

COLORADO DEPARTMENT OF HUMAN SERVICES 1575 SHERMAN ST., DENVER, COLORADO 80203-1714 AGENCY LETTER	NUMBER: CW-09-05-1 CROSS REFERENCE NUMBER:
DIVISION OR OFFICE: Children, Youth and Families	DATE: January 7, 2009
PROGRAM AREA: Child Welfare – CW	DIVISION DIRECTOR: Lloyd D. Malone
TITLE: DEVELOPMENTAL SCREENING REFERRALS TYPE: P-Procedure	DEPUTY EXECUTIVE DIRECTOR: George Kennedy

Distribution:

County department of social/human services directors and child welfare administrators.

Purpose:

The purpose of this Agency Letter is to advise county departments of changes to Child Welfare Child Protection Investigation/Assessment Requirements, as described in Rule Manual 7, Section 7.202.52, K, (12 CCR 2509-3) which now mandates that county departments of social/ human services refer all children under the age of five years, for whom an incident of child abuse or neglect has been substantiated, for developmental screening within 60 days of the substantiation.

This Agency Letter provides county departments of human services with the procedures they need to use in order to implement HB 08-1167.

Background:

During its 2007-2008 session, the Colorado Legislature created statutory language that requires county departments of social/human services to refer each child under five years of age, who is the subject of a substantiated case of child abuse or neglect, to the appropriate state or local agency for developmental screening within sixty days after the abuse or neglect has been substantiated. The statute requires the State Board to promulgate rules to implement this new section, effective January 1, 2009.

The rule change was initiated in compliance with H.B. 08-1167, now found at 26-5-108, C.R.S. The State Board of Human Services adopted the rule on December 5, 2008, with an effective date of January 1, 2009.

Procedure:

Section 7.202.52, K, Investigation/Assessment Requirements, reads, “When a county department substantiates child abuse or neglect regarding any child under the age of five years, that county department shall refer the child to the appropriate state or local agency for development screening within sixty days after abuse or neglect has been substantiated.” (See attached copy of rule change.)

1. To comply with federal law, referrals for developmental screening for children birth through two years of age should be made to the local Community Centered Board which may be contacted through Early Intervention Colorado, 1-888-777-4041 or www.eicolorado.org.

2. Resources for referrals for developmental screening for children three to five years of age include, but are not limited to:
 - a. Child Find, Colorado Department of Education, 303-866-6124
 - b. Early Periodic Screening, Diagnosis and Treatment (through Medicaid providers for children of any age with Medicaid coverage)
3. A county department may elect to perform the screening by its own county department staff if they are trained in the administration of standard developmental screening tests, and if they use a standardized developmental screening tool. A standard developmental screening includes the following areas:
 - Thinking and learning skills (cognitive development)
 - Moving, seeing and hearing (physical development)
 - Understanding and using sounds, gestures, and words (communication development)
 - Responding to and developing relationships with other people (social-emotional development)
 - Taking care of one's self in age appropriate ways when doing things like feeding or dressing (adaptive development)
4. As part of the information that results from the investigation that must be documented according to Section 7.202.52, L, the county department shall document the name of the child, the date the referral was made, and the name of the developmental screening resource to which the referral was made, in the assessment summary in the Assessment Closure window in the automated case management system (Trails).

Information:

Early childhood developmental screening allows for early identification of developmental problems in children. It offers the subsequent possibility that there will also be appropriate early intervention and treatment, if needed. Early intervention and treatment of childhood developmental problems are linked with more positive outcomes for children as they age than the outcomes for children for whom developmental problems are not identified in early childhood.

Existing federal law already requires states to refer all children under the age of three with substantiated child abuse or neglect to early intervention services. HB 08-1167 goes further and changes the threshold age for referral for developmental screening in Colorado to less than five years old.

During the rule making process, questions were raised about: county liability if the parent refused to sign release of confidentiality agreement allowing the referral to be made; and if referring children for a developmental screen is a violation of the Health Insurance Portability and Accountability Act (HIPAA).

Consultation with the Assistant Attorney General in the Colorado Attorney General's Office resulted in clarification that there would not be county liability for violation of confidentiality, if a parent does not sign a release of information, because the county has no choice about unconditionally following this new Colorado statute.

The Assistant Attorney General clarified that referring children for developmental screening without a release of information would not violate HIPAA because releasing a child's name, and thereby revealing that child abuse and/or neglect has been substantiated regarding the child, is not sharing medical information about the child.

The new rule does not require county departments to keep the assessment or case open past the date the referral is made.

The need for future changes to the automated case management system (Trails) to streamline the process for counties will be evaluated.

Effective Date:

January 1, 2009

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