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Title of Rule: Revision to the Medical Assistance Act concerning QRTP Reporting Requirements

Rule Number: MSB 23-12-14-A

Division / Contact / Email: Health Policy Office/ Rachel Larson / rachel.larson@state.co.us

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 23-12-14-A, Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Program (QRTP) Reporting Requirements
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) 8.765.14, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 C.C.R. 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 8.765.14 with the proposed text beginning at 8.765.14.C through the end of 8.765.14.G. This rule is effective April 14, 2025.

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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).

This rule revision adds a Provider Responsibilities section to incorporate reporting requirements from the Colorado Department of Human Services (CDHS) Rule 12 C.C.R. 2509-8: 7.701.52 to the Qualified Residential Treatment Program (QRTP).

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: N/A

2. Federal authority for the Rule, if any:

3. State Authority for the Rule:

Sections 25.5-5-801, 25.5-1-301 to 25.5-1-303 C.R.S. (2024)

Initial Review **01/10/25**
Proposed Effective Date **04/14/25**

Final Adoption
Emergency Adoption

02/14/25

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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.

Medicaid Members receiving treatment at Qualified Residential Treatment Programs (QRTP) will benefit from the proposed rule as oversight of member safety and quality of care will increase. The Department will bear the cost of the proposed rule. QRTP providers will also be affected by the requirement, as it is an additional administrative responsibility.

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

Medicaid Members in QRTPs will experience increased safety and quality of care because this proposed rule would increase provider oversight. Because providers must already follow the reporting requirements within the CDHS rule and the proposed rule is simply aligning the requirements for the Department to obtain the same information, the main impact to providers is submitting the information to both CDHS and the Department. There will be some increase in workload as a result for providers.

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.

Budget reviewed the proposed rule and has estimated the annual cost to be \$0.

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

The probable cost of the proposed rule is provided in the response to question #3 above. The benefit of the proposed rule is to increase provider oversight surrounding critical incident reporting within QRTP facilities. There is no benefit to inaction.

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

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There are no less costly methods to increasing provider oversight for critical incident reporting in QRTP facilities.

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 and CDHS collaborated to discuss sharing information to reduce provider burden; however, access to the Trails system by the Department was not feasible due to privacy issues. Christina Winship will continue to collaborate with Salesforce to ensure the online portal the Department constructs to obtain the information from providers is as user friendly and efficient as possible.

8.765.14 QUALIFIED RESIDENTIAL TREATMENT PROGRAM (QRTP)

8.765.14.A CLIENT ELIGIBILITY

1. Children up to age eighteen (18) years old and for those persons up to twenty-one (21) years old who consent to the placement or are placed by court order, for whom an Independent Assessment determines that the child's needs cannot be met in a less restrictive, family- based setting because of their serious emotional or behavioral disorders or disturbances.
2. Managed Care Entities must use the Independent Assessment to inform medical necessity determinations.
3. For children in the custody of a county department of human/social services or Division of Youth Services and for those children receiving mental health services in a Qualified Residential Treatment Program (QRTP) through the Child and Youth Mental Health Treatment Act, the Independent Assessment will determine mental health medical necessity.

8.765.14.B QRTP AND PROVIDER ELIGIBILITY

1. Beginning October 1, 2021, to be eligible for Colorado Medicaid reimbursement, a QRTP must:
 - a. Be enrolled with Colorado Medicaid;
 - b. Be licensed by the Colorado Department of Human Services (CDHS), Provider Services Unit (PSU), as a Child Care Facility with QRTP indicated as the Service Type in accordance with CDHS regulations;
 - c. Be accredited by:
 - i. The Joint Commission on Accreditation of Healthcare Organizations (JCAHO),
 - ii. The Commission on Accreditation of Rehabilitation Facilities (CARF),
 - iii. The Council on Accreditation of Services for Families and Children, or
 - iv. Any other independent, not-for-profit accrediting organization approved by the Secretary of Health and Human Services.
 - d. Submit an attestation form to the Department with the facility's Colorado Medicaid enrollment application with Colorado Medicaid that attests:
 - i. The facility has no more than sixteen (16) beds, including all beds at a single address or on adjoining properties regardless of program or facility type;
 - ii. The facility does not share a campus with a Psychiatric Residential Treatment Facility (PRTF);
 - iii. For facilities more than one (1) mile but less than ten (10) miles apart by road from another overnight facility controlled by the same ownership or governing body, the other overnight facility meets the following criteria:

1. The facility maintains its own license;
 2. The facility has dedicated staff that ensures a stable treatment environment;
 3. Residents do not move between the facility and another during the episode of care
 - iv. For facilities less than one (1) mile apart, but not on the same campus or adjoining properties, the QRTP is in a home-like structure (cottage, house, apartment) located farther than 750 feet from another overnight facility within a community setting that includes publicly used infrastructure (roads, parks, shared spaces, etc.).
2. Provider Qualifications.
- a. The rendering provider for the following services must be an enrolled Licensed Mental Health Professional in a QRTP:
 - i. Individual therapy,
 - ii. Group therapy, and
 - iii. Family therapy.

8.765.14.C PROVIDER RESPONSIBILITIES

1. All critical incidents, as defined in the Colorado Department of Human Services (CDHS) rule at 12 C.C.R. 2509-8: 7.701.2, must be reported to the Department of Health Care Policy and Financing (Department) for Medicaid members only, with non-member information being anonymized.
2. Providers must follow all critical incident reporting and timing requirements as described in CDHS rule at 12 C.C.R. 2509-8: 7.701.52 when reporting to the Department.

8.765.14.DG COVERED SERVICES

1. Medically necessary services pursuant to Section 8.076.1.8 that are not excluded in Section 8.765.14.D and are:
 - a. Included in the member's stabilization plan created by the QRTP in accordance Colorado Department of Human Services (CDHS) regulations.
 - b. Included in the member's individual child and family plan created by the QRTP in accordance with CDHS regulations.
 - c. Included in the member's discharge and aftercare plan created by the QRTP in accordance with CDHS regulations.
2. All EPSDT services not specified in Sections 8.765.14.~~D.1C.1-3~~ are covered under Section 8.280.

8.765.14.ED NON-COVERED SERVICES

1. The following services are not covered for members in a QRTP:

- a. Room and board;
- b. Educational, vocational, and job training services;
- c. Recreational or social activities; and
- d. Services provided to inmates of public institutions or residents of Institutions of Mental Disease (IMD).

8.765.14.FE PRIOR AUTHORIZATION REQUIREMENTS

- 1. Prior authorization may be required for this benefit.

8.765.14.GF REIMBURSEMENT.

- 1. QRTPs are reimbursed a per diem rate, as determined by the Department, if the following conditions are fulfilled:
 - a. Rendered services are documented in the treatment record at the frequencies specified in the member's care plan(s);
 - b. A care plan(s) is on record for the time period reported in the reimbursement claim; and
 - c. The care meets professionally recognized standards for care in a QRTP.
- 2. QRTPs must enroll as a Colorado Medicaid provider to act as a billing entity for Licensed Mental Health Professionals rendering mental health services in the QRTP.

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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 23-12-19-A, Revision to the Medical Assistance Act Psychiatric Residential Treatment Facility (PRTF) Reporting Requirements
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) 8.765.2, 8.765.3, 8.765.4, 8.765.5, 8.765.6, 8.765.7. Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 C.C.R. 2505-10).
5. Does this action involve any temporary or emergency rule(s)?
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.765 with the proposed text beginning at 8.765 through the end of 8.765.13.A. This rule is effective April 14, 2025.

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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 proposed rule aligns existing critical incident reporting requirements with Colorado Department of Human Services (CDHS) 7.701.52 (12 C.C.R. 2509-8; 7.701.52) Reports and further clarifies federal reporting requirements of 42 C.F.R. § 483.374.

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 C.F.R. § 441 Subpart D; 42 C.F.R. § 483.374

4. State Authority for the Rule:

C.R.S. 25.5-1-301-303, 2024

Initial Review
Proposed Effective Date

01/10/25
04/14/25

Final Adoption
Emergency Adoption

02/14/25

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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 persons that will be affected by the proposed rule will be those members within Psychiatric Residential Treatment Facilities (PRTFs) who will benefit from increased oversight and safety because of critical incident reporting requirements. The Department will bear the minimal cost of policy implementation. There does appear to be some increased workload for providers to submit information to the Department given the categories listed for the CDHS rule that are broader than the serious occurrence reporting already required under 42 C.F.R. § 483.374.

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

Members within PRTFs will experience increased safety and quality of care as provider oversight increases. Providers must already follow the reporting requirements within the CDHS rule to report to CDHS and the proposed rule is simply aligning those requirements for reporting to the Department. Therefore, there should be minimal impact on providers other than having to submit the information to the Department separate from the Trails system for CDHS.

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.

Budget reviewed the proposed rule and has estimated the annual cost to be \$0.

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

The probable cost of the proposed rule is provided in the response to question #3 above. The benefit of the proposed rule is to increase oversight via critical incident reporting within PRTFs and to align reporting requirements with CDHS. There is no benefit to inaction.

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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 increasing provider oversight via critical incident reporting as this is largely already a federal reporting requirement for serious occurrences.

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 increasing provider oversight. The Department and CDHS collaborated to determine whether they could share information to avoid providers having to submit the information twice; however, due to privacy concerns with accessing the Trails System, that was not a feasible approach.

8.765 SERVICES FOR ~~CLIENT~~MEMBERS IN RESIDENTIAL CHILD CARE FACILITIES AS DEFINED BELOW

8.765.1 DEFINITIONS

Assessment means the process of continuously collecting and evaluating information to develop a ~~client~~member's profile on which to base a Plan of Care, service planning, and referral.

Clinical Staff means medical staff that are at a minimum licensed at the level of registered nurse, performing within the authority of the applicable practice acts.

Colorado ~~Client~~Member Assessment Record (CCAR) means a clinical instrument designed to assess the behavior/mental health status of a medically eligible ~~client~~member. The CCAR is used to identify current diagnosis and clinical issues facing the ~~client~~member, to measure progress during treatment and to determine mental health medical necessity. This instrument is used for children in the custody of a county department of human/social services or Division of youth corrections and for those children receiving mental health services in an RCCF through the Child Mental Health Treatment Act.

Early and Periodic Screening, Diagnosis and Treatment (EPSDT) is the Colorado Medicaid program's benefit under Section 8.280 for children and adolescents that provides a comprehensive array of prevention, diagnostic, and treatment services for low-income infants, children and adolescents under age 21.

Emergency Safety Intervention means the use of Restraint and Seclusion as an immediate response to an Emergency Safety Situation.

Emergency Safety Situation means unanticipated behavior of the ~~client~~member that places the ~~client~~member or others at serious threat of violence or injury if no intervention occurs and that calls for Emergency Safety Intervention.

Emergency Services means emergency medical and crisis management services.

Independent Assessment means a process to assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool. The assessment determines whether treatment in a Qualified Residential Treatment Program (Q RTP) provides the most effective and appropriate level of care for the child in the least restrictive environment, in accordance with Colorado Department of Human Services regulations.

Independent Team means a team certifying the need for Psychiatric Residential Treatment Facility (PRTF) services that is independent of the Referral Agency and includes a physician who has competence in the diagnosis and treatment of mental illness and knowledge of the ~~client~~member's condition.

Interdisciplinary Team means staff in a PRTF comprised of a physician, and a Licensed Mental Health Professional, registered nurse or occupational therapist responsible for the treatment of the ~~client~~member.

Licensed Mental Health Professional means a psychologist licensed pursuant to part 3 of article 43 of title 12, C.R.S., a psychiatrist licensed pursuant to part 1 of article 36 of title 12, C.R.S., a clinical social worker licensed pursuant to part 4 of article 43 of title 12, C.R.S., a marriage and family therapist licensed

pursuant to part 5 of article 43 of title 12, C.R.S., a professional counselor licensed pursuant to part 6 of article 43 of title 12, C.R.S., or a social worker licensed pursuant to part 4 of article 43 or title 12, C.R.S., that is supervised by a licensed clinical social worker. ~~Sections 12-43-301, et seq., 12-36-101, et seq., 12-43-401, et seq., 12-43-501, et seq. and 12-43-601, et seq., C.R.S. (2005) are incorporated herein by reference. No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714 303 E. 17th Avenue, Suite 1100, Denver, CO 80203. Any material that has been incorporated by reference in this rule may be examined at any state publications repository library.~~

Medication Management Services means review of medication by a physician at intervals consistent with generally accepted medical practice and documentation of informed consent for treatment.

Multidisciplinary Team means staff in a Residential Child Care Facility (RCCF) providing mental health services comprised of at least one Licensed Mental Health Professional and other staff responsible for the treatment of the clientmember and may include a staff member from the Referral Agency.

Plan of Care means a treatment plan designed for each clientmember and family, developed by an Interdisciplinary or Multidisciplinary Team.

Prone Position means a clientmember lying in a face down or front down position.

Psychiatric Residential Treatment Facility (PRTF) means a facility that is not a hospital and provides inpatient psychiatric services for individuals under age 21 under the direction of a physician, licensed pursuant to part 1 of article 36 of title 12, C.R.S.

Qualified Residential Treatment Programs (QRTP) means a facility that provides residential trauma-informed treatment that is designed to address the needs, including clinical needs, of children with serious emotional or behavioral disorders or disturbances.

Referral Agency means the Division of Youth Corrections, County Departments of Human/Social Services who have legal custody of a clientmember, Behavioral Healthcare Organization or Community Mental Health Center that refers the clientmember to a PRTF or RCCF for the purpose of placement through the Child Mental Health Treatment Act.

Restraint includes Drug Used as a Restraint, Mechanical Restraint and Personal Restraint.

Drug Used as a Restraint means any drug that is administered to manage a clientmember's behavior in a way that reduces the safety risk to the clientmember or to others; has the temporary effect of restricting the clientmember's freedom of movement and is not a standard treatment for the clientmember's medical or psychiatric condition.

Mechanical Restraint means any device attached or adjacent to the clientmember's body that the clientmember cannot easily remove that restricts freedom of movement or normal access to the clientmember's body.

Personal Restraint means personal application of physical force without the use of any device, for the purpose of restraining the free movement of the clientmember's body. This does not include briefly holding a clientmember without undue force in order to calm or comfort, or holding a clientmember's hand to safely escort the clientmember from one area to another. This does not include the act of getting the clientmember under control and into the required position for Restraint.

Residential Child Care Facility (RCCF) means any facility that provides out-of-home, 24-hour care, protection and supervision for children in accordance with 12 C.C.R. 2509-8, Section 7.705.91.A.

Seclusion means the involuntary confinement of a clientmember alone in a room or an area from which the clientmember is physically prohibited from leaving.

8.765.2 ~~PRTF-BENEFIT~~ PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES (PRTF) COVERED SERVICES

8.765.2.A. PRTF benefit shall include services as identified in the Plan of Care as well as other services necessary for the care of the clientmember in the facility. These services include, but are not limited to:

1. Individual therapy.
2. Group therapy.
3. Family, or conjoint, therapy conducted with the clientmember present, unless clientmember contact with family members is contraindicated.
4. Emergency services.
5. Medication Management Services.
6. Room and Board.

8.765.3 ~~PRTF NON-BENEFIT~~ COVERED SERVICES

8.765.3.A. The following are not a benefit in a PRTF:

1. The day of discharge.
2. Leave days.
3. Days when the clientmember is in detention.

8.765.4 ~~PRTF~~ CLIENTMEMBER ELIGIBILITY

8.765.4.A. To receive benefits in a PRTF, the clientmember shall:

1. Be between the ages of three and twenty-one.
2. Be certified to need PRTF level of care by an Independent Team. The Team shall certify that:
 - a. Ambulatory care resources available in the community do not meet the treatment needs of the clientmember.
 - b. Proper treatment of the clientmember's mental illness condition requires services on an inpatient basis under the direction of a physician.
 - c. The services can reasonably be expected to improve the clientmember's mental health or prevent further regression so that the services shall no longer be needed.
3. Be certified to have a diagnosis of a psychiatric disorder classified as a Diagnostic Statistical Manual (DSM) IV Text Revision, Fourth Edition, diagnosis that is the primary reason for placement from one of the following diagnostic categories:

295 Schizophrenic disorders

296 Affective psychoses

297 Paranoid states

298 Other nonorganic psychoses

300 Neurotic disorders

301 Personality disorders

307 Eating Disorders, Tic Disorders and Sleep Disorders

308 Acute reaction to stress

309 Adjustment reaction

311 Depressive disorder, not elsewhere classified

312 Disturbance of conduct, not elsewhere classified

313 Disturbance of emotions specific to childhood and adolescence

314 Hyperkinetic syndrome of childhood

4. Be certified to have a DSM Axis 5 GAF score of 40 or less.
5. Be assessed using a current valid Colorado Client Assessment Record (CCAR) that supports medical necessity.

8.765.4.B. The ~~client~~member shall ~~be~~ not be eligible to receive services when:

1. The ~~client~~member is no longer able to benefit from the service or is no longer progressing towards goals.
2. The ~~client~~member is absent without leave in excess of 24 consecutive hours or has been removed from the facility and placed in non-PRTF services.
3. The Interdisciplinary Team determines that the ~~client~~member has attained treatment goals.
4. Admission of minors not in the custody of a County Department of Human/Social Services or DHS as a result of commitment to the Division of Youth Corrections shall be subject to the requirements set forth at Section 27-~~10-10365-103~~, C.R.S. (~~2005~~;2024) which is incorporated herein by reference. No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, ~~1570 Grant Street, Denver, Colorado 80203-1714~~ 303 E. 17TH Avenue, Suite 1100, Denver, CO 80203. Any material that has been incorporated by reference in this rule may be examined at any state publications repository library.

8.765.5 PRTF PROVIDER ELIGIBILITY

8.765.5.A. All PRTF Providers shall have an Interdisciplinary Team.

1. The Interdisciplinary Team shall include either a board-certified psychiatrist, or a clinical psychologist who has a doctoral degree and a physician licensed to practice medicine or osteopathy, and one of the following:
 - a. A licensed clinical social worker, licensed marriage and family therapist or licensed professional counselor.
 - b. A registered nurse with specialized training or one year's experience in treating mentally ill individuals.
 - c. A certified occupational therapist with specialized training or one year's experience in treating mentally ill individuals; or
 - d. A licensed psychologist.
2. The Interdisciplinary team shall:
 - a. Assess the ~~client~~member's immediate and long-range therapeutic needs, developmental priorities, and personal strengths and liabilities.
 - b. Assess the potential resources of the ~~client~~member and ~~client~~member's family.
 - c. Develop and implement a comprehensive, individualized written Plan of Care.
 - d. Set treatment objectives.
 - e. Prescribe therapeutic modalities to achieve the objectives of the Plan of Care.

8.765.5.B. All PRTF providers shall implement a Plan of Care.

8.765.5.C. An initial Plan of Care shall be developed within 72 hours of the ~~client~~member's admission and shall address the immediate and emergency needs of the ~~client~~member.

8.765.5.D. A comprehensive Plan of Care shall:

1. Be completed within 14 days of admission.
2. Be signed and dated by the ~~client~~member, the Referral Agency and the Licensed Mental Health Professional.
3. Address clinical and other needs including the ~~client~~member's presenting problems, physical health, emotional status, behavior, support system in the community, available resources and discharge plan.
4. Include specific goals and measurable objectives, expected dates of achievement and specific discharge criteria to be met for termination of treatment. Criteria for discharge shall include provisions for follow-up services.
5. Specify the type, frequency and duration of all PRTF services necessary to meet the needs of the ~~client~~member and to treat the ~~client~~member's current diagnosis.

6. Identify the provision of or the referral for services other than PRTF Services.
 7. Be readily identifiable and be maintained in the clientmember's record.
 8. Document any court-ordered treatment including identifying the agency responsible for providing the court-ordered treatment.
 9. Include revisions to the Plan of Care at least monthly, or sooner if appropriate.
- 8.765.5.E. The PRTF shall designate a Licensed Mental Health Professional to act as a case manager for each clientmember to oversee the formulation, implementation, review and revision to the Plan of Care.
- 8.765.5.F. The Licensed Mental Health Professional shall sign and date the Plan of Care.
- 8.765.5.G. The PRTF shall ensure the clientmember and/or legal guardian participate in the formulation, review and revision of the Plan of Care. If the clientmember or legal guardian is unable to participate or when his or her participation is clinically contraindicated, the PRTF shall document the reasons in the clientmember's record. Any decision to not involve the family or guardian shall be approved by the Referral Agency. In addition, other persons selected by the clientmember, the family or guardian, the Referral Agency or the Licensed Mental Health Professional may be included in the formulation, review and revision of the Plan of Care.
- 8.765.5.H. Except in cases of emergency, all PRTF services in the Plan of Care shall be provided.
- 8.765.5.I. The PRTF shall ensure that physician prescribed information is used for the component of the Plan of Care requiring Medication Management Services.
- 8.765.5.J. The PRTF shall ensure all clientmembers and/or guardians are aware of the complaint and grievance procedures.
- 8.765.5.K. The PRTF shall ensure all clientmembers and/or guardians are aware of the PRTFs policies regarding Restraint and Seclusion as required in 42 C.F.R. §§ 483.350-376 (2024), which is incorporated herein by reference. No amendments or later editions are incorporated. Copies are available for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, 303 E. 17th Avenue, Suite 1100, Denver, Colorado 80203-1714. Any material that has been incorporated by reference in this rule may be examined at any state publications repository library.
- 8.765.5.L. The PRTF shall facilitate access to necessary medical care and shall be responsible for coordinating mental health treatment with medical treatment.
- 8.765.5.M. ClientMember Transfers:
1. A clientmember shall be transferred only to the care of another PRTF or placement facility when adequate arrangements for care have been made by the Referral Agency.
 2. The clientmember and the legal guardian shall be given a minimum of 24 hours notice before the clientmember is transferred unless this notice is waived by the Referral Agency or legal guardian in writing or if an emergency condition exists.
 3. Transfers shall be documented in the clinical record.
- 8.765.5.N. PRTF Licensure and Certification Requirements.

1. The PRTF shall:
 - a. Be certified by the Department of Human Services (DHS), to provide mental health services as a PRTF.
 - b. Be licensed by DHS, Division of Child Care Licensing, as a Residential Child Care Facility and a PRTF.
 - c. Be certified as a qualified residential provider by the Department of Public Health and Environment.
 - d. Be accredited by the Joint Commission, the Commission on Accreditation of Rehabilitation Facilities, or the Council on Accreditation of Services for Families and Children.
 - e. Provide an attestation to the Department that the PRTF is in compliance with the condition of participation for Restraint and Seclusion as described in Section 8.765.6.F and in federal law.
2. A PRTF located in another state shall meet the requirements as set forth in Section 8.765.5.N.1.d. and e. and shall meet all other license and certification requirements for a PRTF in the state in which it is located.
3. A PRTF that has more than one physical address shall have a separate Medicaid provider number for each facility.

8.765.6 PRTF PROVIDER RESPONSIBILITIES

8.765.6.A. A PRTF shall complete a CCAR and maintain an organized, legible, chronological, current treatment record for each clientmember. Treatment records shall include:

1. Admission information such as the clientmember's personal information and demographic data, source of referral, most current Diagnostic Statistical Manual diagnosis and substance abuse history.
2. Documentation of the clientmember's legal status, including but not limited to guardianship, conservatorship, court orders, custody, certifications, advisement and consent.
3. Copies of all CCARs.
4. All Plans of Care and revisions.
5. Documentation of clientmember's attendance at, participation in and outcomes of PRTF Services.
6. Documentation that the clientmember and/or the legal guardian was provided with a copy of the Plan of Care.
7. Correspondence to and from agencies and individuals involved in the clientmember's treatment.
8. An explanation whenever any member of the Interdisciplinary Team, clientmember, parent or guardian, when appropriate, does not sign a Plan of Care.

9. The name of the Licensed Mental Health Professional responsible for the formulation, implementation, review and revision of the clientmember's Plan of Care.
 10. A discharge report, within 30 consecutive days of the discharge from the PRTF, summarizing treatment received and outcomes.
 11. For transfers between facilities, documentation of appropriate clinical information and coordination of services between the two facilities.
 12. Documentation of any unplanned discharges without advance notice and any discharges against the Licensed Mental Health Professional's advice.
 13. Information regarding any serious injury sustained while in the PRTF to the clientmember or by the clientmember and details describing the circumstances by which the injury occurred.
 14. Information regarding a clientmember's death and details of the circumstances by which the death occurred.
 15. Dates, times and circumstances of unauthorized leave.
 16. Documentation of detention dates.
 17. Treatment entries that are signed and dated by the person providing treatment, including title or position of the person providing treatment.
- 8.765.6.B. All members of the Clinical Staff shall be trained annually in the development and review of Plans of Care and the details of this training shall be documented.
- 8.765.6.C. Records shall be kept in a secure location at the PRTF.
- 8.765.6.D. Data, including claims data, shall be retained for six years unless there is a written statutory requirement or regulation available from a county, state or federal agency requiring a longer retention period.
- 8.765.6.E. Clinical records shall be retained for six years after the clientmember's 21st birthday.
- 8.765.6.F. The PRTF shall comply with the following requirements for the use of Restraint and Seclusion:
1. Personal, Mechanical and Drugs Used as Restraint shall be ordered only by a physician, physician's assistant or nurse practitioner.
 2. An order for Restraint or Seclusion shall not be written as a standing order or on an as-needed basis.
 3. Restraint and Seclusion shall not result in harm or injury to the clientmember and shall be used only to ensure the safety of the clientmember or others during an Emergency Safety Situation and only until the Emergency Safety Situation has ceased.
 4. Restraint and Seclusion shall not be used simultaneously.
 5. A Personal Restraint when a clientmember is in a Prone Position is prohibited.

6. If the order for Restraint or Seclusion is verbal, it shall be received by a registered nurse, licensed practical nurse or physician's assistant.
7. The Restraint or Seclusion shall be carried out by Clinical Staff who are trained in the use of emergency safety intervention.
8. Only a physician, registered nurse, licensed practical nurse or physician's assistant shall administer a Drug Used as a Restraint.
9. Clinical Staff trained in the use of emergency safety interventions that are physically present during the Restraint or Seclusion shall monitor the clientmember during the Restraint or Seclusion period.
10. Each order for Restraint or Seclusion shall never:
 - a. Exceed the duration of the emergency safety situation; and
 - b. Exceed four hours in length for youth ages 18 to 21; two hours in length for clientmembers ages nine to 17; or one hour in length for clientmembers under age of nine.
11. Within one hour of the initiation of the Emergency Safety Intervention a physician, registered nurse or physician's assistant shall conduct a face-to-face assessment of the physical and psychological well being of the clientmember. A psychologist may conduct the face-to-face assessment if done in conjunction with a physician, registered nurse or physician's assistant.
- ~~12. The PRTF shall report each serious occurrence to both the Department and the federally designated Protection and Advocacy agency no later than close of business the next business day. Serious occurrences to be reported include a client's death, a serious injury to a client, or a client's suicide attempt.~~
123. The PRTF shall notify the parent(s) or legal guardian(s) of a clientmember who has been restrained or secluded as soon as possible, but not to exceed 24 hours, after the initiation of each emergency safety intervention and shall document the date and time of this notification in the clientmember's record.
134. Within 24 hours of the use of Restraint or Seclusion, staff involved in an Emergency Safety Intervention and the clientmember shall have a face-to-face discussion. This discussion shall include all staff involved in the intervention except when the presence of a particular staff person may jeopardize the well-being of the clientmember. Other staff and the clientmember's parent or guardian may participate in the discussion, if appropriate.
145. Within 24 hours after the use of Restraint or Seclusion, all staff involved in the Emergency Safety Intervention, and appropriate supervisory and administrative staff, shall conduct a debriefing session that includes, at a minimum, a review and discussion of:
 - a. The situation that required the intervention, including a discussion of the precipitating factors that led up to the intervention.
 - b. Alternative techniques that may have prevented the use of the Restraint or Seclusion.

- c. New procedures implemented to mitigate any recurrence of the use of Restraint or Seclusion.
- d. The outcome of the intervention, including any injuries that may have resulted from the use of Restraint or Seclusion.

8.765.6.G CRITICAL INCIDENT & SERIOUS OCCURRENCE REPORTING

1. CRITICAL INCIDENT REPORTING

- a. All critical incidents, as defined in the Colorado Department of Human Services (CDHS) rule at 12 CCR 2509-8: 7.701.2, must be reported to the Department of Health Care Policy and Financing for Medicaid members only, with non-member information being anonymized.
- b. Providers must follow all critical incident reporting and timing requirements as set forth at 12 CCR 2509-8: 7.701.52.
- c. In the event of a conflict between the federal and state timing requirement for reporting, the earlier timeframe controls.

2. SERIOUS OCCURRENCE REPORTING

- a. All serious occurrences, as defined under 42 C.F.R. § 483.374, must be reported to the Department of Health Care Policy and Financing regardless of the individual's Medicaid status.
- b. Providers must also follow all serious occurrence reporting and timing requirements under 42 C.F.R. § 483.374, as well as all other reporting and timing requirements that may be applicable regarding restraint and seclusion under Colorado and federal law.
- c. In the event of a conflict between the federal and state timing requirements for reporting, the earlier timeframe controls.

8.765.7 REIMBURSEMENT FOR PRTFs

8.765.7.A. A PRTF shall be reimbursed a per diem rate as determined by DHS and approved by the Department.

8.765.7.B. The Department shall recover the per diem reimbursement when:

- 1. Each service is not documented in the treatment record at the frequency specified in the Plan of Care.
- 2. There is no Plan of Care in the record, for the period of time claims were paid.
- 3. Records are requested but not provided with 21 calendar days.

8.765.7.C. A PRTF may appeal the Department's recovery actions within 30 calendar days from the date on theef notice. The appeal shall be submitted in accordance with ~~10 C.C.R. 2505-10~~, Section 8.050.

8.765.8 MENTAL HEALTH BENEFITS FOR ~~CLIENT~~MEMBERS IN AN RCCF

8.765.98.A. Family therapy shall not exceed maximum of one service unit per day.

1. Family therapy without the clientmember present may be provided at a maximum of one service unit per week if treatment is documented in the Plan of Care that clientmember contact with family members is contraindicated. Family Therapy without the clientmember present shall be for the specific benefit of the clientmember.

8.765.8.B. Individual therapy shall not exceed two service units per day.

8.765.8.C. Group therapy shall not exceed eight service units per day.

8.765.8.D. A Licensed Mental Health Professional may authorize family, individual and group therapy in excess of maximum service units per day if the following is documented in the Plan of Care:

1. The reason for the additional therapy.
2. How many additional units are necessary.
3. How long the additional therapy is necessary.

8.765.8.E. The Licensed Mental Health Professional shall re-authorize therapy in excess of the maximum service units per day in the Plan of Care at least every 30 days.

8.765.8.F. Beginning July 1, 2022, only services rendered under Early and Periodic Screening, Diagnosis and Treatment in accordance with Section 8.280 are a covered RCCF benefit.

8.765.9 NON-COVERED BENEFITS FOR CLIENTMEMBERS IN AN RCCF

8.765.9.A. The following benefits are not covered for clientmembers in an RCCF:

1. Court-ordered treatment that is not otherwise medically indicated;
2. Room and board services;
3. Educational, vocation and job training services;
4. Recreational or social activities;
5. Habilitative care for children who are developmentally disabled or mentally retarded; and
6. Services provided by public institutions or institutions for mental diseases.

8.765.10 CLIENTMEMBER ELIGIBILITY FOR MENTAL HEALTH SERVICES IN AN RCCF

8.765.10.A. To be eligible for mental health services delivered in an RCCF the clientmember shall:

1. Be between the ages of three and 21 years of age.
2. Have a diagnosis of a psychiatric disorder classified by a Diagnostic and Statistical Manual of Mental Disorders (DSM).
3. Have a current, and valid CCAR assessment completed by a Licensed Mental Health Professional that supports medical necessity for mental health services, and demonstrates which services the clientmember would benefit from.

8.765.11 ELIGIBILITY FOR PROVIDERS DELIVERING SERVICES IN AN RCCF

8.765.11.A Individual, group and family therapy provided in an RCCF shall be provided by a Licensed Mental Health Professional or a provisionally-licensed Mental Health Professional supervised by a Licensed Mental Health Professional, employed by or contracted with an RCCF that is licensed by the Colorado Department of Human Services.

8.765.11.B. Licensed Mental Health Professionals providing mental health services to clientmembers in an TRCCF are exempt from the direct physician supervision requirement in ~~10 C.C.R. 2505-10~~, Section 8.200.2.A through E.

8.765.11.C. Licensed Mental Health Professionals providing mental health services to clientmembers in the RCCF enroll as Medicaid rendering providers.

8.765.12 RCCF RESPONSIBILITIES

8.765.12.A. The RCCF shall include the following in the clientmember's record:

1. Results from the Multidisciplinary Team's Assessment;
2. ClientMember's Medicaid Eligibility Determination Form; and
3. ClientMember's diagnoses, characteristics and presenting problem.

8.765.12.B. The RCCF shall transmit the items listed in Section 8.765.12.A. to the Referral Agency.

8.765.12.C. The RCCF shall designate a Licensed Mental Health Professional to act as a case manager for mental health services for each clientmember.

8.765.12.D. The Licensed Mental Health Professional shall maintain an organized, legible, chronological, current record on each clientmember.

8.765.12.E. The clientmember's Plan of Treatment for mental health services shall be integrated into the agency's comprehensive Plan of Care reviewed by the Multidisciplinary Team. The Plan of Care shall:

1. Be signed and dated by the clientmember, the Referral Agency and the Licensed Mental Health Professional and the parent/guardian.
2. Include an initial plan developed prior to the onset of mental health services that needs of the clientmember.
3. Address mental health and other needs including the clientmember's presenting problems, physical health, emotional status, behavior, support system in the community, available resources and discharge plan.
4. Include specific goals and measurable objectives, expected dates of achievement and specific discharge criteria to be met for termination of treatment. Criteria for discharge shall include provisions for follow-up services.
5. Specify all mental health services necessary to meet the needs of the clientmember and to treat the clientmember's current diagnosis while the clientmember is in the RCCF.
6. Identify the provision of or the referral for services other than mental health services.

7. Be readily identifiable and be maintained in the ~~client~~member's record.
 8. Document any court-ordered mental health services including identifying the agency responsible for providing the court-ordered treatment.
 9. Be reviewed by the Multidisciplinary Team monthly and revised as needed.
- 8.765.12.F. Except in cases of emergency, all mental health services indicated in the Plan of Care shall be provided.

8.765.13 REIMBURSEMENT FOR MENTAL HEALTH SERVICES IN A ~~T~~RCCF

- 8.765.13.A. Reimbursement for Mental Health Services in a RCCF shall be the lower of billed charges or the maximum unit rate of reimbursement. Beginning July 1, 2022, RCCF services will ~~be not~~not be reimbursable unless provided under Early and Periodic Screening, Diagnosis and Treatment in accordance with Section 8.280.
- 8.765.13.B. The RCCF shall enroll as a Medicaid provider for the purposes of acting as a billing entity for Licensed Mental Health Professionals providing mental health services in the RCCF.