

**DRAFT
REGULATORY ANALYSIS**

for

**Proposed Amendments to Rules and Regulations Pertaining to
Medical Use of Marijuana (5 CCR 1006-2), Regulation 7 – Determination of fees to pay for
administrative costs of the medical use of marijuana program
August 18, 2010**

- 1. A description of the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

Applicants who meet the indigency standard set in the rule will be able to apply for the Medical Marijuana Registry and have their \$90 annual application fee waived in its entirety. Those applicants who do not meet the indigency standard, and thus have to pay an application fee, will need to cover through their application fees the entire cost associated with administration of the Medical Marijuana Registry.
- 2. To the extent practicable, a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.**

This proposed rule sets the standard for indigence based upon the receipt of benefits in a means-tested benefits program. Those meeting the indigency standard will have their application fees waived in their entirety, in addition to qualifying for a tax exemption when they purchase medical marijuana from a medical marijuana center. Amendment 20 does not delineate collection of any income or resource information for applications for the Medical Marijuana Registry; thus, the department does not currently collect or maintain any statistical information on the number of applicants who may be eligible for the indigency waiver. As recipients of this waiver pay no application fee whatsoever, the costs of the Medical Marijuana Registry will be borne by the remaining applicants for the program. If large numbers of applicants qualify for the indigency waiver, the fees required to sustain the program may need to substantially increase. As required by the Colorado Constitution, the department commits to reevaluating the fee on an annual basis to determine the reasonableness of both the indigency criteria and the fees set by the Board of Health.
- 3. The probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.**

As the Constitution authorizes the department to set fees to cover the direct and indirect costs of administration of the Medical Marijuana Registry, and as there are no general fund dollars supporting the Medical Marijuana Registry, any decrease in state revenues such that program costs are not being met based upon applicants meeting the indigency standard must necessarily be made up by fee-paying applicants who do not meet the indigency standard.
- 4. A comparison of the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.**

Senate Bill 10-109 requires that the department set an indigency fee standard for applicants for the Medical Marijuana Registry. Failure to set such a standard may restrict the number of

applicants to the program due to the cost of the annual application fee, and further subjects the department to litigation.

5. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The fees for the Medical Marijuana Registry are set in rule, so any modification to those fees, including a waiver of such fees, must also be set in rule.

6. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

No other methods were considered, as current rules must be amended to allow for a waiver of the Medical Marijuana Registry fee.

7. To the extent practicable, a quantification of the data used in the analysis; the analysis must take into account both short-term and long-term consequences.

The department considered indigency standards utilized by other state medical marijuana programs and determined that where such standards exist, they utilize receipt of other means-tested benefits programs as a determination of indigence. The department has no current data on the number of applicants who are eligible for Colorado Medicaid, Food Assistance, or SSI, but through promulgation of this rule will collect such data in order to assess annually the appropriateness of both the application fee and the waiver.