



COLORADO

Department of Health Care
Policy & Financing

Medical Services Board

MINUTES OF THE MEETING OF THE MEDICAL SERVICES BOARD

303 East 17th Avenue 11th Floor Conference Room, Denver, CO 80203
April 8, 2022

Call to Order

Mr. Pump called the meeting to order at 9:03 a.m.

Roll Call

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

A. Members Present

Cecile Fraley, Simon Hambidge, William Kinnard, Barry Martin, Christina Mulkey, David Pump and Vincent Scott

B. Members Excused

Morgan Honea Amanda Moorer and An Nguyen

C. Staff Present

Cristen Bates, Deputy Medicaid Director; Jennifer Weaver, Attorney General; and Chris Sykes, Board Coordinator

Announcements

Mr. Pump announced the next Medical Services Board Meeting will be held at 1570 Grant St Hibiscus Conference Room, Denver, CO 80203 on Friday, May 13, 2022 at 9:00 a.m.

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



Approval of Minutes

Dr. Hambidge moved for the approval of the March minutes. The motion was seconded by Dr. Martin. The minutes were approved, 7:0.

Rules

A. Emergency Adoption

Document 15, MSB 22-03-31-A, Revision to the Medical Assistance Act Rule concerning Subacute Care, Section 8.300

Russ Zigler, Operations Section, presented the rule and explained emergency rule previously passed for public health emergency. Rule allows for inpatient subacute care for the rest of the emergency.

Board Discussion – Board discussion included the rule is a continuation of the public health emergency rules and will last until the end of the emergency declaration.

Public Testimony – NA

Dr. Martin moved for the emergency adoption of Document 15. Dr. Fraley seconded the motion.

The Board voted the emergency adoption of Document 15, 7:0.

Document 16, MSB 22-02-16-A, Revision to the Medical Assistance Rules concerning Revision to the Medical Assistance Rules concerning Skilled Nursing Facility Enhanced Supplemental Payments, Section 8.443

Jeff Wittreich, Special Financing Division, presented the rule and explained nursing homes have been hit hard by the public health emergency. Staffing shortages create less new residents and financing is impacted. Legislation passed allows for 3 separate payments to nursing homes over the coming months. Quarterly reporting from providers required. The Department must report on the reimbursement impact. Information is needed to ensure closures do not impact members.

Board Discussion – Board discussion included an appreciation for the work on the rule. The reporting aspect of the rule was discussed. The rule duration was discussed, an emergency rule and a permanent adoption.

Public Testimony – Doug Farmer, Colorado Health Care Association, thankful for the work staff did for the rule. Data collection requirement discussed and requested the reporting be time limited to 4 quarters. Additional administrative burden is not desirable.

Dr. Mulkey moved for the emergency adoption of Document 16. Dr. Fraley.

The Board voted the emergency adoption of Document 16, 7:0.

B. Final Adoption by Consent Agenda

Document 01, MSB 22-01-06-B, Revision to the Medical Assistance Rule concerning Update Inpatient Base Rates for fiscal year 22-23, Section 8.300.5

Document 02, MSB 22-01-10-A, Revisions to the Medical Assistance Rules concerning the Participant Directed Programs Rules, Sections 8.510 & 8.552

Document 03, MSB 21-08-04-A, Medicaid Nursing Facilities Demonstration of Need with Technical Changes Revision to the Medical Assistance Program Requirements for Nursing Facilities, Section 8.400

Dr. Martin moved for the final adoption of Document 01, 02 & 03. Dr. Kinnard seconded the motion.

The Board voted the final adoption of Document 01, 02 & 03, 7:0.

C. Final Adoption Agenda

Document 04, MSB 21-02-05-A, Revision to the Medical Assistance Act Rule concerning Services for Individuals with Intellectual and Developmental Disabilities Sections 8.609.5 and 8.609.7

Jeremy Branting, Benefits and Services Management Division, presented the rule and explained a brief background of the rule. A review of the revisions was provided. A review of stakeholder feedback received at the last meeting was reviewed and changes included in the rule revision.

Board Discussion – NA

Public Testimony – NA

Dr. Hambidge moved for the final adoption of Document 04. Dr. Martin seconded the motion.

The Board voted the final adoption of Document 04, 7:0.

Document 05, MSB 22-02-27-A, Revision to the Medical Assistance Rule concerning Abortion Services, Section 8.770

Russ Zigler, Operations Section, presented the rule and explained final adoption of the emergency rule. The rule is aligned with statute. Clarifying language was included on certification forms.

Board Discussion – NA

Public Testimony – NA

Dr. Fraley moved for the final adoption of Document 05. Dr. Hambidge seconded the motion.

The Board voted the final adoption of Document 05, 7:0.

D. Initial Approval Agenda

Document 06, MSB 22-01-04-A, Revision to the Medical Assistance Act Rule concerning Prudent Layperson Standard for Emergency Care Services, Sections 8.300.1, 8.320.1, 8.754.2, 8.754.5

Russ Zigler, Operations Section, presented the rule and explained revisions update align with federal regulations. Definitions and cost sharing are revised. A State Plan Amendment has been submitted at the request of the Center of Medicare and Medicaid Services.

Board Discussion – Board discussion included how applying the standard impacts co-pays at hospitals to align with federal regulation.

Public Testimony – NA

Dr. Martin moved for the initial approval of Document 06. Dr. Fraley seconded the motion.

The Board voted the initial approval of Document 06, 7:0.

Document 07, MSB 22-02-10-B, Revision to the Medical Assistance Act Rule concerning Qualified Residential Treatment Programs and Residential Child Care Facilities, Sections 8.212.1, 8.765.8, and 8.765.13

Russ Zigler, Operations Section, presented the rule and explained in order to comply with the Family First Prevention Services Act (U.S.H.R. 1892 – Bipartisan Budget Act of 2018, Title VII (February 9, 2018)), the Department will not reimburse for services provided in Residential Child Care Facilities after June 2022, except for Early and Periodic Screening, Diagnostic, and Treatment services. The proposed rule also adds Qualified Residential Treatment Programs to the list of providers in Section 8.212.1.A.13. This section currently exempts Regional Accountable Entities (RAEs) from covering services provided under the Community Behavioral Health Services program for children in the custody of the Colorado Department of Human Services' Division of Child Welfare or Division of Youth Corrections who are placed into Psychiatric Residential Treatment Facilities or Residential Child Care Facilities. Under the proposed rule, RAEs will also be exempted from covering such services provided in Qualified Residential Treatment Programs.

Board Discussion – Board discussion included settings of 16 beds or less and aligns the Department rules with federal requirements.

Public Testimony – NA

Dr. Hambidge moved for the initial approval of Document 07. Dr. Martin seconded the motion.

The Board voted the initial approval of Document 07, 7:0

Document 08, MSB 21-01-06-A, Revision to the Medical Assistance Rule Concerning Changes to Expand the Postpartum Period to 12 months for Sections 8.100.1, 8.100.4.G., 8.100.6.P, and 8.100.6.Q

Melissa Torres-Murillo, Eligibility Policy Section, presented the rule and explained revisions expand postpartum coverage from 60 days to 12 months to eligible members. These changes align with federal requirements.

Board Discussion – Board discussion an appreciation of the rule revisions.

Public Testimony – NA

Dr. Mulkey moved for the initial approval of Document 08. Dr. Martin seconded the motion.

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

Document 09, CHP 22-01-06-B, Revision to the CHP Plus Rule Concerning Changes to Expand the Postpartum Period to 12 months for Sections 110, 170, 310, and 430

Melissa Torres-Murillo, Eligibility Policy Section, presented the rule and explained revisions expand postpartum coverage from 60 days to 12 months to eligible members. These changes align with federal requirements. An appreciation to the Attorney General Office for assistance on the revisions.

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

Public Testimony – NA

Dr. Hambidge moved for the initial approval of Document 09. Dr. Fraley seconded the motion.

The Board voted the initial approval of Document 09, 7:0

Document 10, MSB 22-01-12-A, Revision to the Medical Assistance programs Rule Concerning updates to add Family Planning Services for Sections 8.100.3.F, 8.100.4.E, 8.100.4.F, and 8.100.4.G

Melissa Torres-Murillo, Eligibility Policy Section, presented the rule and explained revisions align with new statutes and federal requirements. Expanded family planning services are included and changes to applications are needed. A review of the stakeholder feedback and changes to the rule language was provided. An appreciation to the Attorney General Office for assistance on the revisions.

Board Discussion – NA

Public Testimony – Bethany Pray, Colorado Center on Law and Policy, list of services included may be more restrictive than what is included in statute. Fertility services are not well defined in the benefit and need additional

stakeholder engagement. Additional stakeholder engagement is necessary to create a comprehensive benefit.

Dr. Fraley moved for the initial approval of Document 10. Dr. Hambidge seconded the motion.

The Board voted the initial approval of Document 10, 7:0.

Document 11, MSB 22-01-12-B, Revision to the Medical Assistance programs Rule Concerning updates to add Reproductive Health Care services for sections 8.100.3.G and 8.100.3.I

Melissa Torres-Murillo, Eligibility Policy Section, presented the rule and explained recent legislation required the rule to be revised. Changes to application will be done. Services will be added to eligible members. Stakeholder feedback was reviewed.

Board Discussion – NA

Public Testimony – Bethany Pray, Colorado Center on Law and Policy, appreciate the work staff have done.

Dr. Kinnard moved for the initial approval of Document 11. Dr. Martin seconded the motion.

The Board voted the initial approval of Document 11, 7:0

Document 12, MSB 22-01-10-B, Revision to the Medical Assistance Rule Concerning allowing individuals ages 65 and older to qualify for the Medicaid Buy-In Program for Working Adults with Disabilities, Section 8.100.6.P.1.a

Beverly Hirsekorn, Eligibility Policy Section, presented the rule and explained new legislation required rule revisions to remove the upper age limit of 65 currently on the Medicaid Buy-In Program for Working Adults with Disabilities program. Stakeholder feedback was reviewed.

Board Discussion – Board discussion included the definition of employment in Colorado to include no minimal hours or minimal earnings.

Public Testimony – NA

Dr. Martin moved for the initial approval of Document 12. Dr. Hambidge seconded the motion.

The Board voted the initial approval of Document 12, 7:0

Document 13, MSB 21-10-28-B, Revision to the HCBS Spinal Cord Injury Waiver Rules Concerning Statewide Expansion, Expanded Qualifying Diagnoses and Provider Definitions, Section 8.517

Kacey Wardle, Benefits & Management Section, presented the rule and explained revisions expand the waiver. Legislation made the waiver statewide and revisions align with the statute. Provider recruitment is a priority for statewide expansion.

Board Discussion – NA

Public Testimony – NA

Dr. Martin moved for the initial approval of Document 13. Dr. Mulkey seconded the motion.

The Board voted the initial approval of Document 13, 7:0

Document 14, MSB 22-02-08-A, Revision to the Medical Assistance Rule Concerning the Family Support Services Program, Sections 8.613.C

Courtney Montes, Benefits & Management Section, presented the rule and explained new statutory changes outlined in SB 21-199 regarding verification of lawful presence in the United States. Effective July 1, 2022, SB21-199 repeals current laws that require a person to demonstrate the person's lawful presence in the United States to be eligible in Colorado for certain public benefits. SB 21-199 states that lawful presence is not a requirement of eligibility for state or local public benefits. This amendment will remove the lawful presence requirement for enrollment into Family Support Services Program.

Board Discussion – NA

Public Testimony – NA

Dr. Hambidge moved for the initial approval of Document 14. Dr. Fraley seconded the motion.

The Board voted the initial approval of Document 14, 7:0

Mr. Pump moved to add documents 06, 07, 08, 09, 11, 12, 13 & 14 to the Consent Agenda. Dr. Fraley seconded the motion.

The Board voted to add documents 06, 07, 08, 09, 11, 12, 13 & 14 to the Consent Agenda, 7:0.

E. Closing Motion

Dr. Fraley moved to close the rules portion of the agenda. The motion was seconded by Dr. Mulkey.

Open Comments

Dr. Mark Bentele

Legislative Update – Jo Donlin and Iris Hentze, Legislative Team

Department Updates

- Department Updates/Questions – Cristen Bates, Deputy Medicaid Director

The meeting was adjourned at 11:25 a.m.

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, May 13, 2022 at 303 East 17th Avenue 11th Floor Conference Room, Denver, CO 80203.

Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Board Coordinator at 303- 866-4416 or chris.sykes@state.co.us or the 504/ADA Coordinator hcpf504ada@state.co.us at least one week prior to the meeting.