



## INFORMATIONAL MEMO

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<b>TITLE:</b>	<b>HCBS SETTINGS FINAL RULE—MEETINGS TO DEVELOP RULE AND RELATED MATERIALS</b>
<b>SUPERSEDES NUMBER:</b>	N/A
<b>EFFECTIVE DATE:</b>	<b>AUGUST 3, 2020</b>
<b>DIVISION AND OFFICE:</b>	<b>STRATEGIC OUTCOMES DIVISION, OFFICE OF COMMUNITY LIVING</b>
<b>PROGRAM AREA:</b>	<b>HCBS WAIVERS</b>
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<b>APPROVED BY: HAYLEY GLEASON</b>	

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*HCPF Memo Series can be accessed online: <https://www.colorado.gov/hcpf/memo-series>*

### **Purpose and Audience:**

The purpose of this Informational Memo is to inform stakeholders of upcoming meetings to continue the development of the Draft Rule that will codify within Colorado regulations the requirements of the federal Home and Community-Based Services (HCBS) Settings Final Rule and an informed consent template with guidance for providers and case managers. The meetings will be open to all interested stakeholders, including HCBS waiver participants, relatives of participants, advocates, and representatives of providers and case management agencies serving individuals enrolled in the HCBS waivers.

### **Information:**

In 2014, the federal Centers for Medicare & Medicaid Services (CMS) published a [rule](#) requiring HCBS to be provided in settings that meet certain criteria. The rule identifies rights that individuals have in HCBS settings and sets out a process for modifying those rights where appropriate in an individual case. The process includes documenting several criteria, including the individualized assessed need for the modification and the informed consent of the individual.

As announced in [Informational Memo IM 19-050](#), the Department hosted a Rights Modification Stakeholder Workgroup to develop proposed materials regarding the rights modification process. The workgroup, which met five times between December 2019 and June 2020, identified three priorities:

1. Updates to regulations and waivers to incorporate the requirements of the rule, including streamlining existing processes under the waivers serving people with intellectual and developmental disabilities (IDD) for rights suspensions and restrictive procedures;
2. Trainings for individuals and families, providers, and/or case managers; and
3. Forms to use in documenting the rights modification criteria, including informed consent.

To facilitate work on these priorities, the Department:

- Shared a Draft Rule with participants for their review and comment;
- Asked participants to complete a worksheet regarding training topics and approaches, to complete a poll regarding their training priorities, and to contribute materials and insights from effective trainings they may have attended in the past; and
- Asked participants to submit informed consent forms currently in use and to provide comments on a draft template, with built-in guidance for providers and case managers, shared at the final meeting of the workgroup.

Although the Rights Modification Stakeholder Workgroup has concluded, the Department wants to continue hearing from a diverse group of stakeholders about these materials. Specifically, the Department will be hosting a series of open, informal meetings this summer and fall to allow interested people to ask questions about and provide feedback on the Draft Rule and the proposed informed consent template. Each meeting will address iterative updates to the Draft Rule and informed consent template based on feedback from the prior meeting. The Department will develop training materials through a separate process.

The following meetings will occur virtually:

- [August 13, 2020](#), 9:00 a.m. – 10:30 a.m.; participant code 516148.
- [September 14, 2020](#), 9:30 a.m. – 11:00 a.m.; participant code 516148.
- [October 14, 2020](#), 12:00 p.m. – 1:30 p.m.; participant code 982280.

Click the link above to join the meeting. For audio, you may listen through your computer or dial 720-279-0026 or 1-877-820-7831 and enter the participant code listed above.

The Draft Rule will affect you if you participate in **any** HCBS waiver or have friends or relatives that do, provide services under **any** waiver, or provide case management under **any** waiver. This includes both waivers/services/case management agencies historically targeted toward people with IDD, and those traditionally targeted toward other populations. Your input will be invaluable in helping the Department refine its Draft Rule and informed consent template before the formal rule promulgation process begins. **All are welcome!**

To facilitate participation by those who did not participate in the Rights Modification Stakeholder Workgroup, the materials that will be discussed at the August 13 meeting (the Draft Rule, in-progress Listening Log, and informed consent template) will be the same versions as those distributed in connection with the final meeting of the workgroup in June. The Department expects to update these materials going forward based on the input received at the open meetings as well as input already received from workgroup participants but not yet addressed.

Whether or not you participate in any of the open meetings, you may send written questions and comments on the materials to [hcpf\\_STP.PublicComment@state.co.us](mailto:hcpf_STP.PublicComment@state.co.us).

**Attachment(s):**

Materials shared with Rights Modification Stakeholder Workgroup in June 2020:

- Updated Draft Rule
- In-progress Listening Log
- Informed consent template with built-in guidance for providers and case managers

**Department Contact:**

Inquiries may be sent to the following shared inbox:  
[hcpf\\_STP.PublicComment@state.co.us](mailto:hcpf_STP.PublicComment@state.co.us).