To: Medical Services Board % Chris Sykes
Heather Fladmark, OCL, HCPF
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From: The Arc of Adams County
Linda Skaflen, Executive Director
Kari Easterly, Adult Advocate

Re: **Document 06, MSB 19-04-16-A**, Revision to the Medical Assistance Rules concerning Case Management and Quality Performance, Sections 8.393, 8.500, 8.600 & 8.700

Date: June 7, 2019

We understand the challenge the Office of Community Living (OCL) has while trying to change and incorporate the new Case Management Agency rules into the current configuration of HCPF rules. The rules have existed in the current order for a long time. In general, the organization of the rules makes it very challenging to understand for anyone wanting to access them. It is not possible for OCL to address multiple challenges in this round. It would be very productive to consider the entire rule sections for IDD and organize it to follow a process that mirrors accessing services.

Comments generic to the entirety of the Rule Draft which includes several sections not specific to the function of a Case Management Agency were submitted to OCL. They are comments that do not impact the passage of the CMA rules. We did suggest relocating all definitions to one section of the rules for 8.500, 8.600 and 8.700.

The following are recommendations and comments specific to the draft initially released for Public Rule Review. We have not reviewed the changes that were made and incorporated into the MSB agenda released today. As in prior rule comments, we will try to schedule time to meet with the Department and review our recommendations.

1. It is challenging to understand the responsibilities of case management that is provided to people using state funded services. It appears it could be section 8.607.1-7 however many responsibilities have been removed. What parts of the CMA rules are they supposed to follow?
2. We combined all Definition comments. Many are applicable across most sections.
    - Authorized Representative as defined in 8.519.1 needs to be in all sections. Included in CES but doesn't match CM definition.
    - CDASS is included but does not include a definition for CDASS Authorized Representative. In the definition of Authorized Representative in 8.519.1. It says to exclude the duties of AR in CDASS but there is no definition or a reference to another rule.
    - Client is used in these rules but in the IRSS rules they use PRS. PRS is also used in 25.5-10. There is not a definition of client in 25.5-10
    - Client representative should be included Case Management definitions. It allows a person receiving services the option to determine a level of representation different from Authorized Representative.
    - Comprehensive Assessment: Is this a standardized tool? 100.2? How is this different than Level of Care Evaluation?

- Family: "One or more individuals to whom legal custody of a client with a**n Intellectual/ D**evelopmental **D**isability has been given by the court." For the I/DD waiver, a person needs to be 18. Thus legal custody is not applicable. If the intent is legal guardian, he/she should not be considered a family member if the legal guardian is a professional service.
- Guardian Ad Litem should be a separated definition. The court defines the responsibilities, authority and time limitation of the GAL. A GAL may be granted the same decision making authority as a guardian depending on the situation.
- Guardian: remove testamentary guardianship for an incapacitated person. This was removed from statute specific to an incapacitated person in 2000 or 2001.
- Medicaid Eligible: Any person can be Medicaid Eligible based on financial determination. The Disability determination is criteria for LTSS.
- Natural Supports definition should include **non paid** informal relationships
- Organized Health Delivery System is not defined in 8.519.1. While it is not a CM function, it would be good for Case Managers to know what it is.
- In 8.519, Performance and Quality Review: Please add a minimum in which the CMA or other agencies will be review by the Dept.
- Post Eligibility Treatment of Income (PETI) (HCBS-DD only) is no longer applicable for HCBS-DD waiver. In the HCPF training for CM dated September 2018, PETI is required for EBD & CMHS for ACF environments and in the BI waiver for SLP environments. Also required in Nursing Home placements 8.500.16
- In 8.519, the definition of: Provider definition needs to be cleaned up as written. The sentence doesn't make sense. Also, do you mean Medicaid approved provider or HCBS?
- Provider is defined but Program Approved Service Agency is not and should be added.
- In 8.519, Single Entry Point/Entry Point District: This not a definition and should be elsewhere or revised to be a definition.
- In 8.600, Support Coordinating Agency – is this needed given the separation of CCB and CMA? If it is only the CCB then indicate as such.
- Targeted Case Management in 8.519.1 should include a full definition of TCM. Or needs to reference Section 8.761 if Targeted Case Management section is going to

3. 8.500.16.A & C In Section A notice is required if adverse action affects the client's waiver enrollment status. The CCB is responsible for waiver eligibility status and Case Management is responsible for notification related to waiver services. The removal of C results in no notification to the provider's regarding waiver enrollment status and the Appeal section in 8.519.22 doesn't notify providers of waiver enrollment status change either. The only provider notification is specific to financial eligibility in 8.519.22.B.1

4. 8.519 Case Management: Should include activities related to TCM as well. This only states referral and related activities. Should include language such as application and referral for other benefits as needed.

5. 8.519.2.J. Includes reserves for once month to cover service providers? Why service providers when they bill HCPF directly?

6. 8.519.3.B Case Management agencies may not provide guardianship services for any client for whom they provide case management services.

   This appears that it gives the authority to any CMA to provide guardianship services to an individual in services just not receiving CM from their agency. Case Management Agencies should not provide guardianship services to any person for the following reasons
   - A Case Management Agency is not guardianship focused.
   - People have a choice of case management agencies. The role of guardianship would put limitations on that choice and potential changes in the service agency. If a client is receiving case management services from a CCB and wants to change their service agency to the CCB operated PASA, they would have to change their CMA to the option in the county which could be the guardian under the current rule draft. It would require a court process to change the guardianship.

7. 8.519.3.S References the need to develop a close out plan. There is no reference to notification of the client, family or others approved to assist the client.

8. 8.519.5.E.12 Regulations and state statue for LTSS program. Statute is misspelled

9. 8.519.5.H.1 What are the minimum requirements for supervisory experience?

10. 8.519.5.I. Background checks. Please define minimum requirement to pass background checks for employment.

11. 8.519.6 Case management agency selection: How will current people receiving services know they have a choice in their case management agency, both initially and ongoing?

12. 8.519.6B.1.b. , Please add at end of sentence"… which will include in the following order, but is not limited to: (*As written the contractor could skip to step iv.)*

13. 8.519.6C.iv. If transfer in the middle of the year, does the client need a new Service plan? Why not just continue the Service plan with updates?

14. 8.519.7.E The agency shall offer and provide interpretation or translation services in languages other than English, and through such other modes of communication as may be necessary as requested. Please delete "as requested". It needs to be offered, requested or not.

15. 8.519.11.B.3. …which include making referrals to providers, scheduling appoints as needed or requested by the client. Please Add: and arranging transportation to get there.

16. 8.519.12A.1.a. The records need to include identifying information such as contact information for client. Address and phone.

17. 8.519.12A.2.b. Documentation within five (5) business days is very limiting.

18. 8.519.13. Clients shall have the freedom to choose from qualifies provider agencies in accordance with Sections 8.603. Qualified? Is this state approved? Why not just say PASA?

19. 8.519.13.B must provide clients with both the service delivery options and the provider agency information

20. 8.519.13.B. "The case manager shall provide informed choice…" There is not a definition of informed choice nor does it indicate what a CM should or should not do in that process. If a person needs assistance with this process and the CMA has no exception for the conflict free requirement, then they need to be proactive giving support to the person needing it.

21. 8.519.13.B. Choosing a PASA should have a timeline as does the choosing the CMA process. There are timelines for CCBs to send to CMAS. Add within five (5) days of the initial service plan completion or receipt of a request for a PASA change.

22. 8.519.13.B.2.e. What are the guidelines for the process?

23. 8.519.13.B.2.e. Please add: not to include SIS information.

24. 8.519.13.B.3. needs to include documentation of the services delivery option choice, for example, under SLS.

25. 8.519.14.A.3.c.d. Natural supports and charitable organization are not authorized services nor does the state have the authority to determine what services are available from any charitable organizations.

26. 8.519.15 Regional Center Referral Process does not match the guidance document written by The Division for Regional Center Operations effective date- February 1,2018.

27. 8.519.15.B.4 The client has to be a resident of Colorado or receiving Colorado funds for an out of state placement to access Regional Center Services. As described in #22 above.

28. 8.519.16.B Incident reporting is not in compliance with the requirements for mandatory reporting C.R.S 18-6.5-108. Nor is it clear that CMA and staff are mandatory reporters.

29. 8.519.17.A. Please add: A client, when provided with appropriate and necessary accommodations, or their legal guardian is responsible to:

30. 8.519.17 Client Responsibilities: Add f. Notify the CMA when withdrawing from services.

31. 8.519.21.C. the Authorized Representative does not have decision making capacity

32. 8.519.22.A.2 The application or client requests such information. What application or should this be the applicant?

33. 8.519.22.C.1. if the client cannot be served safely within the cost containment defined in the waiver then what. A SIS redetermination or an institutional placement?? There needs to be some parameters or process with the challenger of cost containment.

34. 8.519.22.D.3&4 The client, given reasonable accommodations or the client representative, if authorized,

35. 8.519.22.D.7. If The client wants to voluntarily withdraw from the waiver, the Case manager must assure client is receives information about the withdrawal from services and understands the implications of such action. The client must receive an 803 and follow termination procedures. The client has fifteen (15) business days to change this decision.

36. 8.607 Case Management Services: The section starts with the statement that Case Management services for HCBS waivers is pursuant to 8.519, if this section is specific to CM for state funded services it should state it If it is not specific to state funded services, then where are the rules for Case Management related to those services.

    Please clarify and double check the roles of CCB and CMA. For example, 8.607.1. Administration. A. CCBs shall be responsible to maintain sufficient documentation of CMA activities and perform and to support billing. Is this CM for state funded services?

37. 8.607 Case Management Services. Please clarify why there is reference to the Regional Centers since they are under CDHS. (with the exception of the Regional Center Referral Process)

38. 8.607.8.A Regional Center Referral Process does not match the guidance document written by The Division for Regional Center Operations effective date- February 1,2018.

39. 8.612.3.D. CMA shall make the determination whether a client meets the definition of a Public Safety Risk or Extreme Safety Risk to Self through the following process: Shall be made by CMA supervisor. This is dysfunctional and more so with the minimal requirements of the CM supervisor. It needs to be made through the IDT process.

40. Section 8.761 Targeted Case Management Services

- Why was this section left in this location and not incorporated into CMA. This is part of what makes the rule section confusing and very difficult to follow. If you want a reference under 8.600 Services for Individuals with Intellectual and Developmental Disabilities, then simply reference it back to the CMA section.