



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, May 12, 2023, beginning at 9:00 a.m., in the eleventh floor conference room at 303 E 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 22-12-16-A, Revision to the Federally Qualified Health Centers, Women's Health Services concerning Reimbursement, Section 8.700.6.D

Medical Assistance. The Department seeks to amend the rule authorizing APM 2 under Federally Qualified Health Centers. This rule update adds language that clarifies the member exclusion criteria for the APM2 PMPM capitation payment and language that explains the chronic condition incentive payment component of APM 2.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303 (2022).

MSB 22-12-20-A, Revision to Physician Services, Dental, Vision Services, Medicaid Managed Care Program concerning Prospective Medical Payments to Primary Care Medical Providers, Section 8.700.7.A

Medical Assistance. The Department is seeking to update 8.700.7.A, APM 2 under Physician Services – Prospective Medical Payments to Primary Care Medical Providers to better align APM 2 non-FQHC operations. This rule update adds language that clarifies the member exclusion criteria for APM2 PMPM as well as language for upwards reconciliation for all PCMPs.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303 (2022).

MSB 22-12-30-A, Revision to the Medical Assistance Rule concerning Supported Employment Services Expansion, Section 8.500

Medical Assistance. Senate Bill 21-039 directed Colorado's Department of Health Care Policy and Financing to create services to address on-going benefits counseling and line-of-sight supervision in the Developmental Disabilities (DD) and the Supported Living Services (SLS) Home and Community Based Services (HCBS) Waivers. It also stipulated that Supported Employment services should be

removed from the Service Plan Authorization Limit (SPAL) in the SLS Waiver. These rule changes will insert language pertaining to the newly developed services (Benefits Planning and Workplace Assistance) into the service description sections of the HCBS DD and SLS Waivers. Benefits Planning service may be delivered via Telehealth, so this service will be inserted onto the list of Telehealth services. Supported Employment services (Individual Job Development, Individual Job Coaching, Workplace Assistance, Benefits Planning, and Job Placement) will be added to the list of services that are excluded from the Service Plan Authorization Limit (SPAL) for the HCBS SLS Waiver.

These actions will help individuals with intellectual and developmental disabilities to have greater access to community employment opportunities by: 1) increasing awareness/ understanding regarding how income and public benefits interact 2) supporting individuals with elevated safety concerns at their worksites 3) allowing individuals enrolled on the SLS Waiver to not have to choose between Supported Employment services and other services that must remain within Service Plan Authorization Limit (SPAL). These changes are a step toward Colorado actively removing systematic barriers to employment and promoting the state's Employment First efforts.

This rule revision will address items raised in Senate Bill 21-039. Specifically, it will add two new Supported Employment services (Benefits Planning and Workplace Assistance) to the HCBS Developmental Disabilities (DD) Waiver (Sections 8.500.5 A & B) and the HCBS Supported Living Services (SLS) Waiver (Section 8.500.94 A & B).

The authority for this rule is contained in Section 25.5-6-413, C.R.S. (2021) and Sections 25.5-1-301 through 25.5-1-303 (2022).

MSB 22-11-22-A, Revision to the Medical Assistance Rule concerning FFY 2022-23 Healthcare Affordability & Sustainability (HAS) Fees & Supplemental Payments Amendment, Section 8.3000

Medical Assistance. This rule is being amended to reflect the changes necessary for the federal fiscal year (FFY) 2022-23 Hospital Affordability and Sustainability (HAS) provider fees and supplemental payments.

The Department submitted a state plan amendment (SPA) on 12/27/2022 to the Centers for Medicare and Medicaid Services (CMS) and expects approval in the next several months. We expect to present FFY 2022-23 HAS provider fees and supplemental payments to the Colorado Healthcare Affordability and Sustainability Enterprise (CHASE) Board on 02/28/2023. FFY 2022-23 provider fees and supplemental payments will be implemented only after the CHASE Board, the CMS, and the MSB approval. For FFY 2022-23, hospitals will pay \$1.23 billion in fees, which will generate \$3.86 billion in federal funds for Colorado. Hospitals will receive \$1.69 billion in supplemental and quality incentive payments. Currently, more than 668,000 Coloradans are enrolled in Medicaid and CHP+ coverage financed with hospital provider fees. As the hospital provider fee funds the Department's administrative costs, there is no impact on state General Fund.

The amendment revises the Essential Access Hospital Supplemental Payment calculation methodology, the Disproportionate Share Hospital Supplemental Payment allotment and calculation methodology, as well as removes measure group language from the Hospital Quality Incentive Payment (HQIP) indicating it can be found elsewhere. Further, language regarding a scoring review and reconsideration period has been added for HQIP to give the Department authority about score revisions in the event a hospital does not agree with the preliminary scores.

The authority for this rule is contained in Sections 25.5-4-402.4(4)(b), (g), C.R.S. and Sections 25.5-1-301 through 25.5-1-303 (2022).

MSB 23-01-24-A, Revisions to the Medical Assistance Rule concerning the Creation of the Nursing Home Wage Enhancement Supplement Payment, Section 8.443.21

Medical Assistance. House Bill (H.B.) 22-1333 establishes a new annual supplemental payment to nursing homes for the increase in hourly wages to at least fifteen dollars per hour (\$15/hour) for all employees. The rule establishes the wage enhancement supplemental payment detailing the calculation methodology and how nursing homes are eligible the payment.

The wage enhancement supplemental payment replaces the minimum wage supplemental payment previously included in this section of rule. The proposed rule will increase Nursing homes eligible for the payment from Medicaid enrolled Denver Metro nursing homes to all Medicaid enrolled nursing homes in Colorado. The proposed rule will also increase Medicaid supplemental payments for employee compensation from \$500 thousand to \$8.5 million per state fiscal year.

The authority for this rule is contained in 42 CFR 433.68 and 42 U.S.C. § 1396b(w); Section 25.5-4-402.4(4)(b), (g), C.R.S. and Sections 25.5-1-301 through 25.5-1-303 (2022).

MSB 22-12-13-C, Creation of the Medical Assistance Rule concerning Mobile Crisis Response, Section 8.020

Medical Assistance. The Department is creating a mobile crisis response benefit. Mobile crisis teams will be dispatched to members experiencing a behavioral health crisis. A new rule section is required to authorize a benefit to enable providers to be reimbursed for this program.

The authority for this rule is contained in Section 27-60-104, C.R.S. (2022) and Sections 25.5-1-301 through 25.5-1-303 (2022).

MSB 22-12-14-A, Revision to the Medical Assistance Rule concerning Payment for Inpatient Hospital Services, Section 8.300

Medical Assistance. Currently, Health First Colorado's base rate methodology relies on Medicare's inpatient hospital base rate calculations, which has evolved significantly since Colorado's initial adoption of this methodology. As Medicare's methodology has evolved, it has become less applicable to both the diversity of the types of hospitals serving Medicaid members as well as those hospitals' cost profiles. This rule change provides the Department with a payment methodology design that is better adapted to a Medicaid population and hospitals within Colorado. Further, adopting this update will allow the Department flexibility, alternating between re-basing rates every year and regularly implementing new versions of APR-DRGs in the off years.

The authority for this rule is contained in 42 CFR 440.10 (2021); Section 25.5-1-102(1)(a), C.R.S. (2021) and Sections 25.5-1-301 through 25.5-1-303 (2022).