

# 2018

## Regulatory **Agenda**

January 1, 2018-December 31, 2018



**COLORADO**  
Department of Human Services

## Overview

The Colorado of Human Services submits the following 2017 Regulatory Agenda in fulfillment of the statutory requirements set forth in Colo. Rev. Stat. §2-7-203(4). Pursuant to state law, annually on November 1 executive-branch agencies must file a Departmental Regulatory Agenda (DRA) containing:

- A list of new rules or amendments that the department or its divisions expect to propose in the next calendar year;
- The statutory or other basis for adoption of the proposed rules;
- The purpose of the proposed rules;
- The contemplated schedule for adoption of the rules;
- An identification and listing of persons or parties that may be affected positively or negatively by the rules; and

The Regulatory Agenda also includes, pursuant to Colo. Rev. Stat. §24-4-103.3, rules to be reviewed as part of the Department’s “Regulatory Efficiencies Reviews” during 2017 (which are denoted as such in the “purpose” column). The DRA is to be filed with Legislative Council staff for distribution to committee(s) of reference, posted on the department’s web site, and submitted to the Secretary of State for publication in the Colorado Register. Each department must also present its DRA as part of its “SMART Act” hearing and presentation pursuant to Colo. Rev. Stat. §2-7-203(2)(a)(III)(A).

The following constitutes Department of Human Services’ Regulatory Agenda for 2016-2017 and is provided in accordance with Colo. Rev. Stat. §24-7-203(2)(a)(IV):

Bill	Office / CDHS Tracking Number	CCR	Rule Title	Purpose of Proposed Rule	Statutory or other basis for adoption or change to rule	New rule, revision, or repeal?	Schedule Anticipated Hearing or Adoption Date	Stakeholders
	OBH	2 CCR 502-1	Behavioral Health Licensure and Designation (21.120)	Revisions to section 21.120 will streamline and clarify the process of obtaining and maintaining a SUD license or mental health designation from the Department.	SB 10-175 27-65, C.R.S. (2016); 27-66, C.R.S. (2016); 27-80, C.R.S. (2016); 27-81, C.R.S. (2016); 27-82, C.R.S. (2016)	Revision	Expect initial hearing late 2018	SUD Licensed and Mental Health Designated Facilities

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	OBH	2 CCR 502-1	Controlled Substances & OMAT (21.300 & 21.320) combined with Controlled Substance License for Resarches	Revisions to section 21.300 and 21.320 will refine unclear language to ensure these program requirements are better understood. The revisions will also ensure that individual and public safety is paramount when providing treatment services using controlled substances. Pursuant to 27-80-200, C.R.S. (2016) and 18-18, C.R.S. (2016), rules are to be promulgated requiring that any person or analytical laboratory planning, conducting, or doing research with a controlled substance, schedule II through V, shall obtain a controlled substance research license from the Department.	SB 12-1311 27-80-200, C.R.S. (2016); 18-18, C.R.S.(2016)	Revision	Expected initial hearing spring 2018	Licensed Controlled Substance Providers Controlled Substance Researchers
	OBH	2 CCR 502-1	Addiction Counselor Training Program	Pursuant to 27-80-111, C.R.S. (2016), the executive director shall establish by rule fees to be charged for addiction counselor training.	SB 10-175 27-80-111, C.R.S. (2016)	New Rule	Expected initial hearing spring 2018	Addiction Counselor Trainers and Facilities
	OBH	2 CCR 502-1	DUI Education and Treatment	The pre and post tests addressed in 21.240.5(F) and 21.240.6(A) are no longer required, because new DUI curricula have been approved, which do not require pre and post tests.	27-81-106, C.R.S. (2017); 27-82-103, C.R.S. (2017); 42-4-1301.3(3)(c)(IV) C.R.S. (2017)	Revision	Expected initial hearing spring 2018	DUI Education and Treatment providers
	OBH	2 CCR 502-1	Tiered 27-65 Designation System	Rule changes needed to implement Mental Health Hold Task Force Recommendation 3: Establish a Tiered System for Carrying out M-1 Holds.	27-65, C.R.S. (2017)	Revision	Expected initial hearing late 2018	27-65 Designated Facilities, hospitals, advocacy organizations
SB17-019	OBH	2 CCR 502-1	Medication Mental Illness In Justice Systems	27-70-103, C.R.S. (2017) The Department of Human Services in consultation with the Department of Corrections shall promulgate rules that require providers under each department's authority to use a medication formulary that has been developed collaboratively by departments, agencies, and providers.	27-70, C.R.S. (2017) (SB17-019) created within the Office of Behavioral Health a program to ensure medication consistency for persons with mental illness in the criminal justice system	New Rule	Expected initial hearing spring 2018	Designated facilities
SB17-207	OBH	2 CCR 502-1	Involuntary Transportation Hold	SB17-207 made changes to 27-65-105, C.R.S., effective May 1, 2018. One change created a new involuntary transportation for immediate screening hold. Rules are need to implement this new transportation hold.	27-65, C.R.S. (2017)	New Rule	Expected adoption date 3/2/18	27-65 Designated facilities, hospitals, intervening professionals

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	OCAI	12 CCR 2516-1	Deaf & Hard of Hearing	This rule-making proposal is to update three CCDHH program rules. These include Telecommunications Equipment Distribution Program, Legal Auxiliary Services, and Grant Program.	26-21-(101-108),	Revision	Expect initial hearing February 2018	deaf, hard-of-hearing and deafblind communities, grant applicants (community organizations, state agencies, etc.), American Sign Language/English interpreters, Communication Access Real-time Translation providers, the seven commissioners, the nine members of the LAS Advisory Council, the Office of Language Access, the Colorado Judicial branch, the five members of the Grant Program Subcommittee

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HB15-1370, HB17-1284, HB17-1253, and SB17-254	OCAI 17-06-26-01	12 CCR 2518-1	Adult Protective Services Program Revisions	12 CCR 2518-1 are the program rules for the Adult Protective Services (APS) program, as authorized by Title 26, Article 3.1, C.R.S. The APS program provides protective services for at-risk adults who are experiencing mistreatment or are self-neglecting. The purpose of this proposed rule change is to update sections of the Adult Protective Services (APS) rules to reflect the changes made in recent legislation (HB15-1370, HB17-1253, and HB17-1284) and budget initiatives and to make technical corrections. The majority of changes are related to HB17-1284 which implements a process requiring employers of specific professions to conduct a background check to determine if an applicant has been substantiated in an APS case of mistreatment against an at-risk adult.	26-1-107, C.R.S. (2017) 26-1-109, C.R.S. (2017) 26-1-111, C.R.S. (2017) 26-3.1-108, C.R.S. (2017)	Repealed, Amended, New	Initial hearing December 2017	- grant applicants (community organizations, state agencies, etc.);
HB17-1284	OCAI 17-06-26-02	12 CCR 2518-1	APS Rule Additions Related to Perpetrator Due Process	12 CCR 2518-1 are the program rules for the Adult Protective Services (APS) program, as authorized by Title 26, Article 3.1, C.R.S. The APS program provides protective services for at-risk adults who are experiencing mistreatment or are self-neglecting. The purpose of this proposed rule change is to update sections of the Adult Protective Services (APS) rules to reflect the changes made in recent legislation (HB17-1284). HB17-1284 implements a process requiring employers of specific professions to conduct a background check to determine if an applicant has been substantiated in an APS case of mistreatment against an at-risk adult. This rule packet is specific to perpetrator notification, due process rights, and appeals processes.	Section 26-3.1-108, C.R.S. (2017)	New, amended	Expect initial hearing early 2018	- American Sign Language/English interpreters;

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HB17-1284	OCAI 17-06-26-03	12 CCR 2518-1	APS Rule Additions Related to Implementation of CAPS Checks	12 CCR 2518-1 are the program rules for the Adult Protective Services (APS) program, as authorized by Title 26, Article 3.1, C.R.S. The APS program provides protective services for at-risk adults who are experiencing mistreatment or are self-neglecting. The purpose of this proposed rule change is to update sections of the Adult Protective Services (APS) rules to reflect the changes made in recent legislation (HB17-1284). HB17-1284 implements a process requiring employers of specific professions to conduct a background check to determine if an applicant has been substantiated in an APS case of mistreatment against an at-risk adult. This packet is specific to the employer background check process for requesting a background check, costs associated with the check, and returning results to the employer.	Section 26-3.1-111, C.R.S.(2017)	New, amended	Expect initial hearing early 2018	- Communication Access Real-time Translation providers;
HB-1292	OCYF		Child Welfare Provider Rates	At this time, rule promulgation is not required by this legislation. <a href="http://leg.colorado.gov/sites/default/files/documents/2017A/bills/2017A_1292_signed.pdf">http://leg.colorado.gov/sites/default/files/documents/2017A/bills/2017A_1292_signed.pdf</a> Some of the language provided in the description was actually struck on pg 2. This legislation requires an actuarial analysis and recommendations to the JBC. It would be premature to promulgate rules at this time.	The bill sets forth guidelines for the establishment of provider rates for licensed out-of-home placement providers. Rules adopted by the department of human services concerning provider rates shall include cost-of-living adjustments and provider rate increases approved by the general assembly. The department is directed to continue completing an annual review of the methodology by which counties evaluate and negotiate provider rates and outcomes and submit a report to the joint budget committee.	Revision	NA	- the seven commissioners;

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SB-028	OCYF		Healthy Families And Military Preparedness Act	As indicated in the PIA, rule promulgation is not necessary as this process is already in place, and both prior statute and current rule permit and promote the sharing of this information. The language in the legislation states "MAY" as we were clear to ensure it did not require the promulgation of rule. Rules are not needed to implement this legislation. THE STATE BOARD OF HUMAN SERVICES MAY PROMULGATE ANY RULES NECESSARY FOR THE IMPLEMENTATION OF THIS SUBSECTION (2.6).	This bill requires the Department and county departments to provide notice, and to collect and share information related to child welfare involvement with military installations. It states the Department and county departments may enter into memorandums of understanding with military installations. It directs the State Board of Human Services to promulgate rules related to the collection and sharing of information.	Revision	NA	- the nine members of the LAS Advisory Council;
SB-189	OCYF		Consumer Options In Fingerprint Background Checks	The legislative rule packet will include modifications to 7.304.21 E, 2, f, 4 to support the implementation of this legislation. OEC is modifying 7.701.33 A, 1. Also in this legislative packet are modifications to address SB 17-016 (CPTs) and HB 17-1329 (DYC to DYS).	This bill modifies language in some areas of statute to allow for entities outside of LEAs to complete to take fingerprints.	Revision	8/4/17	- the Office of Language Access, the Colorado Judicial branch, and
	OEC	12 CCR 2509-10	Revisions to Rules Regarding Procedural Safeguards and Dispute Resolution	Alignment of rules with current federal regulations. Federal references to rule where missing. Moving anything that was previous a procedure into rules for clarity.	34 C.F.R. Sections 303.430 - 303.434 and 303.435 - 303.438	Revision	Expect initial hearing May 2018	- the five members of the Grant Program Subcommittee.
	OEC	12 CCR 2509-10	Revisions to Rules Regarding Consistency in Language and Other Technical Changes	Review and change of rules for consistent terminology where needed. Movement of procedures to rule where appropriate for clarity.	26-6-106(1)(a), C.R.S. (2017) 26-6-113, C.R.S. (2017)	Revision	Expect initial hearing May 2018	Community Centered Boards, providers, families of children eligible for EI
	OEC	12 CCR 2509-8	Child Care Fee Increase	Per CRS 265-6-105, to update the fee schedule for all license types based on the cost to the Department.		Revision	Expect initial hearing December 2017	
	OEC	12 CCR 2509-8	Rules regulating less than 24-hour Child Care Centers	Align with federal requirements on background checks; add rule set for mobile preschools; modify rules for drop-in centers; technical clean up.	26-6-106(1)(a), C.R.S. (2017) 26-6-113, C.R.S. (2017)	Revision	Anticipated first reading by June 2018	Child care centers; early childhood advocates
	OEC	12 CCR 2509-8	School Readiness Improvement Program	Align with Colorado Shines quality rating levels.	Section 26-6.5-106, C.R.S.	Revision	Anticipated first reading by September 2018	Early Childhood Councils; early childhood advocates

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	OEC 17-08-14-01	12 CCR 2509-8	Rule updates for children's resident camps and school-age child care centers	Mandatory periodic review of rules and procedures. Update rules to reflect current best practice standards and stakeholder requests.	26-6-106(1)(a), C.R.S. (2017) 26-6-113, C.R.S. (2017)	Revision	Expect initial hearing January 2018	Licensed children's resident camps and school-age child care centers
	OEC 17-08-14-01	12 CCR 2509-8	Immunization Records for Temporary Child Care	Clarify the requirement for a licensed child care center to obtain immunization records. This would impact children in attendance for 15 days or less during a three month period of time. Update language regarding immunization requirements for child care immunization for children's camps.	HB 16-1425 26-6-106(1)(a), and 26-6-113	Revision	Expect initial hearing January 2018	Child care facilities licensed as seasonal school age programs in ski areas
SB-083	OES	Pertaining to the Department's programs, 9 CCR 2503 is the one exception from this blanket extension, concerning individuals convicted of LEAP fraud.	Rule Review Bill	The legislation will extend all agency rules and regulations adopted or amended between November 2015 and November 2016, except for specifically identified rules which conflict with statute or lack or exceed statutory authority.		N/A	3.751.56 sunsetted and returned to previous citation, which was adopted 9/1/2017.	County/Contract partners and advocates
	OES	9 CCR 2504-1	Change in Distribution to Child Support Collections from Federal Income Tax Intercept	If the proposed change is approved by the Economic Security Sub-PAC and the Policy Advisory Committee or the waiver request to the Office of Child Support Enforcement is approved, we will need to change regulations to authorize the change	State Child Support Services programs have the option to apply collections from federal tax income tax intercept to the monthly support obligation and any remaining amount toward the arrears owed. Currently, Colorado uses the option to apply these collections only to the arrears owed.	Revision	Dependent on approval by the Economic Security Sub-PAC and Policy Advisory Committee or the Office of Child Support Enforcement approving our waiver request.	County partners



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	OES	9 CCR 2503-6	Incentivizing work and school for Colorado Works participants	If changes are identified to be made this year the proposed rule changes will be specific to Colorado works participants who are working and/or attending school. The purpose will be specific to alleviating stressors of the cliff effect so that more emphasis can be placed on maintaining employment/completing all school obligations.	Federal flexibility allows for states to determine such things as: Incentive payments and earned or unearned income disregards	Revision	Dependent on work group timeframes for reviewing what strategies are best used to incentivize work and school.	County partners and advocates.
	OES	9 CCR 2503-6	Expanding 2 Gen efforts	Purpose of this proposed rule is to allow a non-custodial parent with partial custody of a child to receive TANF benefits and services to support the child. Example:A father has child(ren) 1 night per weekend yet mother is on TANF claiming the children. Dad will be allowed to collect benefits has a household of 1 to serve the child.	Federal flexibility allows this to be state determined	Revision/New	Dependent on work group timeframes	County partners and advocates.
	OES	9 CCR 2503-6	Flattening the "Cliff Effect"	The purpose of this rule will be to allow TANF participants to take advantage when approached with new higher paying employment, employment in general, or a raise in hours or pay at their current employer. By increasing ongoing eligibility disregards and incentivizing work and school our hope is that we see TANF participants leaving at a sustainable pace vs. "dropping off" with expenses that can put them in an avoidable predicament.	Federal flexibility allows this to be state determined	Revision/New	Dependent on work group timeframes	County partners and advocates.
	OES	9 CCR 2503-5	Adult Financial Updates	The purpose of this rule will be to review the Adult Financial programs, modernize language, align requirements with other programs where possible and appropriate. Will also be folding in 9 CCR 2503-8 into this rule and repealing that section in entirety.	These modifications are allowable through Statutory authority.	Revision/Repeal	Dependent on work group and automated system timeframes	County partners and advocates.
	OES	10 CCR 2506-1	B-4000 FOOD STAMP PROGRAM	The purpose would be to modify the sequential order of this rule, and possibly update the language, so that it is easier to identify the two distinct sets of regulations within SNAP: 1) Food Assistance and 2) Employment & Training	Federal flexibility allows this to be state determined	Revision	Dependent on work group timeframes	County partners and advocates.

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	OES	9 CCR 2503-5	Aid to the Needy Disabled State Only and Home Care Allowance Grant Increase	The purpose of this rule will be to increase the grants for both the Aid to the Needy Disabled State Only (AND-SO) and Home Care Allowance (HCA) grants. Colorado State Statute encourages the Department to increase the amount of the grant during the current fiscal years and to adjust the grant to reflect increases in the cost of living. The AND-SO grant has not been increased since January 2015 and is currently at \$189. The Department is proposing to increase this grant by \$28. The HCA grant has three tiers and the Department is proposing to increase each tier by \$75. Increasing the HCA grant will help ensure the State meets the Maintenance of Effort (MOE) agreement with the Social Security Administration and avoids a non-compliance penalty of at least \$325 million quarterly.	The Federal Code of Regulations (CFR) requires a maintenance of effort with SSA. State Statutory authority allows the Department to set the grant amounts for the Adult Financial programs within available appropriations and encourages the Department to increase grants appropriately and to reflect cost of living increases.	Revision	Asking for an effective date of April 1, 2018	County partners, advocates and other Program Areas.
	OEC	9 CCR 2503-9	Colorado Child Care Assistance Program	Purpose is to align with Federal rule changes related to the Child Care Development Fund (CCDF). This includes the requirement for a 12-month graduated phaseout for families and intra-state (cross-county) eligibility during a family's 12-month eligibility period. Clarity of other CCCAP policies will also be considered in this rule package.	CCDF Federal rule changes (45 CFR 98). C.R.S. 26-2-802	Revision	Must be effective no later than September 30, 2018. (First reading likely in June 2018).	County human services, early childhood providers, early childhood advocates