



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, January 10, 2025, beginning at 9:00 a.m., at 303 E 17th Avenue, 11th Floor Conference Room, 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, 303 E. 17th Ave, Ste 1100, 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 24-09-03-A, Revision to the Medical Assistance Rule concerning Enforcement Remedies Related to Survey Deficiencies; Medical Leave from Nursing Facility; and Management of Personal Needs Funds by Other than Resident, Sections 8.435, 8.443 & 8.482

Medical Assistance. This rule amendment involves technical changes to rules 8.443.24, 8.435.2.C, 8.482.43, and 8.482.55. These changes include removing outdated language, correcting some grammatical and capitalization errors, and updating language to align with current practices. Additionally, the Department removed regulations that were moved under Colorado Department of Public Health and Environment's authority as a result of Senate Bill 21-128.

The authority for this rule is contained in 42 CFR §488.330; CRS §25.5-6-311; CRS §25.5-6-201-210 and Sections 25.5-1-301-303 (2024).

MSB 24-09-24-A, Revision to the Hospital Discounted Care Rule Concerning Hospital Discounted Care Updates Per 24-116 Section 8.920

Medical Assistance. Updates to the Hospital Discounted Care rules as mandated by SB 24-116 including updates to some definitions, allowing hospitals who bill for their employed or contracted physicians to set payment plans to 6% of the patient's calculated gross monthly income, the requirement that Licensed Health Care Professionals report their own data to the Department, and the exclusion of primary care provided at a clinic located in a rural or frontier county that offers a sliding fee scale as approved by the Department.

The authority for this rule is contained in 25.5-3-501 through 25.5-3-507, C.R.S. and 25.5-1-301 to 25.5-1-303 C.R.S. (2024).

MSB 24-10-01-A, Revision to the Medical Assistance Act Rule concerning Healthcare Affordability and Sustainability Provider Fees and Supplemental Payments, Section 8.3000

Medical Assistance. The proposed rule achieves two purposes. These are 1) make necessary adjustments to MSB 24-02-06-A and 2) establish a one-time provider fee increase to fund supplemental payment increases for federal fiscal year (FFY) 22-23 and FFY 23-24.

1) MSB 24-02-06-A Adjustment - The adjustments to MSB 24-02-06-A, originally presented to the Medical Services Board in July 2024, modifies the calculation of the HAS provider fees and supplemental payments. Since then, it was identified that two minor rule revisions are necessary for HAS calculations. These include:

a. Reinclusion of the "Urban Center Safety Net Specialty Hospital" definition in Section 8.3001 DEFINITIONS. This definition was erroneously removed and needs to be a defined hospital for certain hospital reimbursement calculations.

b. Change the hospital-specific Disproportionate Share Hospital (DSH) limit for low Medicaid inpatient utilization rate (MIUR) hospitals from "equal to 10.00%" to "greater than or equal to 10.00%" in Section 8.3004.D. DISPROPORTIONATE SHARE HOSPITAL SUPPLEMENTAL PAYMENTS. This is necessary to allow for increased HAS supplemental payments to low MIUR hospitals, aligning with HAS supplemental payment calculations.

Both listed changes are minor and have negligible impacts. The Urban Center Safety Net Specialty Hospital definition makes no changes to hospital reimbursement. The low MIUR DSH limit change increases HAS supplemental payments to low MIUR hospitals by \$50k.

2) HAS Provider Fee Increase - In the subsequent months, HAS supplemental payments for FFY 22-23 and FFY 23-24 will be increased from 97.00% to 99.25% of the Inpatient/Outpatient Upper Payment Limits (UPLs), equaling a \$85 million payment increase. Both years are still within the two-year federal filing requirements, allowing for federal financial participation for any supplemental payment increases. The state's funding obligation for this payment increase will come from an additional \$31 million in provider fees to be collected from hospitals at the same time the supplemental payments are made. The calculation methodology for the one-time fee increase is included in Section 8.3003.A. OUTPATIENT SERVICES FEE and Section 8.3003.B. INPATIENT SERVICES FEE. No changes are required to Section 8.3000 for the payment increase for either year. The Department worked extensively with the Colorado Hospital Association (CHA) and the general hospital provider community over the last several months on this project. The HAS provider fee and supplemental payment increases were both presented to the Colorado Healthcare Affordability & Sustainability Enterprise (CHASE) Board at their October 2024 meeting. The CHASE Board approved the fees and payments at the board meeting and makes recommendations for the MSB to approve the proposed rule.

The authority for this rule is contained in 42 CFR 433.68 and 42 U.S.C. § 1396b(w); 25.5-4-402.4(4)(b), (g), C.R.S. and 25.5-1-301-303 (2024).

MSB 24-09-05-A, Revision to the Medical Assistance Act Rule concerning updates to the Continuous Eligibility for Medical Assistance programs for section 8.100.3.Q

Medical Assistance. The proposed rule change will amend 10 CCR 2505-10 Section 8.100.3.Q.1 and 8.100.3.Q.2 to update requirements to expand the 12 months of continuous eligibility (CE) for children under the age of 19 in Medicaid and Child Health Plan Plus (CHP+). These requirements are to expand coverage according to Section 5112 of the Consolidated Appropriations Act, 2023 (CAA, 2023), which amended titles XIX and XXI of the Social Security Act (the Act). The updates to amend the requirements for continuous eligibility for children under the age of 19 will allow continuous coverage for children enrolled in the limited Family Planning Medical Assistance programs, as well as ensure that children who become incarcerated and who are later released will still be eligible for the remainder of their CE period if they have any of their 12 months of coverage left. These changes will also eliminate the 14-day no-fault period that applied at the initial application and eliminate the termination of children under 19 years of age for not meeting the reasonable compatibility income check after the child's initial eligibility determination has been made. In addition, a child who moves to a higher benefit category during the CE period when changes are reported will start a new 12-month CE period (such as moving from CHP+ to Medicaid if the income decreases within Medicaid income levels). Changes will also allow a child's eligibility to be terminated during a CE period for the allowable exception of when the Department determines that eligibility was erroneously granted at the most recent determination, redetermination, or renewal of eligibility because of agency error, fraud, or perjury attributed to the child or the child's representative. Lastly, the Department will update the Colorado Benefits Management System (CBMS) to reflect and align these changes with these proposed rule updates.

The authority for this rule is contained in 42 C.F.R. § 435.926; C.R.S. 25.5-5-204.5 and 25.5-1-301-303 (2024).