



# COLORADO

Department of Health Care  
Policy & Financing

Medical Services Board

## NOTICE OF PROPOSED RULES

The Medical Services Board of the Colorado Department of Health Care Policy and Financing will hold a public meeting on Friday, April 10, 2020, beginning at 9:00 a.m., in the eleventh floor conference room at 303 East 17th Avenue, Denver, CO 80203. Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Board Coordinator at 303-866-4416 or [chris.sykes@state.co.us](mailto:chris.sykes@state.co.us) or the 504/ADA Coordinator [hcpf504ada@state.co.us](mailto:hcpf504ada@state.co.us) at least one week prior to the meeting.

A copy of the full text of these proposed rule changes is available for review from the Medical Services Board Office, 1570 Grant Street, Denver, Colorado 80203, (303) 866-4416, fax (303) 866-4411. Written comments may be submitted to the Medical Services Board Office on or before close of business the Wednesday prior to the meeting. Additionally, the full text of all proposed changes will be available approximately one week prior to the meeting on the Department's website at [www.colorado.gov/hcpf/medical-services-board](http://www.colorado.gov/hcpf/medical-services-board).

This notice is submitted pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

### **MSB 19-03-12-A, Revision to the Medical Assistance Act Rule concerning Family Planning Services, Section 8.730**

Medical Assistance. The rule is being revised to remove the exclusion of spermicide and female condoms from covered family planning services to reflect current Department practice. Spermicide and female condoms are covered per Department of Health and Human Services guidance regarding coverage of contraceptives. The revision also removes the Family Planning Clinic provider type (PT 29), as it is no longer available. The revision also makes miscellaneous revisions to promote rule clarity, including terminology updates and addressing a numbering error.

The authority for this rule is contained in 42 CFR § 440.210 and 25.5-1-301 through 25.5-1-303, C.R.S. (2019).

### **MSB 19-11-05-A, Revisions to Healthcare Affordability and Sustainability Fee Collection and Disbursement and Creation of Hospital Transformation Program, Section 8.3000**

Medical Assistance. The rule change makes necessary revisions for the federal fiscal year (FFY) 2019-20 Hospital Affordability and Sustainability (HAS) provider fee and supplemental payment amounts. Inpatient per-diem fees and Outpatient percentage fees are updated to account for changes to estimated Medicaid expansion costs, estimated administration costs, and HAS supplemental payments. Without the rule change there will not be enough HAS provider fee to fund Colorado Medicaid and CHP+ expansions and HAS supplemental payments.

The authority for this rule is contained in 42 CFR 433.68 and 42 U.S.C. § 1396b(w); 25.5-4-402.4(4)(g) and sections 25.5-1-301 through 25.5-1-303, C.R.S. (2019).

### **MSB 19-11-21-A, Revision to the Medical Assistance Act Rule concerning the Children's Habilitation Residential Program (CHRP) waiver, Section 8.500**

Medical Assistance. The basis of this rule change is to align the CHRP rules with the waiver amendment approved by the Centers for Medicare and Medicaid Services (CMS) effective January 1, 2020. The purpose is to amend the rule to allow for family members who are not parents or legally

responsible parties to be reimbursed for certain services as specified in the waiver. Additionally, the revision is to make technical changes including updated regulatory citations and spelling errors.

The authority for this rule is contained in Section 1902(a)(10)(B) of the Social Security Act, 42 U.S.C. § 1396a (2011); 25.5-5-306, C.R.S. and 25.5-6-903 (2018) and 25.5-1-301 through 25.5-1-303, C.R.S. (2019).

**MSB 19-12-16-A, Revision to Medical Assistance Rule Concerning Service Plan Authorization Limit (SPAL) Section 8.500.102.B**

Medical Assistance. The Department is revising the section of the rule to allow for the addition of Waiver Transition Services to the existing list of services which are exempt from the service plan authorization limit (SPAL) for Supported Living Services. The Department sought and ultimately received legislative approval through House Bill 18-1326 to include four transition services in six Home and Community Based Service (HCBS) waiver programs, with the necessary funds appropriated, starting January 1, 2019. These services are excluded from the SPAL therefore the rules implementing the program 10 CCR 2505-10 8.500.102 must be revised.

The authority for this rule is contained in 25.5-6-1501, C.R.S. (2019) and sections 25.5-1-301 through 25.5-1-303, C.R.S. (2019).

**MSB 20-01-14-A, Revision to the Medical Assistance Payments for Outpatient Hospital Services Rule Concerning Drug Payment Reweighting, Section 8.300.6**

Medical Assistance. The Department has received feedback from its Critical Access and Medicare Dependent Hospital stakeholder community that Medicaid payments for drugs do not adequately align with the drug costs. After analysis, the Department has determined that costs for drugs for such hospitals are higher than their urban counterparts which the current payment methodology which is not properly account for. Therefore, a rule is being added to 10 C.C.R. 2505-10 Section 8.300.6 which will allow increased Medicaid reimbursement for drugs for Critical Access and Medicare Dependent Hospitals. Since this is a budget neutral change, Medicaid reimbursement for outpatient hospital drugs at urban non-independent hospitals will be decreased.

The authority for this rule is contained in 24-4-103(6) (2019); 25.5-4-402.4(5)(b)(I) (2019) and 25.5-1-301 through 25.5-1-303, C.R.S. (2019).