Guidance for Making Policy Decisions Regarding Replicating Colorado's Nursing Facility Level of Care (NF-LOC)

The document provides Draft Criteria for replicating Colorado's NF-LOC and identifies several policy decisions before selecting the final criteria.

Creating an Optimized Draft Criteria

The Draft Criteria was created by:

1) Selecting the items that best replicated the constructs included in the current LOC;
2) Identifying items that were strongest predictors of LOC eligibility and removing items that were playing little or no additional role in this determination;
3) Manipulating the remaining levers to find the combinations that resulted in the fewest people losing or gaining eligibility;
4) Simplifying the criteria by removing items that did not impact who was eligible; and
5) Discussing and adjusting thresholds for the items with Department staff.

New levers were added to the model presented in October based on Department and stakeholder feedback:

- Using a cane or walker for mobility
- Using a cane or walker for transferring
- Adding the ability to model the effort of toilet transfer on both the toileting and transferring ADLs
- Adjusting the mobility levers so that people who do not walk (including only using a wheelchair) meet the eligibility threshold for mobility
- Updating the lever for the item "Likelihood Behavior Would Reoccur if Services Were Withdrawn" so that it only applied to individuals who display or receive intervention for one of the four behaviors included in the modeling file (injurious to self, physically aggressive, verbally aggressive, property destruction)

The results of this exercise are the following **Draft Criteria** for LOC:

Variable Name	Lever	Variable Name	Lever	Variable Name	Lever
ADLs				**Behaviors**	
Bathing- Usual	Partial/moderate assistance	Transfer- Roll Left/Right- Usual	Partial/moderate assistance	Injurious to Self- Behavior Status	Currently requires intervention and/or display
Bathing- Most Dependent		Transfer- Roll Left/Right- Most Dependent		Injurious to Self- Cueing Frequency	2) More than once per month and up to wee
Dressing- Upper Body- Usual	Partial/moderate assistance	Transfer- Sit to Lying- Usual		Injurious to Self- Physical Intervention Freq.	2) More than once per month and up to wee
Dressing- Upper Body- Most Dependent		Transfer- Sit to Lying-- Most Dependent		Injurious to Self- Planned Intervention Freq.	1) Less than monthly to once per month - Int
Dressing- Lower Body- Usual	Partial/moderate assistance	Transfer- Lying to Sitting- Usual		Injurious to Self- Other Frequency	
Dressing- Lower Body- Most Dependent		Transfer- Lying to Sitting- Most Dependent		Physically Aggressive- Behavior Status	Currently requires intervention and/or display
Dressing- Footwear- Usual	Partial/moderate assistance	Transfer- Sit to Stand- Usual	Partial/moderate assistance	Physically Aggressive- Cueing Frequency	2) More than once per month and up to wee
Dressing- Footwear- Most Dependent		Transfer- Sit to Stand- Most Dependent		Physically Aggressive- Physical Intervention Freq.	2) More than once per month and up to wee
Dressing- Outfit for Weather		Transfer- Chair/Bed to Chair- Usual		Physically Aggressive- Planned Intervention Freq.	1) Less than monthly to once per month - Int
Toileting- Toilet Hygiene- Usual	Partial/moderate assistance	Transfer- Chair/Bed to Chair- Most Dependent		Physically Aggressive- Other Frequency	
Toileting- Toilet Hygiene- Most Dependent		Transfer- Car Transfer- Usual		Verbally Aggressive- Behavior Status	Currently requires intervention and/or display
Toileting- Toilet Transfer- Usual	Partial/moderate assistance	Transfer- Car Transfer- Most Dependent		Verbally Aggressive- Cueing Frequency	2) More than once per month and up to wee
Toileting- Toilet Transfer- Most Dependent		Transfer- Toilet Transfer- Usual		Verbally Aggressive- Physical Intervention Freq.	
Toileting- Menses Care- Usual		Transfer- Toilet Transfer- Most Dependent		Verbally Aggressive- Planned Intervention Freq.	1) Less than monthly to once per month - Int
Toileting- Menses Care- Most Dependent	Partial/moderate assistance	Eating- Eating- Usual		Verbally Aggressive- Other Frequency	
Toileting- Clean After Toileting		Eating- Eating- Most Dependent	Partial/moderate assistance	Verbally Aggressive- Threat to Safety	Yes
Toileting- Toilet Environment		Eating- Tube Feeding- Usual		Property Destruction- Behavior Status	Currently requires intervention and/or display
Toileting- Bladder Equipment	Yes	Eating- Tube Feeding- Most Dependent	Partial/moderate assistance	Property Destruction- Cueing Frequency	2) More than once per month and up to wee
Toileting- Bladder Program	Yes	Mobility- Uses Cane	Yes	Property Destruction- Physical Intervention Freq.	2) More than once per month and up to wee
Toileting- Bowel Equipment	Yes	Mobility- Uses Walker	Yes	Property Destruction- Planned Intervention Freq.	1) Less than monthly to once per month - Int
Toileting- Bowel Program	Yes	Transferring- Uses Cane/Walker	Yes	Property Destruction- Other Frequency	
Mobility- Participant Walk*	Yes			Likelihood Behavior Reoccur if Services Withdrawn	Very likely
Mobility- Walk 10 Feet- Usual	Partial/moderate assistance	* If either "No" response if selected, meet threshold for Mobility		**Memory & Cognition**	
Mobility- Walk 10 Feet- Most Dependent				Severity of Memory Issue	Moderately impaired: Demonstrates marked
Mobility- Walk 50 Feet- Usual				Severity of Attention Issue	Moderately impaired: Demonstrates marked
Mobility- Walk 50 Feet- Most Dependent		**Color Coding for Levers from Highest Level of Support to Lowest**		Severity of Problem Solving Issue	Moderately impaired: Demonstrates marked
Mobility- Walk 150 Feet- Usual	Supervision or touching assistance	Green (Highest)		Severity of Planning Issue	Moderately impaired: Demonstrates marked
Mobility- Walk 150 Feet- Most Dependent		Purple		Severity of Judgment Issue	Moderately impaired: Demonstrates marked
Mobility- Walk Outside- Usual	Supervision or touching assistance	Blue		Ability to Make Decisions	
Mobility- Walk Outside- Most Dependent		Yellow		Ability to Express Self to Individuals Familiar With	Frequently exhibits difficulty with expressing
Mobility- Use Wheelchair		Orange		Ability to Express Self to Individuals Unfamiliar With	
Mobility- Type of Wheelchair		Red (Lowest)			
Mobility- Wheel 50 Feet- Usual		Black (Not using lever)			
Mobility- Wheel 50 Feet- Most Dependent					
Mobility- Wheel 150 Feet- Usual					
Mobility- Wheel 150 Feet- Most Dependent					

The Draft Criteria results in the following outcomes:

Pilot Population	No Longer Meet LOC		Now Meet LOC	
	#	%	#	%
All	**62**	**16%**	**12**	**52%**
Aged & Physical Disabilities	27	22%	5	45%
IDD	13	13%	1	100%
Mental Health	15	16%	4	50%
All Children	7	9%	2	67%
Children Excluding CLLI Waiver	7	11%	2	100%

In the pilot sample, 390 participants met LOC on the ULTC 100.2 while 23 did not. Under this scenario, 16% of the 390 participants who met LOC under the ULTC 100.2 no longer were eligible, while 52% of the 23 people who did not meet LOC under the ULTC 100.2 became eligible. While the absolute numbers in the sample represent a reduction in the number of people who would be eligible, if rolled out as included in this scenario, there is considerable potential for the number of people deemed eligible to increase. This is because SEPs and CCBs currently screen out people whom they do not believe would be eligible before they receive an assessment.

This informal screening by the SEPs and the CCBs may result in some people being denied eligibility without due process because some of them may have been determined eligible if given an assessment. The intake screen developed under the new assessment process effort includes an objective screen that should mitigate this situation. This will result in some people who were denied an assessment becoming eligible. The Department currently does not collect data that would allow for an estimate how many people this will affect.

The Department will need to make a policy decision regarding the weight it gives to the percentage of people who no longer meet LOC relative to the percentage who now meet LOC who did not otherwise.

Discussion of Key Policy Decisions

There are several key policy decisions the Department needs to make before finalizing the NF-LOC criteria. This section discusses the options and implications for each decision.

Decision One: Adjusting How the Likelihood of Behavior Reoccurring is Considered in Determining LOC

Based partly on stakeholder input, the assessment includes an item on the likelihood of a significant reoccurrence or escalation in dangerous or disruptive behaviors if services were withdrawn. This item was found to be reliable (kappa .8, 70% agreement).

The item is "How likely is it that disruptive or dangerous behaviors would occur and/or escalate if services were withdrawn?" and the response options are: Behavior would almost certainly reoccur, very likely, likely, unlikely, highly unlikely, not sure, not currently receiving services.

The Draft Criteria includes this construct and sets the response threshold at "Very Likely" and the participant exhibits or requires intervention for self-injurious behavior, physical aggression, verbal aggression, **or** property destruction. If this item is turned off, four additional individuals (1%) lose eligibility and there is no change to the number of individuals who gain eligibility compared to the Draft Criteria.

Pilot Population	No Longer Meet LOC		Now Meet LOC	
	#	%	#	%
All	**66**	**17%**	**12**	**52%**
Aged & Physical Disabilities	28	23%	5	45%
IDD	14	14%	1	100%
Mental Health	17	18%	4	50%
All Children	7	9%	2	67%
Children Excluding CLLI Waiver	7	11%	2	100%
Change from Draft Criteria				
All	**4**	**1%**	**0**	**0%**
Aged & Physical Disabilities	1	1%	0	0%
IDD	1	1%	0	0%
Mental Health	2	2%	0	0%
All Children	0	0%	0	0%
Children Excluding CLLI Waiver	0	0%	0	0%

Decision Two: Determining Whether to Consider Toilet Transfer as a Transfer Item or a Toileting Item

While the ULTC 100.2 treats toilet transfer as part of the toileting items, FASI and interRAI research finds that it is much more strongly related to transferring. The Draft Criteria treats toilet transfer as a toileting item, consistent with the ULTC 100.2 definition. The following table shows the impact of moving the toilet transfer item from the ADL toileting to transferring:

Pilot Population	No Longer Meet LOC		Now Meet LOC	
	#	%	#	%
All	**62**	**16%**	**12**	**52%**
Aged & Physical Disabilities	27	22%	5	45%
IDD	13	13%	1	100%
Mental Health	15	16%	4	50%
All Children	7	9%	2	67%
Children Excluding CLLI Waiver	7	11%	2	100%
Change from Draft Criteria				
All	**0**	**0%**	**0**	**0%**
Aged & Physical Disabilities	0	0%	0	0%
IDD	0	0%	0	0%
Mental Health	0	0%	0	0%
All Children	0	0%	0	0%
Children Excluding CLLI Waiver	0	0%	0	0%

If the toilet transfer item located within the toileting ADL in the Draft Criteria is shutoff, <u>there is no impact on overall NF-LOC eligibility</u>. If the item is then turned on under transferring, <u>there is still no impact on overall NF-LOC</u>. This also does not have any impact on the number of individuals meeting the ADL criteria

overall. The change that this creates is at the micro level, where five fewer individuals would meet the toileting criteria and 16 additional individuals would now meet the transferring criteria.

The Department's decision should consider 1) whether toilet transfer needs to be used towards NF-LOC eligibility at all and 2) if it does, should it be used within toileting or transferring.

Decision Three: Use of Cane/Walker

Case managers score the 100.2 ADL items by considering the support needed if the participant's equipment and devices they typically use to complete a task (e.g., cane or walker) are taken away. The new assessment ADL items are scored by considering the support needed to complete the task safely *with* the equipment and devices the participant typically uses.

To better understand the impact of this change, levers were added that allow the participant to meet the mobility and/or transferring criteria because they use a cane or walker. Depending on the levers selected, this could result in individuals meeting LOC via mobility and transferring *only* because they use a cane or walker.

To inform this decision, the Draft Criteria was changed to turn off the levers for using a cane and/or walker for mobility and transferring. Compared to the Draft Criteria, this scenario resulted in <u>10 additional individuals (3%) who lose eligibility and one fewer individual (4%) who gain eligibility.</u>

Pilot Population	No Longer Meet LOC		Now Meet LOC	
	#	%	#	%
All	**72**	**18%**	**11**	**48%**
Aged & Physical Disabilities	34	28%	4	36%
IDD	13	13%	1	100%
Mental Health	18	20%	4	50%
All Children	7	9%	2	67%
Children Excluding CLLI Waiver	7	11%	2	100%
Change from Draft Criteria				
All	**10**	**3%**	**-1**	**-4%**
Aged & Physical Disabilities	7	6%	-1	-9%
IDD	0	0%	0	0%
Mental Health	3	3%	0	0%
All Children	0	0%	0	0%
Children Excluding CLLI Waiver	0	0%	0	0%

Decision Four: Mitigating the Number of People who Lose Eligibility Because of They No Longer Meet the Behavior Criterion by Altering the Memory/Cognition Criterion

Depending upon how the criteria for behavior is set using the new items, the percentage of people meeting the behavior criteria using the new items drops between 12 percentage points (from 44% to 32%) using the most liberal criteria and 23 percentage points (from 44% to 21%) using the most conservative criteria. Many of these individuals do not lose eligibility because they meet one of the other criteria, especially the memory/cognition criteria.

Parsing the ULTC 100.2 language strongly suggests that only individuals with behavior issues that present a danger to themselves and others should be considered eligible. However, a sizeable subset of people

who scored as eligible under the ULTC 100.2 behavior item had no indication of an active or potential threat on the new items. However, these individuals likely had executive functioning impairments that are captured using items that are more consistent with the ULTC 100.2 memory/cognition item.

The Draft Criteria classifies a person who scores as "Moderately Impaired" on <u>any</u> of the memory/cognition as meeting LOC. Based on the theory described in the previous paragraph, the impact of changing the threshold for memory/cognition items that reflect executive functions cognition (problem solving, planning, and judgement) to "Mildly Impaired" was modeled. The impact of lowering the threshold for these items from "Moderately Impaired" to "Mildly Impaired" is:

Pilot Population	No Longer Meet LOC		Now Meet LOC	
	#	%	#	%
All	**37**	**9%**	**13**	**57%**
Aged & Physical Disabilities	19	15%	6	55%
IDD	1	1%	1	100%
Mental Health	11	12%	4	50%
All Children	6	8%	2	67%
Children Excluding CLLI Waiver	6	10%	2	100%
Change from Draft Criteria				
All	**-25**	**-6%**	**1**	**4%**
Aged & Physical Disabilities	-8	-7%	1	9%
IDD	-12	-12%	0	0%
Mental Health	-4	-4%	0	0%
All Children	-1	-1%	0	0%
Children Excluding CLLI Waiver	-1	-2%	0	0%

While this change has a substantial impact on lowering the number of people who lose eligibility with only a minimal impact on people who were not originally eligible, it represents a substantial departure from the constructs included in the ULTC 100.2. The next step is to look at the people for whom eligibility is preserved in greater depth to determine if they truly represent a population that should be classified as meeting an institutional LOC or if they were coded incorrectly under the ULTC 100.2 and never should have determined to be eligible. These analyses will involve taking a wholistic look at all of the data for these individuals, including the narrative from the ULTC 100.2.

Decision Five: Deciding Whether to use the Usual or Most Dependent Items for ADLs

Needing assistance with two or more ADLs is one of the three ways in which someone can meet NF-LOC. The new assessment tool, with incorporates items from the CMS sponsored Functional Assessment Standardized Items (FASI) effort, has two measures for each ADL item:

- **Usual Performance**- The participant's typical performance during the past *3 days*
- **Most Dependent Performance**- The maximum level of support needed for assistance during the past *30 days*

Both measures have challenges, which are summarized in the table below:

Challenges with Usual Performance	Challenges with Most Dependent
• May exclude some participants whose support needs vary substantially (e.g., seizure disorder or multiple sclerosis) and do not score high enough to meet the threshold at the time of the assessment.	• May result in individuals who had infrequent needs (e.g., a migraine headache) for which they temporarily needed support to meet the threshold. • Participants who do not meet LOC could claim that the day the assessor observed them was not representative of the entire month and ask for the determination to be overturned based on their attestation that they required more help with 2 or more ADLs at a particular moment in the past month. This could substantially weaken the Department's position in any fair hearing. This could occur in isolated cases or it could become the guidance that is given to anyone who receives a denial and contacts an advocacy organization.

Using both sets of measures as part of the NF-LOC criteria has the same result as just using the Most Dependent measure because the Most Dependent is always equal to or higher than the parallel Usual Performance measure.

Some Department staff expressed concern about not using the Most Dependent items as part of the criteria because it may cause people with intermittent needs to be excluded. Department staff expressed a desire to better understand the impact of the decision in this area and develop approaches to minimize negative impacts.   Once a preliminary decision is made, HCBS Strategies will be analyzing each of the cases who lost or gained eligibility based on this element.

Case Manager Input on the Usual and Most Dependent
During a regular check-in meeting with pilot case managers on October 30, the group was asked the following questions about this topic, the responses to the questions follow:

1. Whether they felt that the usual and most dependent items were capturing distinct and useful information.
    a. The vast majority of case managers reported that there was not a meaningful difference in the usual and most dependent responses.
    b. Two case managers said that they felt the intent of LTSS programs is to provide ongoing support to participants who would otherwise be in a nursing facility or other institution. They said that if someone is able to qualify based off of a single day of extra support during a month then the LOC criteria would have likely missed the mark.
    c. Several case managers did say that learning more about support needs in the past 30 days and beyond was helpful for support planning. However, they felt that having a question to ask about this was unnecessary and additional documentation could be made in the notes.
    d. One case manager reported that only using usual responses would cause someone with episodic needs (e.g. MS) to no longer meet LOC.

2. Whether one type of question (i.e. usual or most dependent) should be used or if both should continue to be used.
   a. The majority of case managers said that they would prefer to just use the usual items and remove the dependent items. They felt that 1) there was no additional value for LOC in having the most dependent items for the majority of participants; 2) support for the most dependent items could be challenging for participants to recall; and 3) they could not see the participant's support needs for the past 30 days.
3. Their preferred approach moving forward.
   a. The majority of case managers felt that the best route was to capture the usual items only and capture additional information beyond the past three days in the notes for support planning.
   b. If the Department would like to use the most dependent items, the case managers had the following suggestions for optimizing the usefulness of these items:
      i. Develop a threshold for the number of times a most dependent event at the identified response threshold would need to occur in a 30-day period (e.g., hands on support for bathing needs to occur 8 times in a 30-day period). This would help avoid the cases where participants only experience a support need for one day of the month.
      ii. At the beginning of the functioning module include a checklist of the ADLs for which the participant's support needs vary throughout the month and only capture most dependent for those items.

The Draft Criteria uses the Usual Performance items. The following table shows the impact of changing the criteria to use the Most Dependent items.

		Most Dependent		Usual Performance		Difference	
		#	%	#	%	#	%
ULTC 100.2	Met NF-LOC	390	94.4%	390	94.4%		
	NF-LOC Not Met	23	5.6%	23	5.6%		
New Items	Met NF-LOC	348	84.3%	340	82.3%	8	2.0%
	NF-LOC Not Met	65	15.7%	73	17.7%		
Lost Eligibility		56	14.4%	62	15.9%	6	-1.5%
Gained Eligibility		14	60.9%	12	52.2%	2	+8.7%

Using the Most Dependent criteria results in 1.5 percentage point increase in the percent of people who lose eligibility, however it also results in an 8.7 percentage point increase in the percent of people who gain eligibility.