



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, November 12, 2021, 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 or the 504/ADA Coordinator 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.

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

MSB 21-02-09-A, Revision to the Medical Assistance Rule concerning the Home and Community Based Services Final Settings Rule, Section 8.484

Medical Assistance. In 2014, the federal Centers for Medicare & Medicaid Services (CMS) published a rule requiring Home- and Community-Based Services (HCBS) to be provided in settings that meet certain criteria. The criteria ensure that HCBS participants have access to the benefits of community living and live and receive services in integrated, non-institutional settings. These rules codify in regulation the federal requirements for all HCBS Waivers.

The authority for this rule is contained in Consolidated Appropriations Act 2021, Section 208; 42 C.F.R. §435.406; Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021); Section 25.5-4-205, C.R.S. (2021) and Section 24.4-4-103(6)(a), C.R.S. (2021).

MSB 21-06-08-A, Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Expanding Electronic Monitoring to Include Remote Supports, Section 8.488

Medical Assistance. The Office of Community Living (OCL), Benefits and Services Management Division is requesting to revise the current Electronic Monitoring regulations, already included in five HCBS adult waivers, to include the addition of a Remote Supports component that will increase efficiencies, improve quality of care, and achieve cost savings. When hands-on care is not required, Remote Supports makes it possible for direct care staff to provide supervision, prompting, or instruction from a remote location. Examples of Remote Supports include technology for cooking safely, overnight support, medication adherence, fall detection, and wandering. The Department must add a service definition and regulations for the operation of Remote Supports. The addition of regulations will give members and providers regulatory parameters for how Remote Supports can be utilized in HCBS to maintain service integrity and ensure member's health and safety.

The authority for this rule is contained in 42 C.F.R. § 441.301(C)(4)); Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021), Sections 25.5-6-301 through 25.5-6-706, C.R.S. (2018) and

Section 25.5-6-1301 through 25.5-6-1304, C.R.S. (2018).

MSB 21-06-09-A, Revision to the Medical Assistance Act Rule concerning In-Home Support Services, Section 8.552

Medical Assistance. Revision of In-Home Support Services (IHSS) Rule to strike language regarding the option for IHSS agencies to be a participant's Authorized Representative (AR) to align with current IHSS statute C.R.S. § 25.5-6-1202(2).

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021) and 25.5-6-1203, C.R.S. (2021).

MSB 21-07-07-A, Revision to the Medical Assistance Act Rule concerning Adult Dental Annual Limit Maximum, Section 8.201.6

Medical Assistance. The proposed rule extends the maximum adult dental annual benefit of \$1,500 indefinitely per Senate Bill 21-211. SB21-211 restores the \$1,500 maximum adult dental annual benefit that was reduced to \$1,000 by the 2020 Long Bill (HB20-1360), and House Bill 20-1361, beginning when the higher federal match afforded through the federal "Families First Coronavirus Response Act", Pub.L. 116-127 (FFCRA) expires. The adult dental annual benefit is currently maintained at \$1500 with the FFCRA higher match. This rule will maintain the \$1,500 after the FFCRA higher federal match expires.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021); Section 25.5-4-205, C.R.S. (2021) and Section 25.5-5-202(1)(w) C.R.S. (2020).

MSB 21-07-20-B, Revision to the Medical Assistance Rule concerning Provider Participation, Section 8.130

Medical Assistance. This revision is necessary to provide additional guidance on the expectations of all providers and to specifically outline the provider inactivation procedure.

The authority for this rule is contained in 42 CFR § 431.17; 42 CFR § 431.20; 42 CFR § 455.400 and Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021).

MSB 21-08-05-B, Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Service Plan Authorization Limits (SPAL) and the Exception Review Process, Section 8.500.102

Medical Assistance. The Office of Community Living (OCL), Benefits and Services Management Division (BSMD) is requesting to revise regulations to include the addition of The SLS Waiver Exception Review Process as requested through R – 08 and approved through the Long Bill, SB 21 – 205. The addition of this review process is a policy change and this rule revision will allow specific members on the HCBS – SLS waiver to access additional supports and services beyond the current SPAL and/ or service unit limitation caps. This review process is anticipated to allow for members to continue to live in the community of their choice while postponing or eliminating the need for an emergency enrollment onto the HCBS – DD waiver.

The authority for this rule is contained in 42 CFR § 441.300 and § 440.180; Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021) and Sections 25.5-6-404, C.R.S.

MSB 21-08-10-C, Revision to the Medical Assistance Long-Term Services and Supports HCBS Benefit Rule Concerning Non-Medical Transportation, Sections 8.494 and 8.611

Medical Assistance. The purpose of these revisions is to modify the requirements for our Home and Community Based Services (HCBS) transportation providers. Effective July 1, 2021, House Bill 21-1206 transferred the responsibility of safety and oversight for Non-Medical Transportation (NMT) and Non-Emergent Medical Transportation (NEMT) from the Public Utilities Commission (PUC) to the Department, with the exception of taxi providers. These regulations remove the requirement that providers obtain a Medicaid Client Transport (MCT) permit through the PUC and outline the new provider agency, vehicle and driver requirements developed with the assistance of stakeholders.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2021); Sections 25.5-6 and Sections 25.5-10 C.R.S. and 25.5-1-802 C.R.S.