



STATE OF  
COLORADO

Sykes - HCPF, Chris <chris.sykes@state.co.us>

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## Transcript for Event: 4442235

1 message

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ICS@vitac.com <ICS@vitac.com>  
To: chris.sykes@state.co.us

Fri, May 8, 2020 at 12:22 PM

[Please stand by for realtime captions]

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This is Chris.

I'm with Jessica steam on the call. Who else is joined us please?

Just Mandy.

Hi Mandy, how are you?

Good. Good morning guys.

We have not heard from you in a while.

I know, crazy times these days.

Has it only been one regularly scheduled medical services or meeting but we have had two emergency meetings in between? It seems like an eternity.

I guess there has been a lot of meetings to throw you off.

This is Chris Sykes. Who just joined us?

This is Jen Weaver.

In morning, Jen. [Captioner cannot get audio--unclear] maybe not. We are inching closer we have two board members and the Attorney General we are piecing together the technology. [Captioner cannot get audio--unclear]

Excellent. I Chris, this is Russ. Megan morning, Russ.

Good morning, this is Chris. You just joined us please?

This is Kristi Blakely.

In morning, I just saw you over in the webinar.

Yes, I was there and then I realized I have to call in. I forgot to

Well, we are able to enable your microphone from your laptop if you prefer to go that way from your computer webinar.

No, I just turned it off. That's fine. I was trying to figure out how to sign up to do the testimony for letter EVV but that weekend I am working. Was there something I am supposed to do?

Thank you very much for letting us know.

I'm clicking it and it is not allowing.

We will get somebody to fix that. I have Tracy Johnson on the phone.

Good morning Bregitta Hambidge .

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This is Richard Delaney.

Hello Richard. Is there somebody else who joined us on the phone?

Pat Givens.

Good morning, Pat.

Good morning.

Good morning Chris, this is Kim McConnell.

Good morning, Kim. I have five board members. Tracy Johnson and Weaver. We need to list one want to get started. We should have Jessica Kuhns, --

[Captioner cannot get audio--unclear] just joined.

I think we also get that dang when somebody dials into the participant code.

Chris? I think we got a bunch of people on the Google meet. I know the invitation went out and it had a Google meet phone number, plus the one we are using now, see may want to send out a last email [Captioner cannot get audio--unclear] on the department number.

Absolutely, I appreciate that. I'm still learning Gmail.

Me, too.

Give me one second.

[Captioner cannot get audio--unclear] other people might know.

Yes.

The public health emergency, the COVID health thing, that is declared by the president. Is that true? So it's like nationwide? Or is there a state one also?

There is a state one also.

So the rules are referring to the emergency as declared by the nation or state?

I think I have seen both. I would probably have the author clarify. The rules a couple weeks ago referred to the state but [Captioner cannot get audio--unclear] this one referring to the federal one, which makes sense, because that is what CMS is basing their's office.

So then it is up to either the governor or the president to declare when the emergency is over?

Yes.

That is how that works? They just somehow decide emergency is over?

On the stateside it expires after a certain point. I think 30 days. The governor has to keep renewing the emergence the every 30 days or something I am not sure how that works on the federal side.

Okay, so when it is during this time [Captioner cannot get audio--unclear] CBN time is pretty unknown because of the nature of the emergency?

Yes, yeah.

Weatherbee, an emergency is going to end as of blah blah blah date or just and?

On the state side, yes, it will either just expire or the governor will [Captioner cannot get audio--unclear] as of the state prior to the automatic expiration. Does that make sense?

Yeah, I was just unclear about how all of that worked.

Like I said, I don't know how it works on the federal side. And I can always look into that, too.

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Okay, thank you. I appreciate that.

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Sure.

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This is Chris Sykes. Do I have any more board members on the phone? I have Jessica, Amanda, Kristy, Perdita, Patricia, anybody else?

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Yes, this is --

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This is Janel Gonzales. Megan morning Janel. I believe we have six board members with us right now. Mandy, if you would like to begin you certainly may. We have a quorum on the phone right now.

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Okay, let's look. Before I call the meeting to order I want to say hello everybody. I have missed you. I'm glad we can be back to spend some telephone time with you. It has been a bit of a crazy ride and hospitals these day. I appreciate David stepping in on the behalf for several of our emergency meeting and scheduled MSB meetings but it is nice to be with you today. I would like to officially call the May 8, 2020, board meeting to order. Chris, could you please do roll call? Again?

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This is Chris Sykes. Amanda Moore?

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Here.

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Christy Blakely?

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Present.

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Fraley. Excuse.

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Givens?

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Resins.

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Hambidge .

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Ask you excuse.

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[Roll Call]

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We will wait to see if Don is able to join us a bit later. We were planning on her attendance but we have a quorum as Chris has stated so we can move forward. I will go into public announcements. Chris, do you have something?

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Hold on, I apologize. Tracy was saying she could not hear anybody on the phone. I just want to make sure our department representative is able to listen in on the meeting. Okay. Kelly, our webinar guru, is responding. Hopefully Kelly can get the issue resolved. I apologize for the delay but we need to have Tracy check in with us to make sure she is on board. Tracy, are you with us?

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I was wondering if she might be on the Google hang out.

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Chris, this is Kelly O'Brien. Tracy confirmed she can hear and on the webinar. I just wanted to see if we can confirm she is on the phone with a computer, but she can hear you.

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Correct, yes, this is Chris. Yes, Tracy let me know she can hear but we certainly will need to have the ability for Tracy to speak. Let's make sure. Let's make sure she has the correct passcode. I apologize about this. Tracy, are you able to talk to us?

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Hi, can you hear me?

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Yes. Perfect. Sorry about that. Okay, we now have everybody that has the ability to speak at this moment enabled, so sorry, yes, we have a quorum.

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Okay, let's go to public announcements. The date and location of the next medical services board meeting, it is scheduled to be held Friday, June 12, 2020, beginning at 9:00 a.m. virtually. If you are listening via the live stream and lose the connection look on the link to rejoin the meeting. The question-and-answer features are enabled please submit questions and [Captioner cannot get audio--unclear] agenda. Please identify yourself in the comments as they are part of the public

record. Testimony can be given over the phone. These refer to the website for instructions. Individuals providing telephone testimony will be given time after individuals in the room. Please identify yourselves when speaking [Captioner cannot get audio--unclear] open forum and for each role located on the webinar page.

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Okay, we will head into the approval of the minutes. It will be much different because we have three minutes to approve. Chris, do we have to do this three times or can we combine them all together?

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You can make one summary. Yes, combine them together. Yes, correct.

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So whoever will be providing our motion, please include the March emergency, April, and [Captioner cannot get audio--unclear] meeting and April's emergency, please.

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I am not seeing it, the motion, to reach for the minutes. I only have --

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No, we don't usually have a motion. I just asked for a motion of the minutes just as a verbal. I just wanted you to include the three so we could do it in one versus doing it three times in a row.

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Okay, so I will try to do this. I did not get all the dates you said. I am moving the minutes from the April 10, 2020 meeting, and the two emergency meetings that we had dated -- give me the dated --

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April 23 and March 20. I move --

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Second.

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Second.

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All those in favor? Please say JYE.

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Aye. Thank you. [Captioner cannot get audio--unclear] in this round, thank you. Let's head into emergency adoption. We have quite a few emergency rules this morning. Six, I believe. First we will start off with document 10 and so that is Clint Easton. Are you on the phone?

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Yes I am, can everyone hear me okay?

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We can, can you go ahead and preview the rules for us?

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Absolutely. Good morning, my name is Clint Eaton and I'm the fiscal operations manager in the Medicaid operations office here at the department and I'm here today to present MSB 20-05-01A emergency rule revisions to three sections contained in the provider enrollment rules found at section H. 125. The goal is to streamline and expedite the Roman process during the COVID-19 state of emergency, enabling the departments and providers as quickly as possible. The proposed changes will coincide with CMS granting an 1135 waiver to the department for the corresponding world for the same requirements. First we seek to temporarily remove site visit requirements found in section 8 .12 5.11 which requires the department to perform a site visit on those providers classified as moderate and high risk. CMS granted the department a waiver for the corresponding federal rules, which are found at 42 CFR 424 that .58. Suspending this requirement would streamline the Roman process but also serve to protect the health and safety of those individuals performing the site visit reviews, as well. Second we seem to temporarily remove the fingerprint background check requirements which require those providers with high risk and those with a 5% ownership stake to submit to a criminal fingerprint record check. CMS granted the department a waiver for these corresponding's rules which are found it 40 2CFR [Captioner cannot get audio--unclear]. Lastly the department proposes temporarily removing the application fee requirements found in section 8.12 5.13 for those applicable providers. CMS granted the department a waiver for these corresponding total roles found in 42 point CFR point 35 point four .60. At the conclusion of the COVID-19 emergency the department will reinstate the book rules and require any provider who enrolled during the emergency declaration was subject to those rules to comply at that time. It is also important to note that all of the Roman requirements such as current licensure and required federal database checks will still be completed during the enrollment process. The enrollment is only seeking to temporarily remove these three specific requirements. With that, I'm happy to answer questions.

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Thank you. Any questions from the board?

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This is Jessica. It looks like you deleted all these things from the rules, but you did not add any language of "temporarily because of COVID" and "it will be reinstated." So it just goes back into effect? Or did I miss something?

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Yes, that is the plan. When the 120 days passes, the rules go back into effect or if it looks like current guidance of the emergency will be extended, we will address it at that time.

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Is there a reason, because it seems some roles are adding the COVID language and this one is going away temporarily is there a philosophy behind that. I'm just trying to understand.

I'm sorry, I don't understand the question.

Why make it delay for hundred 20 days versus adding language explaining it? Yeah.

Okay, so we were trying to just align these rules with the CMS waiver. The CMS waiver really eliminated those requirements from the federal rules and we were just trying to line it up with what the CMS waiver granted us for the state rules.

Okay, so it will just be, is there any plan, it will probably not happen, but if the emergency ended within 120 days you come back and reinstate it?

Yes we would.

Okay.

That is good to know. Okay. I think I get it. Thank you.

Thank you Ms. Kuhns. Any other questions ? Okay, Kurt do you have any public testimony for this emergency rule?

This is Chris Sykes. We have Lila Cummings that is summed up her testimony.

Okay, great. Ms. Cummings, can you hear us?

Yes I can.

Oh, great. We can hear you. Please proceed with your comments.

Thank you so much, my name is Lila Cummings, public policy, Colorado Hospital Association, I'm here today to find support of this emergency rule on behalf of over 100 [Captioner cannot get audio--unclear] Colorado, DHA supports [Captioner cannot get audio--unclear] thanks leadership in response to COVID-19 for changes to policy so we could get access for Medicaid [Captioner cannot get audio--unclear] ease burdens. As you are aware COVID-19 has [Captioner cannot get audio--unclear] patients, healthcare workers, and hospitals throughout Colorado and while the number of patients in Colorado is slowly declined, the levels [Captioner cannot get audio--unclear] remain guarding the impact of social distancing, the availability of personal protective equipment, and other supplies, and the financial stability of healthcare providers across the state. We sincerely appreciate this ability to streamline provider enrollment processes, including as mentioned, the removal of fingerprint background checks, site visits, and application fee payments. We thanked [Captioner cannot get audio--unclear] ongoing partnership and appreciate the medical services board members [Captioner cannot get audio--unclear] emergency rules and the opportunity to testify. And Chris, I apologize. I signed up to testify for all of the emergency -- I actually don't need to do that. I have an omnibus letter of support for the remaining five emergency rules. Hopefully that can be passed out to the medical services board members. My apologies for not sending it last night.

Thank you Ms. Cummings. Any questions for Ms. Cummings? Okay. Thank you. Chris, she mentioned maybe you can send out further information that she emailed to you in regards to support for the other emergency rules? Any other people signed up for public testimony?

Let me take a quick look here. At this time we do not have anybody else signed up for this emergency rule.

Great, thank you. If there are no other questions for the board, I think we can move to a motion.

I will entertain a motion.

This is Christy Blakely. I move the emergency adoption of document 10 and MSB 20-05-01-A revision to the medical assistance rule concerning provider enrollment, section 8.12 5.11, 8.125 point 12. A .12 five point 13. [Captioner cannot get audio--unclear] contained in the records.

Thank you, Christy. Thank you Bregitta. Moved and seconded. All those in favor please say aye.

Aye.

Aye.

Opposed? Abstained? Motion passes. Thank you Mr. Eaton. I appreciate your time this morning.

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Thank you very much. Mike okay, let's click plugging along with document 11 and we have Ryan Dwyer on the phone from the department?

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I'm here.

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In morning. Could you please share with us the preview of your rule? My good morning Meta president and board members. My name is Ryan Dwyer and the transportation policy specialist for the department and I'm here to present the revision to the medical assistance rule concerning emergency medical transportation and the number is 20-04-30-A section 8.018. The rule governs the departments emergency medical transportation benefit which is available for all members critical or unknown illness or injury that demand immediate attention to prevent loss of life [Captioner cannot get audio--unclear] and emergency medical transportation is available to the closest most appropriate facility with the Seville facility defined in her current rule and interfacility transportation provided the basic or invite [Captioner cannot get audio--unclear] required and in this revision the department seeks to expand the list of allowable facilities and suspend the life support requirement for interfacility transportation by expanding the list of allowable facilities, there is the added benefit of bringing the department's role and mine with recently issued CMS Medicare guidance. The rule is being amended basically to allow greater flexibility during in the 19 public health emergency and there will be two main effects. First the revision expands the current definition of facility, which will allow for emergency medical transportation to a wider range of care sites. We currently define facility is a general hospital, hospital unit, psychiatric hospital, rebel Tatian Hospital, acute treatment unit, or crisis stabilization unit area the revised definition would keep those facilities and also add any location that is an alternative care site determined to be part of the hospital, critical access hospital, or skilled nursing facility, community mental health centers, federal health centers, physicians offices, urgent care facilities, ambulatory centers, and any other location furnishing Delta services outside of the end-stage renal facility and the beneficiaries home. And the benefit of this part of the revision is it will be of providers or options for the transport members and it will improve transportation efficiency and will prevent hospitals from becoming overcrowded by allowing more destinations. The rule also benefits expanded benefits where they can receive care. The second revision addresses interfacility transportation, which is ambulance transportation between the facilities. The current rule allows interfacility transportation if the member needs basic or advanced life support on the way. The revision temporarily removes the life-support requirement, which will allow ambulance providers to transfer numbers between facilities when the member does not require life-support. The benefit of this change is a release to COVID-19 is that members who are recovering can be removed from hospital setting to another appropriate setting as needed to safely as possible as ambulance providers are currently test equipped to transport in 19 patients. That concludes my presentation on this rule and I'm happy to take questions if there are any. Thank you Mr. Dwyer. Any questions from the board.

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This is Bregitta. I've a question.

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It seems like parts of these new changes that are temporary, that maybe you want to continue, have you considered keeping any of the temporary changes in place long-term?

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That is a good question at this all came together so quickly that I have not had the time or opportunity to consult with some of our stakeholders and internally on keeping these changes permanently. I may need federal approval to do so, but it is certainly something that I think is worth contemplating and will consider going forward, absolutely.

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Thank you Mr. Dwyer. I have a question for the board in general for my clarity. Someone else on the board was saying something earlier. This is Bregitta again. After 120 days or the time that the emergency has expired or not extended, would Mr. Dwyer and all other members have to come back to the board and say that or is it all expected to just back to the way it was?

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This is Chris Sykes. For emergency rules, they have a maximum span of one of 20 days, but they are effective. And then they will end. The length of time can be shorter than 120 days, but it may not extend beyond 120 days, and that is where Mr. Eaton from the previous document was saying that if necessary, and they need to extend those emergency provisions, they would come back and adopt an additional emergency rule, but at 120 days the emergency rule ceases to exist if no further action is taken.

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Chris, this is Jessica. Is there a limit to how many times an emergency rule can be extended?

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This is Chris Sykes. There is not a limit of how many times an emergency rule may be extended, but there is a limit on what qualifies for an emergency. Basically you are not able to just say, we did not plan this well, so we're just going to run an emergency rule for 10 years. The idea being that the emergency eventually will end and if you wish to make programmatic changes like Bregitta had asked of Mr. Dwyer, then the department could ponder those, go through the traditional administrative procedures act, notice the rulemaking, and go through traditional rulemaking to put those changes permanently into rules. But technically as the pandemic moves on, the department would be able to renew these emergency provisions until the emergency was ended. Does that help?

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[Captioner cannot get audio--unclear] this is Bregitta again. I was attempting to meet myself, but I accidentally hung up, so I did not even hear your response to my question. Could you please say it again? I am so sorry.

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Certainly Bregitta. This is Chris. I was saying that emergency rules terminate at the end of 120 days. The emergency rules can be shorter than 120 days, effective. We can say 90 days or two weeks, but the maximum written in statute is 120 days and then that emergency ends. Jessica actually followed up with a question about how many times can we declare an emergency rule and I was saying as long as the emergency goes on, but if we wish to put the language into permanent rule, then we have to follow the administrative procedures act and essentially finally adopt the rule, much like you will see with the pharmacy rule coming up in the final adoption on document six. That is all. Two thank you for catching me up. I do apologize. This is Bregitta. So when the time is over, part two of that question, do they need to come back and say, okay, the emergency is over and we're not going to do anything, that was also a part of it.

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This is Chris Sykes. No. Sorry about not catching that part. No, the department does not have to because the rule actually cease to exist by statute. The only coming back would be to extend it.

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Thank you, and apologies again.

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Good conversation. Any other questions regarding the rule?

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This is Tracy Johnson from the department.

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Dr. Johnson, continue.

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I wanted to comment that we are getting a lot of questions about [Captioner cannot get audio--unclear] emergency rules what happens going forward and I wanted to let you know [Captioner cannot get audio--unclear] active conversation at the department level and [Captioner cannot get audio--unclear] nationally. There has been requests to CMS asking for flexibility and streamlining the ability. Some of these things we're doing are clearly temporary and we only intend them to happen during the crisis and some other things you may want to continue. We are hoping to have that process be a little bit easier from a federal perspective, and so I just wanted to let you know that there are a lot of conversations going on about that. There's not a lot of decisions at this stage, but some of what [Captioner cannot get audio--unclear] over several months.

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Okay, thank you Dr. Johnson. That is helpful to know. Any other comments from the board?

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This is Jessica. I was just noticing in the motion, there is a B where as there's a A at the end. I want to make sure we get that right.

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Yes, I apologize for that. Document 11 should be 20-04-30-A and document 12 should be 20-04-30-B. I apologize. Document 11 goes to [Captioner cannot get audio--unclear] which is A and document 12 is B. Not that that is better than the other, that is how they lined up.

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A job.

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Any public testimony Chris for this emergency rule?

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This is Chris Sykes. We do not have anybody signed up for public testimony.

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At this point I would entertain a motion with the corrected A to the end of document 11, please.

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This is Bregitta. I move the emergency adoption of document 11, MSB 20-04-30-A , revision to the medical rule concerning emergency medical transportation, section 8.018, incorporating a statement of basis and specific statutory authority contained in the record.

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Thank you, we have a second.

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Second.

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This is Christy, second.

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Thank you. It has been properly moved and seconded. All those in favor please say aye.

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Aye.

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Aye.

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Aye.

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Opposed? Abstained? Motion passes, thank you very much. Thank you Mr. Dwyer.

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Thank you. Let's head into document 12. Mr. Dwyer, that is you again.

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It is me again, sorry about that.

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That is my fault. You can stay at our pretend table and continue on [Laughter] talking about the document.

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Okay, I will start over like I have anyone. Good morning Meta president and board members. My name is Ryan Dwyer and transmission policy specialist for the department. I'm here to present the revision to the medical assistance rule concerning nonemergency medical transportation, MSB 20-04-30-B, the rule section is 8.014 and sections therein. Nonemergent medical transportation is transportation to or from medically necessary, nonemergency treatment, that is covered by the Colorado medical assistance program the covers places of service which are those enrolled in the Colorado medical assistance program. In this revision, the department allows for transportation to places of service that are not enrolled in the Colorado assistance program. The rule also formally suspends multi-loading which is the practice of transporting multiple members of one time. Like the previous emergency medical asportation rule, excuse me, the rule is being amended to allow greater sensibility during the covenant to public health emergency, as well as to ensure the safety of providers members. The first benefit of this revision is it will allow nonemergent medical transportation to places of service that are treating COVID-19 patients that are not enrolled in the Colorado medical assistance program, such as the contemplative's convention center location. This change will allow members to receive [Captioner cannot get audio--unclear] greater number of locations while simultaneously utilizing places of service established a places to COVID-19. The second revision formalizes a change the department already communicative to transportation providers. Normally transportation providers transport multiple passengers at one time, provided they meet the criteria set out in state regulations. This change suspends multi-loading passengers, except for an approved escort. This change will ensure the providers members adhere to social distancing to ensure trips are limited to just the driver and the member. Before I conclude my presentation I would like to acknowledge the last board meeting at the end of last month, where he received testimony from the person center of transportation coalition. The department really values and appreciates our relationship with Mr. Paul Stein, the coalition, and the partners of the Center for health progress, and we are working diligently on addressing concerns raised in that testimony. Drivers had been instructed to wear masks and gloves of the department has formalized statewide guidance for providers on personal protective quit and affecting vehicles. We are also collaborating with the governor's office on obtaining personal protective equipment for our presentation providers and exploring options for hazard pay. The coalition also voiced concern that metro area ride broker had not yet convened its transportation community board and we understand the boards importance of the form for members providers and stakeholders to share feedback had to be sure the community boards a priority for the department, as well. Until Wright has been export potential meeting spaces getting ready to get the board started up. Some of those have been unfortunately delayed due to the pandemic. We are looking to find safe and accessible meeting spaces, whether virtual or person, so I want to address that testimony and show some appreciation for Mr. Stein in the coalition and comment on the progress we have made so far. Thank you.

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Thank you Mr. Dwyer. Are there any questions from the board? Okay. Anyone signed up for public testimony?

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This is Chris Sykes. We do not have anyone signed up for public testimony.

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Okay, if there is no further questions I will entertain a motion please remember to edit document 12 to have a B at the end.

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This is Christy, I move the emergency adoption of document 12 MSB 20-04-30-B , revision to the medical assistance act concerning Mann emergent nonemergent medical transportation, 8.014 [Captioner cannot get audio--unclear] a .014 point 4 point A point zero. [Captioner cannot get audio--unclear] incorporating the statement of [Captioner cannot get audio--unclear] temporary authority contained in the record.

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Second.

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Properly moved and seconded. All those in favor please say aye.

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Aye.

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Aye.

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Opposed? Abstained?

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Motion passes. Christy is done with tongue twisters for the day. Let's move on to document 13 , Ana Bordallo are you on the phone?



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Yes I am. Can you hear me?

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We can hear you. You can continue and preview document 13.

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Good morning Meta president. You for your time today. My name is Ana Bordallo and I am the team lead for the eligibility policy team and with me on the phone I also have Jennifer wrinkly who is our long-term care eligibility policy specialist. We are here to present emergency changes to the medical assistance eligibility rules and some of these changes, some of these rule changes will also apply to the children's basic health plan program. These policy changes are based on the federal coronavirus aid relief, economic security cares act, and is also based on the family first response act. We also received guidance from centers of Medicare and Medicaid, CMS, and these are also based on the affordable care act, which includes the maintenance of effort provision. The department is required to provide applicants members relief [Captioner cannot get audio--unclear] policy changes during the public health emergency to be in compliance with the maintenance of effort provision. And to ensure the continuance of health coverage for all eligible members, these policy changes will be in place until the end of the public health emergency and we summarize the following policy changes we made throughout the document. The first one would be self legislation for most eligibility requirements will be considered acceptable verification for new applicants. As well as self-education of resources will be acceptable for any program that requires an tested application. When a member is electronically providing come is not compatible with the income the member self attested, the documentation will not be required and the member will remain eligible for medical assistance during the public health emergency. Also, the economic stimulus relief package is designed to provide direct assistance to individuals and will be exempt from both Magi and non-magi eligibility determinations. As well as the economic stimulus will not be a countable resource for 12 months for any non-Magi financial eligibility determination that includes a resource test. Other policy changes are the federal pandemic unemployment compensation program which provides an extra \$600 per week and that will not be counted under income for all medical assistance categories. We will also be waiving all premiums for our buy-in program. Also [Captioner cannot get audio--unclear] federal cares act for the maintenance of [Captioner cannot get audio--unclear] numbers who had lost employment will remain in the program through the duration of the public health emergency, but newly enrolled members will still need to meet the work requirements. Lastly, for applicants who are not eligible for medical assistance and are uninsured but have been impacted and exposure to her potential infection of COVID-19, they may be eligible to receive services for COVID testing only. Most of these changes have already been implement it in the Colorado benefit management system, CBMS of the department will continue to implement systematic changes as we continue to receive additional clarification from CMS regarding eligibility changes during the public health emergency. That sums up the policy requirements. Are there any questions that I may be able to answer?

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Thank you, any questions from the board?

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This is Jessica. I think this is such a great rule. I have had several people actually talking to me about how intricate they are with being on unemployment an extra \$600 a month and did they still have Medicaid. So two questions. One is, how are we communicating this to members so they can be less anxious? And the question, with emergency are talking about? The national or state emergency? For when it ends.

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[Captioner cannot get audio--unclear] I want to make sure people know who is answering. Ms. Bordallo, can you respond please?

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Yes, this is Ana Bordallo. To answer your first question, we did just post a memo that talks about our federal pandemic deployment compensation, which gives not only our members guidance and also gives their county workers guidance on how we are treating the extra \$600 per week. As far as your second question, are you just making a blanket statement for all our policy rule changes? In general?

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Well, this is Jessica again. I was questioning this before the meeting started, but when we talk about the COVID emergency, one of the rules specifically stated, as declared by the president, but some of them it is just not clear if the emergency is stated by the president or at the state level. It is all the federal level?

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I just wasn't sure how that works. [Captioner cannot get audio--unclear] to an end at some point and just to be clear on that. So, federal emergency.

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It is based on the federal.

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Okay, thank you.

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You're welcome.

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Any other questions from the board?

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Chris, has anyone signed up for public testimony?

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This is Chris Sykes, yes we have Bethany and Craig on the phone with us. I believe we are on meeting her phone as we speak.

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Great. Good morning Miss Cray. You now have the floor to share your comments about document 13.

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Thank you. This is Bethany Pree of the Colorado [Captioner cannot get audio--unclear] policy and I second comment that this is a really important change and I appreciate all of the work that Ana Bordallo has been doing on this. I agree that there are some ambiguities and if it were possible to do minimal adjustments so that it does refer to the federal emergency when that is the case, as it did in document 15, did refer to the presidential declaration. Marx was ugly. It would be helpful because we do have a lot of counties that are separately going to be reinstituting these processes when emergency is lifted and would be important to make sure they act the same across the state. I did have some other questions at different points in the role. At 8.100, page 13, line 24, it continues current eligibility and I would prefer if I said and any individual enrolled on March 18 in case any of those individuals who lost eligibility because the role is retroactive are definitely covered. Lines 27 through 30 on the same page, talks about eligibility being redetermined. My question is whether this refers to any under eligibility category, just to care clarify whether that means someone is in fact eligible to under a different category, the redetermination would assess for that, as well. And then maybe I could get an answer to that one before -- should I say all my comments are just pause?

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Let's pause there, Miss Cray. Ms. Bordallo, can you address this comment X

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Yes, thank you for your question. We can look into making those additional updates based on your comments. For your second question, for the redetermination, currently we are not -- we are going to lock in our members so they will not be closed, that would apply to all medical assistance categories. So -- this is Bethany. If someone in fact wanted to change eligibility categories, they are moving from a waiver to Magi or something like that, is that possible during the emergency or are they locked into their existing category?

---

Yes, if they meet all the criteria and they are being redetermined, they will move to a higher benefit if that is what they are eligible for, so yes, they will be moving to a different category if they need meet all criteria.

---

Okay, thank you. And Bethany again, in terms of the determination, the term terminology about the end of the emergency, there is some ambiguity and that might be on the federal side and not anything that the state can address, but the end of the emergency, how does that affect people's due process in terms of getting notice and being, potentially losing eligibility, because it is not as if a switch is going to go off at the end of the emergency. In fact, there still has to be noticing and opportunity to be heard, and that sort of thing. So I wondered whether the states view of that is that it would at least not be until the end of the month [Captioner cannot get audio--unclear] emergency ended or at the end of the following month after the end of the emergency or whether there is more clarification that is either in the guidance or bulletins or something else so that there won't be questions from different counties about that aspect.

---

Thank you, this is Ana Bordallo again. Internally we are thinking about those processes, but currently we are still receiving additional guidance from CMS. So we're not just going to close them down immediately right after the emergency period ends. We are going to do our best to close them appropriately with enough notice ahead of time. And again that is something we are still receiving additional guidance on. On how we will proceed after this public emergency ends.

---

Thank you. This is Bethany again for a few more questions. In terms of income checks, it appeared to me and obviously the role was just introduced, so I did not have a chance to look at it externally carefully, the income checks would not be input into the system or that the letters would not go out? That was my reading of the rule. And that disability determinations would simply not occur, but I was hoping for some clarification on that because that was not my understanding as of a few weeks ago.

---

This is Ana Bordallo again. For your first question [Coughing], for income verification if they are not reasonably compatible, we are not going to be sending out the Eve discrepancy, we will ignore that. The member will still continue to be eligible. We are in the process of correcting that systematically, but yes, that is the way it will function. We are going to ignore all electronic records for members found to be over income, if that makes sense. Does that make sense?

---

Thank you, Ana Bordallo. So the letters would not go out at this point?

---

Correct.

---

Okay, that is really helpful and I appreciate that. Bethany again. That is helpful that those Eve letters will go out because I think that was a potential area of a lot of confusion for members and I think that is really helpful to not be sending those letters out.

---

For your second question around disability, for those that are being predetermined, those existing members, we are going to continue to enroll them without the verification of disability, but for new applicants that are applying for the program, we are still going to continue to verify their disability. Does that help answer your question?

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---

Yes. Bethany again, 8.100 [Captioner cannot get audio--unclear] this is also on the disability determination area, the language says the contractor once the emergency is lifted, will redo the determination as soon as possible. I was hoping for clarification on what the impact would be on members if the contractor took an extended period of time to catch up with all those terminations? Would that person be maintained as eligible until whatever point arrived at the contractor was able to schedule and do that?

---

---

This is Ana Bordallo. I give your question again. I'm sorry, for -- right after the public health emergency ends, we are still having internal discussions on how our county will proceed with those and how the disability verifications are going to be verified for those that have not been verified. That is something we are still having internal discussions on, so I can't give you I guess a clear answer for that just yet but I can definitely follow up with you on that question.

---

Thank you very much. I think that is it for my comments and I appreciate this massive amount of work that you and the apartment have been doing.

---

Thank you, we appreciate those questions. Any other people signed up for public testimony, Chris?

---

This is Chris Sykes. We do not have anybody else signed up for public testimony.

---

Thank you. Any questions from the board based off of Miss praise comments or any other comments? Okay, at this time I entertain a motion.

---

This is Tracy Johnson from the department.

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Guess, Dr. Johnson.

---

I just wanted to let you know that there is conversations going at the federal level to ask CMS, and probably the administration, to give dates of notice that there is an emergency declaration federally that is coming to an end and if we are able to get that address, then miss praise concerns that that is why we and other states are asking the questions to find out day-to-day if the emergency [Captioner cannot get audio--unclear] makes it hard for us to respond. That is partly why [Captioner cannot get audio--unclear] federal guidance is still coming out. [Captioner cannot get audio--unclear] things about that request.

---

Thank you for the information, Dr. Johnson. We appreciate without and that helps with the dialogue.

---

A motion please.

---

I keep waiting for somebody else to do it. I don't want to have all the fun. We are still in document 13, right? I don't want to read the wrong one.

---

Document 13 please.

---

I move the emergency adoption of document 13, MSB 20-04-29-A, revision to the medical assistance rule concerning medical assistance program rule of dates [Captioner cannot get audio--unclear], incorporating the statements of purpose and statutory authority contained in the record. Someday I will get that tattooed on me.

---

Thank you, Christy. Can I have a second please?

---

All those in favor please say aye .

---

Aye. Opposed? Abstain? Motion passes. Thank you. And I did a better job this time and looked ahead and Ana Bordallo, you will stay on the floor so you can head into discussing section 14, please.

---

Hello again. My name is Ana Bordallo and I am the team lead for the eligibility policy team and I'm here today to present emergency changes to the children's basic health plan eligibility rule, these policy changes are based on the federal coronavirus aid relief, the economic security cares act, and the families first run virus response act and we also received guidance from CMS and it is also based on the affordable care act, which includes the maintenance of effort provision, the department is required to provide applicants and members [Captioner cannot get audio--unclear] changes during the public health emergency. To be in compliance with the effort [Captioner cannot get audio--unclear] ensure the continuous of health coverage for all eligible members, these policy changes will be in place until the end of the public health emergency and I will briefly summarize the following policy changes. The first one is members who were evacuated from her unable to return to Colorado and are temporarily absent will maintain enrollment in the program and enrollment fees will be waived for members who are being predetermined and eligible for checks. And lastly, required for the federal cares

act of the maintenance, the department will continue eligibility for members regardless of changes made to their case. Like I mentioned before, most of these changes have already been rented in the Colorado benefits management system. The department will continue to implement systematic changes as we continue to receive additional guidance from CMS regarding eligibility changes during the public health emergency. Are there any questions that I may answer at this time? Thank you, Ms. Bordallo. Any questions from the board?

---

This is Jessica. I don't have a question but my question children are on CHP and I appreciate this. I can go ahead to declare that so it is known. It is a big stress relief to not worry about them losing coverage during this time.

---

Thank you Ms. Kuhns. Any other comments or questions from the board? Chris, do we have anyone signed up for public testimony?

---

This is Chris Sykes. We have Bethany signed up for testimony.

---

Ms. Prays, welcome back. You have the floor for your comments in regards to document 14.

---

Thank you and I actually don't have any comments. It was part of the last one so I appreciate the opportunity.

---

Okay, thank you. We appreciate that. Chris Sykes, I guess I can call you Mr. Sykes, too. Do we have anyone else for public testimony?

---

This is Chris Sykes, we do not have anybody else find out for public testimony on rule 14.

---

Okay, great, thank you. If there are no other questions or comments from the board I would entertain a motion for document 14 please.

---

Okay, I give. This is Christy. I move the emergency adoption of document 14 CHP MSB 20-04-29-B revision to the medical revision rule concerning child health plan plus program rule update, sections 110, 140, 310 and 320. Incorporating the statement of statutory authority contained in the record.

---

I second.

---

Thank you Brigitta for the second. This is been seconded. All those in favor please say aye.

---

Aye. Opposed? Abstain? Motion passes. Okay, thank you Ana Bordallo for presenting on both of those rules. We appreciate your time this morning. We will move forward onto document 15 and ask for Mr. Russ Zigler to join us.

---

This is Ross, can everybody hear me?

---

yes we can hear you, please go ahead.

---

Good morning Meta president and board members. My name is Russ Zigler and I'm a compliance policy advisor for the department and a two present the suspension of annual recertification's for long-term oxygen certificate of medical necessity rule MSB 20-04-27-A , along with the subject matter expert Richard Delaney. I will pause while Richard introduces himself.

---

In morning Meta president of board members. My name is Richard Delaney and I'm the benefit manager for DME oxygen supplies.

---

Thank you, this is Russ again. To give some background clients a long-term oxygen for the 90 days are required to obtain a certificate of medical necessity from a physician or licensed professional responsible for their care. Clients are normally required to recertify the certificate of medical necessity every 12 months when the clients condition changes under current department rule. This necessitates an in-person visit with a physician or other licensed professional responsible for the clients care. Pursuant to section 6008 for the federal families first coronavirus response act, continued coverage of oxygen is required during the coronavirus disease 2019, public health emergency, as was covered prior to the emergency. Therefore the interest of reducing [Captioner cannot get audio--unclear] COVID-19 for clients who would normally be required to visit a physician or other licensed professional, to obtain annual certificate of medical necessity recertification, this rule allows such clients to continue their long-term oxygen without the need for certificates of medical necessity, recertification, or annual review until the COVID-19 public health emergency ends. Such clients must obtain recertification as soon as practical after the COVID-19 public health emergency ends. Thank you please let us know if you have any questions.

---

Thank you very much Mr. Zigler and Delaney. Any questions from the board regarding docket 15?

---

Okay, pretty straightforward. Appreciate that. Anyone signed up for public testimony on document 15?

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---

This is Chris Sykes. We do not have anybody signed up for testimony on document 15, "please remind you that we did not read the emergency adoption agenda motion, so if we could just read that, as well, lips

---

Yes, I was going to ask that. So will you read that first paragraph that is bolded, in addition to the motion for document 15? And maybe someone can give Christy a break or if she wants to take it again, she can.

---

I will take it again. Move that all emergency rules that are adopted finding their immediate adoption is necessary to comply with a state or federal law or regulations or for the preservation of public health safety or welfare and that compliance with CRF [Captioner cannot get audio--unclear] 103 would be contrary to public [Captioner cannot get audio--unclear]. Now I will read the emergency adoption motion for document 15. I move the emergency adoption of document 15 MSB 20-04-27-A , revision to the medical assistance rule concerning COVID-19, suspension of annual recertification for long-term oxygen certification of medical necessity section 8.5 80.5 [Captioner cannot get audio--unclear] statement of basis and purpose, specific statutory authority contained in the record.

---

Second.

---

Thank you, it is improperly moved and seconded, all those in favor please say aye?

---

Aye.

---

Opposed? Abstain? Motion passes, thank you very much. Thank you Mr. Zigler and Mr. Delaney for your time this morning. Okay, great job everybody. We made it through the emergency adoption agenda. Now we are headed into the final consent agenda which will go a little bit quicker here. So we have five rules that are on our consent agenda so if there someone who feels excited to take a long motion, this is your chance to speak up and read this motion.

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This is Pat Givens. I will give it a shot.

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Thank you Pat. Make a move the final adoption of document 01 MSB 19-12-05-A revision to the medical assistance rule concerning NCCI, section 8.041, document 2 MSB 19-12-06-A providing screening, 8.125, document three, MSB 20-02-03-A, revision to the medical assistance eligibility rules concerning Magi and medical eligibility.

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[Captioner cannot get audio--unclear] document four, MSB 20 dash 02 dash 04-[Captioner cannot get audio--unclear] rule concerning federally qualified health center alternative payment methodology, section 8.7 [Captioner cannot get audio--unclear]. Document 20-02-05-A, Inc. the statement of basis and purpose of specific statutory authority contained in the record. That is it.

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Second.

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Hello?

---

So sorry. I was having a really great conversation over here on you. My apologies. Okay, it is improperly moved and seconded and all those in favor please say aye. Aye.

---

Aye. Opposed? Abstain? Motion passes, thank you. Thank you Dr. Givens. Let's head into the final adoption agenda we have three rules in the section of our meeting today and we're going to start off with document six, and with document six we would like to invite Christina to join us on the phone and can you hear us?

---

I can hear you. Can you hear me?

---

We sure can. Please introduce yourself and your document today. Not good morning Meta president and members of the board. My name is Christina Gould and I am the lead pharmacy policy specialist at the department. Also with me on the phone is an her, the pharmacy operations manager. I am presenting for final adoption and emergency revision to the pharmaceutical services rule at section [Captioner cannot get audio--unclear]. Due to the COVID-19 pandemic, the department has waived the prescription signature requirements in section 8.800.11 point E point 1. This will eliminate the need for members to touch pens and electronic screens inside pharmacies. This will also eliminate barriers for members to receive medications if they are infected any disdain 19 the department envisions that most of this impact will be on medications delivered by the mail. This new language is reflected as follows. The requirements and subsections A and B are waived for the duration of a public emergency is declared by the governor. Our next -- pharmacy Colorado retail Council and Society wrote to Governor Polis regarding this need amid the COVID-19 crisis and therefore are in support of the change. The department has a responsibility to protect its providers and members in light of COVID-19. Must assist in mitigating the spread to ensure they can still gain access to [Captioner cannot get audio--unclear] safeguard is in place for the duration of any public health emergency as declared by the governor and therefore will apply to public health emergencies the fall outside of COVID-19. Are there any questions I can answer? Are there any questions?

---

It doesn't sound like it. To have anyone signed up for public testimony?

---

This is Chris Sykes, we do not have anyone signed up for public testimony.

---

Okay, if there is no other comments I entertain a motion on the final adoption of document six please.

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This is Bregitta. I move the final adoption of document MSB 20-03-16-A , revision to the medical assistance pharmaceutical rules concerning prescription tracking requirements, section 8.800 point 11 point E incorporated statement of basis and statutory authority contained in the record.

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Thank you. A second?

---

This is Christy, second. We have three seconds there, thank you very much. Probably moved and seconded. All those in favor please say aye.

---

300 -- aye. Opposed?

---

Abstain? Okay, motion passes. Thank you very much. We appreciate your time this morning for document six. Let's move forward onto document seven. And I would like to invite to the phone Ms. Tiffany Walker and Ms. Rachel. Are you both on the phone this morning?

---

Yes we are, can you hear us?

---

Yes we can hear you. Please continue and share document seven.

---

Thank you, good morning and board members. Her name is Rachel and I am a legal division director for the department. With me is Tiffany Walker who is the department trust officer. We appreciate the testimony opportunity to testify about MSB 19-09-04-A , document 7, the revised medical assistance rule concerning disability [Captioner cannot get audio--unclear] allow members trust assets for Medicaid eligibility if they leave the state of Colorado. As you may recall it also includes a couple of other changes the most significantly an added provision requiring trustees to notify the department of larger trust distributions, meaning those in excess of \$5000. At last month's meeting the board and some others including Ms. Brandt, Mr. Sampson, and Mr. Kelly, who I understand may testify again, expressed concerns regarding the department's responsiveness [Captioner cannot get audio--unclear] trustees in the past. Based on this feedback and the guidance from board member Kuhns, the proposed rule has been revised and the state specific department will acknowledge receipt of the over \$500,000 expenditure notice within 30 days of receipt of those notices. For your information, the new proposed text is highlighted on the last page of the rule document itself and I will stop there and Tiffany will provide a brief synopsis or reminder about how the proposed 5000 revision works.

---

Thank you Meta president and members of the board. This is Tiffany Walker and I am the trust officer. As a reminder, to what we spoke about last month's meeting, I wanted to give you additional information and a summary of this \$5000 notice requirement and what it does, what its purpose is, and why we are proposing to implement it. The added provision for larger distribution, which requires the trustee to notify the department as any distribution from the trust in excess of \$5000, it is purely a notification provision, not an approval requirement. A notice of the distribution is to be provided no later than 30 days after the distribution and there is no added requirement under the proposed ruling that would give the department, that would add the requirements approve of the distribution. The department is not requesting to be included as a trustee of the trust, only a trustee has the power to control the trust property, including the decision to make a distribution. The departments additional noticing request in no way gives the department its power and instead the noticing requirement provides the department with information on disbursements and the department is otherwise legally entailed two upon request, [Captioner cannot get audio--unclear] qualified beneficiary of the trust under Colorado law. The noticing requirement for larger distributions [Captioner cannot get audio--unclear] for what has been a bottleneck and a lot of older trust accounting reviews. Trustees frequently send an accounting of the year or more after the actual trust distribution and at that time they may no longer have the documentation needed to prove that the distributions are in compliance with state and federal law or the trustee no longer have the ability to recover any noncompliance distribution to ensure that these trust remains compliant insolvent for members who rely on them. Unfortunately, we have seen on numerous occasions with both corporate and family trustees do not appreciate the distributions and the stress are limited by federal and state law to only those distributions that are for the sole benefit of the member. We appreciate the efforts by voluntarily, voluntary and corporate trustees, including the Colorado [Captioner cannot get audio--unclear] disabilities and golden fiduciaries, you will hear from representatives from those organizations today. In their efforts to assure that trust remain compliant. However just as we cannot exclude corporate notices from the trusting -- [Captioner cannot get audio--unclear] we cannot exclude some corporate trustees from the role while holding other corporate trustees to the rule. There are certainly corporate trustees we have encountered a Colorado [Captioner cannot get audio--unclear] other corporate trustees and their knowledge of the Medicaid rules and regulations concerning disability trusts. We also touched last month in our efforts to bring trust accounting reviews current. Although the current public health emergency has made it somewhat difficult to access our mostly paper files, we are working diligently on the trust accounting to bring them within a 30 day review timeline. Last week the trust reviewed over 50 trust accounting and unlike the issue

[Captioner cannot get audio--unclear] last meeting with the review of over 65 trust, the department had a clear to criteria on reviewing disability trust accounting and was able to do so while reviewing additional notices that may be required to be provided for larger trust distributions in a timely manner. We are behind in older trust accounting due to a prior staffing shortage but are now fully staffed and we are on track to current accounting reviews by the end of next month. I will turn it back over to Rachel now.

---

Thank you, Tiffany. This is Rachel again. I wanted to talk a little bit again about the stakeholder engagement process and some of the opportunities that that raised for the department, and hopefully have a more robust engagement there. The stakeholder engagement process for this rule brought to our attention the need for increased educational opportunities for family members, trustees, and members were trusted [Captioner cannot get audio--unclear] working on up lamenting quarterly meetings with these individuals. We also plan to implement an email distribution list of the voluntary ones your mind trustees of accounting and notice requirements as well as provide information on stakeholder meetings and any other necessary updates to what we are hoping to do. We hope together a list of current email addresses, which again as we discussed in our meeting last month will be voluntary and possibly may take some time but that is certainly something we are hoping to do as a benefit to our stakeholder community and the departments we can have more direct communication. We are also working on updated forms for disability trusts or trust accounting and for the large distribution noticing that we are currently composing, along with additional instructions and guidance to be provided in a separate published formal memorandum. Over the next year we plan to implement tools that will better enable trustees, both voluntary and corporate, to community with the department at each other, including more opportunities for this type of public engagement and discussion. In closing, I just want to recognize that the department and its staff, we are acutely cognizant of the fact the disability trusts are created first and foremost for the benefit of our members often rely on trust funds to ensure that they have a good quality of life, while being able to maintain their Medicaid benefits. Increasing efforts to ensure that these trust remain compliant with the federal limitation, the trust assets are to be used for the sole benefit of the member, will also ensure that members retain the full benefit of the trust assets while receiving medical assistance benefits and to the extent trust assets are not used by the member [Captioner cannot get audio--unclear] remainder is honored. At this point we welcome any questions from the board and stakeholders.

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Thank you, any questions from any of our board members?

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This is Jessica. I've a question but I just want to say that you for all the work and the great summary.

---

thank you and I'm so sorry, this is Rachel again. I want to clarify something. I think the caption stated this was a \$500,000 large distribution notice and that is supposed to be a \$5000 large distribution notice. My apologies.

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This is Christy. I do want to clarify and ask, it is quarterly reporting and it is every 30 days that you will be sending reminders, is that correct?

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Christy, this is Rachel. The rule as proposed is noticing by trustees within 30 days of the larger distributions and a 30 day, 30 days or less from a response from the department to the trustee.

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Thank you.

---

Any other questions from the board or comments? Okay. Let's head into public testimony. Chris, can you started off please?

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This is Chris Sykes. First we have up Mr. Christopher Skance.

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Hi, can you hear me?

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Please introduce yourself to the board and provide comments in regards Skanceto document seven.

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My name is Christopher with golden fiduciary services. The trust company that primarily serves as trustee for special needs trust and I have been involved as an advocate for persons with disabilities for over four decades. I would like to start out by expressing my sincere gratitude to the board and to the department for everything you folks are doing for the state of Colorado and for persons with disabilities. Thank you for the opportunity to take a moment today. I am also grateful that you are addressing some of our concerns and looking to do a 30 day acknowledgment. I still do have some concerns with this entire provision. I am not sure if this 30 day acknowledgment is going to outline that we are in agreement or if the department disagrees with a disbursement, and if there is a disagreement, is there an appeals process? There is still a number of unanswered questions. In the past when there has been some apparent disagreement or question from the department and I have responded and I have asked the department to reconsider, I have taken it as no news is good news in the past. In the past there has been a lack of communication and specifically on issues that I would say, well, would you please reconsider? So I'm hopeful and hoping that the communication gets better. I don't know what the scope of acknowledgment is at this point. Is it going to say we agree, this is good, we disagree? So, you know, I still have some concerns. The language of the regulation does not state that the \$5000 notification is for trusts that have been created after a certain date, so I am hoping there is clarity there. So, just a few things I am concerned about. The

last point I will make is that we do have annual accountings. Will this notification and any correspondence be married up with that file or will there potentially be redundancy of communication, redundancy of time and effort, and so I am hopeful that some of these other concerns will be flushed out -- fleshed out and this will work for the benefit of the community. Thank you again.

---

Thank you. Ms. Walker, would you like to provide any answers?

---

Thank you, this is Rachel again. I appreciate your questions and request for clarification. I do want to clarify that the departments acknowledgment will ask for follow-ups if we believe that we needed for additional clarification. I do want to clarify that this really is an acknowledgment rather than an approval or disapproval. The department is not requesting approval or disapproval power. It is truly an additional mechanism to ensure that disability trusts that are created for the purpose of Medicaid eligibility, that we are keeping current to make sure they are used for the full benefit of our Medicaid members who are the beneficiaries of these trusts. I did want to clarify the last question. About whether or not we will vary the \$5000 notifications with the larger annual accounting and the answer is yes. The whole file will stay together. I hope I have answered that question.

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Thank you very much.

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Thank you both. Thank you Mr. scans. We will move on to the next testimony. Chris, can you provide our next testimony name?

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Yes, this is Chris Sykes and we have Megan brand signed up.

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Megan, are you on the phone and can you hear us?

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Megan Brand, are you on the phone?

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I am.

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You have the floor.

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Okay, good morning to you and to members of the medical services board. My name is Megan Brand and I'm the executive director of CF PD. We are a nonprofit organization serving as trustee for people with disabilities for people across the state of Colorado. As I stated during my testimony last month, I'm very pleased that the department has proposed rule change pertaining to the provisions when an individual moves out of state. We believe this change will reduce litigation and will allow individuals their constitutional freedoms to move freely among the states without the consequence of turning over their trust assets to the department prematurely. We thank the department and hearing stakeholder feedback on this matter and taking action. And also we think the department for hearing our initial feedbacks in regards to this proposed rule.

---

Since my testimony last month, I continue to be concerned about the regulations to the \$5000 -- as I stated in the past I feel this requirement and especially given our interactions with the department and the process, it does place the department in a position of super trustee in which they're putting themselves in a position to have discretion over distribution area in their fact sheet on the rule change, the department states the following quote however the department will provide guidance on whether it considers the distribution to be proper in consideration of the federal rule that allows trusted distributions to the full benefit of the beneficiary. This is the same process that currently occurs for annual accounting reviews.". In response to the statement, please consider the fact that CSPD [Captioner cannot get audio--unclear] 11 years and has long practiced sending accountings to the department to be transparent. For many years the department did not respond at all to our annual accountings. A few years ago they began to ask questions about the distributions but once we provided the additional documentation, we did not ever learn if the department considered the distribution proper or not. It is not been our experience that the annual accounting process provides guidance. So if the department's intention is to provide guidance we would like to see this first and tormented and practiced via the proposed regulation change requiring the submission at the end of the annual accountings for the departments review. We object to the additional requirement of a \$5000 distribution because of the unnecessarily demand duplicative efforts for both the department and the trustee. Further, in meetings with the department, they stated that the notification requirement would not result in any harm to the beneficiary. If anything, they stated the trustee would be surcharged for improper distributions. And yet, just this week we received a letter from the department after reviewing the 2019 annual accounting the stated the following." Failure to answer the request within 30 days may result in a loss of medical assistance benefits for the trust beneficiary." So while I can very much understand and appreciate the departments assertion that they are making a change with the goal of educating trustees, it gives me pause when I see demands and threats from the department. At the end of the day, it is not about me or our staff. It is about the individuals we serve, such as the person with a significant disability who has been dependent and uses a wheelchair, wondering if he or she will lose their medical assistance benefits. It is about that same individual having to use their trust to pay for additional professional and attorney fees to document, explain, and assign the actions of the trustee. It is about the same individual worrying about every distribution from their trust scrutinized by people they have never met, even though they have entrusted these important



decisions to trustees who do know them and make these decisions after careful review and in their best interest. So I urge you to approve the change to the regulation, but without the \$5000 notification. Thank you.

---

Okay, thank you Miss brand. Ms. Walker or Ms. Entrican, do you have any comments in regards to her testimony?

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Yes, this is Ms. Walker speaking. I just wanted to come again, thank Ms. brand for all the work she does directly with these beneficiaries. Our goal here is not to impede their ability to use the trust assets for the benefit of the beneficiary or to say what is or what is not right for the benefit of the beneficiary. That is fully within the trustee's discretion. Our role at the department, which is what I mentioned last time, last month when I spoke, it is a regulatory role. The trusts are created for the purpose of Medicaid eligibility and the staff sheet which creates this type of trust, specifically says the trust is not valid unless the department confirms that it meets the requirements of our rules and regulations. That puts us in a regulatory role over these trusts, and certainly what we are trying to avoid here is the loss of benefits. We don't want anyone to lose their benefits as the result of a noncompliant distribution, and that would be the last, worst case scenario, that we would hope never ever happens. The letters that of been going out, they are worded too strongly. I don't want them to scare anyone, but we certainly are entitled to information upon request and are in that regulatory role. So I just want to clarify that for the board.

---

Thank you. Any questions or comments from the board before we continue to proceed with testimony? Okay, thank you Ms. Brand. Is there a third testimony, Mr. Sykes?

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I apologize. Yes, we have Mr. Eric Kelly.

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Eric Kelly, Eric are you on the phone?

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I apologize, I'm sorry, I went out of turn. It is Peter Wall. I'm sorry. I did not mean any confusion.

---

Peter Wall. Okay Peter are you on the call?

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Good morning.

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In morning. Please introduce yourself to the board and provide testimony for document seven, please.

---

Thank you very much. My name is Peter Wall. I have been a special needs trustee, nationally, for almost the last 20 years. I also teach continuing legal education courses on the subject all over the country, as well. I want to thank Megan Brand, Chris, everyone who has worked so diligently on this issue. I honestly may not. We have made significant progress together and that should be recognized and taken into account here. Everything I was going to say today has been covered very well by Mr. scans and Ms. Brand, but however, I want to bring to life the edification of the board, that we continue to throw around this idea of soul benefit, and quite frankly, that is not exactly true. Mom's SI, [Captioner cannot get audio--unclear] actually refers to plan Mary benefit and these are the sources of distinction that we are unsure when we are notifying [Captioner cannot get audio--unclear] of distributions over \$5000 that they will have the background information to know not only about this palms regulation it also about the beneficiaries particular situation. Besides that, I really have nothing else that has not been covered.

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Thank you very much. We appreciate that. Thank you for doing that. We will take that into consideration. You just heard from Mr. Scans and Ms. Brand. Any other thoughts?

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Thank you Meta president. This is Rachel Entrican, no follow-up.

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Thank you, Mr. Wall. We will move on to Eric Kelly. Is that correct, Mr. Sykes?

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This is Chris Sykes, yes that is correct. Thank you.

---

Eric Kelly, are you on the phone? Eric Kelly, we cannot hear you quite yet. Make sure you are not muted if you are present. Can you hear us?

---

This is Chris Sykes. I do know that Kelly O'Brien and Sarah Rogers have been trying to locate Mr. Eric Kelly. They are not seeing him on the telephone or in the webinar at this time. Perhaps we could move forward?

---

Okay, is there anyone further that is signed up for testimony after Mr. Kelly?

---

This is Chris Sykes, yes Michael Kirkland is signed up.

---

Michael Kirkland? Is that what you said?

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Yes.

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---

Okay, Michael are you on the phone? Michael Kirkland? We can hear you, can you hear us?

---

Yes I can hear you just fine, thank you.

---

Please introduce yourself to the board and share your testimony in regard to document seven. The floor is yours.

---

Hello board members, thank you for hearing me. My name is Michael Kirkland. Sorry for the confusion, [Captioner cannot get audio--unclear] attorney [Captioner cannot get audio--unclear] entire southern half of the state. I come to you as a certified law attorney by the national Elder Law foundation and a former chair of the American Association [Captioner cannot get audio--unclear] special needs committee. I have some concerns about [Captioner cannot get audio--unclear]

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Mr. Kirkland? This is Mandy, the board chair. We are having difficulty hearing you. Can the board hear Mr. Kirkland clearly?

---

No, he is breaking up.

---

Yeah, I thought so, too. Mr. Kirkland, we are only hearing every other word from you.

---

I'm sorry, and I any clearer now?

---

That sounds better. Let's try again.

---

Okay, do you need me to repeat the YM -- who I am?

---

No, I was able to understand your current role and background. Maybe get to the meat of your comments. We will make sure we try to get as much of your testimony in as long as we can hear it.

---

Thank you so much. I have [Captioner cannot get audio--unclear] \$5000 level of the reporting requirement. While I understand committee [Captioner cannot get audio--unclear] money, the size [Captioner cannot get audio--unclear] may or may not [Captioner cannot get audio--unclear] expenditure. In addition, there are many clearly [Captioner cannot get audio--unclear] useful expenditures that would be made that are much larger than \$5000 for which the department would have no reason to object based on their necessity or usefulness to the beneficiary [Captioner cannot get audio--unclear] rid [Captioner cannot get audio--unclear] not the 30 day reporting requirement I'm happy to receive a receipt from department within 30 days and that is wonderful. We will see whether the expenditure is appropriate or not provided [Captioner cannot get audio--unclear]. [Captioner cannot get audio--unclear] ensure that the expenditures [Captioner cannot get audio--unclear] to determine whether it is an appropriate expenditure under the rules or the department [Captioner cannot get audio--unclear] with getting approval of accounts [Captioner cannot get audio--unclear] the only area where we have had problems from the department. Even if the special needs trust is approved in the first place, I personally have had [Captioner cannot get audio--unclear] up to the department and simply sit there [Captioner cannot get audio--unclear] before he finally got word back from the department of the trust was just fine. That provides a dark cloud over the trustee who is attempting to do the right thing and an extraordinary amount of time wondering if the expenditure was correct or not. [Captioner cannot get audio--unclear] we don't know when the department will respond to us. Yes, we will get a receipt, but the receipt simply says you are notice of expenditure. But without any timeframe, when are we going to know about approval. It will be a major problem [Captioner cannot get audio--unclear] on the approval of the trust in the first place and we are liable to see a major problem with people hanging out there waiting on the department. The department has a busy and heavy schedule. A lot of documents to review. Out of respect to the department, I don't see this open-ended period of time for them to make a determination as to whether the expenditure is acceptable or not or useful or beneficial.

---

Okay, are you finish Mr. Kirkland? I'm sorry, you are still breaking up a little bit. But overall we got the understanding of what your comments entail. Any questions from the board, any questions or comments from the board?

---

This is Jessica Kuhns. Were I am feeling with the comments is I hear the point of you making the comments of the point of view of the department and I'm wondering if maybe in six months we could get like a report of how it is going and how this \$5000 reporting is working. Is it working the way the department is envisioning it working or is it not? Is it causing problems and anxiety amongst stakeholders or is it just doing what the department wants them to do. Is there a way we could say in six months, get a report of how it is going?

---

That is assuming we approve it.

---

Ms. Walker or Ms. Entrican, can you follow-up ?

---

This is Tiffany Walker. Absolutely we can certainly report back on that and I'm working on it now once we get a current trust accounting, to move more toward a situation where multiple reviewers might review the accounting one year at a

---

different reviewer reviews of the next year. I am moving towards certain reviewers will be assigned a span of files [Captioner cannot get audio--unclear] trust so each year there should be continuity, which I understand has been a concern in the past.

That sounds legitimate. I understand people's problems and challenges in the past, and that there's trust issues in the trust. [Laughter] but kind of hearing back on how it is going would be nice because I wanted to work the way the department is saying it is, but I understand stakeholders anxiety.

Yes, certainly we are happy to report back in the next six months.

Thank you for that dialogue. Mr. Sykes, do we have any [Captioner cannot get audio--unclear] Mr. Kelly again or any other testimony?

This is Chris Sykes. Yes, we do have Eric Kelly on the phone now.

Okay, Mr. Kelly can you please introduce yourself and provide testimony for document seven?

Sure, can you hear me okay?

Yes, we can hear you.

Good morning members of the board. My name is Eric Kelly and I'm a trust elder law attorney with Frazier able law in Denver and also the cochair of the Medicaid subcommittee of the elder law Bar Association. I testified at the meeting last month and I don't want to retread on what I was talking about there or what is been mentioned today but I do echo the same concerns what everyone else is missing regarding the \$5000 notice requirements. I would like to use my testimony today to just ask the department to get more specifics about what the process is going to be in reviewing these notices. I know that Ms. Walker mentioned at the hearing last month, I know she brought it up at the stakeholder meeting in February, there's going to be a memo or maybe a memo series in regards to how the department will actually take and review these \$5000 notices and act upon them. So I figure and am hoping at this point, now that has been a few months, the maybe she or someone else there with the department has a pretty good sense of what is going to go into this memo, so Vega turned back to Ms. Walker or anyone else in the department to talk more about what we can expect with this memo or serious.

Thank you, Mr. Kelly. Ms. Walker?

I can certainly address that. The memo will address a lot of questions that stakeholders brought up at the stakeholder meeting. That is what it is primarily geared toward, for example, Ms. Brandt had a question as to whether or not they would need to notice it for a bunch of distributions for the same type of things. Or if it was a one time distribution of that one thing. I think that's the purpose of the memo to clarify all of those small things with regards to the guidance on what type of distributions are appropriate and those lie in the palms already and that is mostly what we rely on. Where there's questions or concerns we are certainly happy to address those. I think we are looking forward to working more with stakeholders on what types of things they're looking to have answered through the memorandum series. I will plan on working closely with them in preparing that memorandum and yeah, there was a long list of questions that they had which I do not have off the top of my head that we plan to address in that memorandum.

Thank you Ms. Walker. Any thoughts on that Mr. Kelly?

No, thank you.

Okay, I appreciate that. Mr. Sykes, does that complete our [Captioner cannot get audio--unclear] for document seven?

This is Chris Sykes, that is correct. We do not have anymore testimony lined up, but I have been alerted that Dr. Givens had to step away to deal with a COVID emergency meeting at her place of business, so regrettably we have lost quorum at this point. We are unable to move forward with actually making a motion for adopting this rule. I suggest perhaps we moved to the department update.

has anybody heard from Donna?

Donna, are you on the line?

So, unfortunately we only have five board members with us presently. Dr. Givens has indicated that she should be able to return and she will email as soon as she is back on the line so that we know we have a quorum, but at this time perhaps we can move into the department updates. It is also very close to 11:00 a.m. and we are having a changing of the guard

for department leadership at the table. Tracy Johnson is being called away to present with our executive director and will Heller will be stepping in and he is on a phone call until 11:00 a.m. so I'm not certain if Bill is with us.

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[Captioners transitioning]

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Yes I am here, I am having a hard time hearing you, can you hear me?

---

Yes we can hear you fine.

---

I came off the bench for G -- Tracy Johnson and members of the board, thank you for allowing me to join. I can jump into walk quickly through the department updates.

---

Yes, please.

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Several bullets to go through, I will try to cruise through as quickly as possible so we can continue on with the rest of the order of business. The department obviously is jumping through hoops to increase [ Inaudible ] for applicants. We are updating members by email, and the peak health app with important information on COVID-19. They can update their communication prayer and -- preferences so that they can get text in emails and they can download the peak health app on their devices through the App Store. We are creating social media channels specifically for members during the pandemic and beyond. Follow us on Facebook and Twitter, we are posting COVID-19 information for members and applicants including frequently asked questions and links on information about the virus on health first Colorado.com/Covid. We are reducing face-to-face engagements and enabling telemedicine as an alternative. We've also enacted temporary enhancements for telemedicine policies for access to care, and to further mitigate the spread of the virus. We have been hiring additional staff to manage increased call volumes and the member contact center. The provider call center and the new member enrollment centers. We have expanded customer service hours, the Colorado medical assistance program call center is expanding its hours to include 8 AM to noon on Saturdays. They can help health first Colorado and CHP plus members and applicants regardless of where they live in Colorado. That is through Denver health medical assistance program. Members who call the applicants at one 800-221-3943 and they can press one, they will automatically be transferred to the Colorado see map on Saturday morning. You just press that one and it will get you onto the Denver health number four Saturdays. On weekdays, members should contact the county of residence for assistant sites. COVID-19 and eligibility appeals, members continue to have benefits during the month of March will continue to receive benefits not only due to the appeal but also due to COVID-19. They will remain on benefits until the end of COVID-19 even if there appeals is denied. They will get an email with next steps after the public health emergency ends. When the department migrated to Gmail in January, the email addresses for health first Colorado eligibility box had changed so we wanted to make sure people had in inbox for that. The new email address is HCP F Medicaid at eligibility at state.CU .us. If you sent an email to the old email address and have not gotten a response, please send to the new email address. Redetermination and letter guidance for eligibility workers. They are experiencing unusually high backlog for redetermination's. The business process, reengineering project, learning section 2 explored business processes and data entry and identified guidance to reduce backlog and maintain timeliness. They plan to do redetermination processing and not specific to backlog increases for the public health emergency. And finally, the last update I have for you is resources for Coloradans impact did by COVID-19. Onward CO.org can help Coloradans with services, funds and jobs during the Covid pandemic. This resource is a result of the collaboration with the governor's office, state agencies, community partners, and industry. Please visit the website and share with anyone who is struggling or may need help. Once again that is on word CO.org and that is all I have for updates, thank you.

---

Thank you Mr. Heller, we appreciate that, so just so everyone is aware, we have to take a pause for the continuation of motion and rulemaking until we have a quorum present to be able to move forward. The other question I have, before we take a break, is there an opportunity -- is anyone signed up for open comments that we could do now?

---

This is Chris Sykes, we do not have anyone for open form at this time.

---

Okay, great, I appreciate that so we will remove that part of the agenda until later on. If it is okay with the board members, we would like to take a break since we have been going for two hours straight, so let's take a break until 11:25 AM so that hopefully we can get the quorum back and then we can move forward with the rest of our rulemaking agenda. Is that okay, everyone?

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This is Jessica, can we hang up the phone and call back and or should we stay on the line?

---

This is Chris Sykes, actually I am going to call Kelly O'Brien on this one because well I believe we can pause the audio broadcast which means the webinar would not be going, anybody dialed into the conference line, Kelly, we should just stop all communication regarding the meeting in that sense?

---

That is right.

She can stay on the phone lines but do not talk about meeting business that would be improper. The basically everyone still connected on the phone line would be able to hear us but the audio broadcast for the webinar can be positive.

And if you did not drop off the line, I will remain on the line so it will be open to people who wanted to drop off for a few minutes and call back in at 11:25 AM.

Okay, all right, you can either keep your phone on and mutes or call back in and we will try to resume our meeting at 11:25 AM. Thank you, guys.

[ The event is on a 15 minute recess. The session will reconvene at 11:25am Mountain Standard Time. Captioner on a 15 minute recess. The session will reconvene at 11:25am Mountain Standard Time. Captioner on standby ]

Jessica, are you with us?

I am here.

Amanda Moore?

Here.

Kristi Blakely?

Misuse? -- Ms. Hughes?

Patricia given?

I am back and I am so sorry you guys.

[ Indiscernible name ]?

I am here.

We have Donna Roberts?

Present.

Great, --

This is Kristi Blakely.

The good news with Donna Roberts joining us, we do not have to wait for Brigitta to come back. We do have the quorum. We now have 6.

Bill Heller, are you with us?

I am here.

And then Ken Weaver?

I am here.

We have six board met -- members, we are still weeding -- waiting for brigade out which would ring at seven.

Cannot resume or do I need to do anything further?

We are backup to broadcasting so we are good to go.

Thank you, Chris. This is Mandy Moore, president of medical services board, thank you for the short recess, so we can continue with our rulemaking process. We were just finishing up on document seven, had we heard from -- let me back up a touch, you all are aware since our meeting is going a little bit longer, we are really cautious to make sure we have the quorum so that we can continue with the rulemaking process and we may lose more, so we will try to be timely and the remainder of our agenda so we can get through all of these rules in a fair and orderly fashion. They just want to let you know what the circumstances are that we are under, currently. With that, Chris, had we completed public testimony for document 7?

Yes, this is Chris Sykes, we have completed document -- public ceremony.

---

Great, there was a lot of public testimony, this is the final adoption of that rule, are there any comments or questions from the board before we proceed? Okay, with that I entertain a motion for document seven, please.

---

This is Jessica, I move the final adoption MSD 19 09-04 A car revision just -- concerning disability trust 8.70 0.6 point D incorporating specific statutory authority contained in the record.

---

Thank you, for the second. All those in favor please say Aye ?

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Aye.

---

Opposed? Motion passes, thank you very much and thank you Ms. Walker for all of the dialogue and discussion, all right, let's move on to our final adoption agenda of document 8, Whitney Mcallen and Renee Hendry, are you available on the phone? Yes.

---

Okay, could you please introduce yourselves to the board and lead us through our discussion on document eight, please.

---

Gray, thank you, good morning Madame President and board members, my name as a wit me and I am the policy advisor for the department. Rain Henry, McConnell and I are back to speak about hospital role revision as be 20-[ Indiscernible name ], it would change the claims mission requirements for delivery for pregnant women's hospitalization during and after delivery for reimbursement of a newborns hospitalization. When we made our initial presentation last month, there was a second revision. Kim McConnell explained that the meeting that the department had made the decision earlier that week to delay the implementation during critical response time. At that time we anticipated we would still include the expansion in this rulemaking by inserting future implementation date in the section. Upon further discussion internally, we decided to promote role clarity, that we would wait closer to the implementation date to bring that revision to the board. At that time we will be able to stick with the original instead of inserting a future implementation date. We believe the anticipated change to the expansion revision with the -- was the sole reason it wasn't on the agenda for the second reading but if there are additional questions or comments, we would welcome those at this time.

---

Thank you very much, are there any questions that would need to be made for document 8? It does not sound like it, Mr. Sykes, do we have anyone signed up for public testimony?

---

We do not have anybody signed up for public testimony.

---

Okay, wonderful, all right, if there aren't any other questions or comments, I would entertain a motion for document eight.

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This is Kristi, move the motion must be 20-02-05-A incorporating the statement of basis and purposes for the statutory authority.

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Second, thank you, has been seconded anyone in favor please say Aye.

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Opposed? Sustained? Motion passes. All right, thank you very much Mrs. Mcallen and Ms. Henry, we appreciate it, that concludes our time adoption agenda and now we will head into our initial approval agenda and we have document 9 and it looks like Whitney, you will stay with us and bring Ms. Launa Akers with you. Please introduce yourself to the board and provide your information an overview of document 9, please.

---

Madam chair, I want to disclose a conflict of interest, this is Kristi Blakely, and the group needs to decide if I am allowed to participate in this rule. I would like to, and yes it will impact my daughter and her significant health.

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Thank you Miss Blakely for bringing that to the attention of the board, by our bylaws we will follow due process and that requires we must take a vote, and Ms. Weaver, please correct me if I am correct here?

---

Kristi, can you elaborate more, I think you wrote a letter on behalf of an organization, is there also a financial issue with the organization or, --?

---

No, the organization is a provider approved service agency and it is the developmental disabilities side of Lauren services, the EBV will be impactful under the consumer directed intendant support services, and I did write a letter indicating that this rule will impact life, period, checking in, checking out, all of that. But no, there is no financial impact at all, and I would like to be engaged in this rule. [ Inaudible ]

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That helps a lot, just making sure that there's not some sort of financial gain either on the business or your daughter side. But it is more of just a personal thing. Okay, it doesn't sound to me like there's any kind of financial conflict so, but, it is up to the board come if they feel comfortable giving maybe more of an appearance of a conflict. We appreciate you self disclosing Ms. Blakely, we understand with clarity a little bit more and I would like to recommend to the board to include Ms. Wakely in our conversation but I want to make sure the rest of the board can move forward with that?

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I second, and I agree.

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This is Brigitta, I agree.

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This is Donna, I agree.

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This is [ Indiscernible name ], I am also on board.

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Okay, thank you all very much, I appreciate that, Miss Blakely we would like you to continue in with the conversation we will go through the normal process. I will turn this over to Ms. Kitt Mcallen and Ms. Hager's to please discuss document nine.

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Thank you, good morning Madame President and board members, my name is Winnie, I am a compliance and policy advisor for the department. We will do a quick check in to make sure that John can be heard and Lahna can be heard.

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This is John, sound check.

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Great, I think I heard both of you.

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We are here to present must be 19-01-03-A, the electronic verification rule. We will refer to it as the EVR rule. The department is bringing this rule in order to comply with section 12 006 A at the 21st century cares act. Mandates that all Medicaid state agencies were use [ Inaudible ] for home healthcare services. Noncompliance of the requirements of the act would result in the reduction of the percentage or F match that the department receives for the services. Essentially the federal match that the department receives. That reduction would increase for every year of noncompliance up to a maximum continuing reduction of a percentage point. It is specifically mandated by a man -- January 1 21 and for home care by 2023. Medicaid services need to do [ Inaudible- static ] delay, the state is required to be compliant with respect to his personal services by January 1, 2021 and with respect to home healthcare services by January 1 2023. For several reasons that Lahna will touch on, we are unable to adopt the requirements for both services with's role meaning that providers of all impacted services will be required on August 3 but without consequence until January 1 2021. I will now turn it over tote Lana to discuss more of the policies.

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Thank you, Whitney, good morning Madame President board members. My name is Alanna -- with the Department of community living. This is a technology solution that collects information on home or community-based service is. For state plans and waiver services. This information includes six-point data, the type of service performed, individual receiving the service, individual providing the service, date of service, location of service delivery and times the service begins and ends. The overarching purpose is to ensure members receive authorized services and the providers are only paid for services rendered. As my colleague Whitney explained, EBV is required for all state medical agencies. However, there permitted [ Indiscernible name ] the department has created systems and policies that are unique to our state for the purpose of ensuring a minimally burdensome implementation. For example, the department of an hybrid model, this means that the department had contracted with the vendor to manage the state solution that providers may use free of charge. While also allowing providers to use an alternate system of their choice. This implementation model promotes choice while alleviating unnecessary costs. The department is implementing this for services required by the cares act -- CARES Act. For example, the CARES Act act requires that it be for personal care. The department has offered to require EBV for home services as well. Implementing EBV for comparable services, streamline care delivery increases accountability to ensure that services are delivered to our members. A full list of services requiring EBV is included at section 8.00 1.2 point A of this rule. The department will not be requiring EBV for living caregivers. To accommodate system and policy changes, to exempt caregivers, the department requested and received a good faith effort exemption delaying the requirement past the original mandate of January 1, 2020. Further regarding the timeline as when -- Whitney mentioned, the mandate out lines different home health. However the department is implementing it for all required services at the same time. Unified implementation significantly reduces costs, improves integrity measures and streamlines implementation for providers and members. The department intends to implement it in a manner that they practice using the system without reimbursement and mandating AVB on August 3 providers will have time to practice using AVB in the department will be able to provide thorough technical assistance and outreach before the pre-payment claims that it is initiated on January 1. Throughout this rule draft, you will see that stakeholder engagement has been essential component of development and implementation. The department has been working towards this since 2017. At the height of stakeholder engagement, the department was holding five monthly stakeholder meetings. Currently, few are held and a general stakeholder meeting and meeting held for caregivers. This robust stakeholder engagement impacts the implementation, for example, decisions around implementing a hybrid model, not requiring the use of GPS, not utilizing Geo sensing, exempting live-in caregivers and implementing EBV with a grace period before impact of claims processing were all a direct result of stakeholder feedback. I will now pass it off to my colleague John who will explain the technical acts but.

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Thank you Lana and Whitney, I am John Lentz and I in the policy specialist for the health programs office. The EBV program in Colorado has been created in close collaboration with engage stakeholders and experts to ensure a robust program that remains minimally burdensome for users while meeting the federal mandate. It is a simple verification

record, it does not replace any other core functionalities including billing, prior authorization, or visit notes required for licensors. Since it is a new program in Colorado, I will provide a short systematic overview of how it is collected, what is in the record and how EVP records will be used. First, how it is collected, they collect the records at the time of service by simply clocking in on an app enabled smart from a tablet when the service visit begins and again when it ends. Caregivers may also use the telephone if preferred. Billing providers are responsible for maintaining the EVV records, however when caregivers collect EVV records currently -- correctly, no oversight is needed. EVV records may be modified as needed. Providers may also use their own EVV technology solution referred to as provider Tway systems and rule to collect and transmit EVV to the department. Second, what is in a EVV record? EVV records are collected at the time of service and contain the six data points federally mandated and the CARES Act , those are type of service performed which are categories of service in Colorado, individual -- excuse me, the individual receiving the service, the date of the service, the location of service delivery, the individual providing the service, and the time the service begins and ends. Finally, how will EVV records be used? The department uses the records first to validate EVV appropriate claims for Jered the Haitian and -- the records will match the claims submitted to the department, verifying appropriate payment. Claims without a matching EVV will not pay. EVV records match to build claims will you be used to review and approve use of the EVV program. EVV has been available since late September 2019 as the department provided a soft launch phase prior to the mandate. During the soft launch, early EVV adopters have been done using them to familiarize themselves with all aspects on their own schedule. Dedicated EVV staff support the program, fiscal agent and vendor. They track all questions received at the EVV inbox, all escalated issues from the fiscal agent are addressed and send data. They have dedicated call center staff to support EVV in Colorado. The department also hosts a website and conducts regular stakeholder meetings with technical guidance. I will now pass back to Lana to discuss stakeholder engagement.

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Thank you, John. Each comment received on this rule was thoroughly considered and evaluated. While many recommendations were incorporated, the department recognize that not all stakeholder comments would be included. At this time, I would like to discuss the recommendation that may be addressed during comment or public comment. Request has been made to both delay EVV implementation and separate timelines for personal care and home health. The department strongly advises against modifying the EVV outline in this rule for the following reasons. Once EVV is required by federal law, the department must integrate it into the claims processing. The effective date of August 3 as proposed in this rule draft has a five month grace period for providers to incorporate EVV into business practices and provide robust technical assistance and outreach prior to claims impact. Delaying the mandate will reduce the amount of time that Preib riders may use EVV without financial consequence and will likely result in greater claim denial come August 2021. The department strongly advises against separating the home health timelines. The combined rollout streamlines the requirements for members, caregivers and providers as many members receive services with multiple bowl Medicaid authorities. Implementing EVV across the entire scope simplifies administrative onboarding, significantly reduces costs, improves program integrity measures and reduces the possibility for disruption of care. This streamlined approach was proposed and agreed upon to the budget committee at General assembly. As a result, state funds appropriated for EVV are dependent upon a current -- concurrent implementation. Separating would separate funding which may not be available especially during this public health crisis.

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This is John, the department continues to want to implement EVV as smoothly as possible. The centers for Medicare and Medicaid services has advised the department that claim integration must begin no later than January first 2021. After this point, all claims billed must have matching EVV to pay. CMS evaluation of the program will begin once claims are integrated. Many stakeholders have indicated that they will not begin using EVV before it is mandated. The department is therefore requesting an implementation date of August 3, 2022 onboard providers with enough time to use the EVV system before claim integration. The department will directly outreach between the dates to minimize the impacts of claim integration. We would like to close this presentation by thanking all the active and engage stakeholders with work so closely with the department in creating the EVV program in Colorado . Members, advocates, have already contributed extensively and we continue -- we look forward to continued collaboration.

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This is Whitney speaking, at this time we welcome any questions from the board or anyone who signed up to provide comment.

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Thank you very much, are there any questions from the board? I want to make note that in our agenda we have for stakeholder comment letters, I want to make sure you all and the board members see those posted and you can review them and read through all stakeholder comments, some will also provide public testimony. But I wanted to provide a reminder on that. Are there any questions or comments from the board?

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Okay, I believe we will have public testimony, Mr. psych can you guide us through? I think Julie was going to have to step out before -- depending on the length of our meeting. I believe she is not available to provide her public testimony but you can reach Julie or read the letter to the board, that is available to your review and Mr. Sykes, do we have any public testimony?

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This is Chris Seitz, yes, Kristi Blakely has come up for public testimony.

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All right Thomas Blakely.

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You can introduce yourself to the board, please provide your testimony for document nine.

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Madam chair, members of the board, I am not going to read, I just want to give you or highlight the questions that I raised and I want to point out that in a household with more than one person or even one person, it will look in real time like somebody has to sign in, you sign and that you are there and what activity you are going to do. So if you get in the door and sign in save for homemaker because you are going to prep a meal, and then you find out the person needs to go to the bathroom, you have to sign now, of homemaker and sign back in for personal care and then provide the care. And as I said in my letter, if there are two people in the home, we still do not have answers but an example would be if the caregiver is feeding Mitch in our home, the home that my daughter, Lauren lives in, feeding Mitch, and Lauren has a seizure, the person would have to sign out of the feeding Mitch and sign into Lauren and then take care of the seizure. I have great concerns about how this is going to impact the actual care for people, especially those with significant disabilities. I do not know why this is being put in other than people think it will save money, I do not think they're going to find anything, but a new level of hardship on the caregiver or caregivers who are underpaid anyway in my opinion. I do ask how we are going to do the signing in and signing out as the 10 to 12 people we have on staff at Lauren's house tend to say we are not using our own cell phones or data time, so that leaves us having to fund, I guess, computers to check-in and checkout? But then we can be in the community to do the EVV. It just feels very big brother, or it doesn't feel fair especially when we work to get independence and the EVV is, if you can put in your own brain, say you're going to make dinner so you check into homemaker, but then you're kidnaps them think I you check out, and in real time what we put this on to any other person? And so, I want to also refer you all to Bethany CLP letter who talks about how we are going faster than we need to related to implementation. We have another year before the feds would require us to implement. We have done a soft lunch at Lauren's home and it is pretty difficult, it is really going to impact everybody. If anyone has any questions I am happy to answer them, but my personal feeling right now is that this is additional levels of care that do not feel needed. And finally, those live in caregivers should absolutely -- if you live with a parent, that is a living caregiver, you should not have to go by EVV, that is just one of those things I am sick testing. Thank you.

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Thank you, obviously we appreciate your feedback, that is good and is -- in regard to this rule. Any comments or questions?

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This is John with the department, I am going to address the questions or the comments that were provided, however if I missed any, please let me know when I am happy to circle back. The first thing was starting with the household of more than one person, either providing care or receiving care, that is always excepted within the EVV program. The EVV program is a simple verification method, all it does is record that the care has been delivered at the time of service and that's possible by every unique caregiver and also with one caregiver to multiple persons receiving care. Second part, the receipt of urgent care, EVV is not ever designed to interfere with care delivery. It is a simple program verifying that the care is delivered. If at any point there is an emergency, care should always be provided first and EVV can be edited or added administratively. The question of why is EVV being used was brought up and up couple different context. It is to ensure that care is being delivered, that is the primary aspect of this mandate that we will be in compliance with. The timeline of that will be January 1, 2021. Claims that require EVV will have to have it in order to pay. So we also want to make sure that we have people in and using the program with enough time to be able to use it seamlessly before that claim integration is turned on. Also with regards to care in the community and being able to use EVV in the community, there are no location restrictions for EVV appropriate services. EVV may be collected in the home or community, there are no location restrictions and finally there is a comment about live-in caregivers, they are exempted from needing to use EVV and the state of Colorado. There is an operational memo out about all of the specifics and how to do so. But Levin -- live in caregiver may be exempted from providing EVV.

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Madam chair, this is Kristi Blakely, one other question you did not answer is, what if the caregivers do not want to use their own cell phones and data, who pays for that?

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Thank you for bringing that backup, again this is John, the department is utilizing the bring your own device model which does not necessitate that a mobile phone must be used, telephone is also possible to be used. There are also unique circumstances in which neither as possible or available at which time EVV may be entered administratively.

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This is Jessica , a question about that, with the department provide guidance to the agencies that provide the care? Because I can just see a lot of challenges on the actual workers with having a system that you are supposed to use your cell phone but it kind of takes advantage of those workers, is the department going to make recommendations on that?

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This is John Lynch with the department, thank you for the question, this is actually already part of provider training. Provider training is a condition for utilizing the EVV program. During the immoral -- enrollment process there is a training provided. This is addressed. The data that is utilized by EVV is less than the standard text . So it is not a burden some amount of data, and in other markets it has been determined that most prefer to use their phone because of the convenience of it. However, that being said, there are the alternative methods for recoding EVV at the time of service or administratively if at the time of service it is not possible. So yes the guidance is available and already out. Thank you.

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Any other questions or comments from the board?

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Thank you for listening.

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Mr. Sykes, do we have anyone else signed up for public testimony?

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Yes we have Bethany Cray signed up.

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We will unmute you and allow you to introduce yourself and share with us your comments about document nine.

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Thank you, this is Bethany from the Department of oncology, we appreciate the work the department has done over the past two years in support the long process. It doesn't substitute for robust discussion at this stage and as we know, this is a tough time for people to engage in this discussion on the rule. We also hope the department would consider adjusting plans to the extent necessary, considering the emergency and considering the department's findings about the penny minimal progress made on the soft lunch for providers. They were reviewed at the most recent meeting on April 20. What we suggested in written comments was that the department consider mandating EVV for personal care without jeopardizing [ Inaudible ] by January 1. With the response I received yesterday, claims would not be jeopardized until January 1. However the rule language does not say that, it doesn't delay impact on reimbursement to January 1 it says that 8.001 point three point E, the providers are subject to denial or recovery of payment if they failed to comply with the requirements of the rule on or after August 3. So it is not clear to me that there would be protection for providers if there were problems with the claims. Another issue, and I'm not going to say everything I said in the letter but just some follow-up points. The department also says that state funds appropriated for EBV are dependent on concurrent implementation. I've not assessed independently what flexibility might exist in a legislative action, but the state budget is currently under consideration and there are processes for making investments, if and this is what I believe is possible, going forward on the previously planned timeline would harm access to services or cost the state additional funds to solve problems or jeopardize the viability of a provider network that is already under strain due to the emergency. Along with my letter, those are the main points and my comments. Thank you.

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Thank you, any comments from our rule authors?

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Good morning, this is Lahna, thank you Ms. pray for submitting your public comments and we appreciate your involvement in this role. I do want to touch upon the timeline implementation request, as stated in testimony, the funds that we do have appropriated our reliance on the combined home health and personal care implementation. We could look into the cost that may be associated with separating these timelines. However, I would anticipate they would be large. The way that our system is built, we have integrated both home health and personal care authority. It would require the state to make changes to our MIS tool, it would require changes to all of our provider choice systems, so providers who have already integrated their systems with their business practices and with the state and addition it would require additional staff. We do have quite a few limited staff working on EVV and they were termed under the current timeline. In addition, you mentioned that claims and information around claims is not adding to the role. We cited the program in this rule draft for the purpose of differing back to that rule. We can also discuss with our legal department if it is appropriate to add additional information around claims and adjudication into the rule. The reason we do have an implementation date of August 3 proposed in this role, providers will not be using the system until it is mandated. Early in implementation we made a promise that we would take lessons learned from previous systems rollout and not have a big impact to claims. We are fulfilling that promise by requiring the use of EVV prior to claims impact, my concern would be if we delayed this any longer, that we would not be filling our promise to stakeholders and that claims would be at risk on January 1, 2021. In Bethany, if you do have or you would like the capacity to work with us in between this reading in the second reading, we would be happy to discuss any of these issues further.

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Great, thank you very much, this is Bethany again, one follow-up question, I understand the importance of doing IT changes and having that all put in place, my question is really about primarily not having financial impact until January 1. And if that can be in the rule and whether there could be a cold -- delay in rule for home health until a later point. I would be happy to work with the department on that, thank you.

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Thank you Ms. Cray, I believe we had quite a few comments and recommendations, I think I like to urge our rule authors that if this rule does pass just as you stated, have further dialogue and engagement in case there are any additions or changes we need to make to the rule before final adoption we have quite a bit of public testimony in regard to this rule so I am hopeful that in then months will have a robust dialogue with our stakeholders. Are there any other comments or suggestions or questions from the board members?

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This is Jessica again, this is coming down from the federal level and Colorado seems to have gotten an extension on implementing it. Are we getting any information from other states about some of these concerns that stakeholders are having and how other states have dealt with it that we can learn from? To help us along with this process? Thank you for that question, this is Lahna, I can respond. The department is actively engaged with many Association groups throughout the nation. We readily talk to our partners at the centers for Medicare and Medicaid services, we are actively engaged. A lot of stakeholder concerns are very similar. On this rule across the country. The fact of the matter is, that there is a congressional mandate that not even the centers for Medicare and Medicaid services have the [ Inaudible- static ]. We are trying our best to implement this mandate and the less burdensome way, that is why we have incorporated so much

stakeholder feedback into our role. Like in my presentation, the requirement not to use GPS, the exemption of live-in caregivers, not using geofencing, those are things that many states use and Colorado has really taken the forefront of innovation on EVV in not requiring those. We've heard that they are best practices from many other states but for Colorado, they do not work for us or our stakeholders. So while we are working with our fellow colleagues in other states, we recognize the way Colorado is implementing is unique and we are trying our best to make sure this is as least burdensome as possible.

That is good to hear, thank you, so I guess philosophically, people just really do not like it at all, it was be something you would have to contact [ Inaudible ] about?

It would be a congressional action. So if folks are looking to alleviate the mandate, the federal government would be the place to direct those concerns. There is quite a bit of advocacy effort around that, around eliminating the requirement and delaying the requirement, at this time, we have not seen any move in on that from the federal government and as such, it is the immense responsibility to move forward based on current mandate timelines.

Thank you for that information, that was helpful.

This is Kristi, when will we see the actual technologic samples so that we can actually see what it will look like?

This is John with the department, the system is already live and has been since September 2019 and anyone who wants to use the system is welcome to enroll and login and see how it worked. Another question, isn't it true that no other state has implemented yet and most of the states are only going to do personal care, Colorado opted for a more's restrictive including EVV and all services.

Thank you for that question, this is Lahna speaking, many states implemented electronic verification prior to the mandate, that is actually where we learned a lot of our best practices because Colorado began implementation of the mandate before many other states so we could have this really long run with stakeholders to make sure we got it right. States have already implemented EVV, the majority have requested good faith exemption to delay the personal care mandate, I believe only one state moved forward with the timeline as prescribed. Most states did delay until January 1, 2021 for personal care. As far as the combined implementation, we have heard from national expert does, not only does it streamline service delivery for clients, it alleviates confusion with providers and in the long term save a considerable amount of funding. We do have the best practice, I can give you definitive answers on how many's dates are combining the rollout and how many are not.

Any other further comments or questions? Any further testimony? This is Chris Seitz, we do not have any testimony signed up beyond the individuals who have spoken for document nine.

Thank you.

Any further comments from the board before we entertain a motion? Okay, let's move forward with a motion.

This is an, can you hear me?

Yes, we can hear you.

Moving with the document 9, MSB 19-01-03-A, the electronic visit verification section 8.001.

Thank you for the motion, is there a second?

This is the Gita, second.

Enqueue, has been properly moved, all those in favor please say Aye?

Aye.

Aye .

Opposed?

This is Kristi Blakely, Nay .

Abstained?

I believe we needed for to pass, four to pass, so it passes.

Let's move forward and into the last agenda item we have for today which is our closing motion.

Do we do the closing motion prior to putting a consensus agenda together?

Oh, I am sorry. I guess I assumed with my request for continued stakeholder come -- started at 9 AM, I did not think we wanted to do it on the initial approval, correct?

Correct, I just thought we should lay it out.

I appreciate that, thank you, has been a long meeting so I am forgetting. So how does the board feel, do you feel comfortable with not putting anything on the consent agenda?

I agree.

Kristi, are you comfortable with that or would you prefer putting document 9 on the consent?

Okay, slain thinking between Kristi and myself, I feel like Jessica agrees, any other comments from our board members? Could you let me know?

On document nine?

Would you like it on the consent agenda yes or no?

Yes.

No, do not put it on consent, they are still working on it, talking to Bethany.

Agreed, I would like to make the recommendation that we do not put document nine on the consent agenda until we have clarification that the dialogue would continue between now and the final adoption. But I want to make sure on behalf of the whole board, is everyone in agreement with that recommendation?

This is Brigitta, yes I do agree with that. Sorry.

Agreed.

I agree.

Thank you, Donna. Jessica, myself, Christie Brinkley. Correct me if I am wrong, can we now do a closing motion?

This is Kristi, I move that all rules adopted at this meeting, meet the criteria of the state, administrative procedures act which are incorporated by reference.

Second.

Thank you.

Let's go to a vote. Has been moved to second, all in favor please say Aye.

Aye.

Aye.

Aye.

Opposed? Sustained? The motion passes. We have already completed the open form and department updates, so with that, thank you all for hanging in there. I know we all have come heating agendas, competing agendas, to minors friends out there, happy nurses week and hopefully we will get to see each other soon but if not, most likely we will talk on the phone, in June where we will also be celebrating Kristi, Charlie's and Donna's last meetings as members of the board, we will throw a virtual party for them but I also wanted to thank all of you and hope you stay safe and healthy and with that we will adjourn the meeting. All right, thank you.

Thank you. Stay safe everyone.

Bye-bye.

Thank you.

[ Event Concluded ]

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