

STATE OF COLORADO

Bill Ritter, Jr., Governor
James B. Martin, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

September 2, 2008

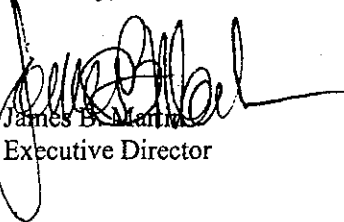
The Honorable Abel Tapia, Chairman
Senate Committee on State, Veterans and Military Affairs
The Honorable Paul Weissmann, Chairman
House Committee on State, Veterans and Military Affairs
Colorado State Capitol
200 East Colfax
Denver, CO 80203

Dear Senator Tapia and Representative Weissmann:

In accord with the requirements of § 24-76.5-103(9), C.R.S., enclosed are two annual reports for fiscal years 2006-07 and 2007-08 from the Colorado Department of Public Health and Environment (department) concerning public benefits programs and verification of lawful presence.

If you have any questions, feel free to contact Ann Hause, the department's Director of Legal and Regulatory Affairs, at (303)-692-3472.

Sincerely,



James B. Martin
Executive Director

**COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
ANNUAL REPORT CONCERNING VERIFICATION OF LAWFUL PRESENCE
FOR RECEIPT OF FEDERAL, STATE OR LOCAL PUBLIC BENEFITS**

FY 2007-2008

INTRODUCTION

Pursuant to HB 06S-1023, the Colorado Department of Public Health and Environment (CDPHE) has identified those federal, state or local public benefit programs it administers and requires proof of lawful presence on behalf of the participants in those programs. The legislation authorizes several exemptions from this requirement that are applicable to CDPHE, including immunizations, testing and treatment of communicable diseases, and prenatal care. This annual report, provided as required by C.R.S. § 24-76.5-103 to the state, veterans, and military affairs committees of the senate and the house of representatives of the Colorado General Assembly, identifies all CDPHE programs impacted by this legislation and the associated costs of compliance.

IDENTIFICATION OF FEDERAL, STATE AND LOCAL PUBLIC BENEFITS PROGRAMS

A. Federal, State or Local Public Benefits Programs Administered by CDPHE

The following is a list of all programs administered by CDPHE that qualify as federal, state or local public benefits programs, triggering the requirements of HB 06S-1023 for proof of lawful presence to enable participation:

- Asbestos worker certification pursuant to §25-7-505 or §25-7-507, C.R.S.
- Cancer, Cardiovascular and Pulmonary Disease Grant program
- Colorado Children's Trust Fund
- Colorado Women's Cancer Control Initiative
- Emergency Medical Technician certification
- Health care facility licenses required by §25-3-101, C.R.S.*
- Health Disparities Grant program
- Air Emissions technicians
- Lead abatement certification
- Retail food establishment licenses*
- Wholesale food registrations*
- Artificial tanning facility registrations*
- Dairy farm licenses*
- Milk and dairy plan licenses*
- Milk hauler licenses*
- Milk sampler/tester licenses*
- Wastewater operators certification program*

*Applies only to individual and sole proprietor applicants, based upon the Colorado Attorney General's definition of a person.

See <http://www.ago.state.co.us/pdf/Implementation%20of%20HB%201023.pdf>

For the programs that CDPHE administers in-house, such as licensure of milk haulers and certification of emergency medical technicians, proof of lawful presence as outlined in HB 06S-1023 is required. For federal, state and local public benefits programs for which CDPHE issues funds to contractors and grantees to provide such benefits to individuals,

the contracts include language that requires that the contractor comply with the lawful presence requirements of HB 06S-1023.

B. Programs Exempt From Verification of Lawful Presence Requirements

HB 06S-1023 provided several exemptions relevant to CDPHE, such that compliance with the lawful presence requirements was not required. Federal law defines a state or local public benefit as “any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a state or local government.” 8 U.S.C. §1621(c). The federal government has determined that the following programs administered by CDPHE are not federal public benefits:

- Child and Adult Care Food Program
- Family planning services
- Lead program
- Maternal and Child Health program
- Special supplemental nutrition program for women, infants and children (WIC)
- Vaccine for Children

Additionally, HB 06S-1023 specifically exempts the following programs:

- Communicable disease prevention and treatment, including registries such as for cancer or birth defects
- Health care services and items necessary for treatment of an emergency medical condition that is not related to an organ transplant
- Immunizations
- Prenatal services: includes the Nurse Home Visitor Program

Finally, many of the “services” provided by CDPHE do not rise to the level of payments or assistance to individuals or families, but rather provide benefits more generally to the public. In consultation with the Office of the Attorney General, CDPHE determined that the following programs are exempt from the lawful presence requirements:

- Asbestos abatement permits
- Birth or death certificates
- Medication administration training pursuant to §25-1.5-302, C.R.S.
- Population-based programs such as educational programs on the health effects of smoking, chronic disease public awareness efforts and other health education/information programs intended to serve the general public

- Suicide prevention programs
- Tony Grampsas Youth Services programs (services for children < 18)

COMPLIANCE WITH HB 06S-1023

A. Implementation of Legislative Requirements

CDPHE has taken the necessary steps to ensure that those services that meet the federal definition of federal, state or local public benefits are only provided to those individuals who can prove lawful presence. As many of the federal, state and local public benefit program services are provided through contractors, the duty to verify compliance with HB 06S-1023 and HB 06-1343 has been added to our contracts. With respect to those programs that we directly administer, such as certification of emergency medical technicians and retail food establishment licensees, CDPHE has required that applicants submit proof of lawful presence with their application.

CDPHE program officials have heard through some of our contractors that the lawful presence requirements have made it more difficult for the contractors to provide services to individuals in need. A substantial amount of funding is distributed from tobacco dollars received pursuant to the Master Settlement Agreement and Amendment 35, and some of these funds are for the prevention, detection and treatment of chronic disease, which is not exempt from the requirements of HB 06S-1023. There is the potential for lawful presence requirements to limit access to preventive and health care services for entire families, even those who can prove lawful presence, as relatives of undocumented individuals may fear immigration consequences while accessing public benefits. This is particularly true of children, as they need their parents to be able to access public benefits. Senior citizens and individuals with mental health conditions have also experienced barriers in accessing services, as it may be very difficult for them to procure the required documentation. One grantee from the Cancer, Cardiovascular and Pulmonary Disease Grant program discontinued receiving a grant due to the belief that the requirements of the law contradict the agency's mission to serve all that request help.

B. Fiscal Impact of Legislation Requirements

Several programs within CDPHE have noted some fiscal impact from the implementation of the immigration legislation discussed above. From the divisions that process applications for federal, state or local public benefits, the following reflects the number of applicants reviewed for lawful presence and the fiscal impact, if any, related to these reviews:

Program Name	Applications Processed	Fiscal Impact
Air Emissions Technicians	362 ¹	Department of Revenue reviews for lawful presence requirements
Asbestos certification pursuant to §25-7-505 or §25-7-507, C.R.S.	2,283	Absorbed in current program costs
Cancer, Cardiovascular and Pulmonary Disease Grant Program	Final data not yet in ²	
Colorado Children's Trust Fund	500 parents reviewed	Minor fiscal impact to some grantees for training, staff time and copying of affidavits
Colorado Women's Cancer Control Initiative	13,228 program participants	Grantees of program funds conduct the reviews pursuant to contract terms
Consumer Protection Programs: Retail Food Establishment Licenses Wholesale Food Registrations Artificial Tanning Facility Registrations Dairy Licenses ³	116 60 61 114	\$2,264 for all programs
Emergency Medical Technician Certification	5,139	\$21,280
Health Care Facility Licenses	13	\$307
Health Disparities Grant Program	4250	Grantees of program funds conduct the reviews pursuant to contract terms
Lead Abatement Certification	81	Absorbed in current program costs
Wastewater Operators Certification Program	3671 verifications	343 hours of time processing applications, which cost shall be passed onto the water and wastewater operators

¹ The Department of Revenue ("DOR") is the state agency responsible for licensing air emissions technicians; thus, DOR reviews applicants for lawful presence. CDPHE's involvement in this program is to advise DOR whether applicants are qualified to be licensed as air emissions technicians.

² Data for FY 2007-08 is anticipated in October 2008.

³ Dairy licenses include dairy farm licenses, milk and dairy plan licenses, milk hauler licenses, and milk sampler/tester licenses.

Villafuerte, Stephanie

From: Betsy Harrah [Bharrah@smtpgate.dphe.state.co.us]
Sent: Tuesday, September 02, 2008 1:28 PM
To: Villafuerte, Stephanie
Cc: Ann Hause
Subject: 1023 Compliance Memorandums - CO Dept. of Public Health & Environment
Attachments: Tapia Weissman Cover Letter.pdf; CDPHE 1023 Compliance Report_06.07.pdf; CDPHE 1023 Compliance Report_07.08.pdf

Hello Stephanie,

On behalf of Executive Director Jim Martin, please find attached a cover letter and (2) 1023 compliance memorandums, which represent the years of 2006/2007 and 2007/2008. A paper copy has been placed in the mail, directed to your attention.

If you encounter any problems with opening the documents, please contact me at 303-692-2034. Questions pertaining to the content of the reports should be directed to Ann Hause, the department's Director of Legal and Regulatory Affairs, at 303-692-3472.

Thank you.

Betsy Harrah
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