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DRAFT

8.7200-8.7205 Case Management Rule Revisions

8.7200 CASE MANAGEMENT AGENCY REQUIREMENTS

{8.7200.1 Colorado Case Management System} [from 8.390]

The Colorado Case Management System consists of case management agencies representing {defined} service areas throughout the state, for the purpose of providing assistance to persons in need of {long-term services & support}, including but not limited to- home and community based waiver programs to access appropriate services and supports.

8.7200.1 Authority

- A. These rules are promulgated under the authorities established in Section 25.5-10, C.R.S.
- B. These rules and the program guidelines, standards and policies of the Colorado Department of Health Care Policy and Financing, shall apply to all case management agencies, community centered boards, service agencies and regional centers receiving funds administered by the Colorado Department of Health Care Policy and Financing.

8.7200.2 Scope and Purpose These rules govern services and supports for individuals with developmental disabilities authorized and funded in whole or in part through the Colorado Department of Health Care Policy and Financing. These services and supports include the following, as provided by the Colorado Revised Statutes and through annual appropriation authorizations by the Colorado General Assembly:

- A. Services and supports provided to residents of a State operated facility or program or purchased by the Department.
- B. The purchase of services and supports through Community Centered Boards, case management agencies, and service agencies.
- C. Other services and supports specifically authorized by the Colorado General Assembly.
- D. Services and supports funded through the Home and Community-Based Services waivers under Sections 1915(c), 1902(a)(10), and 1902(a)(1) of the Social Security Act and under Section 25.5- 4-401, et seq., C.R.S.

8.7200.3 Consequences for Non-Compliance

A. Pursuant to Title 25.5, Article 10, C.R.S., upon a determination by the Executive Director or designee that services and supports have not been provided in accordance with the program or financial administration standards contained in these rules, the Executive Director or designee may reduce, suspend, or withhold payment to a CMA, community centered board, service

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agency under contract with a community centered board, or service agency from which the Department purchases services or supports directly.

B. Prior to initiating action to reduce, suspend, or withhold payment to a CMA, community centered board or service agency for failure to comply with rules and regulations of the Department, the Executive Director or designee shall specify the reasons therefore in writing and shall specify the actions necessary to achieve compliance.

C. The Executive Director or designee may revoke the designation of a community centered board upon a finding that the community centered board is in violation of provisions of Section 25.5-10, C.R.S., other state or federal laws, or these rules.

8.7201 DEFINITIONS

Assessment means a comprehensive evaluation with the individual seeking services and appropriate collaterals (such as family members, advocates, friends and/or caregivers), chosen by the individual, conducted by the case manager, with supporting diagnostic information from the individual's medical provider to determine the individual's level of functioning, service needs, available resources, and potential funding resources.

{Case Management Agency shall be as defined in Section 8.7101.

{Case Management Agency} Defined Service Area means one or more counties that have been designated as a geographic region in which one agency serves as the {Case Management Agency} for persons in need of Home and Community Based Waiver services or other Long-Term Services and Supports.

Case Management Activities shall be as defined in Section 8.7101.

Community Centered Board (CCB) means a private for-profit or not-for-profit organization that is an administrator of locally generated funding pursuant to CRS 25.510-206(6) and acts as a resource for persons with an intellectual and developmental disability or a child with a developmental delay.

Conflict Free Case Management means case management services and activities provided to a member enrolled in a home and community-based services waiver by an entity other than the entity providing direct long-term services and supports except as otherwise allowed.

Conflict-Free Case Management Waiver means a Case Management Agency is granted the allowance to provide both case management activities and direct care services. Agencies must apply for and be approved for this waiver prior to receiving an intent to award for Case Management Agency Request for Proposal in the current contract period.}

Corrective Action Plan shall be as defined in Section 8.7101.

Critical Incident means an actual or alleged event that creates the risk of serious harm to the health or welfare of an individual receiving services; and it may endanger or negatively impact the mental and/or physical well-being of an individual. Critical Incidents include, but are not limited to, injury/illness; abuse/neglect/exploitation;

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damage/theft of property; medication mismanagement; lost or missing person; criminal activity; unsafe housing/displacement; or death.

{Defined Service Area means the geographical area determined by the state department to be served by a case management agency.}

Department means the Colorado Department of Health Care Policy and Financing, the Single State Medicaid Agency.

Home and Community Based Services (HCBS) waivers means as defined in waiver rules [XXXX].

Intellectual and Developmental Disability has the same meaning set forth in CRS 25.5-6-403(3.3)(a) and waiver rules [XXXX].

{Individual means a person seeking a referral, assessment or potential enrollment in HCBS or Medicaid prior to their approval of eligibility.} – THIS DEFINITION WILL BE UPDATED IN 7101.1 AND THIS SECTION WILL REFERENCE THAT SECTION.

Information Management System (IMS) means an automated data management system approved by the Department to enter case management information for each individual seeking or receiving long-term services as well as to compile and generate standardized or custom summary reports.

Intake, Screening and Referral means the initial contact with individuals by the **{Case Management Agency}** and shall include, but not be limited to, a preliminary screening in the following areas: an individual's need for long-term services and supports; an individual's need for referral to other programs or services; an individual's eligibility for financial and program assistance; and the need for a comprehensive functional assessment of the individual seeking services.

\Legally Authorized Representative means a person with legal authority to represent an individual in a particular matter. Such a person may be:

- a. the parent of a minor;
- b. the court-appointed guardian of an individual, only with respect to matters within the scope of, and in the manner authorized by, the guardianship order; or
- c. anyone granted authority pursuant to any other type of court order or voluntary appointment or designation (*e.g.*, conservator, agent under power of attorney, member of a supportive community in connection with a supported decision-making agreement, or an LTSS Designated Representative under [new cite]), only with respect to matters within the scope of, and in the manner authorized by, the court order or voluntary appointment or designation.

In situations arising under subsections b and c, the applicable court order or voluntary appointment or designation must be consulted to determine whether it is still in effect, whether it covers the matter in question, and what manner of representation it authorizes (for example, only to receive information, or also to communicate the individual's decisions, to make decisions on behalf of the individual, and/or to take other actions).\

Long-Term Services and Supports (LTSS) shall be as defined in Section 8.7101.

\Long-Term Services and Supports Level of Care Eligibility Determination Screen (**{Level of Care Screen}**) means a comprehensive evaluation with the individual seeking services and appropriate collaterals (such as family members, friends, and or caregivers)

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to determine an applicant or member's eligibility for long-term services and supports based on their need for institutional level of care as determined using the Department's prescribed assessment instrument as outlined in Section [8.401]\

{LTSS Designated Representative means a person designated by the individual receiving services, by the parent of a minor, or by the guardian of the member receiving services, if appropriate, to assist the individual in acquiring or utilizing long-term services and supports. This term encompasses any authorized representative as defined by CRS § 25.5-6-1702 and CRS § 25.5-10-202, as well as any authorized representative as defined by CRS § 25.5-6-1101 and/or CRS § 25.5-6-1202 if the services include Consumer-Directed Attendant Support Services (CDASS) and/or In-Home Support Services (IHSS).

- a. An LTSS Designated Representative shall have the judgment and ability to assist the individual in acquiring and utilizing the services covered by the designation.
- b. The appointment of an LTSS Designated Representative shall be in writing and shall be subject to the standards set forth in [8.519.18 and 8.604.4].
- c. An LTSS Designated Representative who assists an individual in acquiring or utilizing CDASS and/or IHSS shall satisfy the applicable requirements of CRS § 25.5-6-1101 and [8.510.6 and 8.510.7] relating to representatives for CDASS, and/or the requirements of CRS § 25.5-6-1202 and [8.552.4] relating to representatives for IHSS, as the case may be. An LTSS Designated Representative who assists an individual in acquiring or utilizing IHSS may not be a service provider for the individual.}

LTSS Program means any of the following: publicly funded programs, Home and Community-Based Services for the Elderly, Blind and Disabled (HCBS-EBD), Home and Community-Based Services {Complementary and Integrative Health (HCBS-CIH)}, Home and Community-Based Services for Persons with a Brain Injury (HCBS-BI), Home and Community-Based Services Community Mental Health Supports (HCBS-CMHS), Home and Community-Based Services for Children with a Life Limiting Illness (HCBS-CLLI), Home and Community Based Services Supported Living Services (HCBS-SLS) Medicaid Nursing Facility Care, Program for All-Inclusive Care for the Elderly (PACE) (where applicable), Hospital Back-up (HBU) and Adult Long-Term Home Health (LTHH).

{Level of Care Screen ({Level of Care Screen})} Long-Term Services and Supports Level of Care Eligibility Determination Screen ({Level of Care Screen}) means a comprehensive evaluation with the individual seeking services and appropriate collaterals (such as family members, friends, and or caregivers) to determine an applicant or member's eligibility for long-term services and supports based on their need for institutional level of care as determined using the Department's prescribed assessment instrument

{Member means any person enrolled in the state medical assistance program, the children's basic health plan, HCBS waiver program, or State General Funded program.}

Pre-Admission Screening and Resident Review (PASRR) means as defined in benefits rules [XXXX].

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Professional Medical Information Page (PMIP) shall be as defined in Section 8.7101.

Reassessment means a periodic [comprehensive] reevaluation with the individual receiving services, appropriate collaterals, chosen by the individual, and case manager, to re-determine the individual's level of functioning, service needs, available resources and potential funding resources.

State General Fund (SGF) refers to programs funding solely through the Colorado state general fund. Those include but are not limited to: State Supported Living Services (State-SLS), Omnibus Reconciliation Act of 1987 Specialist Services (OBRA-SS), and Family Support Services Program (FSSP).

Person Centered Support Planning means the process of working with the individual receiving services and people chosen by the individual to identify goals, needed services, individual choices and preferences, and appropriate service providers based on the individual seeking or receiving services' assessment and knowledge of the individual and of community resources. Support Planning informs the individual seeking or receiving services of his or her rights and responsibilities.

Target {Group Population} Criteria means the factors that define a specific population to be served through an HCBS waiver. Target Group Criteria can include physical or behavioral disabilities, chronic conditions, age, or diagnosis, and May include other criteria such as demonstrating an exceptional need.

\Transition Coordination Agency (TCA) means a public or private not-for-profit or for-profit agency that meets all applicable state and federal requirements and is certified by the Department to provide transition coordination pursuant to a provider participation agreement with the state department.\

HCBS Waiver means as defined in waiver rules [XXXXX].

8.7202 LEGAL BASIS

- A. Pursuant to Section [25.5.6.17, C.R.S]., the State Department is authorized to provide for a statewide case management system.
- B. The Department retains the authority to enter emergency orders, when necessary, to preserve the health, safety or welfare of the public or of persons receiving services, including, but not limited to, situations that:
 - 1. Are ongoing or likely to recur if not promptly corrected or otherwise resolved and, likely to result in serious harm to the individual or others; or,
 - 2. Arise out of a service provider's discontinuance of operation generally, or discontinuance of services to a particular individual because the service agency is unable to ensure that person's safety or the safety of others.
- C. The party requesting the Department to enter an emergency order shall submit all relevant documentation to the Department to which the opposing party shall have the opportunity to respond. C. The Department may request additional information as needed and shall determine the timeframes for the submission. D. In addition to ruling on the request for emergency order, the Department may review the

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substantive issues involved in the dispute and determine the required course of action. ~~[8.605.4 EMERGENCY PROCEEDINGS]~~

8.7203 CASE MANAGEMENT AGENCY DEFINED SERVICE AREAS

{Case Management Agency defined} service areas shall meet the following requirements:

1. Counties composing a multi-county service area shall be contiguous.
2. A single county may be designated a service area provided the county serves a monthly average of 400 or more individuals for LTSS.
3. Multi-county service areas shall also be required to serve a minimum number of individuals receiving services of 400.
4. \Members shall be provided case management services by the Case Management Agency awarded the contract for their county of residence.
 1. Each Case Management Agency shall have an exceptions process and policy for serving members outside of their defined service area that shall be submitted to the Department upon request in a method determined by the Department and reviewed with the Community Advisory Committee and Governing Body at least once per contract period.
 2. Case Management Agencies shall coordinate transfer to a new Case Management Agency in accordance with transfer rules {XXXXX} when a member in their defined service area completes the exception or grievance process and is transferring to a new Case Management Agency outside of the member's county of residence. Case Management Agencies shall provide a report on their process and number of members served outside their defined service area upon Department request\

8.7204 CASE MANAGEMENT AGENCY SELECTION AND CONTRACTING

8.7204.1 \Case Management Agency Competitive Procurement Process

The Department will follow all applicable requirements of the Colorado Procurement Code and its implementing regulations in 1 CCR 101-9 for Case Management Agency selection.

8.7204.2 Case Management Agency Contract\

A {Case Management Agency} shall be bound to all requirements identified in the contract between the agency and the Department including but not limited to quality assurance standards and compliance with the Department's rules and federal regulation applicable for {Case Management Agencies} and for all LTSS programs.

8.7205 CASE MANAGEMENT AGENCY OVERALL REQUIREMENTS

8.7205.1 Administration of a {Case Management Agency}

- A. The {Case Management Agency} shall be required by federal or state statute, mission statement, by-laws, articles of incorporation, contracts, or rules and regulations which govern the Agency, to comply with the following standards:

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1. The {Case Management Agency} shall serve persons in need of {LTSS} ~~[LTSS and I/DD programs]~~ as defined in Section [8.390.3];
 2. The {Case Management Agency} shall have the capacity to accept funding from multiple sources;
 3. The {Case Management Agency} may subcontract with individuals, for-profit entities and not-for-profit entities to provide {Case Management Agency} targeted case management and administrative case management activities up to the limitations established in the Case Management Agency contract. \Subcontractors must abide by the terms of the Case Management Agency contract with the Department and these regulations and are obligated to follow all applicable federal and state rules and regulations. The Case Management Agency is responsible for subcontractor performance.\
 4. The {Case Management Agency} may receive funds from public or private foundations and corporations; and
 5. The {Case Management Agency} shall be required to publicly disclose all sources and amounts of revenue as defined in CRS 25.5-6-1708.
- B. The Case Management Agency shall fulfill all functions of a Case Management Agency and Case Manager as described in these rules.\
- C. The Case Management Agency shall:
1. Not provide guardianship services for any Client applying for LTSS or member enrolled in an LTSS program.
 2. Maintain, or have access to, information about public and private state and local services, supports and resources and shall make such information available to the Client, member and/or persons inquiring upon their behalf.
 3. Be separate from the delivery of direct services and supports paid for by any payer for the same individual they provide case management, \unless otherwise approved by the Department through a Conflict Free Case Management Waiver and in accordance with C.R.S. 25.5-6-1703(6).
 - i. The Case Management Agency may be granted a Conflict Free Case Management waiver (CFCMW) by the Department to provide direct services and case management in the event that no other willing and qualified providers are available for the capacity of member services necessary.
 - ii. Applications for this waiver shall be received and evaluated in the manner in which has been communicated by the Department.
 - iii. The CMA may be granted a Conflict-Free Case Management Waiver (formerly known as a rural exception) by the Department to provide specific direct services within their defined service area to ensure access to these services in rural and frontier areas across Colorado.
 - iv. The CMA will need to comply with the following:
 1. The CMA shall submit a formal application (found on the Department website) for a Conflict-Free Case Management

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Waiver. The CMA shall receive formal notification from the Department via email of the receipt of the application within 10 business days. The Department will notify applicants of their approval or denial within 90 days of receipt of the application.

- a. If the applicant submits a response to the CMA Request for Proposal (RFP), the Department will notify the agency of approval or denial prior to the delivery of intent to award letters to RFP respondents.
- b. If the Conflict-Free Case Management Waiver application is denied, the Department will coordinate with the CMA for a transition period, if necessary.
2. If a CMA requires a waiver between CMA contract cycles, the CMA must submit the application for the Conflict Free Case Management Waiver and maintain the documentation for the next RFP submission.
 - a. If the Conflict-Free Case Management Waiver application is approved, the Department will coordinate with the CMA for next steps in implementation and execution, if necessary.
 - b. If the Conflict-Free Case Management Waiver application is denied, the Department will coordinate with the CMA for a transition period within their contract period, if necessary.
3. A CMA that is granted a Conflict-Free Case Management Waiver shall provide an annual report to the Department subject to Department approval that includes but will not be limited to:
 - a. a summary of individuals participating in direct services and case management;
 - b. how the CMA has ensured informed consent and/or choice, if other providers exist in the defined service area; and
 - c. how the CMA continues to support the recruitment of willing and qualified providers in their catchment area.
4. The direct service provider functions and CMA functions must be administratively separated (including staff) with safeguards in place to ensure a distinction between direct services and case management exists as a protection against conflict of interest.
5. If a new service provider(s) become available in the area, the CMA may continue to provide direct services until the Department has determined that the alternate provider(s) is capable of meeting all needs in that service area.

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6. If other service providers are available in the area, the case manager must document the offering of choice of provider in the Care and Case Management IT system.
7. To ensure conflict of interest is being mitigated by the CMA, the Department will conduct annual quality reviews that will include but not be limited to, reviews of documentation of provider choice and informed consent for services. \
4. Establish and maintain working relationships through Memorandum of Understanding processes and procedures with community-based resources, supports, and organizations, hospitals, service providers, and other organizations that assist in meeting the Clients' and members' needs including but not limited to local Regional Accountable Entities, Behavioral Health Administration, Aging and Disability Resource Centers, counties, schools, and Medical Assistance sites as necessary for client and member support.
5. Maintain a website that at a minimum contains contact information for the agency, the ability for electronic communication, hours of operation, available resources, program options, services provided, and the transparency documentation required in C.R.S. 25.5-6-1708 et al.
6. Provide case management services without discrimination on the basis of race, religion, political affiliation, gender, national origin, age, sexual orientation, gender expression or disability.

8.7205.2 {Case Management Agency} Governing Body

- A. \Each Case Management Agency (CMA) shall have a governing body that complies with requirements in C.R.S. [25.5-6-1708 et al].
 1. All meeting agendas, minutes, and documents that are required to be posted on the CMA's website must be maintained on the website for at least three months after posting.
 2. All contracts, financial statements, and 990s that are required to be posted on the CMA's website must be maintained on the website for at least three calendar years after posting.
 3. Any e-mail that is sent to a member of the board of directors or governing body of a CMA shall not be filtered by an employee of the CMA. The CMA shall ensure that all e-mails addressed to a member of the board of directors or governing body are provided to that member.
 - i. In the event a member of the board of directors or governing body is unable to access a computer or needs assistance with e-mail, the CMA shall provide appropriate assistance, including providing e-mails in alternative formats upon request or mailing correspondence through the U.S. postal service.
 4. The Department will maintain a website form allowing for community members to make anonymous complaints regarding the Case Management

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Agency compliance with the transparency requirements in C.R.S. [25.5-6-1708 et al]. The CMA and its governing body shall comply with and follow Department follow up procedures for all complaints as requested by the Department.

- B. The Case Management Agency governing body function shall include but not be limited to:
 - 1. Financial oversight and solvency
 - 2. Ensuring accountability and the provision of high quality case management
 - 3. Ensuring a working Community Advisory Committee convenes at least quarterly
 - 4. Resolving disputes between clients, members and Case Management Agency that are elevated to the governing body
 - 5. Developing and presenting the Long-Range Plan annually to the Department
 - 6. Ensuring adherence to all state and federal regulations and contractual obligations and requirements\

8.7205.3 Community Advisory Committee

- A. The {Case Management Agency} shall establish and maintain a community advisory committee for the purpose of providing public input for {Case Management Agency} operations.
- B. The Community Advisory Committee Responsibilities shall include:
 - 1. Review of CMA grievance and complaint log monthly
 - 2. Receive complaints from the community regarding CMA via open forum at their meetings
 - 3. Support CMA in resolving complaints with members, including referral to the Department's escalation process
 - 4. Make recommendations to the CMA on policies and procedures
 - 5. Provide public input and guidance to the {Case Management Agency} in the review of service delivery policies and procedures, marketing strategies, resource development, overall [SEP-Agency]-{Case Management Agency} operations, service quality, individual member satisfaction, resolution of complaints and grievance at the local level and other related professional problems or issues.
- C. Community Advisory Committee membership
 - 1. \The Case Management Agency shall demonstrate efforts to recruit members of the Community Advisory Committee who represent the characteristics of the community as it relates to diversity of race, color, ethnic or national origin, ancestry, age, sex, gender, sexual orientation, gender identity and expression, religion, creed, political beliefs, abilities, and disabilities\.
 - 2. The membership of the Community Advisory Committee shall include regional representation from, but not be limited to, at least one of each of the following:
 - the {district's} {defined service area's} county commissioners, area agencies on aging, medical professionals, [LTSS providers], {physical and/or intellectual disability professionals}, [LTSS] ombudsmen, human service

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agencies, county government officials, mental/behavioral health professionals.

3. \Regional representation from one or more LTSS member or family members of individuals receiving LTSS.
 - i. Members with I/DD and/or
 - ii. Members with disabilities
 - iii. Self advocates shall be given priority of selection over family members.
4. Shall have a membership count and quorum based on the number of people served.
 - i. CMAs serving 400-2000 people will have a committee membership count of 5 minimum with a quorum of 3.
 - ii. CMAs serving 2000-7000 people will have a committee membership of 7 minimum with a quorum of 4.
 - iii. CMAs serving 7000 or more people will have a committee membership of 9 with a quorum of 5.
5. In the event there are more than the minimum number of committee members, the quorum must be the majority of the total member count.
 - i. If the quorum is not reached the committee must adjourn until the quorum is met.
- D. The Community Advisory Committee is an advisory body that provides recommendations to the CMA and is not a decision-making body.
- E. Community Advisory Committee members shall be trained in confidentiality and mandatory reporting by the CMA\
- F. {The Community Advisory Committee shall maintain public notices of meetings, meeting minutes, and documented follow up.
- G. The Community Advisory Committee shall report to the Case Management Agency governing body quarterly on all case management complaints and grievances trends and follow up.
- H. The Community Advisory Committee shall provide reports to the Department and its committees upon request.
- I. The Community Advisory Committee may be combined in purpose or name with other Case Management Agency committees in the Case Management Agency defined service area so long as it meets the above purpose, criteria and reports.
- J. CMA must provide an annual summary of the Community Advisory Committee in its Long Range Plan and presentation to the Department}

8.7205.4 {Case Management Agency} Grievance and Complaint Process for Clients and Members

- A. \Every [community-centered board, regional center and program approved service agency] Case Management Agency shall use the Department prescribed CMA complaint log and have procedures setting forth a process for the timely resolution of grievances or complaints of the person receiving services, parents of a minor, guardian and/or legally authorized representative, as appropriate. Use of the grievance procedure shall not prejudice the future provision of appropriate services or supports.

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- B. The procedure shall be provided, orally and in writing, to all persons receiving services, the parents of a minor, guardian and/or legally authorized representative, as appropriate, at the time of admission, at any time changes to the procedure occur and annually at the time of service planning.
- C. All grievance and complaint procedures shall be made available on the CMA public facing website.
- D. The grievance procedure shall, at a minimum, including the following:
 - 1. Contact information for a person within the Case Management Agency who will receive grievances.
 - 2. Identification of support person(s) who can assist the Client or member in submitting a grievance.
 - 3. An opportunity to find a mutually acceptable solution. This could include the use of mediation if both parties voluntarily agree.
 - 4. Timelines for resolving the grievance.
 - 5. Consideration by the agency director or designee if the grievance cannot be resolved at a lower level.
 - 6. Assurances that no member shall be coerced, intimidated, threatened, or retaliated against because the member has exercised his or her right to file a grievance or has participated in the grievance process.
 - 7. Review of redacted grievance log and resolutions with the Community Advisory Committee.
 - 8. A geographic exceptions process in which the Case Management Agency describes their procedures for a member to be served outside their current defined service area, which should include dispute resolution with the Department's involvement.
- E. The Department will review the grievance procedure and logs annually to ensure appropriate resolution of complaints and grievances and provide feedback and follow up to CMA as necessary.
- F. If an agency goes without grievances for more than 2 years, the Department will require the CMA to complete a statistically valid sample for their annual satisfaction survey for 2 consecutive years to garner feedback from members and families.
- G. The Department will maintain a website form allowing for community members to make anonymous complaints regarding the CMA and their services provided.\

8.7205.5 Personnel System

- A. The {Case Management Agency} shall have a system for recruiting, retaining, hiring, evaluating, and terminating CMA employees that complies with all rules, regulations, and Department communication including but not limited to
 - I. Colorado Bureau of Investigations background check
 - II. CAPs checks
 - III. [12-CCR-SS-2518-1-30-96](#)
- B. {Case Management Agency} employment policies and practices shall comply with all federal and state affirmative action and civil rights requirements.

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- C. The {Case Management Agency} shall maintain current job descriptions for all positions.

8.7205.6 Staffing Patterns

- A. Each {Case Management Agency} shall assure adequate staffing levels and infrastructure to include case managers, case aids, supervisors, and other staff to conduct all case management activities and to maintain caseload sizes or ratios as set forth in contract to support the work. This includes at least one full-time case manager employed by the {Case Management Agency}, to provide coverage for all case management functions and administrative support, in accordance with rules at Section [XXXXX].
- B. {Within their staffing patterns, Case Management Agencies shall have a policy and procedure that is posted publicly and communicated clearly to each client and member detailing the steps for requesting a new case manager in order to provide choice to members served in their defined service area.}
- C. CMAs shall maintain staffing patterns in accordance with Department prescribed best practice standards as set forth by the Department for LTSS caseloads per case manager for all TCM activities and all contractual requirements.
 - a. Case Management Agency shall not exceed the best practice standards for HCBS waiver caseload sizes without written approval from the Department.}
- D. {CMAs must} ensure staff have access to statutes and regulations relevant to the provision of authorized services. CODE OF COLORADO REGULATIONS 10 CCR 2505-10 8.500 Medical Services Board 278
- E. {CMAs must assign one (1) primary case manager or points of contact for each member or client who ensures case management services are provided on behalf of the Member or Client across all programs, professional within the agency.}
~~[Reasonable efforts shall be made to include the client's preference in this assignment.]~~
- F. Case Management Agencies are responsible for ensuring persons who are employed by the agency meet the requirement of these regulations.
- G. Case Management Agencies are responsible to maintain verification of Case Managers who are employed meet minimum requirements and qualifications.
- H. Case Management Agencies and their staff shall avoid situations that create a real or perceived conflicts of interest. If a conflict of interest can not be avoided, staff shall be transparent, notifying affected parties of possible the conflict of interest and policies and procedures in place to ensure protection of the member or client's rights.

8.7205.7 CMA Communication and Documentation

- A. The {Case Management Agency} shall:
 - 1. Comply with all reporting and billing policies and procedures established by the Department, document individual and Member records within the

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Department's prescribed systems and adhere to the system requirements provided by the Department for these systems. The Contractor shall also have access to member eligibility, PAR, and claims data through reporting provided through a data query application, program eligibility determination, financial eligibility determination, Support Planning, service authorization, critical incident reporting and follow-up, monitoring of health and welfare, monitoring of services, information and referral services provided by the Agency, {grievance and complaint trends and resolutions,} resource development and fiscal accountability.

2. Maintain individual and Member records within the Department's prescribed systems for the purposes of individual and Member information management.
 3. Maintain accurate and detailed documentation of all case management and State General Fund Program activities required through the Case Management Agency Contract and these rules.
 4. Maintain accurate and detailed supporting documentation {in the Department's prescribed system within ten (10) business days} of all activities required through the CMA Contract and these rules to substantiate reimbursement and make all documentation available to the Department upon request if not documented within the Department's prescribed systems.
 5. Correct one hundred percent (100%) of data errors, discovered by the Department, and confirm the accuracy of the data it enters into the Department prescribed system within ten (10) Business Days of notification from the Department of an error.
 6. Provide information and reports as required by the Department including, but not limited to, data and records necessary for the Department to conduct operations.
- B. The {Case Management Agency} shall have adequate phone and computer hardware and software for communication with members, clients, employees and stakeholders, compatible with Department prescribed IMS with such capacity and capabilities as prescribed by the Department to manage the administrative requirements necessary to fulfill the {Case Management Agency} responsibilities.
- C. The {Case Management Agency} shall have adequate staff support to maintain a computerized information system in accordance with the Department's requirements.

8.7205.8 CMA Client and Member Recordkeeping

- A. The {Case Management Agency} shall complete and maintain all required records in the state approved IMS in accordance with program requirements and Department training or communication and shall maintain individual records at the agency level for any additional documents associated with the individual \seeking or\ enrolled in a {LTSS program or service}.
- B. The case manager shall use the Department-prescribed IMS for purposes of documentation of all case activities, monitoring of service delivery, and service

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effectiveness. If applicable, the individual's legally authorized representative (such as guardian, conservator, or person given power of attorney) shall be identified in the record, with a copy of appropriate documentation.

- C. The {Case Management Agency} may accept physical or digital signatures on Department forms. If the individual is unable to sign a form requiring his/her signature because of a medical condition, any mark the individual is capable of making will be accepted in lieu of a signature. If the individual is not capable of making a mark or performing a digital signature, the physical or digital signature of a guardian or authorized representative will be accepted.
- D. The case records shall include:
 - 1. Identifying information, including the Client's state identification (Medicaid) number, date of birth (DOB) social security number (SSN) if applicable, address and phone number;
 - 2. Department required forms specific to the program in which the Client is enrolled; and
 - 3. Documentation of all case management activity.
- E. These circumstances shall be taken into consideration when monitoring the {Case Management Agency}'s performance.
- F. Records pertaining to persons seeking or receiving services shall be maintained in accordance with these rules and other federal and state regulations and accreditation standards. Where no superseding regulation or policy applies, records may be purged and destroyed per agency policy.
- G. An individual designated by the agency shall be responsible for the record at all times during the examination of the record by entities other than employees of that agency.
- H. Records shall be made available for review at the agency to authorized persons within a reasonable period of time as negotiated by the agency and the party seeking access.
- I. At no time may a person examining a record remove anything from it or otherwise make changes in it, except as delineated below:
 - 1. If the person seeking or receiving services, parent of a minor, guardian or authorized representative, if within the scope of his/her authority, objects to any information contained in the record, he/she may submit a request for changes, corrections, deletions, or other modifications.
 - 2. The person seeking or receiving services, parent of a minor, guardian or authorized representative shall sign and date the request.
 - 3. The agency administrator will make the final determination regarding the request and will notify the requesting party of the decision.
 - 4. If the agency administrator denies the request, then the requestor has the right to have a statement regarding their request entered into the record.

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- J. Records or portions of records may be photocopied or otherwise duplicated only in accordance with written agency procedures, and any fee for duplication shall be reasonable pursuant to section 24-72-205, C.R.S.
- K. A person receiving services is entitled to one free copy of any information contained in his/her record.
- L. The Case Management Agency shall maintain records for seven (7) years after the date a Member discharges from a waiver program, including all documents, records, communications, notes and other materials related to services provided and work performed.

8.7205.9 Confidentiality of Information

- A. The {Case Management Agency} shall protect the confidentiality of all records of individuals seeking and receiving services in accordance with State statute (Section 26-1-114). Release of information forms obtained from the individual must be signed, dated, and kept in the members record. Release of information forms shall be renewed at least annually, or sooner if there is a change of provider. Fiscal data, budgets, financial statements and reports which do not identify individuals by name or Medicaid ID number, and which do not otherwise include protected health information, are open records
- B. Identifying information regulated by this rule is any information which could reasonably be expected to identify the individual seeking or receiving services or their family or contact persons, including, but not limited to, name, Social Security number, Medicaid number, household number or any other identifying number or code, street address, and telephone number, photograph, or any distinguishing mark. Identifying numbers assigned and used internally within a single agency shall be excluded from this regulation.
- C. At the time of eligibility determination and enrollment, the individual , parent of a minor, guardian and/or other person acting as an advisor to the person-must be advised of the type of information collected and maintained by the agency, and to whom and where it is routinely disclosed.
- D. This rule applies to confidential information in any format including, but not limited to, individual records, correspondence or other written materials, verbal communication, photographs, and electronically stored data.
- E. The records and all other documentation or correspondence concerning individuals seeking or receiving services are the property of the agency which is responsible for maintaining and safeguarding their contents.
- F. All written authorizations referenced within this chapter must be:
 - 1. Signed and dated;
 - 2. For a specified time period;
 - 3. Specific as to the information or photograph to be disclosed and the intended use of such information or photograph; and,
 - 4. Specific as to whom it will be disclosed.

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- G. Authorizations may be revoked in writing or verbally at anytime by the person who provided the authorization.
- H. Disclosure of confidential information shall be limited to: ~~[CODE OF COLORADO REGULATIONS 10 CCR 2505-10-8.600 Medical Services Board 36]~~
1. The individual seeking or receiving services, parent of a minor, or guardian.
 2. Persons or entities having written authorization signed by the person seeking or receiving services, parent of a minor, or guardian.
 3. The authorized representative of the person seeking or receiving services as defined in ~~[section 25.5-10-202(1)]~~, C.R.S., if access to confidential information is within the scope of their authority.
 4. Qualified professional personnel of community centered boards, regional centers and other service agencies including boards of directors and Human Rights Committee members to the extent necessary for the acquisition, provision, oversight, or referral of services and supports.
 5. To the Department or its designees as deemed necessary by the Executive Director to fulfill the duties prescribed by ~~[Title 25.5, Article 10 of Colorado Revised Statutes]~~.
 6. To the extent necessary, qualified professional personnel of authorized external agencies whose responsibility it is to license, to accredit, to monitor, to approve or to conduct other functions as designated by the Executive Director of the Department.
 7. Physicians, psychologists, and other professional persons providing services or supports to a person in an emergency situation which precludes obtaining consent in such an instance:
 - a. Documentation of this access shall be entered into the person's record.
 - b. This documentation shall contain the date and time of the disclosure, the information disclosed, the names of the persons by whom and to whom the information was disclosed, and the nature of the emergency.
 8. The court or to persons authorized by an order of the court, issued after a hearing, notice of which was given to the person, parents of a minor or legal guardian, where appropriate, and the custodian of the information.
 9. Other persons or entities authorized by law; and,
 10. The entity designated as the protection and advocacy system for Colorado pursuant to ~~[42 U.S.C. 604]~~ when:
 - a. A complaint has been received by the protection and advocacy system from or on behalf of a person with a developmental disability; and,
 - b. Such person does not have a legal guardian or the state or the designee of the state is the legal guardian of such person.

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- I. Nothing in this regulation should be taken to construe that a person or entity who is authorized to access confidential information regarding an individual per section [8.606.2.A] can access any and all confidential information available regarding that individual. Disclosure of confidential information must be limited to those aspects of that information which are necessary to perform the duties of that person or entity requiring access. The individual seeking or receiving services, parent of a minor, or guardian may access any and all aspects of that person's record. The authorized representative of an individual may access those aspects of a person's record which are within the scope of their authority. ~~[CODE OF COLORADO REGULATIONS 10-CCR-2505-10-8.600-Medical Services Board 37-8.606.3 SAFEGUARDING RECORDS]~~

8.7205.10 Preservation of Member Rights

- A. The policies and procedures of ~~[community-centered boards, program-approved service agencies and regional centers, CMAs, otherwise referred to as "agencies"]~~ {Case Management Agencies} for the preservation of individual member rights must, at a minimum, provide that each person receiving services has the rights contained in Sections 25.5-10-216 through 240, C.R.S. and XXX in these CM rules ~~[Sections 25.5-10-216 through 240, C.R.S. and XXX in these CM rules.]~~
1. The {Case Management Agency} shall assure the protection of the rights of individuals receiving services as defined by the Department under applicable programs, including but not limited to HCBS Settings Final Rule and Rights Protections per [8.484].
 2. The {Case Management Agency} shall assure that the following rights are preserved for all individuals served by the {Case Management Agency}, whether the individual is a recipient of a state-administered program or a private pay individual:
 - a. The individual and the individual's legally authorized representative as necessary is fully informed of the individual's rights and responsibilities;
 - b. The individual and/or the individual's legally authorized representative participates in the development and approval of, and is provided a copy of, the individual's Support Plan;
 - c. The individual and/or the individual's legally authorized representative selects service providers from among available qualified and willing providers;
 - d. The individual and/or the individual's legally authorized representative has access to a uniform grievance and complaint system provided for all individuals served by the {Case Management Agency}; and
 - e. The individual who applies for or receives publicly funded benefits and/or the individual's legally authorized representative has access

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to a uniform appeal process, which meets the requirements of Section 8.519.1.A; 8.503.150.A; 8.503.16.A, when benefits or services are denied or reduced and the issue is appealable.

- B. Persons receiving services shall have the right to read or have explained any rules or regulations adopted by the Department and policies and procedures of the ~~[community-centered board, program approved service agency or regional center]~~ {Case Management Agency} pertaining to such persons' activities, services and supports, or to obtain copies of [section 25.5-10, C.R.S.], rules, policies or procedures at no cost or at a reasonable cost in accordance with [section 24-72-205, C.R.S. CODE OF COLORADO REGULATIONS 10 CCR 2505-10 8.600 Medical Services Board 28].
- C. {Case Management Agencies} shall inform persons receiving services, parents of minors, guardians and authorized representatives of the rights provided in [section 25.5-10, C.R.S.], and:
 - 1. {Case Management Agencies} shall provide a written and verbal summary of rights and a description of how to exercise them, at the time of eligibility determination, at the time of enrollment, and when substantive changes to services and supports are considered through the Individualized Planning process.
 - 2. The information shall be provided in a manner that is easily understood, verbally and in writing, in the native language of the person, or through other modes of communication as may be necessary to enhance understanding {for the member}.
 - 3. {Case Management Agencies} shall provide assistance and ongoing instruction to persons receiving services in exercising their rights.
- D. No person receiving services, his/her family members, guardian or authorized representatives, may be retaliated against in their receipt of case management services, direct services or supports or otherwise as a result of attempts to advocate on their own behalf.
- E. Employees and contractors must be made aware of the rights of persons receiving services and procedures for safeguarding these rights.

8.7205.11 Member Access to {Case Management Agency} [from ~~8.393.1.H.]~~

- A. {Case Management Agencies} shall have policies and procedures that includes adherence to all federally mandated requirements for access to services including but not limited to:
 - 1. There shall be no physical barriers which prohibit individual participation, in accordance with the [Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq.]

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2. The {Case Management Agency} shall not require individuals receiving services to come to the Agency's office in order to receive {Case Management Agency} services.
3. The {Case Management Agency} shall comply with nondiscrimination requirements, as defined by federal and Department rules and outlined in contract.
4. \Members and Individuals have the right to person centered case management delivery option.\ {Case Management Agency} functions shall be based on a person-centered model of case management service delivery.
5. \Members and individuals have the right to meetings in their language of choice. Case Management Agencies shall provide necessary interpreters to accommodate member and client requests.
6. Members and individuals have the right to request an assessment be completed even if the intake Case Management Agency staff determines otherwise.\
7. {The Case Management Agency shall have office location(s) and building office hours in accordance with written requirements in CMA contract and in accordance with [Americans with Disabilities Act (ADA), 42 U.S.C. 12101 et seq.].}

8.7205.12 Incident Reporting (8.608.6)

- A. ~~Community centered boards, service agencies and regional centers~~ {Case Management Agencies} shall have a written policy and procedure for the timely reporting, recording and reviewing of incidents which shall include, but not be limited to:
 1. Injury to a person receiving services;
 2. Lost or missing persons receiving services;
 3. Medical emergencies involving persons receiving services;
 4. Hospitalization of persons receiving services;
 5. Death of person receiving services;
 6. Errors in medication administration;
 7. Incidents or reports of actions by persons receiving services that are unusual and require review;
 8. Allegations of abuse, mistreatment, neglect, or exploitation;
 9. Use of safety control procedures;
 10. Use of emergency control procedures; and,
 11. Stolen personal property belonging to a person receiving services.
- B. Reports of incidents shall include, but not be limited to:
 1. Name of the person reporting;
 2. Name of the person receiving services who was involved in the incident;
 3. Name of persons involved or witnessing the incident;
 4. Type of incident;
 5. Description of the incident;
 6. Date and place of occurrence;
 7. Duration of the incident;

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8. Description of the action taken;
 9. Whether the incident was observed directly or reported to the agency;
 10. Names of persons notified;
 11. Follow-up action taken or where to find documentation of further follow-up; and,
 12. Name of the person responsible for follow-up.
- C. Allegations of abuse, mistreatment, neglect and exploitation, and injuries which require emergency medical treatment or result in hospitalization or death {shall be reported by the Case Management Agency in the Department's prescribed system within 24 hours or 1 business day of being reported.}
- D. Reports of incidents shall be placed in the record of the person.
- E. Records of incidents shall be made available to the Department upon request.
- F. ~~[Community-centered boards, program-approved service agencies and regional centers]~~{Case Management Agencies} shall review and analyze information from incident reports to identify trends and problematic practices which may be occurring in specific services and shall take appropriate [corrective] action to report complaints as necessary. ~~[address problematic practices identified.]~~

8.7205.13 Abuse, Mistreatment, Neglect, and Exploitation [8-608-8]

- A. Pursuant to [Section 25.5-10-221, C.R.S.], all ~~[Community-Centered Boards,]~~ case management agencies, ~~[service agencies and regional centers]~~ shall prohibit abuse, mistreatment, neglect, or exploitation of any person receiving services.
- B. ~~{Community-Centered Boards,}~~ case management agencies, {~~program-approved service agencies and regional centers~~} shall have written policies and procedures for handling cases of alleged or suspected abuse, mistreatment, neglect, or exploitation of any person receiving services. These policies and procedures must be consistent with state law and:
1. Definitions of abuse, mistreatment, neglect, or exploitation must be consistent with state law and these rules;
 2. Provide a mechanism for monitoring to detect instances of abuse, mistreatment, neglect, or exploitation. Monitoring is to include, at a minimum, the review of: a. Incident reports; b. Verbal and written reports of unusual or dramatic changes in behavior(s) of persons receiving services; and, c. Verbal and written reports from persons receiving services, advocates, families, guardians, and friends of persons receiving services.
 3. Provide procedures for reporting, reviewing, and investigating all allegations of abuse, mistreatment, neglect, or exploitation;
 4. Ensure that appropriate disciplinary actions up to and including termination, and appropriate legal recourse are taken against employees and contractors who have engaged in abuse, mistreatment, neglect, or exploitation;
 5. Ensure that employees and contractors are made aware of applicable state law and agency policies and procedures related to abuse, mistreatment, neglect or exploitation;
 6. Require immediate reporting when observed by employees and contractors according to agency policy and procedures and to the agency administrator or his/her designee;

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7. Require reporting of allegations within 24 hours to the parent of a minor, guardian, authorized representative, and Community Centered Board or {Case Management Agency} regional-center; [CODE OF COLORADO REGULATIONS 10 CCR 2505-10 8.600 Medical Services Board 53]
 8. Ensure prompt action {at the administrative level} to protect the safety of the person receiving service {as well as any other members that may have their health and safety impacted as a result of this occurrence}. Such action may include any action that would protect the person(s) receiving services if determined necessary and appropriate by the service agency or Community Centered Board pending the outcome of the investigation. Actions may include, but are not limited to, removing the person from his/her residential and/or day services setting and removing or replacing staff;
 9. Provide necessary victim supports;
 10. Require prompt reporting of the allegation to appropriate authorities in accordance with statutory requirements and pursuant to Section [8.608.8.C];
 11. Ensure Human Rights Committee review of all allegations; and,
 12. Ensure that no individual is coerced, intimidated, threatened or retaliated against because the individual, in good faith, makes a report of suspected abuse, mistreatment, neglect or exploitation or assists or participates in any manner in an investigation of such allegations in accordance with Section [8.608.8.D].
- C. Any and all actual or suspected incidents of abuse, mistreatment, neglect, or exploitation shall be reported immediately to the agency administrator or designee. The agency shall ensure that employees and contractors obligated by statute, including but not limited to, [Section 19-3-304, C.R.S., (Colorado Children's Code), Section 18-6.5-108, C.R.S., (Colorado Criminal Code - Duty To Report A Crime), and Section 26-3.1-102, C.R.S., (Human Services Code - Protective Services)], to report suspected abuse, mistreatment, neglect, or exploitation, are aware of the obligation and reporting procedures.
- D. All alleged incidents of abuse, mistreatment, neglect, or exploitation shall be thoroughly investigated in a timely manner using the specified investigation procedures. However, such procedures must not be used in lieu of investigations required by law or which may result from action initiated pursuant to Section C, above.
1. Within 24 hours of becoming aware of the incident, a critical incident report shall be made available to the agency administrator or designee and the Community Centered Board or {Case Management Agency regional-center}.
 2. The agency shall maintain a written administrative record of all such investigations including:
 - a. The incident report and preliminary results of the investigation;
 - b. A summary of the investigative procedures utilized;
 - c. The full investigative finding(s);
 - d. The actions taken; and,
 - e. Human Rights Committee review of the investigative report and the action taken on recommendations made by the committee.

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3. The agency shall ensure that appropriate actions are taken when an allegation against an employee or contractor is substantiated, and that the results of the investigation are recorded, with the employee's or contractor's knowledge, in the employee's personnel or contractor's file.