



## COLORADO

Department of Health Care  
Policy & Financing

Medical Services Board

### MINUTES OF THE MEETING OF THE MEDICAL SERVICES BOARD

303 East 17th Avenue 11th Floor Conference Room, Denver, CO 80203

May 8, 2020

#### Call to Order

Ms. Moorer called the meeting to order at 9:06 a.m.

#### Roll Call

The Board Coordinator called the roll. There were sufficient members for a quorum with seven members participating.

##### A. Members Present

Christy Blakely, Patricia Givens, Bregitta Hughes, Jessica Kuhns, Amanda Moorer, An Nguyen, and Donna Roberts.

##### B. Members Excused

Cecile Fraley, Charolette Lippolis, Simon Hambidge and David Pump

##### C. Staff Present

Tracy Johnson, Medicaid Director; Jennifer Weaver, Attorney General; and Chris Sykes, Board Coordinator

#### Announcements

Ms. Moorer announced the next Medical Services Board Meeting will be held at 303 East 17th Avenue 11th Floor Conference Room, Denver, CO 80203 on Friday, June 12, 2020 at 9:00 a.m.

It is the policy of this Board and the Department to remind everyone in attendance that this facility is private property. Please do not block the doors or stand around the edges of the room. Please silence cell phones while in the meeting room.

#### Approval of Minutes

Ms. Blakely moved for the approval of the March 20, April 10, and April 23 meeting minutes. The motion was seconded by Ms. Kuhns. The minutes were approved, 6:0.



## Rules

### A. Emergency Adoption

Document 10, MSB 20-05-01-A, Revision to the Medical Assistance Rule concerning Provider Enrollment, Sections 8.125.11, 8.125.12, 8.125.13

Clint Eatmon, Fiscal Agent Operations, presented the rule and explained the revisions temporarily remove the site visit requirements, fingerprint background check and application fee requirements from the rule. A waiver was requested and granted from the Federal authorities.

Board Discussion – Board discussion included the rule language being reinstated when the emergency has ended.

Public Testimony – Lila Cummings, Colorado Hospital Association – in support of the rule. Thank the department for all the hard work during the pandemic.

Ms. Blakely moved for the emergency adoption of Document 10. Ms. Hughes seconded the motion.

The Board voted the emergency adoption of Document 10, 6:0.

Document 11, MSB 20-04-30-A, Revision to the Medical Assistance Rule concerning Emergency Medical Transportation, Section 8.018

Ryan Dwyer, Benefits and Services Division, presented the rule and explained an overview of Emergency Medical Transportation. Revisions include allowing an expanded facility and greater flexibility during the pandemic.

Board Discussion – Board discussion included if temporary changes may become long term permanent solutions and that the department is looking into the possibility.

Public Testimony – NA

Ms. Hughes moved for the emergency adoption of Document 11. Ms. Kuhns seconded the motion.

The Board voted the emergency adoption of Document 11, 6:0.

Document 12, MSB 20-04-30-B, Revision to the Medical Assistance Act Rule concerning Non-Emergent Medical Transportation, Sections 8.014.1.N, 8.014.3.C.2, 8.014.3.D.1, 8.014.4.A, 8.014.6.A.3

Ryan Dwyer, Benefits and Services Division, presented the rule and explained an appreciation of the public comments received at the last meeting. The department is working towards future changes.

Board Discussion – NA

Public Testimony – NA

Ms. Blakely moved for the emergency adoption of Document 12. Dr. Nguyen seconded the motion.

The Board voted the emergency adoption of Document 12, 6:0.

Document 13, MSB 20-04-29-A, Revision to the Medical Assistance Rule concerning Medical Assistance program rule updates, Sections 8.100.1,8100.3, 8.100.4, 8.100.5 and 8.100.6

Ana Bordallo and Jennifer VanCleave, Eligibility Policy Section, presented the rule and explained revisions are in response to the pandemic. Changes proposed in the rule are to remain until the end of the emergency. Self-Attestation is permissible for new applications and verification checks. Stimulus funding will not be counted as income and individuals with no insurance may get COVID testing.

Board Discussion – Board discussion included an appreciation of the rule work during the pandemic and a conversation of the communication plan to let individuals become aware of the changes was held.

Public Testimony – Bethany Pray – Colorado Center on Law and Policy – the proposed revisions are an important change and the work is appreciated. Request to implicitly state federal emergency in the rule and to clarify the income verification letters.

Ms. Blakely moved for the emergency adoption of Document 13. Ms. Kuhns seconded the motion.

The Board voted the emergency adoption of Document 13, 6:0.

Document 14, CHP 20-04-29-B, Revision to the Medical Assistance Rule concerning Child Health Plan Plus program rule updates, Sections 110,140, 310 and 320

Ana Bordallo and Jennifer VanCleave, Eligibility Policy Section, presented the rule and explained rule revisions in place until the end of emergency. Enrollment Fees waived and CHP insurance is maintained regardless of changes made in the system.

Board Discussion – Board discussion included an appreciation of the rule work.

Public Testimony – NA

Ms. Blakely moved for the emergency adoption of Document 14. Ms. Hughes seconded the motion.

The Board voted the emergency adoption of Document 14, 6:0.

Document 15, MSB 20-04-27-A, Revision to the Medical Assistance Rule concerning COVID-19 Suspension of Annual Recertification for Long Term Oxygen Certificate of Medical Necessity, Section 8.580.5.C

Russ Zigler, Operations Section and Richard Delaney, Benefits Management Division, presented the rule and explained longterm oxygen for annual review need a letter of medical necessity which requires an in person visit to be recertified. The propsoed rule temporarily halts this.

Board Discussion – NA

Public Testimony – NA

Ms. Blakely moved for the emergency adoption of Document 15. Ms. Kuhns seconded the motion.

The Board voted the emergency adoption of Document 15, 6:0.

## **B. Consent Final Adoption**

Document 01, MSB 19-12-05-A, Revision to the Medical Assistance Rule concerning NCCI, Section 8.041

Document 02, MSB 19-12-06-A, Revision to the Medical Assistance Rule Concerning Provider Screening, Section 8.125

Document 03, MSB 20-02-03-A, Revision to the Medical Assistance Eligibility Rule Concerning Adult MAGI and Medicare Eligibility, Section 8.100.4.G

Document 04, MSB 20-02-04-A, Revision to the Medical Assistance Act Rule concerning Federally-Qualified Health Center Alternative Payment Methodologies, Section 8.700.6.D

Document 05, MSB 20-02-05-A, Revision to the Medical Assistance Rule concerning Targeted Case Management, Section 8.761

Dr. Givens moved for the final adoption of Documents 01, 02, 03, 04 & 05. Ms. Kuhns seconded the motion.

The Board voted the final adoption of Documents 01, 02, 03, 04 & 05; 6:0.

## **C. Final Adoption Agenda**

Document 06, MSB 20-03-16-A, Revision to the Medical Assistance Pharmaceutical Rule Concerning Prescription Tracking Requirements, Section 8.800.11.E.1 (Kristina Gould, Pharmacy Office)

Kristina Gould and Dan Roecker, Pharmacy Office, presented the rule and explained the signature requirements are waived during a pandemic. The final rule impacts any declared health emergency.

Board Discussion – NA

Public Testimony – NA

Ms. Hughes moved for the final adoption of Document 06. Dr. Nguyen seconded the motion.

The Board voted the initial approval of Document 06, 6:0.

Document 07, MSB 19-09-04-A, Revision to Medical Assistance Rule Concerning Disability Trusts, Section 8.100.7.E.6.b.

Tiffany Walker and Rachel Entrican, Legal Division, presented the rule and went over the rule revisions. The change from last month was language regarding the acknowledgement of the receipt of notice within 30 days.

Board Discussion – Board discussion included an appreciation of the work on the great summary and the inclusion of the acknowledgement from the department.

Public Testimony – Christopher Scance – Golden Fiduciary Services – appreciate the work of Board and the department. Still concerned with the provision, does the notice agree or disagree with the disbursement? What is the appeals process if there is a disagreement? It is notification only.

Megan Brand – Colorado Fund for People with Disabilities – pleased with the mobility but concerned with the notice – does this make the department a super trustee? Request no on the \$5k noticing language in the rule.

Peter Wall – duplicate comments to Ms. Brand.

Eric Kelly – Question on process on review and disposition of notices.

Michael Kirtland – concerned with the \$5k noticing requirement language.

**No Quorum.**

**Dept Update**

- Department Updates/Questions – Bill Heller, Medicaid Director

**Break until 11:25**

**Reconvened at 11:25**

**Donna Roberts joined.**

Ms. Kuhns moved for the final adoption of Document 07. Ms. Givens seconded the motion.

The Board voted the initial approval of Document 07, 6:0.

Document 08, MSB 20-03-02-A, Revision to the Medical Assistance Act Rule concerning Inpatient Hospital Services, Sections 8.300.1, 8.300.3.A., and 8.300.4

Whitney McOwen, Operations Section and Raine Henry, Benefits Management Division, presented the rule and explained this version of the rule removes SUD language because the implementation is postponed.

Board Discussion – NA

Public Testimony – NA

Ms. Blakely moved for the final adoption of Document 08. Ms. Roberts seconded the motion.

The Board voted the initial approval of Document 08, 7:0.

#### **D. Initial Approval Agenda**

Document 09, MSB 19-01-03-A, Revision to the Medical Assistance Benefits Rule Concerning Electronic Visit Verification, Section 8.001

Board member Christy Blakely self disclosed a possible conflict of interest, her daughter and significant other are impacted by this rule revision. There is no organizational financial gain. The Board decided Ms. Blakely may partake in voting.

Lana Eggers, John Lentz and Alex Koloskus, Benefits and Services Division and Whitney McOwen, Operations Division, presented the rule and explained the revisions include federal regulation alignment mandated by 2021. A background of EVV was provided and how Colorado is implementing. August 3 is the start and allows for mandated January 1 practice. A review of the stakeholder engagement was given. A review of the technical components collected was also given. In record there are 6 data points collected – the type of service, individual receiving the service, date of service, location of service, provider name and the time of service. Stakeholder comments were reviewed. A review of the provider training was provided.

Board Discussion – Board discussion included the outreach done to other states with EVV models and the fact this is a congressional mandate and not from CMS.

Public Testimony – Christy Blakely, Family Voices – concerned regarding households with multiple persons and the large administrative burden EVV brings to the household.

Bethany Pray, Colorado Center on Law and Policy – Support the stakeholder engagement performed. Request that the August 3 claims are not impacted, to begin on January 1. Request the delay of Home Health.

#### **Dr. Givens leaves – noon.**

Dr. Nguyen moved for the initial approval of Document 09. Ms. Hughes seconded the motion.

The Board voted the initial approval of Document 09, 5:1.

#### **Consent Agenda Discussion**

No Consent

## **E. Closing Motion**

Ms. Blakely moved to close the rules portion of the agenda. The motion was seconded by Ms. Kuhns.

## **Open Comments**

### **The meeting was adjourned at 12:20 p.m.**

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, June 12, 2020 at 303 East 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](mailto:chris.sykes@state.co.us) or the 504/ADA Coordinator [hcpf504ada@state.co.us](mailto:hcpf504ada@state.co.us) at least one week prior to the meeting.