



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, August 11, 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 23-06-29-A, Revision to the Medical Assistance Act Rule concerning Dental Health Care Program for Low-Income Seniors Procedure Increase, Section 8.960

Medical Assistance. Current rule states the max program fees of the Dental Health Program for Low-Income Seniors must not fall below Medicaid dental rates. Medicaid received a 3% increase for the dental rates for FY2023-24. This made some of the program rates in Schedule A fall below the Medicaid rate. This change is necessary to stay in compliance with rule.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303 (2023).

MSB 23-06-29-B, Revision to the Medical Assistance Rule regarding the Base Wage for Direct Care Workers, Sections 8.511 & 8.535

Medical Assistance. An increase to the currently approved direct care worker Base Wage has been approved by the General Assembly effective July 1, 2023. The Base Wage rule will be amended to remove exact dates and rates, so that future increases can be implemented quickly without further amendments. Additionally, the rule has been simplified and reorganized. For example, the Department will remove Base Wage regulations from the Pediatric Personal Care Rule (8.535) and reference the main Base Wage rule within 8.511. Future notices of Base Wage increases will be posted on the Provider Rates and Fee Section of the website.

The authority for this rule is contained in Senate Bill 23-214; 25.5-6-18 C.R.S. (2021) and Sections 25.5-1-301 through 25.5-1-303 (2023).

MSB 23-06-29-C, Revision to the Medical Assistance Act Rule concerning Cost Sharing, Section 8.754.1

Medical Assistance. Current rule states the max program fees of the Dental Health Program for Low-Income Seniors must not fall below Medicaid dental rates. Medicaid received a 3% increase for the dental rates for FY2023-24. This made some of the program rates in Schedule A fall below the Medicaid rate. This change is necessary to stay in compliance with rule.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303 (2023).

MSB 23-06-29-D, Revisions to the Medical Assistance Act Rule Concerning Nursing Home Reimbursement, Sections 8.440 & 8.443

Medical Assistance. House Bill (H.B.) 23-1228 increases nursing home reimbursement starting in state fiscal year (SFY) 2023-24. The proposed rule increases the SFY 2023-24 statewide average nursing home per-diem reimbursement rate by 10%, compared to a limited 2% or 3% increase in previous years. The proposed rule also increases the Cognitive Performance Scale (CPS) and Preadmission Screening and Resident Review (PASRR) II supplemental payment starting in SFY 2023-24, reimbursement for providing care to residents with cognitive and/or behavioral disabilities. The propose rule also makes necessary changes to the case mix adjustment applied to nursing home per diem reimbursement rates due to the current Resource Utilization Group (RUG) tool no longer utilized by the Center for Medicare & Medicaid Services (CMS) after October 1, 2023.

The authority for this rule is contained in Senate Bill 23-214; 25.5-6-18 C.R.S. (2021) and Sections 25.5-1-301 through 25.5-1-303 (2023).

MSB 23-06-29-E, Revision to the Medical Assistance Rule concerning Dental Therapists, Section 8.201.1

Medical Assistance. This rule clarifies that dental therapists are dental provider types who can be reimbursed by Medicaid, as part of implementing Colorado Senate Bill 22-219.

The authority for this rule is contained in Sections 25.5-1-301 through 25.5-1-303 (2023).

MSB 23-02-09-A, Revision to the Medical Assistance Act Rule concerning Electronic Consultation (eConsults), Section 8.095

Medical Assistance. The proposed rule will authorize Electronic Consultation (eConsults), which is an asynchronous dialogue initiated by a Primary Care Medical Provider (PCMP) or other qualified health care professional seeking a Specialty Provider's expert opinion without a face-to-face member encounter with the Specialty Provider. eConsults must be initiated by a PCMP, and responded to by a Specialty Provider, through the Department's authorized eConsults Platform. The eConsult Platform is a web-based and application-based electronic system authorized by the Department that allows for an asynchronous exchanges between PCMPs and Specialty Providers to securely share health information and discuss member care. Specialty Providers are reimbursed only for closed eConsults that are delivered, and responded to, through the eConsult Platform.

The authority for this rule is contained in CRS §§ 25.5-4-103 (25.7), 25.5-5-321.5 and Sections 25.5-1-301 through 25.5-1-303 (2023).

MSB 23-04-12-B, Revision to the Medical Assistance Rules Mental Health Transitional Living Homes, Section 8.509.50

Medical Assistance. The Department has worked with the Colorado Department of Human Services (CDHS) in the development of the new residential settings. There are two levels of service that will be provided within these settings. Under the Community Mental Health Supports (CMHS) Home and Community Based Services (HCBS) waiver, the Department has developed a new residential service titled "Mental Health Transitional Living homes (MHTL). This residential service will include protective oversight and supervision; assistance with medication; community participation; recreational and social activities; intensive case management/care coordination; housing planning and navigation services as appropriate for clients experiencing homelessness/at risk for homelessness; life skills training/ADL support as needed; and therapeutic services, which may include but is not limited to individual and group therapy, medication management, etc. Only the Level 1 homes will be an HCBS benefit and available only to members who are on the CMHS waiver.

This benefit has been added to the Department's waiver agreement with the Centers for Medicare and Medicaid Services (CMS). In order to operationalize the MHTL homes, the Department must promulgate regulations for the service and align with the waiver agreement. These rules outline member eligibility, provider requirements, environmental standards, and reimbursement information.

The authority for this rule is contained in 27-71-101 C.R.S. (2022) and Sections 25.5-1-301 through 25.5-1-303 (2023).