



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 12, 2024

Call to Order

Mr. Honea 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 ten members participating.

A. Members Present

Laura Carroll, Simon Hambidge, Morgan Honea, William Kinnard, James McLaughlin, Barry Martin, Christina Mulkey, An Nguyen and Vincent Scott.

B. Members Excused

Cecile Fraley

C. Staff Present

Kim Bimestefer, Executive Director; Adela Flores-Brennan, Medicaid Director; Jennifer Weaver, Attorney General; and Chris Sykes, Board Administrator

Announcements

Mr. Honea announced the next Medical Services Board Meeting will be held at 303 E 17th Ave, 11th Floor conference Room, Denver, CO 80203 on Friday, May 10, 2024 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.

Department Updates

- Department Updates/Questions – Kim Bimestefer, Executive Director

Approval of Minutes

Dr. Hambidge moved for the approval of the November minutes. The motion was seconded by Dr. Martin. The minutes were approved, 9:0.

Rules

A. Emergency Adoption Agenda

Document 10, MSB 24-01-05-A, Revision to the Medical Assistance Act Rule concerning Modifying Language for Inpatient Hospital Opioid Antagonist Drugs, Section 8.300.5.D

Andrew Abalos, Rates Division, presented the rule and explained House Bill 22-1326 (Fentanyl Accountability And Prevention) appropriates funding for the Department to reimburse providers with for providing the take-home opioid antagonist drug, Naloxone, in the inpatient hospital setting. MSB 22-11-17-A, a previously adopted rule change which added language allowing for the carveout Naloxone from the DRG payment bundles, contained language for the opioid antagonist being dispensed specifically to the Medicaid patient. This rule change seeks to generalize the language so that the rule encompasses instances where the opioid antagonist is dispensed to a family member, friend, or other person in a position to assist a medical assistance member who is at risk of experiencing an opiate-related drug overdose.

Board Discussion – Board discussion included the need for an emergency rule due to the Office of Legislative Legal Services nullifying the rulemaking back in February. Payment is not for prehospital setting, only hospital setting.

Public Testimony – Galia Spychalska, Family Member, provided testimony regarding the noticing of rules. Clarity was provided that all rules for adoption at this meeting have been noticed according to the Administrative Procedures Act of Colorado.

Mr. McLaughlin moved for the emergency adoption of Document 10. Ms. Carroll seconded the motion.

The Board voted the emergency adoption of Document 10, 9:0.

B. Final Adoption by Consent Agenda

Document 01, MSB 23-08-29-A, Revision to the Medical Assistance Act Rule concerning Children's Dental Therapists, Section 8.202.1

Dr. Nguyen moved for the final adoption of Document 01. Mr. Scott seconded the motion.

The Board voted the final adoption of Document 01, 9:0.

C. Initial Approval

Document 02, MSB 23-12-20-A, Revision to the Medical Assistance Act Rule concerning Payment for Inpatient Hospital Services 8.300.1

Diana Lambe, Rates Division, presented the rule and explained rule There are two sides to the Health First Colorado's payment methodology for Inpatient Hospital Services Payments. Last year, the Department updated the base rate methodology that was 20+ years old. This year, the Department is updating the other side of the payment equation that assigns an estimate of the resource allocation for the services provided during the inpatient hospital stay. The All Patient Refined Diagnostic Related Groups (APR-DRG) version Colorado is currently using (Version 33) is 8+ years old and needs to be updated on a regular basis going forward to keep up with hospital resource allocation and introduction of new medical technologies/methods of service delivery.

This rule change is to support the upcoming APR-DRG Version 40 update, which will impact Payment for Hospital Services in 10 CCR 2505-10 8.300. The Department will be making changes to rule regarding certain definitions impacted by its planned implementation of the All Patients Refined Diagnosis Related Groups (APR-DRG) Version 40 update which will use national statistics instead of statistics based upon a hybrid of Colorado and national data. The changes will be focused in two areas: 8.300.1.W. Relative Weight and 8.300.1.AA. Trim Point Day.

Board Discussion – Board discussion included the definition of a Trim Point Day, the average basis stayed beyond allotted time, paid at 80%. A question about this rule being budget neutral was proposed. It was explained the Legislature provides increases and decreases yearly.

Public Testimony – NA

Dr. Hambidge moved for the initial approval of Document 02. Dr. Nguyen seconded the motion.

The Board voted the initial approval of Document 02, 9:0.

Document 03, MSB 24-01-25-A, Revision to the Colorado Indigent Care Program Rule concerning CICIP Social Security Number and Other Minor Updates, Section 8.900

Taryn Graf, Special Financing Division, presented the rule and explained The proposed changes to this rule are intended to bring the CICIP and Hospital Discounted Care into closer alignment, and to clean up the rule as a whole, including removing language referencing lawful presence and adding clarifications to existing language.

Board Discussion – Board discussion included that Initial approval will occur today with continued engagement with stakeholders.

Public Testimony – Katie Wallet, Colorado Center on Law and Policy, approve the removal of Lawful Presence and Social Security Number as required. Limit receipt of CICP to patients shown to be ineligible for Medicaid, not in statute. The Department would like to ensure revisions don't create confusion.

Dr. Nguyen moved for the initial approval of Document 03. Dr. Hambidge seconded the motion.

The Board voted the initial approval of Document 03, 9:0.

Document 04, MSB 24-01-03-B, Revisions to the Medical Assistance Rule Concerning the Hospital Expenditure Report Data Collection, 8.4000

James Johnston, Special Financing Division, presented the rule and explained HB 23-1226 was signed into law. Changes are required to the rule, new reporting requirements. Reviewed revisions to the rule and stakeholder comments received.

Board Discussion – Board discussion included that the administrative burden was removed, by example, through a consolidated report through prospective payments. The 120-day requirement could change as this goes into effect for April 2025. Federally filed documents can be shared with the Department to help ease the burden. A question about the designation of the treating hospital either as an entity or a site was discussed. Entity is how it is looked at. Appreciate work done by staff on this project. Critical Access Hospitals across the State will be trained. The Department will be holding webinars in May to train on the reporting template.

Public Testimony – NA

Mr. Scott moved for the initial approval of Document 04. Ms. Carroll seconded the motion.

The Board voted the initial approval of Document 04, 9:0.

Document 05, MSB 23-11-29-A, Revision to the Medical Assistance Act Rule concerning Member Appeals, Section 8.057

Pulled from Agenda

Morgan Honea and Simon Hambidge left at 10:55.

Document 06, MSB 23-10-25-B, Revision to the Medical Assistance Act Rule concerning Electronic Visit Verification (EVV) Provider Types, Section 8.001.A.2

Erica Schaler, Policy Development & Implementation Section, presented the rule and explained revisions remove hospice services as a provider type.

Board Discussion – Board discussion a question regarding what hospital services are held accountable for Medicaid dollars, an attending physician.

Public Testimony – NA

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

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

Document 07, MSB 24-02-13-A, Revision to the Medical Assistance Act Rule concerning Safety Net Providers Language Update, Section 8.750

Alex Lyons, Policy Development & Implementation Section, presented the rule and explained language updated to align with legislation.

Board Discussion – Board discussion included a review of stakeholder feedback regarding licensure versus approved.

Public Testimony – NA

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

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

Document 08, MSB 24-03-01-A, Revision to the Medical Assistance Nursing Facility Reimbursement Rule concerning Pay for Performance and Medicare costs Sections 8.440.2.A, 8.441.5.H, 8.441.5.L, and 8.443.12

Christine Bates, Office of Community Living, presented the rule and explained these changes are required per HB 23-1228. Medicare costs are being removed from nursing facility cost reports. The Pay for Performance supplemental payment for nursing facilities is being increased.

Board Discussion – Board discussion included nursing facility providers are rewarded. The point system is published each year on the website.

Public Testimony – NA

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

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

Christina Mulkey left at noon

Document 09, MSB 24-02-29-B, Revision to the Medical Assistance Act concerning Private Duty Nursing Benefit Rule, Section 8.540

Candace Bailey, Office of Community Living, presented the rule and explained The Department is revising the regulations regarding Private Duty Nursing Benefit to update and modernize program rules. The rule governs the state plan benefit for Private Duty Nursing for adults and children requiring continuous nursing services in their home and community. This revision was drafted with extensive stakeholder engagement and input.

The revision of the Private Duty Nursing rule will provide clarity and simplification of the rule language as well as a structured reorganization of requirements under

this benefit. These changes are necessary to improve the benefit for members and providers.

Board Discussion – Board discussion included appreciate the work done on the rule and the engagement. The presentation was very helpful. Technology dependent is now termed medical device and it must be by an RN or LPN for Private Duty Nursing. Pediatrics versus adult care is an example of non delineation and agencies have to follow two separate regulations and can confuse. One set of rules is best, person centered.

Public Testimony – Katie Wallet, Colorado Center on Law and Policy, involved since the beginning of the revision process. The Department has been responsive and great to work with. Fewer specifics, opening up service by increased flexibility. 20 and under, page 3 line 40. What is reasonable? Subjective? Medical necessity is in rule does reasonable need to be changed? The Department will reach out to CCLP and discuss.

Christy Blakely, Family Voices Colorado, participated in the stakeholder process – great work. Pleased with language, some concerns. New language is less descriptive. Members require consistent assessment. Asking for a small language change, making an and into an or. The Department will reach out to work with Christy on suggestions.

Eliza Schultz, Home Care and Hospice Association of Colorado, appreciate department staff. Some members have been removed from PDN and placed into other benefit packages, to the detriment of members. This has led to additional work from Home Care Agencies. Staff will work with Eliza.

Erica Drury, MGA Homecare, appreciate the work of the Department and staff. The timing of rule change is worrisome, and a lack of coordination is detrimental to members. Long Term Services and Supports stabilization in the rules will make things better.

Galia Spsychalska, Family Member, PDN community fearful of retaliation and exhausted, lack of nurses. Lots of work to be done. Loss of trust in community. Department to connect.

Mr. McLaughlin moved for the initial approval of Document 09. Ms. Carroll seconded the motion.

The Board voted the initial approval of Document 09, 6:0.

D. Consent Discussion

Dr. Hambidge motioned to add Document 02, 04, 06 & 08 to the Consent Agenda.

The Board voted to add Document 02, 04, 06 & 08 to the Consent Agenda; 6:0.

E. Closing Motion

Dr. Martin moved to close the rules portion of the agenda. The motion was seconded by Ms. Carroll.

5 minute break

Open Comments

Department Presentations

Pushed to next month

The meeting was adjourned at 1:29 p.m.

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, May 10, 2024 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.