

C. CICP Applicant Eligibility and Lawful Presence

During the 2006 and 2007 legislative sessions House Bill (HB) 06S-1023 and HB 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 United States. The Department of Revenue promulgated “Rules for Evidence of Lawful Presence” at 1 CCR 204-30, effective August 30, 2016. The CICP made corresponding rule changes effective September 9, 2016.

The FY 2020-21 provider manual, which is distributed to all CICP providers, stipulates the following in Article III, Section 3.05. Client Eligibility for CICP:

“All applicants, 18 years and older, must sign the ‘Affidavit for Lawful Presence, Colorado Indigent Care Program’ (Affidavit) and provide a document that demonstrates they are lawfully present in the United States.”

The Department redesigned the CICP 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 Article III, Section III. Affidavit for Lawful Presence, Section 3.01 in English and Section 3.02 in Spanish. A list of the various types of documents that can be accepted to prove lawful presence is located on the back of the Affidavit.

D. CICIP Provider Compliance Audit

To meet its fiduciary responsibility, the Department contracted with the accounting firm, Public Consulting Group, Inc. (PCG), to conduct comprehensive reviews of providers receiving funding from the CICIP. PCG will audit approximately one third of the participating providers during each contract year and test compliance with both eligibility and billing criteria based on programmatic requirements. As such, providers will be audited by the Department's auditor approximately once every three years instead of completing an audit annually. During FY 2019-20, PCG and the Department selected 11 providers consisting of eight hospitals and three clinic providers to be audited on applications completed during FY 2019-20 and billing claims during calendar year 2019. 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. These audits determine compliance with Eligibility and Billing.

Verification of the CICIP client's Affidavit for Lawful Presence is one of the required items to be included and reported. Providers that are found to be out of compliance with any of the CICIP's guidelines must implement a Corrective Action Plan (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 may result in withholding CICIP payment until such a plan is received or the CICIP may redirect payments to compliant providers. Beginning July 1, 2021, the Department began randomly selecting CICIP Providers for spot audits. These spot audits are based on those Providers who were required to file Corrective Action Plans (CAP). Providers submit examples from their plans to ensure their findings are effectively corrected

PCG submits to the Department a CICP Provider Audit Report that reviews compliance with verification of lawful presence. 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 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.
- Verification that the provider filled out the shaded box on the Affidavit marked “For Eligibility Technician Use,” noting the document was verified. 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.
- 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.
- Verification of proof of residency. For clients that do not have proof of residency on file, it must be determined that the applicant is homeless or without permanent housing.

The size of the audit sample is based on the number of patients reported in the most recent data submission as described below. Additionally, providers with satellite facilities will have an extra five applications per satellite facility added to the sample size.

Number of Clients Served	Audit Sample Size
<25 Clients	All Applications
26 - 100 Clients	25 Applications
101 - 400 Clients	35 Applications
401 - 800 Clients	50 Applications
801 - 2,500 Clients	60 Applications
2,501+ Clients	70 Applications

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.

Table 1 lists the number of participating CICP providers per fiscal year 2019-20, partial reporting of fiscal year 2020-21, and results of their audit reporting related to the lawful presence requirements.

Table 1: CICP Provider Audit and Lawful Presence Requirements

Fiscal Year	Providers	Audits Reviewed	Compliant Audits Received	Non-Compliant Audits Received	Reason for Non-Compliance			
					Affidavit Not signed and/or dated	Lawfully present in country box not check or Waiver not on file	Applicant is resident of Colorado box not checked	No proof of residency
FY 2019-20	11	11	6	5	5	2	2	2
FY 2020-21 ¹	24	0	0	0	0	0	0	0

¹ Partial reporting or no audits may have been received as of date of this report.



Colorado Dental Health Care Program for Low-Income Seniors

E. 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 care to individuals age 60 and over who are not eligible for oral health services under any other dental health care program, such as Health First Colorado, the Old Age Pension Health and Medical Care Program, or private dental insurance. The Senior Dental Advisory Committee advises the Department on policies 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 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.

F. Senior Dental Program Lawful Presence Requirements

During the 2006 and 2007 legislative sessions House Bill (HB) 06S-1023 and HB 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 United States. The Department of Revenue promulgated "Rules for Evidence of Lawful Presence" at 1 CCR 204-30, effective August 30, 2016. The Senior Dental Program made corresponding rule changes effective September 9, 2016. 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.

G. Senior Dental Program Provider Compliance Audit

To meet its fiduciary responsibility, the Department randomly selects 10% 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 eligibility and billing.

Qualified grantees that are found to be out of compliance with any of the Senior Dental Program guidelines must implement a Corrective Action Plan (CAP). Failure to submit a CAP will result in loss of grant funds and/or termination from the Senior Dental Program. Beginning July 1, 2021, the Department began randomly selecting Senior Dental Program grantees for spot audits. These spot audits are based on those grantees who were required to file Corrective Action Plans (CAP). From these CAP's, grantees submit examples of their plan to show that it is effectively correcting the findings found in the previous audit year.

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.

Table 2 list the number of participating Senior Dental Program grantees for FY 2019-20 and FY2020-21, along with results of the audits related to the lawful presence requirements.

Table 2: Senior Dental Program Audit and Lawful Presence Requirements

Fiscal Year	Grantees	Audits Reviewed	Compliant Audits Received	Non-Compliant Audits Received	Reason for Non-Compliance			
					Affidavit not signed and/or dated	Lawfully present in country box not checked or Waiver not on file	Applicant is resident of Colorado box not checked	No proof of residency
FY 2019-20	30	30	17	13	7	15	0	0
FY 2020-21 ²	30	8	8	3	0	3	0	0

² Partial reporting or no audits may have been received as of date of this report

