



COLORADO

Department of Health Care
Policy & Financing

Medical Services Board

DECEMBER 2021 EMERGENCY JUSTIFICATION FOR MEDICAL ASSISTANCE RULES ADOPTED AT THE DECEMBER 10, 2021 EMERGENCY MEDICAL SERVICES BOARD MEETING

MSB 21-12-01-B, Revision to the Medical Assistance Act Rule concerning Hospice Room and Board, Section 8.550.9.C

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. This rule is imperatively necessary to comply with state law at CRS § 25.5-4-424 to implement the hospice state-only room and board payment mandated by statute and is imperatively necessary for the preservation of public health safety, and welfare.

MSB 21-12-01-A, Revision to the Medical Assistance Act Rule concerning Subacute Care, Section 8.300

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. Addition of subacute care to the list of the covered services for inpatient hospitals, and associated alternate care facilities, increases access to such care for the duration of the COVID-19 public health emergency and is imperatively necessary for the preservation of public health, safety, and welfare.

MSB 21-11-30-A, Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Programs, Section 8.765

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The Qualified Residential Treatment Program provisions of the Family First Prevention Services Act, Pub.L. 115-123, Div. E, Title VII, § 50734, Feb. 9, 2018, 132 Stat. 252, were to go into effect October 1, 2018. However, the U.S. Department of Health and Human Services issued Program Instruction PI-18-07 permitting requests for delayed effective dates up to two years past the statutory deadline. The Colorado Department of Human Services applied for, and received, an extension until December 31, 2020, but no later than September 29, 2021. This rule is imperatively necessary to comply with federal law to implement the delayed effective date for the Family First Prevention Services Act provisions pertaining to Qualified Residential Treatment Programs and to align with the parallel Colorado Department of Human Services license.



MSB 21-12-02-A, Revision to the Medical Assistance Act Rule concerning Pediatric Personal Care Base Wage, Section 8.535

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. An emergency rule is imperative because the Department has state and federal approval to use ARPA funding to increase Direct Care Worker wages as of January 1, 2022 and needs to ensure that it is implemented correctly and efficiently. Waiting until a later date to establish this rule would further strain these workers who are, and have been, persisting on less than a living wage and contribute to less accessible pediatric personal care services. Without this rule to support bolstering the direct care workforce, members will not receive critical care and will face greater health and safety risks. Additionally, the Department seeks to immediately align with Governor Polis's directive for a base wage of \$15 per hour per press release "Colorado Increasing the Minimum Wage for Workers" issued September 21, 2021.

MSB 21-08-05-A, Revision to the Medical Assistance Act Rule concerning Base Wage Requirement for Direct Care Workers, Section 8.511

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. An emergency rule is imperative because the Department has state and federal approval to use ARPA funding to increase Direct Care Worker wages as of January 1, 2022 and needs to ensure that it is implemented correctly and efficiently. Waiting until a later date to establish this rule would further strain these workers who are, and have been, persisting on less than a living wage and contribute to less accessible HCBS for community members. Without this rule to support bolstering the direct care workforce, members will not receive critical care and will face greater health and safety risks. Additionally, the Department seeks to immediately align with Governor Polis's directive for a base wage of \$15 per hour per press release "Colorado Increasing the Minimum Wage for Workers" issued September 21, 2021.

MSB 21-11-08-A, Revision to the Medical Assistance Act Rule concerning Modification of Outpatient Hospital Payment Rates through EAPG Grouper Update, Section 8.300.6

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. The proposed rule modifies language in the outpatient hospital services payment Section 8.300.6, authorizing the modification of base rate and weight setting to accommodate a transition to a new version of the Enhanced Ambulatory Patient Grouping (EAPG) methodology. Currently, outpatient hospital services are reimbursed through the EAPG methodology, which is a system which is developed and maintained by 3M Health Information Systems. The Department currently reimburses using version 3.10 of EAPGs and will be transitioning to version 3.16 effective January 1, 2022. This is necessary to allow the Department to continue reimbursing hospitals using an up to date versions of the CPT/HCPCS code sets, while adjusting hospital base rates to minimize financial impacts to hospitals through the transition. The current version of the EAPG methodology will disallow payment to providers billing codes that are effective as of January 1, 2022. Inaction may prevent the delivery of crucial services to members of Health First Colorado. Therefore, updating rule language to accommodate and pay for such codes while adjusting hospital-



specific base rates is imperatively necessary for the preservation of public health, safety and welfare.

