DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Pharmaceuticals, Section 8.800.4.C
Rule Number: MSB 19-07-17-A
Division / Contact / Phone: Client and Clinical Care Office- Pharmacy / Kristina Gould / 303-866-6715

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board

2. Title of Rule: MSB 19-07-17-A, Revision to the Medical Assistance Rule concerning Pharmaceuticals, Section 8.800.4.C

3. This action is an adoption of: an amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.800.4.C.5.a, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.800.4.C.5.a with the proposed text beginning at 8.800.4.C.5.a through the end of 8.800.4.C.5.a. This rule is effective October 30, 2019.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Pharmaceuticals, Section 8.800.4.C
Rule Number: MSB 19-07-117-A
Division / Contact / Phone: Client and Clinical Care Office- Pharmacy / Kristina Gould / 303-866-6715

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The purpose of this rule is to expand coverage of Stiripentol, a drug used to treat Dravet Syndrome, a rare genetic dysfunction of the brain that results in seizures, to members over 20 years of age. The drug is covered under Early and Periodic Screening, Diagnostic and Treatment (EPSDT) criteria for members up to 20 years of age. The rule will extend coverage of Stiripentol for members past the age of 20. Clobazam has been deleted because it is a covered FDA approved drug and does not need to be addressed in this section of rule.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   42 U.S.C. § 1396d(a)(12); 42 CFR § 440.120, 42 CFR § 447.502.

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2018);
   C.R.S. § 25.5-5-201(1)(a)(2018).

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Pharmaceuticals, Section 8.800.4.C
Rule Number: MSB 19-07-17-A
Division / Contact / Phone: Client and Clinical Care Office- Pharmacy / Kristina Gould / 303-866-6715

REGULATORY ANALYSIS

1. Describe 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.

   The Department covers Stiripentol for members under age 21 with Dravet Syndrome, a rare disease that causes frequent, severe seizures. The proposed rule benefits members over age 20 by expanding coverage of the drug to them. The costs of the proposed rule will be borne by the program.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   There will be no adverse quantitative or qualitative impacts to the Department's members, overall. Qualitatively and quantitatively, this will positively impact members over age 20 with Dravet Syndrome by providing coverage of the cost of the only treatment known to significantly reduce seizures and improve quality of life.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   Because Dravet Syndrome is rare, and affects only a few members, the rule will result in a negligible increase in program costs. The annual, average cost to the program, per member, for Stiripentol is $9,158.13. No other agency is expected to be impacted by the rule.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   The cost of the proposed rule is negligible, at approximately $9,158.13 per year, with only a few members affected. The benefit derived from that cost is a significantly improved quality of life for members over age 20 who will continue to experience fewer seizures with the drug. The benefit of inaction would be that the program avoids a very small expense for coverage of the drug. The cost of inaction would be that members with Dravet Syndrome over age 20 will incur out-of-pocket

costs for the drug, or, if they cannot afford it, suffer a drastically poor quality of life, due to frequent seizures.

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

   As Stiripentol is the only drug known to effectively reduce seizures for members with Dravet Syndrome, and there is no other public benefit program offering coverage of the drug, there were no less costly or less intrusive options.

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

   Stiripentol is the only drug known to effectively treat seizures associated with Dravet Syndrome. The program currently covers the cost of the drug for children under EPSDT criteria. For members over age 20, the proposed rule is the only method for making the drug available under the program.

8.800 PHARMACEUTICALS

8.800.4.C. The following are not pharmacy benefits of the Medical Assistance Program:

1. Spirituous liquors of any kind;

2. Dietary needs or food supplements;

3. Personal care items such as mouth wash, deodorants, talcum powder, bath powder, soap of any kind, dentifrices, etc.;

4. Medical supplies;

5. Drugs classified by the FDA as "investigational" or "experimental"; ~~except for the following:~~

   ~~a. Stiripentol may be covered if the coverage has been ordered by the member's physician, has been deemed medically necessary by the Department and has been authorized for the specific member's use by the U.S. Food & Drug Administration.~~

6. Less-than-effective drugs identified by the Drug Efficacy Study Implementation (DESI) program; and

7. Medicare Part D Drugs for Part D eligible individuals.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning, DMEPOS Reimbursement, Section 8.590.7.K
Rule Number: MSB 19-03-05-A
Division / Contact / Phone: The Pharmacy Office / January Montano / 303-866-6977

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name:	Health Care Policy and Financing / Medical Services Board
2. Title of Rule:	MSB 19-03-05-A, Revision to the Medical Assistance Rule concerning, DMEPOS Reimbursement, Section 8.590.7.K
3. This action is an adoption of:	an amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.590.7.K, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)?	Yes
If yes, state effective date:	07/01/2019
Is rule to be made permanent? (If yes, please attach notice of hearing).	Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.590.7.K with the proposed text beginning at 8.590.7.K through the end of 8.590.7.K. This rule is effective October 30, 2019.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning, DMEPOS Reimbursement, Section 8.590.7.K
Rule Number: MSB 19-03-05-A
Division / Contact / Phone: The Pharmacy Office / January Montano / 303-866-6977

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The proposed rule will implement the across-the-board rate increase for all DMEPOS providers, pursuant to the Long Bill.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   42 CFR 440.70, 440.120

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2018);
   Senate Bill 19-207

Initial Review — Final Adoption **9/13/19**
Proposed Effective Date **10/30/19** — Emergency Adoption

DOCUMENT #02

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning, DMEPOS Reimbursement, Section 8.590.7.K
Rule Number: MSB 19-03-05-A
Division / Contact / Phone: The Pharmacy Office / January Montano / 303-866-6977

REGULATORY ANALYSIS

1. Describe 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.

   DME providers will receive increased reimbursement for equipment and supplies provided, pursuant to the Long Bill.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   DMEPOS providers will experience an increase in reimbursement.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   No costs beyond the estimated expenditures due to the rate increase are anticipated.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   The rate increase will support DME suppliers to ensure clients continue to receive DMEPOS goods and services. Inaction may result in decreased client services and access to benefits, as well as noncompliance with the Long Bill.

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

   There are no less costly methods to implement the rate increase.

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

   No alternative methods were considered.

8.590 DURABLE MEDICAL EQUIPMENT AND DISPOSABLE MEDICAL SUPPLIES

8.590.7 REIMBURSEMENT

8.590.7.A. A provider, as defined at Section 25.5-4-414, C.R.S., is prohibited from making a referral to an entity providing DME and Supplies under the Medical Assistance Program if the provider or an Immediate Family member of the provider has a Financial Relationship with the entity unless the Financial Relationship meets the requirements of an exception to the prohibitions established by 42 U.S.C. Section 1395nn (2017), as amended or any regulations promulgated thereunder, as amended. 42 U.S.C. §1395nn (2017) is hereby incorporated by reference. Such incorporation, however, excludes later amendments to or editions of the referenced material. Pursuant to 24-4-103(12.5), C.R.S., the Department of Health Care Policy and Financing maintains either electronic or written copies of the incorporated texts for public inspection. Copies may be obtained at a reasonable cost or examined during regular business hours at 1570 Grant Street, Denver, Colorado.

8.590.7.B. If a provider refers a Medicaid member for DME and Supplies services in violation of Section 25.5-4-414, C.R.S., or this rule, then the Department may

1. Deny any claims for payment from the provider;

2. Require the provider to refund payments for services or items;

3. Refer the matter to the appropriate agency for investigation for fraud; or

4. Terminate the provider's Colorado Medicaid provider participation agreement.

8.590.7.C. Invoices received from Related Owners or Related Parties shall not be accepted. Only invoices received from unrelated manufacturers or wholesale distributors shall be recognized as allowable invoices.

8.590.7.D. The provider shall not bill the Department for authorized accessory items included by the manufacturer as part of a standard package for an item.

8.590.7.E. The provider shall credit the cost of any accessory or part removed from a standard package to the Department.

8.590.7.F. Members and providers may negotiate in good faith a trade-in amount for DME items no longer suitable for a member because of growth, development or a change in anatomical and or medical condition. Such trade-in allowances shall be used to reduce the cost incurred by the Department for a replacement item.

8.590.7.G. The refund amount due the Department on a returned Wheelchair or Facilitative Device shall be agreed upon by the dealer or manufacturer; wherever the item was returned, and the Department.

8.590.7.H. Reimbursement for allowable modifications, service, and repairs on DME is as follows:

1. Labor for modifications, service, and repairs on DME shall be reimbursed at the lesser of submitted charges or the rate specified on the Department's fee schedule.

2. Parts that are listed on the Department's fee schedule, with a HCPCS code, that have a maximum allowable reimbursement rate shall be reimbursed at the lesser of submitted charges or the rate specified on the Department fee schedule.

3. Manually priced parts are reimbursed according to the same methodology used for purchased equipment, as described in 8.590.7.K.

4. The provider shall not be reimbursed for labor or parts in excess of unit limitations.

5. Reimbursement for a modification that requires the original equipment provider to supply a part from their own inventory or stock is contingent upon the provider submitting supporting documentation that demonstrates the need and actual cost of the parts to be used in the modification.

8.590.7.I. Reimbursement for used equipment shall include:

1. A written, signed and dated agreement from the member accepting the equipment.

2. Billing the Department, the lesser of 60% of the maximum allowable reimbursement indicated in the most recent Medicaid Bulletin or 60% of the provider's usual submitted charges.

    a. For used equipment subject to the upper payment limit provisions of section 1903(i)(27) of the Social Security Act, the maximum allowable reimbursement will be the lower of 100% of the applicable Medicare used reimbursement rate effective as of January 1 and posted by July 1 of each year, or the provider's submitted charges.

8.590.7.J. Reimbursement for purchased or rented equipment shall include, but is not limited to:

1. All elements of the manufacturer's warranties or express warranties.

2. All adjustments and modification needed by the member to make the item useful and functional.

3. If item is delivered, set-up and installation of equipment in an appropriate room in the home, if applicable.

4. Training and instruction to the member or caregiver in the safe, sanitary, effective and appropriate use of the item and necessary servicing and maintenance to be done by the member or caregiver.

5. Training and instruction on the manufacturer's instructions, servicing manuals and operating guides.

8.590.7.K. Reimbursement rate for a purchased item shall be as follows:

1. Fee schedule items, with a HCPCS code, that have a maximum allowable reimbursement rate, shall be reimbursed at the lesser of submitted charges or the Department fee schedule rate.

2. Manually priced items that do not have an assigned fee schedule rate shall be reimbursed at the lesser of submitted charges or current manufacturer suggested retail price (MSRP) less a percentage set forth below:

a. July 1, 201~~7~~8 to June 30, 201~~8~~9, the percentage is ~~18.33~~17.51.

b. Pending federal approval, effective July 1, 201~~8~~9, the percentage is ~~17.51~~16.69.

3. Manually priced items that do not have an assigned fee schedule rate and have no MSRP shall be reimbursed at the lesser of submitted charges or by invoice of actual acquisition cost, minus any discount to the provider as set forth in policy, plus a percentage set forth below:

c. July 1, 201~~7~~8 to June 30, 201~~8~~9, the percentage is ~~19.50~~20.70.

d. Pending federal approval, effective July 1, 201~~9~~8, the percentage is ~~20.70~~21.90.

8.590.7.L. Reimbursement for rental items shall be billed and paid in monthly increments unless otherwise indicated in the Billing Manual.

8.590.7.M. Reimbursement for members eligible for both Medicare and Medicaid shall be made in the following manner:

1. The provider shall bill Medicare first unless otherwise authorized by the Department.

2. If Medicare makes payment, Medicaid reimbursement will be based on appropriate deductibles and co-payments.

3. If Medicare denies payment, the provider shall be responsible for billing the Department. Reimbursement is dependent upon the following conditions:

a. A copy of the Explanation of Medicare Benefits shall be maintained in the provider's files when billing electronically or attached to the claim if it is billed manually; or

b. Medicaid reimbursement shall not be made if the Medicare denial is based upon provider submission error.

8.590.7.N. Face-to-Face Encounters

1. For DME specified in the Billing Manual, a face-to-face encounter must be performed related to the primary reason a member requires the DME.

2. The face-to-face encounter must occur no more than six months before the DME is first provided to a member.

3. The face-to-face encounter must be conducted by one of the following practitioners:

a. The physician responsible for prescribing the DME;

b. A nurse practitioner or clinical nurse specialist, working in collaboration with the prescribing physician; or

c. A physician assistant under the supervision of the prescribing physician.

4. A practitioner may conduct a face-to-face encounter via telehealth or telemedicine if those services are covered by the Medical Assistance Program.

5. If a non-physician practitioner performs a face-to-face encounter they must communicate the clinical findings of the face-to-face encounter to the physician responsible for prescribing the related DME. Those clinical findings must be incorporated into a written or electronic document included in the member's medical record.

6. A physician who prescribes DME requiring face-to-face encounters must document the following:

   a. The face-to-face encounter was related to the primary reason the member required the prescribed DME;

   b. The practitioner who performed the face-to-face encounter;

   c. The date of the face-to-face encounter; and

   d. The face-to-face encounter occurred within the required timeframe.

7. Compliance with this section is required as a condition of payment for DME requiring face-to-face encounters.

8.590.7.O. Reimbursement for Complex Rehabilitation Technology provided to members is subject to the following conditions:

1. The billing provider is a Complex Rehabilitation Technology Supplier;

2. The member has been evaluated or assessed, for selected Complex Rehabilitation Technology identified in the Billing Manual, by:

   a. A Qualified Health Care Professional; and

   b. A Complex Rehabilitation Technology Professional employed by the billing provider.

3. The Complex Rehabilitation Technology is provided in compliance with all applicable federal and state laws, rules, and regulations, including those rules governing the Medical Assistance Program.

8.590.7.P. Reimbursement for Speech Generating Devices (SGD), accessories, and software provided to members is subject to the following conditions:

1. The member has a medical condition resulting in a severe expressive communication impairment; and

2. The SGD, accessories and software is used primarily as a communication device; and

3. The SGD, accessories or software are recommended by a Speech Language Pathologist after a communication assessment as described at 10 CCR 2505-10, Section 8.590.3.E.1; and

   a. The recommended device, software or application should be capable of modifications to meet the needs for supportive functional communication when possible. The recommended software or application must be compatible with the prescribed SGD.

b. Accessories and supplies that do not have a primary medical use will not be covered, which includes any items that are unnecessary for operation of the SGD, or are unrelated to the SGD.

i. Covered accessories include but are not limited to:

1. Replacement lithium ion batteries;

2. Non-electric SGD communication board;

3. Mounting systems designated for securing the SGD within reach of the client;

4. Safety and protection accessories designated to maintain the life expectancy of the device,

5. Accessories not otherwise classified may be approved to enhance the use of the SGD system as the member's condition changes; and

6. Orthotic and prosthetic supplies and accessories, and/or service components of another HCPCS L code.

4. Other forms of treatment have been considered or ruled out; and

5. The member's communication impairment will benefit from the SGD, accessories, or software.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Children's Habilitation Residential Program, Section 8.508
Rule Number: MSB 19-02-05-A
Division / Contact / Phone: Office of Community Living/ Benefits and Services Division / Michele Craig / 303-866-5147

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board

2. Title of Rule: MSB 19-02-05-A, Revision to the Medical Assistance Rule concerning Children's Habilitation Residential Program, Section 8.508

3. This action is an adoption of: an amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.508.100, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.508 with the proposed text beginning at 8.508 through the end of 8.508.190.L. This rule is effective October 30, 2019.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Children's Habilitation Residential Program, Section 8.508
Rule Number: MSB 19-02-05-A
Division / Contact / Phone: Office of Community Living/ Benefits and Services Division / Michele Craig / 303-866-5147

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   HB 18-1328 authorized changes to the Home and Community Based Services- Children's Residential Habilitation Program (HCBS-CHRP) waiver to improve services for children and youth with intellectual and developmental disabilities and complex behavior support needs: removal of the eligibility requirement that the child or youth is in foster care, transfer of the administration of the waiver from the Colorado Department of Human Services (CDHS) to the Department of Health Care Policy (the Department) and Financing, transfer of case management from the County Departments of Human Services to Case Management Agencies, and the addition of two new services. The Department is proposing this regulation to update the rules to be in alignment with statute and define the changes made to the HCBS-CHRP waiver.

   An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☐ for the preservation of public health, safety and welfare.

   Explain:

2. Federal authority for the Rule, if any:

   Legal Basis Section 1902(a)(10)(B) of the Social Security Act, 42 U.S.C. § 1396a (2011). The waiver was granted under Section 1915(c) of the Social Security Act, 42 U.S.C. § 1396n (2011). 42 U.S.C. § § 1396a and 1396n are incorporated by reference.

3. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2018);
   25.5-5-306, C.R.S. and 25.5-6-903 (2018).

Initial Review
Proposed Effective Date

Final Adoption
Emergency Adoption

DOCUMENT #

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Children's Habilitation Residential Program, Section 8.508
Rule Number: MSB 19-02-05-A
Division / Contact / Phone: Office of Community Living/ Benefits and Services Division / Michele Craig / 303-866-5147

REGULATORY ANALYSIS

1. Describe 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.

   The proposed regulation will affect children and youth with intellectual and developmental disabilities and complex behavior support needs, as well as family of those children or youth. The benefit of the rule to these individuals is to not require families to relinquish custody of their children in order to receive necessary services, provide services in the family home to prevent the need for out of home placement and keep families together.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   With the changes pursuant to HB 18-1328, children and families will be able to access medically necessary services without having to go through the child-welfare system. Children will also have access to Home and Community-Based crisis prevention services with the goal of decreasing the use of more acute, high cost services such as: residential, psychiatric hospitalization, crisis-system, etc. These changes will improve member outcomes and decrease use of high-cost services. Additionally, HB 18-1328 will improve system efficiency by transferring the case management duties to Case Management Agencies and transferring the administration of the waiver to the Department of Health Care Policy and Financing.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   The Department will ensue costs for prevention services with the goal of reducing system inefficiencies and high cost utilization for emergency crisis services.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   Improved system efficiency and investment in services to help mitigate crises will improve access and outcomes for members.

DO NOT PUBLISH THIS PAGE

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

   As is, the waiver is inefficient to meet the needs of this population. As a result, children are having to enter the child-welfare system for medically necessary services when there is not a case for dependency or neglect. Children meeting the risk of institutionalization criteria can exhibit severe behaviors, including violent actions that can make them unsafe for a family living at home, particularly as the child ages. The services covered by the HCBS-CHRP waiver can mitigate the severity of behavioral issues; however, as a part of the child welfare system, a family cannot access HCBS-CHRP services unless they surrender custody of their child. As an alternative, families have sent their child to a hospital during a behavioral crisis, often for an extended period. During a crisis – and often after repeated crises – families will take their child to the emergency room. With few options, families are sometimes left with no better option than to leave the child at the hospital until appropriate wrap-around services are available; however, because service options are limited, these children may spend months at the hospital until their families agree to take them home. If the child qualifies for Medicaid, these extended hospital stays occur at a significant cost to the state. Another alternative is to place the child in a facility that provides residential services for children. There are few of these facilities in Colorado and this has led to many families moving their children out of state, away from their families and communities maintain custody of their child while keeping the remainder of their family safe.

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

   The Department will update this rule in accordance with HB 18-1328.

8.508 CHILDREN'S HABILITATION RESIDENTIAL PROGRAM

The Children's Habilitation Residential Program is a residential services and support program for children and youth who are developmentally disabled as defined in Section 27-10.5-102 (11), C.R.S. (See 8.508.170, E.) Children under the age of five who are developmentally delayed are included only when their developmental delay is accompanied by significant medical and/or behavioral needs. The children are placed through Colorado County Departments of Social/Human Services. The children are at risk of institutionalization and the program serves as an alternative to placement to Intermediate Care Facilities for the Mentally Retarded (ICF/MR).

The services provided through this program serve as an alternative to ICF/MR placement for children birth to twenty-one years of age who meet the eligibility criteria and the Level of Need Screening Guidelines. The services provided through the Children's Habilitation Residential Program (CHRP) shall be limited to:

- Self-Advocacy Training
- Independent Living Training
- Cognitive Services
- Communication Services
- Counseling and Therapeutic Services
- Personal Care Services
- Emergency Assistance Training
- Community Connection Services
- Travel Services
- Supervision Services
- Respite Services

when deemed to be appropriate and adequate by the child's physician, and these services shall be provided in the community, as available.

CHRP services for children with developmental disabilities shall be provided in accordance with these rules and regulations.

8.508.10 PROGRAM ADMINISTRATIONThe Children's Habilitation Residential Service Program for children with developmental disabilities is administered by the Colorado Department of Human Services (CDHS), Division of Child Welfare under the oversight of the Department of Health Care Policy and Financing.

B. CHRP services do not constitute an entitlement to services, from either the Department of Health Care Policy and Financing or the Department of Human Services.

C. CHRP services are subject to approval of a waiver under Section 1915c of the Social Security Act by the Center for Medicare and Medicaid Services.

D. CHRP services are subject to annual appropriations by the Colorado General Assembly.

E. The Department of Human Services, Division of Child Welfare shall limit the utilization of the CHRP based on:

1. The federally approved capacity of the waiver;

2. Cost effectiveness (see Section 8.508.80); and

3. Within the total appropriation limitations when enrollment is, projected to exceed spending authority.

8.508.10 LEGAL BASIS

The Home and Community Based Services- Children's Habilitation Residential Program (HCBS-CHRP) is authorized by waiver of the amount, duration, and scope of services requirements contained in Section 1902(a)(10)(B) of the Social Security Act, 42 U.S.C. § 1396a~~(2011)~~. The waiver is granted by the United States Department of Health and Human Services under Section 1915(c) of the Social Security Act, 42 U.S.C. § 1396n~~(2011)~~.

~~8.508.20 PROGRAM PROVISIONS~~

~~Colorado has authority to provide the following services under the CHRP:~~

~~A. CHRP services are provided as an alternative to institutional placement for children with developmental disabilities and are limited to self-advocacy training, independent living training, cognitive services, communication services, counseling and therapeutic services, personal care services, emergency assistance training, community connection services, travel services, and supervision services.~~

~~B. Children eligible for services under the CHRP waiver are eligible for all other Medicaid services for which they qualify and must first access all benefits available under the regular Medicaid State Plan and/or Medicaid EPSDT (Early and Periodic Screening, Diagnosis and Treatment) coverage prior to accessing funding for those same services under the CHRP.~~

~~C. Case management services will be provided by the county department as an administrative activity and include:~~

~~1. Assessment of the individual's needs to determine if CHRP services are appropriate;~~

~~2. Completion of the Individualized Plan (IP); and~~

~~3. Submission of the Individualized Plan to the Colorado Department of Human Services, Division of Child Welfare Services, for review and approval for CHRP waiver services. These Individualized Plans are also subject to review by the Department of Health Care Policy and Financing.~~

~~D. The individual receiving services and his/her family or guardian and placing County Department of Social/Human Services are responsible for participating with the services provider in:~~

~~1. Developing the Individualized Plan;~~

~~2. Cooperating with implementation of the service plan;~~

~~3. Choosing to receive services through the CHRP waiver.~~

8.508.~~170~~20 DEFINITIONS

~~Habilitative services are defined as those services which are recommended by a licensed practitioner, as defined in §26-4-527(3), C.R.S. to assist clients with developmental disabilities eligible under the State Plan to achieve their best possible functional level. All clients of Residential habilitation services and supports will receive some type of habilitation services in order to acquire, retain, or improve self- help, socialization, or other skills needed to reside in the community. Some clients may receive a combination of habilitative services (skill building) and support services (a task~~

performed for the client, where learning is secondary or incidental to the task itself).Abuse: The non-accidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation; confinement or restraint that is unreasonable under generally accepted caretaking standards; or subjection to sexual conduct or contact classified as a crime under the "Colorado Criminal Code," Title 18, C.R.S. As defined at §25.5-10-202 (1) (a)-(c), C.R.S.

Activities of Daily Living (ADL): Means basic self-care activities including bathing, bowel and bladder control, dressing, eating, independent ambulation, transferring, and needing supervision to support behavior, medical needs and memory cognitionAdverse Action: AMeans a denial, reduction, termination, or suspension from a long-term services and supports program or service.

Applicant: Means aAn individual child or youth who is seeking a Long--Term Care eligibility determination and who has not affirmatively declined to apply for Medicaid or participate in an assessment.Assessment: The process of collecting and evaluating information for the purpose of developing an individual child plan on which to base services and referral. The assessment process is both initial and ongoing.

Care Ttaker: Means a person who: As defined at § 25.5-10-202-(1.6)-(a)-(c), C.R.S. .
Is responsible for the care of a person with an intellectual or developmental disability as a result of a family or legal relationship;

Has assumed responsibility for the care of a person with an intellectual or developmental disability; or

Is paid to provide care, services, or oversight of services to a person with an intellectual or developmental disability.

Caretaker neglect: As defined at § 25.5-10-202-(1.8)-(a)-(c), C.R.S. .

Case Management Agency (CMA): AMeans a public or private not-for-profit for-profit agency that meets all applicable state and federal requirements and is certified by the Department to provide case management services for Home and Community Based Services waivers pursuant to sections 25.5-10-209.5 C.R.S. and pursuant to a provider participation agreement with the state department.Case Management: Activities that are intended to ensure that clients receive the services they need, that services are coordinated, and that services are appropriate to the changing needs and stated desires of the clients and families over time. The goals of case management are: 1) to bring about positive changes in client's status; 2) to assist clients hi reaching their highest potential; and 3) to achieve the best possible quality of life for clients and their families in the community. Goals are developed to the extent possible among case managers, referral sources, families and clients.

Child Placement Agency: As defined at 12 CCR 2509-8.7.710.1.

Client: A child or youth who is receiving habilitative services in the Children's Habilitation Residential Program Means aAn individual child or youth who meets long--term services and supports eligibility requirements and has been approved for and agreed to receive Home and Community Based Services (HCBS) .

Client Representative: Means aA person who is designated to act on the Cclient's behalf. A Cclient Rrepresentative may be: (a) a legal representative including, but not limited to a court-appointed

guardian, or a parent of a minor child; or (b) an individual, family member or friend selected by the client to speak for an/or act on the client's behalf.

~~Community Centered Board (CCB): AMeans a private corporation, for-profit or not-for-profit that is designated pursuant to section 25.5.-10-209, C.R.S. responsible for conducting level of care evaluation and determination for Home and Community BCased Service waivers specific to individuals with intellectual and developmental disabilities.~~

Community Centered Board: ~~means A~~a private corporation, for-profit or not-for-profit that is designated pursuant to Section 25.5-10-209, C.R.S., responsible for, but not limited to conducting Developmental Disability determinations, waiting list management Level of Care Evaluations for Home and Community Based Service waivers specific to individuals with intellectual and developmental disabilities, and management of state funded programs for individuals with intellectual and developmental disabilities.

Complex Behavior ~~Supports~~: Behavior ~~Needs~~ that occurs related to a diagnosis by a licensed physician, psychiatrist, or psychologist that includes one or more substantial disorders of the cognitive, volitional or emotional process that grossly impairs judgment or capacity to recognize reality or to control behavior.

Complex Medical Needs ~~Supports~~: Needs that occur as a result of a chronic medical condition as diagnosed by a licensed physician that has lasted or is expected to last at ~~-~~least twelve (12) months, requires skilled care, and that without intervention may result in a severely life altering condition.

Comprehensive Assessment: A~~Means a~~n initial assessment or periodic reassessment of individual needs to determine the need for any medical, educational, social or other services and completed annually or when the client experiences significant change in need or in level of support.

Cost Containment: ~~MeansL~~limiting the cost of providing care in the community to less than or equal to the cost of providing care in an institutional setting based on the average aggregate amount. The cost of providing care in the community shall include the cost of providing Home and Community Based Services, and Medicaid State Plan benefits including long- term home health services and targeted case management.

~~Cost Effectiveness: Means the most economical and reliable means to meet an identified need of the client.~~

~~County Caseworker: A designated representative from the local County Department of Social/Human Services.~~

Criminal Activity: A criminal offense that is committed by a person; a~~A~~ violation of parole or probation; and a~~A~~ny criminal offense that is committed by a person receiving services that results in immediate incarceration.

Crisis: An event, series of events, and/or state of being greater than normal severity for the C~~c~~lient and/or family that becomes outside the manageable range for the ~~child or youth~~ Client and/or their C~~caretakersgivers~~ family and poses a danger to self, family, and/or the community. ~~-~~Crisis may be self-identified, family identified, and/or identified by an outside party.

Critical Incident: Incidents of Mistreatment; Abuse; Neglect; Exploitation, Criminal Activity; Damage to ~~Consumer~~Client's Property/Theft; Death unexpected or expected; Injury/Illness to Client;

Medication Mismanagement; Missing Person; Unsafe Housing/Displacement; and/or Other Serious Issues.

Department: The~~Means the~~ Colorado Department of Health Care Policy and Financing the single state Medicaid agency.

Damage to ~~Consumer~~ Client's Property/Theft: Deliberate damage, destruction, theft or use a ~~waiver recipient's~~ Client's belongings or money. ~~-~~If the incident involves ~~is~~ Mistreatment by a Caretaker that results in damage to ~~consumer's~~ Client's property or theft in the incident shall be listed as Mistreatment.

Developmental Delay: ~~means~~ A~~a~~ child who is:

Birth up to age five (5) and has a developmental delay defined as the existence of at least one of the following measurements:

Equivalence of twenty-five percent (25%) or greater delay in one (1) or more of the five domains of development when compared with chronological age;~~,~~

Equivalence of 1.5 standard deviations or more below the mean in one (1) or more of the five domains of development;~~,~~

Has an established condition defined as a diagnosed physical or mental condition that, as determined by a qualified health professional utilizing appropriate diagnostic methods and procedures, has a high probability of resulting in significant delays in development, or

Birth up to age three (3) who lives with a parent who has been determined to have a developmental disability by a CCB~~ommunity Centered Board~~.~~such conditions result in impairment of general intellectual functioning or adaptbehavior similar to that of a person with mental retardation. It includes children less than five years of age with slow or impaired development at risk of having a developmental disability.~~

Early and Periodic Screening Diagnosis and Treatment (EPSDT): ~~The child health component of the Medicaid State Plan for a Medicaid eligible Client up age 21~~ As defined in Section 8.280.1.

Exploitation: ~~An act or omission committed by a person who: Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive a person of the use, benefit, or possession of anything of value; employs the services of a third party for the profit or advantage of the person or another person to the detriment of the person receiving services; Forces, compels, coerces, or entices a person to perform services for the profit or advantage of the person or another person against the will of the person receiving services; or Misuses the property of a person receiving services in a manner that adversely affects the person to receive health care or health care benefits or to pay fills for basic needs or obligations.~~ As defined in §25.5-10-202~~-~~(15.5)~~-~~(a)-(d), C.R.S.

Extraordinary Needs: ~~The child or youth requires a~~ A level of care due to C~~c~~omplex B~~b~~ehavior and/or Medical Support Needs that is provided in a residential child care facility or that is provided through community based programs, and ~~who,~~ without such care, would place a child ~~is~~ at risk of unwarranted child welfare involvement or other system involvement.

Family: ~~Defined in 27-10.5-102, C.R.S. Means a relationship as it pertains to the child~~

~~or youth and defined as:~~ As defined at § 25.5-10-~~(~~202)-(16)-(a)-(I)-(IV)(b), C.R.S. ~~.~~

~~A mother, father, brother, sister or any combination;~~

~~Extended blood relatives such as grandparent, aunt, uncle, or cousin;~~

~~An adoptive parent;~~

~~One or more individuals to whom legal custody has been given by a court;~~

~~A spouse or,~~

~~The Client's child.~~

~~Family~~ Foster Care Home: A family care home providing 24-hour care for a child or children and ~~. It is a facility~~ certified by either a County Department of Social/Human Services or a child placement agency. A ~~Family~~ F~~f~~oster ~~c~~Care H~~h~~ome, for the purposes of this waiver, shall not include ~~be~~ a family member as defined in ~~27-10.5-102(15), C.R.S~~ § 25.10-202-(16)-(a)-(I)-(IV)(b), C.R.S. ~~A qualified family foster care home shall adhere to the service provision requirements of the waiver, as well as those specified and contained in CDHS Social Services Staff Manual (12 CCR 2509-6, 7.500 Resource Development).~~

~~Qualifications: A qualified family foster home shall adhere to the service provision requirements of this waiver, as well as those specified and contained in CDHS Social Services Staff Manual (12 CCR 2509-6, 7.500 Resource Development).~~

Guardian: A~~Means a~~n individual at least twenty-one years of age, resident or non-resident, who has qualified as a guardian of a minor or incapacitated person pursuant to appointment by a court. Guardianship may include a limited, emergency, and temporary substitute court appointed guardian but not guardian ad litem.

Guardian ad litem or GAL": ~~A~~ person appointed by a court to act in the best interests of a child involved in a proceeding under Title 19, C.R.S., or the "School Attendance Law of 1963", set forth in article 33 of Title 22, C.R.S.

Home and Community Based Services (HCBS) Waivers: S~~Means s~~ervices and supports authorized through a 1915 (c) waiver of the Social Security Act and provided in community settings to a C~~c~~lient who requires a level of institutional care that would otherwise be provided in a hospital, nursing facility or intermediate care facility for individuals with intellectual disabilities (ICF-IID).

Increased Risk Factors: Situations or events that when occur at a certain frequency or pattern historically have led to Crisis. ~~Individual: Any Person such as a co-worker, neighbor, etc. who does not meet definition of a family member as described in 37-10.5-102(15). C.R.S.~~

~~Qualifications: Any individual providing a service or support must receive training commensurate with the service or support to be provided and must meet any applicable state licensing and/or certification requirements.~~

Informed Consent: ~~Means a~~An ~~informed~~ assent that~~, which~~ is expressed in writing, ~~and is~~ freely given, and ~~. Consent shall always be~~ preceded by the following:

A fair explanation of the procedures to be followed, including an identification of those which are experimental;

A description of the attendant discomforts and risks;

A description of the expected benefits ~~to be expected~~;

A disclosure of appropriate alternative procedures together with an explanation of the respective benefits, discomforts and risks;

An offer to answer any inquiries regarding the procedure(s);

An instruction that the person giving consent is free to withdraw such consent and discontinue participation in the project or activity at any time; and,

A statement that withholding or withdrawal of consent shall not prejudice future availability ~~provision~~ of ~~appropriate~~ services and supports~~. to individuals.~~

Injury/Illness to Client: An injury or illness that requires treatment beyond first aid which includes lacerations requiring stitches or staples, fractures, dislocations, loss of limb, serious burns, and skin wounds~~, etc.;~~ ; a~~A~~n injury or illness requiring immediate emergency medical treatment to preserve life or limb; a~~A~~n emergency medical treatment that results in admission to the hospital; and a~~A~~ psychiatric crisis resulting in unplanned hospitalization.

Institution: ~~Means a~~A hospital, nursing facility, or ICF-IID for which the Department makes Medicaid ~~P~~payments under the S~~s~~tate Plan.

Intellectual and Developmental Disability: ~~means a~~ A disability that manifests before the person reaches twenty-two (22) years of age, that constitutes a substantial disability to the affected person, and that is attributable to an intellectual and developmental disability or related conditions, including Prader-Willi syndrome, cerebral palsy, epilepsy, autism, or other neurological conditions when the condition or conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with an intellectual and developmental disability. Unless otherwise specifically stated, the federal definition of "developmental disability" found in 42 U.S.C. sec. 15001 et seq., does not apply.

"Impairment of general intellectual functioning" ~~means that t~~The person has been determined to have an intellectual quotient equivalent which is two or more standard deviations below the mean (70 or less assuming a scale with a mean of 100 and a standard deviation of 15), as measured by an instrument which is standardized, appropriate to the nature of the person's disability, and administered by a qualified professional. the standard error of measurement of the instrument should be considered when determining the intellectual quotient equivalent. when an individual's general intellectual functioning cannot be measured by a standardized instrument, then the assessment of a qualified professional shall be used.

"Adaptive behavior similar to that of a person with intellectual and developmental disabilities" ~~means that T~~the person has overall adaptive behavior which is two or more standard deviations below the mean in two or more skill areas (communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure, and work), as measured by an instrument which is standardized, appropriate to the person's living environment, and administered and clinically determined by a qualified professional. These adaptive behavior limitations are a direct result of, or are significantly influenced by, the person's substantial intellectual deficits and may not be attributable to only a physical or sensory impairment or mental illness.

"Substantial intellectual deficits" ~~means a~~An intellectual quotient that is between 71 and 75 assuming a scale with a mean of 100 and a standard deviation of 15, as measured by an instrument which is standardized, appropriate to the nature of the person's disability, and administered by a qualified professional. the standard error of measurement of the instrument should be considered when determining the intellectual quotient equivalent.

Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF-IID): A~~Means a~~ publicly or privately operated facility that provides health and habilitation services to a client with developmental disabilities or related conditions.~~Legally Responsible Person: Means the parent of a minor child, or the client's spouse.~~

Level of ~~Need Worksheet~~ Care (LOC): ~~A format to assess the child's level of need for services~~ ~~Means t~~The specified minimum amount of assistance a C~~c~~lient ~~child or youth~~ must require in order to receive services in an institutional setting under the Medicaid State Plan.

Level of Care Determination: An eligibility determination by a CCB of ~~Means determining eligibility of~~ an I~~i~~ndividual for a Long-Term Services and Supports (LTSS) program. ~~and determined by a Community Centered Board.~~

Level of Care Evaluation: A~~Means a~~ comprehensive evaluation with the I~~i~~ndividual seeking services and others chosen by the I~~i~~ndividual to participate, conducted by ~~and an evaluation by~~ the case manager utilizing the Department's prescribed tool, with supporting diagnostic information from the I~~i~~ndividual's medical providers, for the purpose of determining ~~and to determine~~ the I~~i~~ndividual's level of functioning for admission or continued stay in ~~certain~~ Long-Term Services and Supports (LTSS) programs.

Licensed Child Care Center (less than 24 hours): As defined in 12 CCR 2509-8.7.702.1.

Licensed Medical Professional: ~~Means a person who has completed an academic degree or certificate in a medically related profession. This is limited to those who possess the following medical licenses:~~A physician, physician assistant, registered nurse, and advanced practice nurse. ~~and nurse governed by the respective practice act.~~

Long-Term Services and Supports (LTSS): ~~Means t~~The services and supports used by Clients ~~Individuals~~of all ages with functional limitations and chronic illnesses who need assistance to perform routine daily activities such as bathing, dressing, preparing meals, and administering medications.

Medicaid Eligible: ~~Means t~~The A~~a~~pplicant or C~~c~~lient meets the criteria for Medicaid benefits based on the ~~applicant's~~ financial determination and disability determination.

Medicaid State Plan: ~~Means T~~~~t~~he federally approved document that specifies the eligibility groups that a state serves through its Medicaid program, the benefits that the state covers, and how the state addresses additional federal Medicaid statutory requirements concerning the operation of its Medicaid program.

Medication Mis-Management: Issues with medication dosage, scheduling, timing, set-up, compliance and administration or monitoring which results in harm or an adverse effect which necessitates medical care.

Missing Person: A waiver participant is not immediately found, ~~–~~their safety is at serious risk, or there is a risk to public safety.

~~Mistreatment:~~ "Mistreated" or "Mistreatment" ~~means~~: As defined at § 25.5-10-202~~-~~(29.5)~~)(~~(a)-(e), C.R.S.

~~Abuse;~~

~~Neglect;~~

~~Exploitation;~~

~~An act or omission that threatens the health, safety, or welfare of a person ;~~

~~Or~~

Natural Supports: ~~Means~~ Unpaid ~~Non-paid~~informal relationships that provide assistance and occur in the C~~c~~lient's everyday life such as, but not limited to, community supports and relationships with family members, friends, co-workers, neighbors and acquaintances.

~~Neglect: Neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health and safety of a person is not secured for or is not provided by a Caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercises; or a Caretaker knowingly uses harassment, undue influence, or intimidation to create a hostile or fearful environment for a waiver participant.~~

Other Serious Issues: Incidents that do not fall into one of the Critical Incident categories.

Predictive Risk Factors: Known situations, events, and characteristics that indicate a greater or lesser likelihood of success of Crisis interventions.

Prior Authorization: ~~Means~~ A~~a~~pproval for an item or service that is obtained in advance either from the Department, a state fiscal agent or the CMA~~ase Management Agency~~.

Professional: Any person, not including family, ~~except a family member as described in 27-10.5-102(15), C.R.S. Section 8.508.170 at §25.5-10-202 (16) (a) (I)-(IV)(b)~~ performing an occupation ~~-~~that is regulated by the State of Colorado and requires state licensure and/or certification. ~~Any person performing a professional service must possess any and all license(s) and/or certifications(s) required by the State of Colorado for the performance of that profession or professional service.Qualifications: Any person performing a professional service must possess any and all license(s) and/or certifications(s) required by the State of Colorado for the performance of that profession or professional service.~~

Professional Medical Information Page (PMIP): ~~Means t~~The medical information form signed by a L~~l~~icensed M~~m~~edical P~~p~~rofessional used to verify that a ~~the c~~Client needs institutional Level of Care.

~~Programming: A plan that provides intensive, comprehensive, longitudinal instruction to help the child achieve his or her best possible functioning level.~~

Relative: ~~Means a~~ A~~-~~ person related to the C~~c~~lient by ~~virtue of~~ blood, marriage, adoption or common law marriage.~~the medical information form signed by a licensed medical professional used to verify the client needs institutional Level of Care.~~

Residential Child Care Facility: As defined in 12 CCR 2509-8.7.705.1.

Retrospective Review: ~~Means t~~The Department's review after services and supports are provided to ensure the C~~c~~lient received services according to the service plan and standards of economy, efficiency and quality of service.

Separation: T~~Means t~~he restriction of a ~~resident(~~Client~~)~~ for a period of time to a designated area from which the is not physically prevented from leaving, for the purpose of providing the ~~resident (~~Client~~)~~ an opportunity to regain self-control.

Service Provider~~Agency~~: A~~Means a~~ Specialized Group Facility, Residential Child Care Facility,~~licensed 24-hour child care facility, which could include a~~ F~~f~~oster C~~c~~are ~~h~~Home, C~~c~~hild P~~p~~lacement A~~a~~gency, Licensed Child Care Facility (non-24 hours), and/or Medicaid enrolled provider.

Service Plan: ~~Means t~~The written document that specifies identified and needed services, to include Medicaid and non-Medicaid covered services regardless of funding source, to assist a C~~c~~lient to remain safely in the community and develop~~ed ment~~ in accordance with ~~the~~ Department~~'s rules set forth in Department~~ regulations.

Service Planning: T~~Means t~~he process of working with the Client ~~Individual~~receiving services and people chosen by the I~~i~~individual, to identify goals, needed services, ~~individual choices and preferences,~~ and appropriate service providers based on the Comprehensive Assessment ~~on the individual seeking or receiving services' assessment~~ and knowledge of the ~~individual and of~~available community resources. Service ~~Support~~planning informs the I~~i~~individual seeking or receiving services of his or her rights and responsibilities.

Specialized Group Facility: As defined in 12 CCR 2509-8~~9~~.7.709.1.

Support: ~~Mean~~As ~~a~~ny task performed for the C~~c~~lient where learning is secondary or incidental to the task itself or an adaptation is provided.

Support Level: A numeric value determined by the S~~s~~upport N~~n~~eed L~~l~~evel A~~a~~ssessment that places C~~c~~lients into groups with other C~~c~~lients who have similar overall support needs.

Support Need Level Assessment: T~~means t~~he standardized assessment tool used to identify and measure the ~~practical~~ support requirements for HCBS-CHRP waiver participants.

Targeted Case Management (TCM): ~~Means case management services provided to individuals enrolled in the HCBS-CES, HCBS-DD, HCBS-SLS, and HCBS-CHRP waivers in accordance with 10 CCR 2505-10, Section 8.760 et seq. Targeted Case Management includes needs assessment, support plan development, referral and related activities and monitoring.~~Has the same meaning as in section 8.761.

Third Party Resources: S~~Means s~~ervices and supports that a C~~c~~lient may receive from a variety of programs and funding sources beyond ~~n~~Natural S~~s~~upports or Medicaid. This~~ey~~ may include, but is ~~are~~ not limited to community resources, services provided through private insurance, non-profit services and other government programs.

Unsafe Housing/Displacement: An individual residing in an unsafe living condition due to a natural event (such as fire or flood) or environmental hazard (such as infestation), and is at risk of eviction or homelessness.

~~II. Vendor: The supplier of a product or services to be purchased for a recipient of services under this waiver. Qualifications: In order to be approved as a vendor, the product or service to be delivered must meet all applicable manufacturer specifications, state and local building codes, and Uniform Federal Accessibility Standards. In addition, such expenses over $1,000 should be chosen through a bid process. When a bid process is used and the lowest bid is not chosen, proper justification for selection of a vendor with a higher bid must be documented.~~

Waiver Service: O~~Means o~~ptional services defined in the current federally approved waivers and do not include Medicaid State Plan benefits.

Wraparound Facilitator: A~~Means~~ person who has a Bachelor's degree in a human behavioral science or related field of study and is certified in a wraparound training program. Experience working with LTS~~ong Term Services and Supports~~ populations in a private or public social services agency may substitute for the Bachelor's degree ~~required education~~ on a year for year basis. When using a combination of experience and education to qualify, the education must have a strong emphasis in a human behavioral science field. The ~~Person must also be certified in a~~ wraparound certification must include training in the following: ~~program that must encompass:~~

Trauma informed care.

Youth mental health first aid.

Crisis supports and planning.

Positive Behavior Supports, behavior intervention, and de-escalation techniques.

Cultural and linguistic competency.

Family and youth serving systems.

Family engagement.

Child and adolescent development.

Accessing community resources and services.

Conflict resolution.

Intellectual and developmental disabilities.

Mental health topics and services.

Substance abuse topics and services.

Psychotropic medications.

Motivational interviewing.

Prevention, detection, and reporting of Mistreatment, Abuse, Neglect, and Exploitation.

~~Wraparound Plan: A single plan that incorporates all relevant supports, services, strategies, and goals from other service/treatment plans in place and supports a child or youth Client and his or her family, including a plan to maintain stabilization, prevent Crisis, and/or for de-escalation of Crisis situations.~~

Wraparound Transition Plan: A single plan that incorporates all relevant supports, services, strategies, and goals from other service/treatment plans in place and supports a ~~child or youth~~Client and his or her family, including a ~~and family needs for the child or youth to~~ transition to the family home after out of home placement.

Wraparound Plan: A single plan that incorporates all relevant supports, services, strategies, and goals from other service/treatment plans in place and supports a ~~child or youth~~ Client and his or her family, including a plan to ~~needs to~~ maintain stabilization, prevent Crisis, and/or for de-escalation of Crisis situations.

Wraparound Support Team: Case managers, Licensed M~~m~~edical P~~p~~rofessionals, behavioral health professionals, therapeutic support professionals, representatives from education, and other relevant ~~parties~~people involved in the support/treating the ~~child or youth (~~Client~~)~~ and ~~their~~ his or her family.

Wraparound Transition Team: Case managers, Licensed M~~m~~edical P~~p~~rofessionals, behavioral health professionals, therapeutic support professionals, representatives from education,

and other relevant peoplearties involved in the support/treating the Client child or youth and his or hertheir family.

8.508.30 SCOPE OF SERVICES

The HCBS-CHRP waiver provides services and supports listed at Section 8.508.100 to eligible children and youth with lintellectual and Ddevelopmental Ddisability, ies as defined in 25.5-10-202, C.R.S. with extraordinary needs that put them at risk of, or in need of, out of home placement. The children and youth and who are at risk of institutionalization pursuant to 25.5-6-903, C.R.S. and the waiver serves as an alternative to placement in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID).

A. The services provided through this waiver serve as an alternative to ICF/IID placement for children from birth to twenty-one years (21) of age who meet the eligibility criteria and the Level of Care as determined by a Functional Needs Assessment Level of Care Evaluation and Determination. The services provided through the HCBS-CHRP waiver are shall be limited to:

   1. Habilitation
   2. Hippotherapy
   3. Intensive Support
   4. Massage Therapy
   5. Movement Therapy
   6. Respite
   7. Supported Community Connection
   8. Transition Support

B. HCBS-CHRP waiver services shall be provided in accordance with these rules and regulations.

8.508.3040 ELIGIBILITY

A. Services shall be provided to Clients children and youth with an lintellectual and Ddevelopmental Ddisabilityies who meet all of the following program eligibility requirements:

   1. The child shall be determined eligible for developmental disabilities services A dDetermination of developmental disability by a CCB which includes developmental delay if under five (5) years of age. by the appropriate a Community Centered Board (CCB).

   1.2. The Client child or youth has Eextraordinary behavioral or medical support Nneeds that put the Client child or youth them at risk of, or in need of, out of home placement.

   The child is a Colorado child placed in foster care through a Colorado County Department of Social/Human Services by court order. This includes children placed through a voluntary agreement with the Colorado County Department of Social/Human Services while awaiting the court to take jurisdiction.

   3. Waiver services to individuals age eighteen to 21 will be provided if the individual is in a court-ordered foster care placement through the County Department of Social/Human Services and the court order is in effect when the child reaches his/her eighteenth birthday.

4. The child is at risk of or has been reported/found to be abused and/or neglected or dependent, as defined in 19-3-102, C.R.S.

5. The child shall meet the out-of-home placement criteria as defined in Section 7.304.3, Colorado Department of Human Services Social Services Staff Manual (12 CCR 2509-4).

6. The child shall meet the Target Group for Program Areas 4, 5, or 6 as outlined in 7.201.2, 7.202.2 and 7.203.21, Colorado Department of Human Services Staff Manual (12 CCR 2509-3).

The Level of Need checklist documents that the child/youth is in need of the services available through the waiver.

2.3. Meet ICF-IID Level of Care as determined by a Level of Care Evaluation.

3. 4. 8. The CDHS CHRP waiver administrator verifies through the CHRP waiver eligibility process, including the ULTC 100 and LTC 102 - CHRP that the child meets the established minimum eligibility criteria for ICF/MR placement.

9. The child's eligibility for Supplementary Security Income (SSI) benefits is established.

10. The income of the Client child does not exceed 300% of the current maximum SSI standard maintenance allowance.

5. 11. The resources of the child do not exceed the maximum SSI allowance.

12. The child's eligibility for Colorado Medicaid is established and reported in the Child Welfare automated system.

13. Enrollment of the an child Client in the HCBS- CHRP waiver will result in an overall savings when compared to the ICF/MRIID cost as determined by the State.

6. 14. The Client child receives at least one waiver service each month.

B. A Support Need Level Assessment must be is completed upon determination of eligibility. The Support Need Level Assessment is used to determine the level of reimbursement for Habilitation and per diem Respite services.

C. Clients hildren and youth eligible for services under the HCBS-CHRP waiver are eligible for all other Medicaid services for which they qualify and must first access all benefits available under the regular Medicaid State Plan and/or Medicaid Early and Periodic Screening, Diagnosis and Treatment (EPSDT) for which they are eligible, coverage prior to accessing funding for those same services under the HCBS-CHRP waiver.

D. B. Pursuant to the terms of the HCBS-CHRP Children's Residential Habilitation Residential Program (CHRP) waiver, the number of individuals who may be served each year in the CHRP is based on criteria found in Section 8.508.10(E).:

1. The federally approved capacity of the waiver;

2. Cost Containment requirements under seffectiveness (see Section 8.508.80);

1.3. Within Tthe total appropriation limitations when enrollment is projected to exceed spending authority.

8.508.4050 WAITING LIST PROTOCOL~~Children determined eligible for services under the CHRP which are not immediately available within the federally approved capacity limits of the waiver shall be eligible for placement on a waiting list in the order in which the eligible application was received by the CDHS CHRP waiver administrator. Guardians of applicant children denied program enrollment shall be informed of their appeal rights in accordance with Section 8.057 of this Staff Manual.~~

~~**When an opening becomes available, the first child on the waiting list shall be reassessed for eligibility by the CDHS CHRP waiver administrator and, if determined to still be eligible, assigned that opening.**~~

A. ~~Children or youth~~Clients determined eligible for HCBS-CHRP services who ~~that~~ cannot be served within the appropriation capacity limits of the HCBS-CHRP waiver shall be eligible for placement on a waiting list.

1. The waiting list shall be maintained by the Department.

2. The date used to establish the ~~person's~~ Client's placement on the waiting list shall be the date on which all other eligibility requirements at Section 8.508.4~~3~~0 were determined to have been met and the Department was notified.

3. As openings become available within the appropriation capacity limits of the federal waiver, Clients ~~children or youth~~shall be considered for services based on the date of their waiting list placement.

~~**8.508.50 RESPONSIBILITIES OF THE COUNTY DEPARTMENTS OF SOCIAL SERVICES**~~

~~The County Department of Social/Human Services shall:~~

~~A. Ensure that the eligibility requirements as defined in 8.503.30, A, 1 through 8 are met;~~

~~B. Submit eligibility applications to the CDHS CHRP waiver administrator with a request for enrollment or placement on the waiting list.~~

~~C. Provide services to children in out-of-home placement and their families as required in CDHS Social Services Staff Manual (12 CCR 2509-4, 7.300 Child Welfare Services).~~

~~D. Determine whether a familial relationship as defined in 27-10.5-102, C.R.S. exits, between the licensed or certified provider and the child.~~

~~E. Determine prior to referring to CHRP, that the extraordinary service, needs of the child exceed the maximum reimbursement the County Department of Social/Human Services is able to negotiate based on the child's individualized needs as authorized in 26-5-104(6), C.R.S. The County Department of Social/Human Services must negotiate based on the child's. need and the service provider's ability to meet the needs.~~

~~F. Exhaust appropriate community services available to the children before requesting similar services from the waiver.~~

8.508.60 RESPONSIBILITIES OF THE CCB~~OMMUNITY CENTERED BOARD~~

A. The CCB ~~Community Centered Board (CCB)~~ shall make eligibility determinations ~~a determination of eligibility~~ for developmental disabilities services to include the Level of Care Evaluation ~~and~~ Determination for any ~~child or youth~~ Applicant or Client being considered for enrollment in the

~~Children's Habilitation Residential Program who is referred by a County Department of Social/Human Services~~ HCBS-CHRP waiver.

B. Additional administrative responsibilities of CCBs as required in 8.601.

8.508.70 CASE MANAGEMENT FUNCTIONS

A. Case management services will be provided by a ~~Case Management Agency (~~CMA~~)~~ as a Targeted Case Management service pursuant to ~~10 CCR 2505-10~~ sections 8.761.14 and 8.519 ~~.a-d.2.C.~~ and will include:

1. Completion of a Comprehensive Assessment;

2. Completion of a ~~the~~ Service Plan (SP);

3. Referral for services and related activities;

4. Monitoring and follow-up by the CMA including ensuring that ~~es activities that are necessary to ensure that~~ the SP is implemented and adequately addresses the Client's ~~child's or youth's~~needs.

5. Monitoring and follow-up actions, which shall:

   a. Be performed when necessary to address health and safety and services in the SP;

   b. Services in the SP are adequate; and

   c. Necessary adjustments in the SP and service arrangements with providers are made if the needs of the Client ~~child or youth~~ have changed.

6. Face to face monitoring to ~~shall~~ be completed at least once per quarter and to include direct contact with the Client ~~child or youth~~in a place where services are delivered.

8.508.7~~0~~1 ~~NDIVIDUALIZED~~ SERVICE PLAN (~~IP~~ SP)~~A written IP describes the medical and other services to be furnished, their frequency, and the type of provider who will furnish each.~~

~~8.508.71 CONTENT OF THE INDIVIDUALIZED PLAN~~**~~A.The Individualized Plan (IP) shall consist of a Child's Needs Section, a Plan Section, and an Expected Outcomes Section.~~**

~~1. Child's Needs Section shall identify and list specific conditions (needs) for which services and supports are needed to maintain the child in the community setting. The areas of needs shall contain and not be limited to:~~

~~a. medical needs;~~

~~b. functional needs; and~~

~~c. safety needs.~~

~~2. Plan Section shall:~~

~~a. Identify and quantify all services and supports to be provided to meet the child's needs; and~~

~~b. Identify the name or type of provider of services;~~

~~c. Identify payment responsibilities for the services, e. g., Parent, County Department of Social/Human Services, CHRP.~~

~~3. Expected Outcomes Section shall be a statement of measurable objectives expected to be obtained during the period covered by the Individualized Plan.~~

~~B. The Individualized Plan shall include the date and signatures of the provider, the guardian, the County Department of Social/Human Services, and the child when appropriate.~~

~~C. The provider shall calculate the total costs to the Children's Habilitation Residential Program, utilizing Individualized Plan document The costs to implement the Individualized Plan shall not include room, board, and personal needs allowance.~~

A. The ~~Case Management Agency (~~CMA~~)~~ shall complete a Service Plan for each Client ~~child or youth~~enrolled in the HCBS-CHRP waiver in accordance with Section 8.761.14.b.1-4 and will:

1. Address the ~~child's or youth's~~ Client's assessed needs and personal goals, including health and safety risk factors either by HCBS-CHRP waiver services or any other means;

2. Be in accordance with the Department's rules, policies, and procedures;

3. Be entered and verified in the Department prescribed system within ten (10) business days;

4. Describe the types of services to be provided, the amount, frequency, and duration of each service and the provider type ~~of provider~~ for each service;

5. Include a statement of agreement by the Client and/or the legally responsible party; and

6. Be updated or revised at least annually or when warranted by changes in the ~~child's or youth's~~ Client's needs.

B. The Service Plan shall document that the Client ~~child or youth~~ has been offered a choice:

1. Between HCBS waivers and institutional care;

2. Among HCBS-CHRP waiver services; and

3. Among qualified providers.

8.508.72 PRIOR AUTHORIZATION REQUESTS (PAR)

A. The case manager shall submit a ~~the~~ PAR in compliance with applicable regulations and ensure requested services are:

1. Consistent with the C~~c~~lient's documented medical condition and Comprehensive A~~a~~ssessment.~~,~~

2. Adequate in amount, frequency, scope and duration in order to meet the C~~c~~lient's needs and within the limitations set forth in the current federally approved HCBS-CHRP waiver.

3. Not duplicative of another ~~authorized~~ service, including services provided through:

a. Medicaid State Plan benefits;~~,~~

b. Third P~~p~~arty R~~r~~esources;~~,~~

c. Natural S~~s~~upports;~~,~~

d. Charitable organizations;~~,~~ or

e. Other public assistance programs.

B. Services delivered without prior authorization shall not be reimbursed except for provision of services during an emergency pursuant to Section 8.058.4.

8.508.73 REIMBURSEMENT

A. Only services identified ~~on~~ in~~-~~ the ~~Individualized~~ Service Plan are available for reimbursement under the HCBS-CHRP waiver. Reimbursement will be made only to licensed or certified providers, as defined in Section 8.508.160 and services will be reimbursed per a fee for service schedule as determined by ~~on a daily rate basis based on~~ the Department~~'s HCBS-CHRP Rate Schedule~~ through the Medica~~i~~d~~l~~ Management Information System (MMIS)~~ for the habilitative services~~. ~~Medicaid shall not pay for room and board. The equivalent of the full federal SSI benefit will provide for the room, board and personal needs allowance. Education costs will be reimbursed through the Department of Education and rot by the Colorado Department of Human Services or Medicaid.~~

B. Only those services not available under Medicaid EPSDT, Medicaid State Plan benefits, Third Party Resources, or other public funded programs, services or supports are available through the CHRP Waiver. All available community services must be exhausted before requesting similar services from the waiver. The CHRP Waiver does not reimburse services that are the responsibility of the Colorado Department of Education.

C. Reimbursement for Habilitation service does not include the cost of normal facility maintenance, upkeep and improvement.~~, other~~ This exclusion does not include ~~than such~~costs for modifications or adaptations ~~to a facility~~ required to assure the health and safety of C~~c~~lient~~s~~ or to meet the requirements of the applicable life safety code.

D. Medicaid shall not pay for room and board.

E. Claims for Targeted Case Management are reimbursable pursuant to ~~10 CCR 2505-10~~Section 8.761.4~~-.5 *et seq*~~.

8.508.74 COMPLIANCE MONITORING ~~RETROSPECTIVE REVIEW PROCESS~~

A. Services provided to a client are subject to compliance monitoring ~~a retrospective review~~ by the Department pursuant to Section 8.076.2.

8.508.80 COST CONTAINMENT

Cost C~~c~~ontainment is to ensure, on an individual Client ~~child or youth~~ basis, that the provision of HCBS-CHRP services is a cost effective alternative compared to the equivalent cost of appropriate ICF/~~MR~~IID institutional L~~l~~evel of C~~c~~are. ~~The provider must identify costs as part of each Individualized Plan to be submitted to the CDHS for review.~~ The ~~State~~ Department~~-~~ shall be responsible for ensuring that, on average, each Service P~~p~~lan is within the federally approved C~~c~~ost C~~c~~ontainment requirements of the waiver. Clients ~~Children~~ enrolled in the HCBS-CHRP waiver shall continue to meet the C~~c~~ost C~~c~~ontainment criteria during subsequent periods of eligibility.

A. The completed enrollment forms shall be submitted to the County Department of Social/Human Services CHRP waiver administrator. A complete packet includes a copy of the:

1. Individual Choice Statement.

2. Individualized Plan; within 30 calendar days.

3. Level of Need document.

4. ULTC 100.2 form.

5. Request for Enrollment.

B. The county department CHRP waiver administrator will immediately submit enrollment documentation to the CDHS CHRP waiver administrator for verification of eligibility. A complete packet includes a copy of the:

1. ULTC 100.2; and

2. Request for Enrollment; and

3. Individual Choice Statement

4. Individualized Plan within 45 calendar days.

C. The effective date/enrollment date shall be no earlier than the start date on the CDHS CHRP waiver administrator's ULTC 100.2 verification form. No services may be authorized prior to the date of enrollment

D. An Individualized Plan and ULTC 100.2 verification may be valid for no more man a twelve (12) month period.

8.508.100 SERVICE DESCRIPTIONS

A. Self-advocacy training may include training in expressing personal preferences, self-representation, individual rights and making increasingly responsible choices. It may also include team building with volunteers, professionals, and/or family members to examine changing roles as service models shift from the traditional supervision/control model to a self-actualization model.

B. Independent living training may include training in personal care, household services, child and infant care (for parents themselves who are developmentally disabled), and communication skills such as using the telephone, using sign language, facilitated communication, reading, and letter writing.

C. Cognitive services may include training with money management and personal finances, planning and decision-making.

D. Communication services may include professional training and assistance to maintain or improve communication skills. It may include a professional or individual who provides interpretation and facilitated communication services.

E. Counseling and therapeutic services may include individual and/or group counseling, behavioral or other therapeutic interventions directed at increasing the overall effective functioning of an individual.

~~F. Personal care services may include any personal care functions requiring training/assistance by an RN, LPN, or Certified Nurse Aide. It may also include operating, maintaining, and training in the use of medical equipment.~~

~~G. Emergency assistance training includes developing responses in case of emergencies, prevention planning and training in the use of equipment or technologies used to access emergency response systems.~~

~~H. Community connection services may explore community services available to the individual, and develop methods to access additional services/supports/activities desired by the individual. Community connection services can provide the individual with the resources to participate in the activities and functions of the community desired and chosen by the individual receiving the services. Typically, these will be the same type of activities available and desired by the general population.~~

~~I. Travel services may include providing, arranging, transporting, or accompanying a person with developmental disabilities to services and supports identified in the IP.~~

~~J. Supervision services may include a person safeguarding an individual with developmental disabilities and/or utilizing technology for the same purpose.~~

~~**K. Respite Services: Services that are provided to an eligible client on a short term basis because of the absence or need for relief of those persons normally providing the care. Respite services may be approved for up to 30 days a calendar year for each eligible client.**~~

A. Habilitation

1. Services may be ~~are~~ provided to C~~c~~lients who ~~that~~ require additional care for the C~~c~~lient to remain safely in ~~a home-like setting~~home and community based settings. ~~-~~The C~~c~~lient must demonstrate the need for such services above and beyond those of a typical child of the same age.

2. Habilitation~~These~~ services include those ~~Services~~ that assist Clients~~participants~~ in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings.

3. Habilitation services under the HCBS-CHRP waiver differ in scope, nature, supervision, ~~arrangement,~~ and/or provider type (including ~~provided training~~provider training requirements and qualifications) from any other services in the Medicaid State Plan.

4. Habilitation is a twenty-four (24) hour service and includes the following activities:

   a. Independent living training, which may include personal care, household services, infant and childcare when the C~~c~~lient has a child, and communication skills.

   b. Self-advocacy training and support which may include~~s~~ assistance and teaching of appropriate and effective ways to make individual choices, accessing needed services, asking for help, recognizing A~~a~~buse, ~~n~~Neglect, M~~m~~istreatment, and/or ~~e~~Exploitation of self, responsibility for one's own actions, and participation in ~~all~~ meetings.

   c. Cognitive services which include~~s~~ assistance with additional concepts and materials to enhance communication.

d. Emergency aAssistance which includes safety planning, fire and disaster drills, and crisis intervention.

e. Community access supports which includes assistance developing the abilities and skills necessary to enable the Client ~~individual~~ to access typical activities and functions of community life such as ~~those chosen by the general population, including community~~ education, ~~or~~ training, and volunteer activities. ~~-~~Community access supports includes providing a wide variety of opportunities to develop socially appropriate behaviors, facilitate and build relationships and N~~n~~atural S~~s~~upports in the community while utilizing the community as a learning environment to provide services and supports as identified in the Client's ~~participant's~~ S~~s~~ervice P~~p~~lan. These activities are conducted in a variety of settings in which the Client ~~child or youth~~interacts with non-disabled individuals (other than those individuals who are providing services to the Client~~child or youth~~). ~~-~~These ~~types of~~ services may include socialization, adaptive skills, and personnel to accompany and support the individual in community settings, resources necessary for participation in activities and supplies related to skill acquisition, retention, or improvement and are based on the interest of the Client~~child or youth~~.

f. Transportation services are encompassed within Habilitation and are not duplicative of the non-emergent medical transportation that is authorized in the Medicaid State Plan. Transportation services are more specific to supports provided by ~~kinship~~Family F~~f~~oster C~~c~~are H~~h~~omes, ~~foster homes~~, Specialized Group Facilities ~~group homes~~, and R~~r~~esidential C~~c~~hild C~~c~~are F~~f~~acilities to access activities and functions of community life.

g. ~~Implementation of recommended f~~Follow-up counseling, behavioral, or other therapeutic interventions, ~~. Implementation of~~ and physical, occupational or speech therapies delivered under the direction of a licensed or certified professional in that discipline.

h. Medical and health care services that are integral to meeting the daily needs of the C~~c~~lient and include such tasks as routine administration of medications or providing support when the Client is ill. ~~tending to the needs of clients who are ill or require attention to their medical needs on an ongoing basis.~~

B. ~~-~~Habilitation may be provided in a f~~F~~oster c~~C~~are h~~H~~ome certified by a licensed Child Placement Agency or County Department of Human Services, Specialized Group Facility ~~group home or group center~~ licensed by the Colorado Department of Human Services, or Residential Child Care Facility licensed by the Colorado Department of Human Services.

1. Habilitation capacity limits:

a. A F~~f~~oster C~~c~~are H~~h~~ome may serve a maximum of one (1) ~~child~~ Client enrolled in the HCBS-CHRP waiver and two (2) other foster children, or two (2) ~~children~~ Clients enrolled in the HCBS-CHRP waiver and no other foster children, unless there has been prior written approval by the Department~~HCPF~~. Placements of three (3) ~~children~~ Clients approved for the HCBS-CHRP waiver may be made if the S~~s~~ervice Provider ~~agency~~can demonstrate to the Department ~~HCPF~~ that the Foster Care Home provider has sufficient knowledge, experience, and supports to safely meet the needs of all of the children in the home. In any case, no more than three (3) ~~children~~ Clients enrolled in the HCBS-CHRP waiver ~~and no (0) non-CHRP children~~ will be placed in the same~~one~~ foster home. Emergency placements will not exceed the maximum established limits. ~~Facilities~~ Foster

Care Homes that exceed established capacity at the time the rule takes effect will be grandfathered in; however, with attrition, capacity must comply with the rule.

Foster Care Home Maximum Capacity

HCBS-CHRP waiver	Non HCBS-CHRP	Total Children
1	2	3
2	0	2
3	0	3

b. Placement of a Clientchild in a Sspecialized Ggroup Ffacility is prohibited if theat placement will result in more than eight (8) children includingand one (1) child Client enrolled in the HCBS-CHRP waiver, or five (5) foster children including and two (2) children Clients enrolled in the HCBS-CHRP waiver, unless there has been prior written approval by the Department HCPF. If Pplacement of a child in a sSpecialized gGroup enter Facility will result in more than three (3) children Clients enrolled in the HCBS-CHRP waiver, then the total number of children placed in that sSpecialized gGroup FfacilityCenter mustwill not exceed a maximum of six (6) total children. Placements of more than three (3) children Clients enrolled in the HCBS-CHRP waiver may be made if the Service Provider agencycan demonstrate to the HCBS-CHRP waiver administrator the Department hat the provider facility staff haves sufficient knowledge, experience, and supports to safely meet the needs of all of the children in the facilityhome.

Specialized Group Facility Maximum Capacity

HCBS-CHRP waiver	Non HCBS-CHRP waiver	Total Children
1	8	9
2	5	7

c. Only one (1) HCBS-CHRP Client participant and two (2) HCBS-for Persons with Developmental Disabilities (DD) or HCBS- Supported Living Services (SLS) waiver participants; or two (2) HCBS-CHRP participants and one HCBS-DD or HCBS-SLS waiver participant may live in the same fFoster cCare hHome.

C. The Sservice Provider Agencyor cChild Pplacement aAgency shall ensure choice is provided to all Clients waiver participantsin their living arrangement.

D. The fFoster cCare hHome Pprovider must ensure a safe environment and and the environment must safely meet the needs of all Clients waiver participants living in the home.

E. The Sservice Provider Agency or child placement agency shall provide the Case Management Agency (CMA) a copy of the fFoster cCare hHome licen sure certification- before any child or youth can be placed in that a Ffoster cCare hHome. If emergency placement is needed and is outside of business hours, the Sservice Aagency or cChild pPlacement aAgency shall provide the CMA a copy of the fFoster cCare Hhome certification licensurethe next business day.

F. Hippotherapy

1. Hippotherapy is a therapeutic treatment strategy that uses the movement of a ~~the~~ horse to assist in the development/enhancement of skills including~~:~~ -gross motor, sensory integration, attention, cognitive, social, behavioral, and communication skills.

2. Hippotherapy may be ~~Services are~~ provided only when the provider is licensed, certified, registered, and/or accredited by an appropriate national accreditation association.

3. Hippotherapy ~~Service~~ must be used as a treatment strategy for an identified medical or behavioral need.

4. Hippo~~-~~therapy must ~~The service shall~~ be an identified need in the Service Plan.

5. Hippotherapy must be recommended or prescribed by a licensed physician or therapist who is enrolled as a Medicaid provider. The recommendation must clearly identify the need for hippotherapy, recommended treatment, and expected outcome. ~~A Medicaid State Plan therapist or physician must identify the need this service goal shall meet.~~

6. The recommending therapist or physician must ~~has identified a goal and that shall~~ monitor the progress of the hippotherapy treatment ~~at go~~al at least quarterly.

7. Hippotherapy is not ~~cannot be~~ available under ~~the regular~~ Medicaid State Plan benefits if it is available ~~,~~ under EPSDT, or from a T~~t~~hird Party Resource.~~-party source.~~

8. Equine t~~T~~herapy and therapeutic riding are excluded.

G. Intensive Support

1. This s~~S~~ervice aligns strategies, interventions, and supports for the ~~child or youth~~ Client, and family, to prevent the need for out of home placement.

2. This s~~S~~ervice may be utilized in maintaining stabilization, preventing Crisis situations, and/or de-escalation of a Crisis ~~situation~~.

3. Intensive support s~~S~~ervices includes~~:~~

   a. Identification of the unique strengths, abilities, preferences, desires, needs, expectations, and goals of the child or youth and family.

   b. Identification of needs for Crisis prevention and intervention including, but not limited to:

      i. Cause(s) ~~of crisis~~ and triggers that could lead to a Crisis.

      ii. Physical and behavioral health factors.

      iii. Education services.

      iv. Family dynamics.

      v. Schedules and routines.

      vi. Current or history of police involvement.

vii. Current or history of medical and behavioral health hospitalizations.

viii. Current services.

ix. Adaptive equipment needs.

x. Past interventions and outcomes.

xi. Immediate need for resources.

xii. Respite services.

xiii. Predictive Risk Factors.

xiv. Increased Risk Factors.

4. Development of a Wraparound Plan with action steps to implement support strategies, prevent, and/or manage a future Crisis to include, but not limited to:

a. The unique strengths, abilities, preferences, desires, needs, expectations, and goals of the ~~child or youth~~ Client and family.

b. Environmental modifications.

c. Support needs in the family home.

d. Respite services.

e. Strategies to prevent~~for~~ Crisis triggers.

f. Strategies for Predictive and/or Increased Risk Factors.

g. Learning new adaptive or life skills.

h. ~~Counseling~~B/~~b~~ehavioral or other therapeutic interventions to further stabilize the Client ~~individual~~ emotionally and behaviorally and to decrease the frequency and duration of any future behavioral Crises.

i. Medication management and stabilization.

j. Physical health.

k. Identification of training needs and connection to training for family members, N~~n~~atural S~~s~~upports, and paid staff.

l. Determination of criteria to achieve ~~for~~ stabilization in the family home.

m. Identification of how the plan will be phased out ~~fade out~~ once the ~~child or youth~~ Client has stabilized.

n. Contingency plan for out of home placement.

o. Coordination among F~~f~~amily caregivers, other F~~f~~amily members, service providers, N~~n~~atural S~~s~~upports, P~~p~~rofessionals, and case managers required to implement the Wraparound Plan.

p. Dissemination of the Wraparound Plan to all individuals involved in plan implementation.

5. In-Home Support.

a. The t~~T~~ype, frequency, and duration of in-home support services must be ~~is~~ included in a ~~the~~ Wraparound Plan.

b. In-H~~h~~ome S~~s~~Support S~~s~~ervices include~~s~~ implementation of therapeutic and/or behavioral support plans, building life skills, providing guidance to the child or youth with self-care, learning self-advocacy, and protective oversight.

c. Service may be provided in the ~~child or youth's~~ Client's home or community as determined by the Wraparound Plan.

6. F~~Identification of f~~ollow-up services.~~ that may include:~~

a. Follow-up services include an e~~E~~valuation to ensure that triggers to the Crisis have been addressed in order to maintain stabilization and prevent a future Crisis.

b. An e~~E~~valuation of the Wraparound Plan should occur~~s~~ at a frequency determined by the ~~child's or youth's~~ Client's needs and include~~s,~~ at a minimum, ~~but is not limited to:~~ visits to the ~~child's or youth's~~ Client's home, review of documentation, and coordination with other P~~p~~rofessionals and/or members of the Wraparound Support Team to determine progress.

c. Services include a r~~R~~eview~~s~~ of the Client's ~~child's or youth's~~stability, ~~-~~and monitoring of ~~Predictive and~~ Increased Risk Factors that could indicate a repeat ~~return to~~ Crisis.

d. Revision of the Wraparound Plan should be completed as necessary to ~~as needed to~~ avert a Crisis or Crisis escalation.

e. Services include e~~E~~nsuring~~e~~ that follow-up appointments are made and kept.

7. The Wraparound Facilitator is responsible for the development and implementation of the Wraparound Plan and follow-up services. The Wraparound Plan is guided and supported by the~~ child or youth~~ Client, their F~~f~~amily, and their Wraparound Support Team.

~~1.~~8. All service and supports providers~~ and supports~~ on the Wraparound Support Team must adhere to the Wraparound Plan.

~~to meet the needs of their specific focus for treatment.~~

9. Revision of strategies should ~~will~~ be a continuous process by the Wraparound Support Team in collaboration with the~~ child or youth~~ Client, until the Client is stable ~~a support regime stabilizes~~ and there is no longer a need for Intensive Support Services.

10. On-going evaluation after completion of the Wraparound Plan may be provided if there is a ~~based on individual~~ need~~s~~ to support the ~~child and youth~~ Client and his or her~~their~~ F~~f~~amily in connecting to any additional resources needed to prevent a future Crisis.

H. Massage Therapy

1. Massage therapy is the physical manipulation of muscles to ease muscle contractures, spasms, extension, muscle relaxation, and muscle tension including WATSU.

2. Children with specific developmental disorders often experience painful muscle contractions. Massage has been shown to be an effective treatment for easing muscle contracture, releasing spasms, and improving muscle extension, and thereby reducing pain.

3. Massage therapists must be Services are provided only when the provider is licensed, certified, registered, and/or accredited by an appropriate national accreditation association.

4. The service must be used as a treatment strategy for an identified medical or behavioral need and included in the Service Plan.

The service shall be an identified need in the Service Plan

A A Medicaid State Plan Massage therapy services must be recommended or prescribed by a therapist or physician who is an enrolled Medicaid Provider. The recommendation must include the medical or behavioral need to be addressed and expected outcome. must identify the need this service goal shall meet.

5. The recommending therapist or physician must that has identified a goal and that shall monitor the progress and effectiveness of the massage therapy treatment of that goal at least quarterly.

6. Massage therapy is not cannot be available under under the regular Medicaid State Plan benefits, if it is available under EPSDT or from a Third Party Resource. third-party source.

I. Movement Therapy

1. Movement therapy Service is the use of music therapy and/or dance therapy as a therapeutic tool for the habilitation, rehabilitation, and maintenance of behavioral, developmental, physical, social, communication, pain management, cognition and gross motor skills.

2. Movement therapy providers must be Services are provided only when the provider is licensed, meets the educational requirements and is certified, registered and/or accredited by an appropriate national accreditation association.

3. Movement therapy is only authorized as Service must be used as a treatment strategy for an specific identified medical or behavioral need and identified in the Client's Service Plan.

Movement therapy must be recommended or prescribed by a A Medicaid State Plan therapist or physician who is enrolled Medicaid provider. The recommendation must include the medical need to be addressed and expected outcome. must identify the need this service shall meet with a goal.

4. The recommending therapist or physician must that has identified a goal and that shall monitor the progress and effectiveness of the movement therapy at goal at least quarterly.

5. Movement Therapy is not ~~cannot be~~ available under ~~under the regular~~ Medicaid State Plan benefits, if it is available under~~,~~ EPSDT~~,~~ or from a Third Party Resource~~third-party source~~.

J. Respite~~:~~

1. Respite s~~S~~ervices ~~that~~ are provided to ~~an eligible client~~ children or youth living in the F~~f~~amily home on a short term basis because of the absence or need for relief of ~~those persons normally providing the care~~ the primary Caretaker(s)~~.~~ ~~Respite services may be approved for up to 30 days a calendar year for each eligible client.~~

2. Respite services may be provided in a certified F~~f~~oster Care H~~h~~ome, Licensed Residential Child Care Facility, Licensed ~~,~~Specialized Group Facility ~~respite care facility~~, Licensed Child Care Center (less than 24 hours), in the F~~f~~amily home, or in the community.

3. Federal financial participation is not available ~~to be claimed~~ for the cost of room and board, except when provided as part of respite care furnished in a facility approved by the State that is not a private residence.

4. Respite care is authorized~~shall occur~~ for short~~-~~-term temporary relief of the C~~c~~aretaker~~giver~~ for not more than seven (7) consecutive days per month, not to exceed twenty-eight (28) days in a calendar year.

5. During the time when Respite care is occurring, the Family Foster Care Home ~~respite home~~may not exceed six (6) foster children or a maximum of eight (8) total children, with no more than two (2) children under the age of (two) 2. ~~-~~The respite home must be in compliance with all ~~other~~ applicable rules and requirements for F~~f~~amily F~~f~~oster C~~c~~are H~~h~~omes.

6. Respite is available for children or youth living in the F~~f~~amily home and may not be utilized while the Client ~~child or youth~~ is receiving Habilitation services.

K. Supported Community Connection

1. Supported community connection s~~S~~ervices are provided one-on-one to deliver instruction for documented Complex Behavior ~~severe behavior problems~~ t~~T~~hat are ~~being demonstrated~~ exhibited by the Client ~~child or youth~~ while in the community, such as ~~i.e.~~ physically or sexually aggressive ~~to~~behavior towards others and/or exposing themselves.

2. Services must be provided ~~Activities are conducted~~ in a setting within the community where the Client ~~child or youth~~ interacts with individuals without disabilities (other than the individual who~~that~~ is providing the service to the Client~~child or youth~~).

~~The child or youth will receive the service by the same individual during the service span in order to provide consistency.~~

3. The targeted behavior, measurable goal(s), and ~~work~~ plan to address must be clearly articulated in the Service Plan.

4. This s~~S~~ervice is limited to five (5) hours per week.

5. A r~~R~~equests to increase service hours can be made to the Department ~~of Health Care Policy and Financing~~ on a case-by-case basis.

L. Transition Support

1. Transition support ~~S~~services align~~s~~ strategies, interventions, and ~~S~~supports for the Client~~child or youth~~, and ~~F~~family, when a Client ~~child or youth~~ transitions to the ~~F~~family home from out-~~-~~of-~~-~~home placement.

2. Service~~s~~ include~~s~~:

   a. Identification of the unique strengths, abilities, preferences, desires, needs, expectations, and goals of the Client ~~child or youth~~ and ~~F~~family.

   b. Identification of transition needs including, but not limited to:

      i. Cause(s) of a C~~c~~risis and triggers that could lead to a Crisis.

      ii. Physical and behavioral health factors.

      iii. Education services.

      iv. Family dynamics.

      v. Schedules and routines.

      vi. Current or history of police involvement.

      vii. Current or history of medical and behavioral health hospitalizations.

      viii. Current services.

      ix. Adaptive equipment needs.

      x. Past interventions and outcomes.

      xi. Immediate need for resources.

      xii. Respite services.

      xiii. Predictive Risk Factors.

      xiv. Increased Risk Factors.

3. Development of a Wraparound Transition Plan is required, with action steps to implement strategies to address identified transition risk factors including, but not limited to:

   a. Identification of the unique strengths, abilities, preferences, desires, needs, expectations, and goals of the Client ~~child or youth~~and ~~F~~family.

   b. Environmental modifications.

   c. Strategies for transition risk factors.

   d. Strategies for avoiding Crisis triggers.

   e. Support needs in the ~~F~~family home.

f. Respite sServices.

g. Learning new adaptive or life skills.

h. Counseling/behavioral or other therapeutic interventions to further stabilize the Client Individual emotionally and behaviorally to decrease the frequency and duration of future behavioral Crises.

i. Medication management and stabilization.

j. Physical health.

k. Identification of training needs and connection to training for Ffamily members, nNatural Ssupports, and paid staff.

l. Identification of strategies to achieve and maintain Determination of criteria for stabilization in the Ffamily home.

m. Identification of how the Wraparound Pplan will terminate fade out once the child or youth has stabilized.

n. Coordination among Ffamilycaregivers, other family members, service providers, natural supports, professionals, and case managers required to implement the Wraparound Transition Plan.

o. Dissemination of a Wraparound Transition Plan to all involved in plan implementation.

4. In-Home Support

a. The tType, frequency, and duration of authorized services must be is included in the Wraparound Pplan.

b. In-home support services Support includes implementation of therapeutic and/or behavioral support plans, building life skills, providing guidance to the Client child or youthwith self-care, learning self-advocacy, and protective oversight.

c. Services may be provided in the Client's child's or youth's home or in community, as provided in determined by the Wraparound Transition Plan.

d. In-Home Support services are is provided after the Client's child or youth has transitioned to the family home from out--of--home placement.

5. Follow-up services are authorized and may include: Identification of follow-up services that may include:

a. Evaluation to ensure the Wraparound Transition Plan is effective in the Client child or youth achieving and maintaining stabilization in the Ffamily home.

b. Evaluation of the Wraparound Transition plan to occurs at a frequency determined by the Client's child's or youth's needs and includes but is not limited to, : visits to the Client's child or youth's home, review of documentation, and coordination with other professionals and/or members of the Wraparound Transition Support Team to determine progress.

c. Reviews of the Client's ~~child's or youth's~~ stability and monitoring of Predictive ~~and Increased~~ Risk Factors that could indicate a return to Crisis.

d. Revision of the Wraparound Plan as needed to avert a Crisis or Crisis escalation.

e. Ensuringe that follow-up appointments are made and kept.

6. The Wraparound Facilitator is responsible for the development and implementation of the Wraparound Plan and follow-up services. ~~-~~The Wraparound Plan is guided and supported by the Client ~~child or youth~~, their family, and their Wraparound Transition ~~Support~~ Team.

~~1.~~7. All service providers and supports on the Wraparound Transition ~~Support~~Team must adhere to the Wraparound Transition Plan. ~~to meet the needs of their specific focus for treatment.~~

8. Revision of strategies should ~~will~~ be a continuous process by the Wraparound Transition ~~Support~~ Team in collaboration with the Client~~child or youth~~, until stabilization is achieved ~~a support regime stabilizes~~ and there is no longer a need for Transition~~Intensive~~ Support Services.

~~-~~On-going evaluation after completion of the Wraparound Transition Plan may be provided based on individual needs to support the Client ~~child and youth~~and their family in connecting to any additional resources needed to prevent future Crisis or out of home placement.

~~- Payments for residential habilitation are not made for room and board, the cost of facility maintenance, upkeep, and improvement, other than such costs for modifications or adaptations to a facility required to assure the health and safety of residents, or to meet the requirements of the applicable life safety code.~~

~~2.~~9. ~~Only those services not available under Medicaid EPSDT, Medicaid SState Pplan benefits, Third Party Resources, third party liability coverage, or other public state funded programs, services or supports are available through the Children's Habilitation Residential Program (CHRP) Waiver. All available Appropriate community services must be exhausted before requesting similar services from the waiver. The CHRP Waiver does not reimburse services that are the responsibility of the Colorado Department of Education.~~

8.508.101 USE OF RESTRAINTS

A. The definitions contained at 12 CCR 2509-8: 7.14.1 (2018) are hereby incorporated by reference. The definition for "Client Representative" in 12 CCR 2509-8.~~:~~ 7.71~~-~~4.1 is specifically excluded. The incorporation of these regulations excludes later amendments to the regulations. Pursuant to C.R.S. § 24-4-103(12.5), the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at 1570 Grant Street, Denver, CO, 80203. Copies of incorporated materials are provided at cost upon request.

B. Service Providers shall comply with the requirements for the use of Restraints in 12 CCR 2509-8: 7.714.53 through 7.714.537 (2018)~~,~~ which are hereby incorporated by reference. The incorporation of these regulations excludes later amendments to the regulations. Pursuant to C.R.S. § 24-4-103(12.5), the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at 1570 Grant Street, Denver, CO, 80203. Copies of incorporated materials are provided at cost upon request.

Whenever possible, positive behavioral interventions such as a calming tool (e.g. blankets, brushes) are used to avoid restraints. Personal restraint is an age appropriate physical intervention by a staff member of a facility in an emergency situation to limit, restrict, or control the dangerous behavior of a child or youth by means of physically holding the child or youth. The physical holding of a child or youth is the only method of personal restraint allowed. The use of a mechanical restraint, including, but not limited to, the use of handcuffs, shackles, straight jackets, posey vests, ankle and wrist restraints, craig beds, vail beds, hospital cribs, and chest restraints is prohibited, except as otherwise allowed under Articles 25.5-10-221, C.R.S.

A personal restraint is to be used only during periods of crisis or emergency for the child or youth, when the child or youth is a danger to him/herself and/or others, the child is beyond control, and when all other means to control and de-escalate the crisis or emergency has failed. The restraint shall not impede or inhibit the child or youth's ability to breathe in any manner, including placing excess pressure on the chest or back area. The restraint shall last only as long as is necessary to calm the child or youth, and for the child or youth to be able to follow adult direction, and to not be a threat to self or others. If a service agency chooses to use physical restraints with waiver participants, the service agency shall restrain children or youth only in accordance with the rules for personal restraint. Personal restraint must never be used as a punitive form of discipline, as a form of treatment or therapy, or as a threat to control or gain compliance of a child or youth's behavior. A child or youth must be released from a personal restraint within fifteen minutes after the initiation of the restraint, except when precluded for safety reasons.Upon admission the agency, the parent(s), or guardian(s), or agency holding legal custody shall be notified and must give written consent for the child or youth to be restrained in conjunction with facility policy. No child or youth shall be restrained without specific written consent.

- Each service agency choosing to use personal restraint to control a child or youth whose behavior is a danger to him/herself or others must have a written personal policy that is adopted and implemented by the service agency. At a minimum, the policy must include:
  - A nationally recognized, research-based type of de-escalation and personal restraint.
  - The staff members that are approved by the service agency to use personal restraint.
  - The type of training/certification that the approved staff members are required to have prior to restraining any child or youth.
  - The type and number of hours of ongoing training each staff member will be required to take.
  - What preventive/de-escalation techniques and positive behavioral intervention must be used by staff prior to any personal restraint.
  - How the facility observes and evaluates the use of personal restraint on a child or youth at the facility.
  - The type of written documentation the service agency maintains of each personal restraint that describes the details of the incident, the staff involvement, and the debriefing with the child or youth and staff following the restraint.
  - Evaluation of each personal restraint to determine appropriateness and effectiveness of preventive/de-escalation techniques used and effectiveness and appropriateness of the restraint itself.

- The requirement that staff not restrain children or youth in areas of the facility or environment that may pose a threat to the health and safety of the child including, but not limited to, soft, pliable surfaces, concrete, asphalt, or areas including broken glass.

- Notification of the parent(s) or guardian(s) and child or youth in advance of the service agency's restraint policy and methodology.

- How the service agency monitors the physical well-being of the child or youth during and after the restraint, including but not limited to breathing, pulse, color, and signs of choking or respiratory distress.

- Emergency procedure, including first aid, that will be used if a child or youth or staff member is seriously injured during a restraint.

- The requirement of staff to report to the county department of social services or local law enforcement any injury, bruising, or death that occurs as a result of the restraint pursuant to Colorado State law.

- The internal review process of the service agency to assess carefully any injuries, bruising, or death.

- All staff and foster care home providers that will be involved in personal restraint must complete a de-escalation/restraint training program that includes a competency test as a part of the training program in compliance with the nationally recognized, research-based type of restraint being used. Successful completion of the competency test is mandatory prior to any staff member being involved in a personal restraint. A supervisor of the facility must perform a periodic observation of each staff member performing a restraint. The supervisor will determine if the staff has completed the restraint in an appropriate manner. If the staff has not correctly performed the restraint they must either be immediately re-trained or restricted from performing any future restraints until training occurs. At least every six (6) months, each staff member involved in personal restraints must receive regular training to review and refresh their skills in positive behavior intervention, de-escalation, and personal restraint.

- Each restraint incident shall be recorded and shall include the name of the child or youth, date and time of day, staff members involved, their position at the service agency, and their involvement in the restraint, and how long the restraint lasted. The record shall also include the precipitating incident(s) and the child or youth's behavior prior to the restraint, the specific actions that were taken to de-escalate the situation and what effect the de-escalation techniques had upon the child. A description of the restraint shall include the child or youth's physical, emotional and behavioral condition before, during, and after the restraint. A description of the de-briefing and evaluation with the child or youth and staff will be a part of the record.

C. All records of restraints shall be reviewed by a supervisor of the Ssservice Provider Agency within 24 hours of the incident. If it appears that the Client child or youth has beenis being restrained excessively, frequently in a short period of time, or frequently by the same staff member, the entire Client's child's or youth's individualService pPlan must be reviewed. according to policy and procedures. De-escalation techniques will be reviewed for effectiveness if it appears that any one technique is causing an escalation in the behavior of a child or youth or a group of children or youth. Any de-escalation techniques which are found to be ineffective or counter-productive will be terminated at the earliest opportunity.

- Twenty-four24- hour child care facilities, foster care homes, and child placement agencies must also ensure compliance with the Colorado Department Human Services rules regarding the use of restraints in at 12 CCR 2509-8: 7.714.5. 10 CCR 2509-8.

8.508.102 RIGHTS MODIFICATIONS

A. ~~The Department of Health Care Policy and Financing does not permit the use of c~~Cruel and aversive therapy, or cruel and unusual discipline is prohibited.

B. Service Providers shall comply with the requirements for Client Rights in 12 CCR 2509-8: 7.714.52 (2018) which are hereby incorporated by reference. The incorporation of these regulations excludes later amendments to the regulations. Pursuant to C.R.S. § 24-4-103(12.5), the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at 1570 Grant Street, Denver, CO, 80203. Copies of incorporated materials are provided at cost upon request.

~~Service providers, including licensed 24-hour child care facilities, foster care homes, child placement agencies must refrain from engaging in all cruel and aversive treatment or therapy including, but not limited to, the use of mechanical restraints, physical restraints (except as described in Section 8.508.101) and locked seclusion, including but not limited to, the following:~~

~~Any intervention designed to or likely to cause physical pain.~~

~~Releasing noxious, or toxic, sprays, mists, or substances in proximity to the child or youth's face.~~

~~Any intervention that denies the child or youth's sleep, food, water, shelter, access to bathroom facilities, adequate bedding, or appropriate physical comfort.~~

~~Any intervention or type of treatment that subjects a child or youth to verbal abuse, ridicule, humiliation or that can be expected to cause excessive emotional trauma.~~

~~Interventions that use a device, material, or object that is designed to simultaneously immobilize all four of the child or youth's extremities.~~

~~Any treatment intervention that deprives a child or youth of the use of his/her senses, including sight, hearing, touch, taste, or smell.~~

~~Use of rebirthing therapy or any therapy technique that may be considered similar to rebirthing therapy as a therapeutic treatment, as defined by Section 12-43-222(1)(t)(IV), C.R.S.~~

C. Rights modifications are based on the specific assessed needs of the child or youth, not the convenience of the provider.

D. Rights modifications may only be imposed if the ~~child or youth~~ Client poses a danger to self ~~themselves~~, Family, and/or the community.

E. The case manager is responsible for ~~to~~ obtaining ~~i~~Informed C~~c~~onsent and other documentation supporting any ~~relation to~~ rights modifications/limitations and must maintain these materials in their file as a part of the Service Plan~~person-centered planning process~~.

F. Any rights modification must be supported by a specific assessed need and justified in the ~~person-centered s~~Service P~~p~~lan. ~~-~~The following ~~requirements~~ must be documented in the ~~person-centered s~~Service ~~p~~Plan:

1. Identification of ~~y~~ a specific and individualized need.

2. Documentation of ~~-~~the positive interventions and supports used prior to any modifications ~~to the person-centered s~~Service P~~p~~lan.

3. Documentation of ~~-~~less intrusive methods of meeting the Client's needs that have been tried, and the outcome.~~ but did not work.~~

4. ~~Include a clear~~ A description of the rights modification to be used ~~condition~~ that is directly proportionate to respond to the specific assessed need.

5. The ~~Include regular~~ collection and review of data used to measure the ongoing effectiveness of the modification.

6. ~~Include e~~Established time limits for periodic reviews, no less than every six (6) months, to determine if the modification is still necessary or if it can be terminated.

7. T~~Include t~~he I~~i~~nformed C~~c~~onsent of the I~~i~~ndividual.

8. ~~Include a~~An assurance that interventions and S~~s~~upport will cause no harm to the I~~i~~ndividual.

Specialized Group Facilities~~24-hour child care facilities~~, F~~f~~oster C~~c~~are H~~h~~omes, Residential Child Care Facilities, Licensed Child Care Facilities (less than 24 hours), and C~~c~~hild P~~p~~lacement A~~a~~gencies must also ensure compliance with the Colorado Department Human Services rules regarding the use of restrictive interventions at 10 CCR 2509-8.

G. ~~Discipline in Foster Care Homes and 24-hour Child Care Facilities:~~

~~The amily foster care home, certifying authority, or 24-hour child care facility shall have written policies and procedures regarding discipline that must be explained to all children/ youth, parent(s), guardian(s), staff, and placing agencies. These policies must include positive responses to a child's appropriate behavior.~~

~~Discipline shall be constructive or educational in nature and may include talking with the child or youth.~~

~~Basic rights shall not be denied as a disciplinary measure.~~

~~Separation when used as discipline must be brief and appropriate to the child or youth's age and circumstances. The child or youth shall always be within hearing of an adult in a safe, clean, well-lighted, well-ventilated room in the family foster care home that contains at least 50 square feet of floor space. No child or youth shall be isolated in a bathroom, closet or pantry.~~

~~Children or youth in care at the family foster care home or facility shall not discipline other children or youth.~~

~~A family foster care home or facility shall prohibit all cruel and unusual discipline including, but not limited to, the following:~~

~~Any type of physical hitting or any type of physical punishment inflicted in any manner upon the body of the child or youth, such as spanking, striking, swatting, punching, shaking, biting, hair pulling, roughly handling a foster child, striking with an inanimate object, or any humiliating or frightening method of discipline to control the actions of any child or youth or group of children or youth.~~

~~Discipline that is designed to, or likely to, cause physical pain.~~

- ~~Physical exercises such as running laps, push-ups, or carrying heavy rocks, bricks, or lumber when used solely as a means of punishment.~~

- ~~Assignment of physically strenuous or harsh work that could result in harm to the foster child.~~

- ~~Requiring or forcing a child or youth to take an uncomfortable position such as squatting or bending, or requiring a foster child to stay in a positron for an extended length of time such as standing with nose to the wall, holding hands over head, or sitting in a cross-legged position on the floor, or requiring or forcing a foster child to repeat physical movements when used solely as a means of punishment.~~

- ~~Verbal abuse or derogatory remarks about the child or youth his/her family, his/her race, religion, or cultural background.~~

- ~~Denial of any essential/basic program service solely for disciplinary purposes.~~

- ~~Deprivation of meals or snacks, although scheduled meals or snacks may be provided individually.~~

- ~~Denial of visiting or communication privileges with family, clergy, attorney, or caseworker solely as a means of punishment.~~

- ~~Releasing noxious, toxic, or otherwise unpleasant sprays, mists, or aerosol substances in proximity to the child or youth's face.~~

- ~~Denial of sleep.~~

- ~~Requiring the child or youth to remain silent for a period of time inconsistent with the child or youth's age, developmental level, or medical condition.~~

- ~~Denial of shelter, clothing or bedding.~~

- ~~Withholding of emotional response or stimulation.~~

- ~~Discipline associated with toileting, toileting accidents or lapses in toilet training.~~

- ~~Sending a child or youth to bed as punishment. This does not prohibit a family foster care home or facility from setting individual bed times for children or youth.~~

- ~~Force feeding a child or youth.~~

~~a. Physical management, restraint and seclusion.~~

8.508.103 MEDICATION ADMINISTRATION

A. If medications are administered during the course of HCBS-CHRP service delivery by the waiver service provider, the following shall apply:

1. Medications must by prescribed by a L~~l~~icensed M~~m~~edical ~~p~~Professional. Prescriptions and/or orders must be kept in the C~~c~~lient's record.

2. HCBS-CHRP waiver service providers must complete on-site monitoring of the administration of medications to waiver participants including inspecting medications for

labeling, safe storage, completing pill counts, ~~and~~ reviewing and reconciling the medication administration records, and interviews with staff and participants.

3. Specialized Group Facilities, Residential Child Care Facilities, ~~Twenty-four hour child care facilities~~, Foster Care Homes, Licensed Child Care Facilities (less than 24 hours) and C~~c~~hild P~~p~~lacement A~~a~~gencies must ~~also~~ ensure compliance with the Colorado Department of Human Services ~~DHS~~ rules regarding monitoring of medication administration practices in at 10 CCR 2509-8.714.81.

4. Persons administering medications shall complete a course in medication administration through an a~~A~~pproved t~~T~~raining e~~E~~ntity approved by the Colorado Department of Public Health and Environment.

8.508.110 MAINTENANCE OF CASE RECORDS

~~A. Copies of the ULTC 100.2 shall be maintained by the County Department of Social/Human Services and the CDHS Division of Child Welfare Services. In addition, the County Department of Social/Human Services shall maintain a copy of the Individualized Plan and Level of Need Checklist for the Children's Habilitation Residential Program. A copy of the ULTC 100.2 verification form shall be maintained by the provider.~~

~~B. Copies of evaluations and re-evaluations shall be maintained for a minimum period of three years by those cited in 8.508.110, A, with the exception of providers who are required to maintain records for a period of six years from the date services are rendered.~~

~~C. Confidentiality of records shall be maintained in accordance with Section 8.100.8 of this manual, as well as with CDHS Social Services Staff Manual, Section 7.000.72 (12 CCR 2509-1).~~

~~D. Documentation of case activity shall also meet requirements of CDHS, Division of Child Welfare Services as outlined in the CDHS Social Services Staff Manual, Section 7.000.72 (12 CCR 2509-1).~~

CMAs ~~ase management agencies~~ shall maintain all documents, records, communications, notes and other materials ~~maintained by case management agencies that relate to~~for all ~~any~~ work performed related to HCBS-CH~~HC~~RP. CMAs ~~Case management agencies~~ shall maintain records for six (6) years after the date a C~~c~~lient discharges from a waiver program.

~~A. 8.508.120 REDETERMINATION OF ELIGIBILITY~~

~~**Redetermination of eligibility for CHRP services shall be made as follows:**~~

~~**A. At least annually and one (1) month prior to the expiration of the ULTC 100.2 form, the County Department of Social/Human Services CHRP waiver administrator shall ensure that a new ULTC 100.2 form is submitted to the CDHS CHRP waiver administrator for verification if there is no significant change in the child's condition.**~~

~~**B.**~~**A.** ~~**B. At least annually, the County Department of Social/Human Services shall verify the child's continued Medicaid eligibility.**~~

8.508.121 REASSESSMENT AND REDETERMINATION OF ELIGIBILITY

A. The CMA ~~Case Management Agency (CMA)~~ shall conduct a Level of Care Evaluation and Determination to redetermine or confirm a Client's ~~child's or youth's~~ eligibility ~~ly~~ for the HCBS-CHRP waiver, ~~must be conducted~~ at a minimum, every twelve (12) months.

B. The CMA shall conduct ~~A~~ a r~~eassessment~~ Comprehensive Assessment ~~of needs~~ to redetermine or confirm a Client's ~~child's or youth's eligibility~~ ~~months~~ ~~for the HCBS-CHRP~~ individual needs, ~~Program waiver must be conducted,~~ at a minimum, every twelve (12) months. ~~and the following shall be renewed/revised and submitted to the county department CHRP waiver administrator no later than one (1) month prior to the expiration of the previous/current ULTC 100.2 verification form:~~

~~A.~~C. The CMA shall verify that the child or youth~~'s~~ remains ~~continued~~ Medicaid Eligible ~~ility~~ at a minimum, every twelve (12) months.

~~A. Individualized Plan~~

~~B. Copy of the Level of Need worksheet~~

~~C. Copy of the ULTC 100.2~~

~~D. The county department CHRP waiver administrator shall submit a copy of the Individualized Plan to the CDHS CHRP waiver administrator.~~

~~**8.508.130 TRANSFER PROCEDURES BETWEEN COUNTY DEPARTMENTS OF SOCIAL SERVICES**~~

~~Transfer of cases shall occur in accordance with CDHS Social Services Staff Manual, Section 7.000.6, D (12 CCR 2509-1).~~

8.508.140 DISCONTINUATION FROM THE HCBS- CHRP WAIVER

A. A Client ~~child or youth~~ shall be discontinued from the HCBS-CHRP ~~Program~~ waiver when one of the following occurs:

1. The Client ~~child or youth~~ no longer meets ~~one of~~ the criteria set forth in ~~as outlined in S~~section 8.508.4~~3~~0 ~~of these rules~~;

2. The costs of services and supports provided in the community exceed the C~~e~~ost E~~e~~ffectiveness exceeds ICF-IID costs; ~~criteria of the program;~~

3. The Client ~~child or youth~~ enrolls in another HCBS waiver program or is admitted for a long-term stay beyond 30 consecutive days in an I~~i~~nstitution ~~(e.g., hospital)~~; or

4. The Client ~~child or youth~~ reaches his/her 21st birthday. ~~or transitions into DDS Adult Residential Services~~.

5. The Client ~~child or youth~~ does not receive a waiver service~~s~~ during a full one-month period. ~~in a month.~~

~~B. The County Department of Social/Human Services shall inform the child's parent(s) or guardian in writing on a form provided by the State of discontinuation from the CHRP Program, at least ten (10) calendar days before the effective date of discontinuation. The child's parent or guardian shall also be informed of his/her appeal rights as contained in the Home and Community Based Services - Client's Rights section of this Staff Manual. The reason and regulation supporting the discontinuation shall be clearly identified on this notice.~~

~~C. Whenever a child is discontinued from the CHRP, the County Department of Social/Human Services shall notify all providers listed on the IP within ten (10) calendar days prior to the~~

effective date of discontinuation; and shall notify the CDHS Division of Child Welfare Services within ten (10) calendar days, on a State designed form.

D. The reason for discontinuation shall be documented in the child's case record.

8.508.150 MONITORING AND COORDINATION

A. County Departments of Social/Human Services shall document whether and how the services provided are meeting the child's needs, as defined in the IP. Documentation requirements shall be the same as those outlined in CDHS Social Services Staff Manual, Section 7.002.1 (12 CCR 2509-1), related to case planning.

B. County Departments of Social/Human Services shall be responsible to coordinate information with the parent(s) or guardian, primary physician, service providers, community centered boards, Social Security Administration and others as necessary to ensure the effective delivery of services to the child.

8.508.160 SERVICE PROVIDERS

A. Children's Habilitation Residential Program services shall be provided by the following residential provider types which Service providers for hHabilitation sServices and sServices provided outside the Ffamily home shall meet all of the certification, licensing and qQuality aAssurance regulations related to their provider type, as provided in the Colorado Department of Human Services(CDHS) Social Services Staff Manual, Section 7.701 (12 CCR 2509-8):

B. Family Foster Care Homes, as defined by the waiver, and certified and supervised by County Departments of Social Services or Child Placement Agencies (CPAs).

2. Residential Child Care Facilities licensed through the CDHS Division of Child Care.

3. Specialized group facilities licensed by the Division of Child Care and supervised by County Departments of Social/Human Services or Child Placement Agencies.

C.A. Children's Habilitation Residential Program Service Providers may also include Providers as defined in Section 8.500.5 of this Staff Manual. Home and Community Based Services for the Developmentally Disabled (HCBS- DD) programs will be provided by agencies that meet the following criteria Respite Service providers that provide Service providers for Respite provided in the family home, sSupported cCommunity cConnection, Mmovement tTherapy, mMassage tTherapy, hHippotherapy, iIntensive sSupport, and Ttransition sSupport in the family home must:

1. Have received and/or maintained program approval from the Colorado Department of Human Services, Division for Developmental Disabilities Services for the provision of HCBS-DD waiver services; and Meet the required qualifications as defined in the federally approved HCBS-CHRP waiver.

2. Have a Maintain and abide by all the terms of their Medicaid Provider Agreement and ; and with all applicable regulations set forth in 10 CCR 2505-10 Ssection 8.130.

3. Have agreed to Ccomply with all the provisions of this section 8.508 *et seq*. Title 27, Article 10.5, C.R.S. and all the rules and regulations promulgated thereunder; and

4. Have and maintain any required state licensure. , if applicable, the current required license from the Colorado Department of Public Health and Environment.

C. Service providers shall cooperate in all of the areas identified in Section 8.500.52.

~~D. All eligible providers shall have a Medicaid Provider Agreement.~~

B. ~~Provider agencies~~ Service providers shall maintain liability insurance in at least such minimum amounts as set annually by the Department ~~of Health Care Policy and Financing, and shall have written policies and procedures regarding emergency procedures~~.~~Service providers shall not be family members as defined in §27-10.5-102(15), C.R.S. Section 8.508.170 for the children they serve in the waiv~~

~~D.~~C. A Family member may not be a S~~s~~ervice P~~p~~rovider for another Family member. When a qualified provider contracts with or utilizes the services of a P~~p~~rofessional, individual, or vendor to augment a Client's~~child's~~ services under the waiver the definitions and qualifications contained in Section 8.508 *et seq.* . a~~170 a~~pply.

D. ~~Provider agencies~~Service P~~p~~roviders shall not discontinue or refuse services to a C~~c~~lient unless documented efforts have been made to resolve the situation that triggers such discontinuation or refusal to provide services.

E. Service P~~p~~roviders must h~~H~~ave written policies that address the following~~on~~:

1. A~~Governing a~~ccess to duplication and dissemination of information from the child's or youth's records in compliance with all applicable state and federal privacy laws~~accordance with state statues on confidentiality of information at 25.5-1-116, C.R.S., as amended;~~.

2. How to r~~R~~esponse to ~~cases of~~ alleged or suspected abuse, mistreatment, neglect, or exploitation. ~~-~~The policy must require immediate reporting when observed by employees and contractors to the agency administrator or designee and include mandatory reporting requirements pursuant to sections 19-3-304, C.R.S. and ~~18~~-18-6.5-108, C.R.S.

3. The use of restraints, the rights of Client's~~children or youth~~, and rights modifications pursuant to s~~S~~ections 8.508.101 and 8.508.102.

4. Medication administration pursuant to Section 8.508.103.

5. ~~Orientation and t~~Training ~~of sufficient scope for~~ employees and contractors to enable them to carry out their duties and responsibilities efficiently, effectively and competently. The p~~P~~olicy must include ~~that~~ staffing ratios that ~~-~~are sufficient to meet the individualized support needs of each Client ~~child or youth~~ receiving services.

6. Emergency procedures including response to ~~:~~ fire, evacuation, severe weather, natural disasters, relocation, and staffing shortages.

F. Service P~~p~~rovides must m~~M~~aintain records to substantiate claims for reimbursement in accordance with Department regulations and guidance.~~according to Medicaid standards.~~

G. Service P~~p~~roviders must c~~C~~omply with all federal and ~~or~~ state program reviews and~~or~~ financial audits of HCBS-CHRP waiver services.

H. Service P~~p~~roviders must c~~C~~omply with requests by the Department ~~of Health Care Policy and Financing~~ to collect, review, and maintain individual or agency information on the HCBS-CHRP waiver.

I. Service P~~p~~roviders must c~~C~~omply with requests by the CMA~~Case Management Agency~~ to monitor service delivery through Targeted Case Management.

8.508.165 TERMINATION OR DENIAL OF HCBS-CHRP MEDICAID PROVIDER AGREEMENTS

A. The Department may deny or terminate an HCBS-CHRP waiver Medicaid provider agreement in accordance with sSection 8.0756.5.

~~8.508.170 DEFINITIONS~~

~~Habilitative services are defined as those services which are recommended by a licensed practitioner, as defined in §26-4-527(3), C.R.S. to assist clients with developmental disabilities eligible under the State Plan to achieve their best possible functional level. All clients of Residential habilitation services and supports will receive some type of habilitation services in order to acquire, retain, or improve self- help, socialization, or other skills needed to reside in the community. Some clients may receive a combination of habilitative services (skill building) and support services (a task performed for the client, where learning is secondary or incidental to the task itself).~~

~~A. Assessment: The process of collecting and evaluating information for the purpose of developing an individual child plan on which to base services and referral. The assessment process is both initial and ongoing.~~

~~B. Case Management: Activities that are intended to ensure that clients receive the services they need, that services are coordinated, and that services are appropriate to the changing needs and stated desires of the clients and families over time. The goals of case management are: 1) to bring about positive changes in client's status; 2) to assist clients hi reaching their highest potential; and 3) to achieve the best possible quality of life for clients and their families in the community. Goals are developed to the extent possible among case managers, referral sources, families and clients.~~

~~C. Client: A child or youth who is receiving habilitative services in the Children's Habilitation Residential Program.~~

~~D. County Caseworker: A designated representative from the local County Department of Social/Human Services.~~

~~E. Developmental Disability: A disability that is manifested before the child reaches twenty-two years of age, which constitutes a substantial disability to the affected individual, and is attributable to mental retardation or related conditions which include cerebral palsy, epilepsy, autism, or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation. It includes children less than five years of age with slow or impaired development at risk of having a developmental disability.~~

~~F. Family: Defined in 27-10.5-102, C.R.S.~~

~~G. Family Foster Care Home: A family care home providing 24-hour care for a child or children. It is a facility certified by either a County Department of Social/Human Services or a child placement agency. A family foster care home, for the purposes of this waiver, shall not be a family member as defined in 27-10.5-102(15), C.R.S.~~

~~Qualifications: A qualified family foster home shall adhere to the service provision requirements of this waiver, as well as those specified and contained in CDHS Social Services Staff Manual (12 CCR 2509-6, 7.500 Resource Development).~~

~~H. Individual: Any person, such as a co-worker, neighbor, etc., who does not meet definition of a family member as described in 27-10.5-102(15). C.R.S.~~

Qualifications: Any individual providing a service or support must receive training commensurate with the service or support to be provided and must meet any applicable state licensing and/or certification requirements.

I. Level of Need Worksheet: A format to assess the child's level of need for services.

J. Professional: Any person, except a family member as described in 27-10.5-102(15), C.R.S. performing an occupation that is regulated by the State of Colorado and requires state licensure and/or certification.

Qualifications: Any person performing a professional service must possess any and all license(s) and/or certifications(s) required by the State of Colorado for the performance of that profession or professional service.

K. Programming: A plan that provides intensive, comprehensive, longitudinal instruction to help the child achieve his or her best possible functioning level.

L. Vendor: The supplier of a product or services to be purchased for a recipient of services under this waiver.

8.508.180 CLIENTHILDREN'S RIGHTS

Clients rights are defined in this section to provide the fullest possible measure of privacy, dignity and other rights to persons undergoing care and treatment in the least restrictive environment.

A. Service Providers shall comply with the requirements for Client's Rights in 12 CCR 2509-8: 7.714.31 (2018) which is arehereby incorporated by reference. The incorporation of these regulations excludes later amendments to the regulations. Pursuant to C.R.S. § 24-4-103(12.5), the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at 1570 Grant Street, Denver, CO, 80203. Copies of incorporated materials are provided at cost upon request.Advisement of Children's Rights: Each authorized facility shall have written policy and procedures which address and ensure the availability of each of the following rights for clients in residence.

B. All children and their guardians receiving services through the CHRP shall be advised in writing of the following rights on admission.

1. A written copy of his or her rights shall be furnished;

2. A list of such rights shall be posted prominently in the facility and translated into Spanish or any other appropriate language as needed.

3. A child may be photographed upon admission for identification and administrative purposes of the facility. No other non-medical photographs shall be taken or used without the written consent of the client's parent or legal guardian.

A.B. 4. Every Cclient has the right to the same consideration and treatment as anyone else regardless of race, color, national origin, religion, age, sex, gender identity, political affiliation, sexual orientation, financial status or disability.

5. Every child's guardian has the right to request to see the child's medical records, to see the records at reasonable times, and to be given written reasons if the request is denied.

B.C. Every Client has the right to access age appropriate forms of communication including text, email, and social media.

D. No Client ~~person receiving services~~, his/her F~~f~~amily members, G~~g~~uardian or ~~authorized representatives,~~Client Representative may be retaliated against in their receipt of services or supports ~~or otherwise~~ as a result of attempts to advocate on their own behalf.

~~C.~~E. Each Client ~~child or youth~~ receiving services has the right to read or have explained in each Client's ~~child's or youth's~~ and F~~f~~amily's native language, any policies and/or procedures ~~rules~~ adopted by the S~~s~~ervice A~~a~~gency~~and pertaining to the activities of the child or youth~~.

8.508.190 APPEALS

~~An individual who has applied for or is receiving CHRP services has a right to the appeal process established in Section 8.058 of this Manual. When an individual disagrees with a Community Centered Board (CCB) determination of developmental disability services, the dispute resolution process in the Colorado Department of Human Services, Developmental Disabilities Services rules and regulations shall apply. Section 16.320 (2 CCR 503-1).~~

A. The ~~Community Centered Board (~~CCB~~)~~ shall provide a ~~the~~ Long-~~-~~Term Care notice of action form (LTC 803) to A~~a~~pplicants and C~~c~~lients and their parent(s) or ~~legal g~~Guardian ~~within ten (10) business days regarding the applicant's appeal rights in accordance with~~in accordance with S~~s~~ection 8.057 ~~et seq.~~ when:

1. The A~~a~~pplicant is determined not to have a developmental delay or developmental disability,

2. The A~~a~~pplicant is determined eligible or ineligible for Long-~~-~~Term Services and Supports (LTSS),

3. The A~~a~~pplicant is determined eligible or ineligible for placement on a waiting list for LTSS services,

4. An A~~a~~dverse A~~a~~ction occurs that affects the C~~c~~lient's waiver enrollment status~~,~~.

~~The applicant or client requests such information.~~

B. The CCB shall appear and defend its ~~their~~ decision at the Office of Administrative Courts. ~~as described in Section 8.057 et seq. when the CCB has made a denial or adverse action against a client.~~

C. The CCB shall notify the Case Management Agency in the Client's Service Plan within one (1) business day of the Adverse Action.

D. The CCB shall notify the County Department of Human/Social Services income maintenance technician within ten (10) business days of an A~~a~~dverse A~~a~~ction that affects Medicaid financial eligibility.

E. The CCB shall notify the a~~A~~pplicant's parent or ~~legal g~~Guardian ~~shall be informed~~ of an A~~a~~dverse A~~a~~ction if the a~~A~~pplicant or Client is determined ineligible for any reason including if:~~as set forth in client eligibility and the following:~~

1. The C~~c~~lient is detained or resides in a correctional facility for at least one day, and

2. The C~~c~~lient enters an institute for mental health for a duration ~~with a duration that continues for more~~ greater than thirty (30) days.

F. The ~~Case Management Agency (~~CMA~~)~~ shall provide the L~~l~~ong-T~~t~~erm C~~c~~are notice of action form to C~~c~~lients ~~within eleven business days regarding their appeal rights~~ in accordance with s~~S~~ection 8.507~~ et seq.~~ when:

1. An A~~a~~dverse A~~a~~ction occurs that affects the ~~provision of the c~~Client's waiver services, or

~~The applicant or client requests such information.~~

G. The CMA shall notify all providers in the C~~c~~lient's S~~s~~ervice P~~p~~lan within one (1) business day~~s~~ of the A~~a~~dverse A~~a~~ction.

1. The CMA shall notify the county Department of Human/Social Services income maintenance technician within ten (10) business days of an A~~a~~dverse A~~a~~ction that may affect financial eligibility for HCBS waiver services.

H. The applicant or C~~c~~lient shall be informed of an A~~a~~dverse A~~a~~ction if the applicant or client is determined to be ineligible as set forth in the waiver- specific C~~c~~lient eligibility criteria and the following:

1. The C~~c~~lient cannot be served safely within the C~~c~~ost C~~c~~ontainment ~~as~~ identified in the HCBS waiver,

2. The C~~c~~lient is placed in an I~~i~~nstitution for treatment for more than thirty (30) consecutive days,

3. The C~~c~~lient is detained or resides in a correctional facility for at least one day, or

4. The C~~c~~lient enters an institute for mental health for more than thirty (30) consecutive days.

I. The C~~c~~lient shall be notified, pursuant to ~~10 CCR 2505-10, s~~S~~s~~ection 8.057.2.~~A,~~ when the following results in an A~~a~~dverse A~~a~~ction that does not relate to waiver client eligibility requirements:

1. A waiver service is reduced, terminated or denied because it is not a demonstrated need in the Level of Care Evaluation and Determination~~needs assessment.~~,

~~1.~~2. A Service Plan or waiver service exceeds the limits set forth in the federally approved waiver.

3. The C~~c~~lient is being terminated from HCBS due to a failure to attend a Level of Care assessment appointment after three (3) attempts to schedule by the case manager within a thirty (30) day consecutive period.

4. ~~SP.~~The Client is being terminated from HCBS due to a failure to attend a Service Plan appointment after three (3) attempts to schedule by the case manager within a thirty (30) day consecutive period.

5. The ~~c~~Client enrolls in a different LTSS program.~~, or~~

6. The C~~c~~lient moves out of state. The C~~c~~lient shall be discontinued effective the day after the date of the move.

a. A C~~c~~lient who leaves the state on a temporary basis, with intent to return to Colorado, pursuant to ~~10 CCR 2505-10~~Section 8.100.3.B.4, shall not be

terminated unless one or more of the ~~other c~~Client eligibility criteria are no longer met.

J. If a C~~The c~~lient voluntarily withdraws from the waiver, the termination shall be ~~. The client shall be terminated from the waiver e~~ffective ~~upon~~ the day after the date the ~~on which the cClient's~~ the request was made by the Client ~~is documented.~~

1. The case manager shall review with the Client their decision to voluntarily withdraw from the waiver. The Case Manager shall not send a notice of action, upon confirmation of withdraw.

K. The CMA~~case management agency~~ shall not send a ~~the~~ Long-Term Care ~~TC~~ notice of action form when the basis for termination is death of the C~~c~~lient, but shall document the event in the C~~c~~lient record. The date of action shall be the day after the date of death.

~~A.~~L. The ~~case management agency~~CMA shall appear and defend its ~~their~~ decision at the Office of Administrative Courts when the CMA~~case management agency~~ has issued an Adverse Action. ~~made a denial or adverse action against a client.~~

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Adult Dental Annual Limit Increase, Section 8.201
Rule Number: MSB 19-05-29-A
Division / Contact / Phone: Benefits and Services Division / Russ Zigler / 303-866-5927

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board

2. Title of Rule: MSB 19-05-29-A, Revision to the Medical Assistance Rule concerning Adult Dental Annual Limit Increase, Section 8.201

3. This action is an adoption of: an amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

   Sections(s) 8.201.6, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)? No
   If yes, state effective date:
   Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.201.6 with the proposed text beginning at 8.201.6 through the end of 8.201.6. This rule is effective October 30, 2019.

*to be completed by MSB Board Coordinator

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Title of Rule: Revision to the Medical Assistance Rule concerning Adult Dental Annual Limit Increase, Section 8.201
Rule Number: MSB 19-05-29-A
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STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The 2019 Long Bill (SB19-207) passed by the Colorado General Assembly increases the Colorado Medicaid annual adult dental limit from $1,000 to $1,500, effective July 1, 2019. This rule increases the adult dental annual limit from $1,000 to $1,500.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or
   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   42 USC 1396d(a)(10) (2019)

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2018);
   25.5-5-202(1)(w) (2018)

Initial Review — Final Adoption **09/13/19**
Proposed Effective Date **10/30/19** — Emergency Adoption

DOCUMENT #04

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Rule Number: MSB 19-05-29-A
Division / Contact / Phone: Benefits and Services Division / Russ Zigler / 303-866-5927

REGULATORY ANALYSIS

1. Describe 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.

   Colorado Medicaid adult clients will be affected by the proposed rule and will benefit from the increase dental annual limit.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

   Colorado Medicaid adult clients have an additional $500 of dental services available to them.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   The Department will incur additional costs due to the increase in the cap from $1000 to $1500. The Department estimates that there will be an increase in expenditure of $11.1 million total funds, including $2.9 million cash funds and $8.2 million federal funds, due to clients being able to receive more services than they are currently able to access. That amount was appropriated to the Department to implement the policy change through SB 19-207 (the Long Bill). The Department does not anticipate costs to any other agency due to the implementation of the rule, nor an effect on state revenues.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   The cost of the proposed rule is increased impact on state expenditures resulting from increased Colorado Medicaid adult dental services utilization. The benefit of the proposed rule is additional adult dental services available to Colorado Medicaid clients. The cost of inaction is the rule conflicting with the 2019 Long Bill. There are no benefits to inaction.

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

There are no less costly methods or less intrusive methods for aligning the rule with the 2019 Long Bill.

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

   There are no alternative methods for aligning the rule with the 2019 Long Bill.

8.201 ADULT DENTAL SERVICES

8.201.6 ANNUAL LIMITS

1. Beginning July 1, 2019, ~~D~~dental services for Adult Clients age 21 years and older shall be limited to a total of ~~$1,000~~$1,500 per Medicaid Adult Client per state fiscal year. An Adult Client may make personal expenditures for any dental services that exceed the ~~$1,000~~$1,500 annual limit.

2. The complete and partial dentures benefit shall be subject to prior authorization and shall not be subject to the ~~$1,000~~$1,500 annual maximum for dental services for Adult Clients age 21 years and older. Although the complete and partial dentures benefit is not subject to the ~~$1,000~~$1,500 annual maximum for the adult dental services, it shall be subject to a set Medicaid allowable rate.