



## **COLORADO**

Department of Health Care  
Policy & Financing

Medical Services Board

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

3885 Upham Street, Suite 100, Wheat Ridge, CO, 80033

April 11, 2025

#### **Call to Order**

Ms. Carroll called the meeting to order at 9:04 a.m.

#### **Roll Call**

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

##### **A. Members Present**

Laura Carroll, Cecile Fraley, Simon Hambidge, Morgan Honea, William Kinnard, Barry Martin, Christina Mulkey, and Vincent Scott.

##### **B. Members Excused**

James McLaughlin & David Pump

##### **C. Staff Present**

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

#### **Announcements**

Ms. Carroll announced the next Medical Services Board Meeting will be held at 303 E 17<sup>th</sup> Ave, Suite 1100, Denver, CO, 80203 on Friday, May 9, 2025 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**

Mr. Honea moved for the approval of the March minutes. The motion was seconded by Dr. Hambidge. The minutes were approved, 8:0.

## **Rules**

### **A. Emergency Adoption**

Document 20, MSB 24-10-30-C, Revision to the Medical Assistance Act Rule Concerning Vision Services Changes and Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Alignment, Sections 8.203 & 8.280

Rachel Larson, Policy Development and Implementation Section, presented the rule and provided a background of the rule and the need for emergency rulemaking. The revisions of the rule were discussed. A review of the stakeholder engagement was provided.

Board Discussion – Board discussion included how the rule removes the prohibition on prior authorization requests but not implementing it now. Claims data on aspheric lenses and the need to conserve state funds was discussed. Appreciate the statement of basis and purpose and the need to find large savings.

Public Testimony – NA

Dr. Kinnard moved for the emergency adoption of Document 20. Dr. Hambidge seconded the motion.

The Board voted the emergency adoption of Document 20, 8:0.

### **B. Final Adoption by Consent**

Document 01, MSB 24-12-05-A, Revision to the Medical Assistance Act Rule concerning eConsults Specialist to Specialist, Section 8.095; Document 02, MSB 24-12-09-B, Revision to the Medical Assistance Act Rule concerning Cover All Coloradans Rule Clarifications, Sections 8.205 & 8.715; Document 03, MSB 24-11-05-A, Revision to Medical Assistance Act Concerning Managed Care Grievance Resolution Timeline, Section 8.209 and Document 04, MSB 24-12-20-A, Revision to the Medical Services Board Act Rule Concerning Support Intensity Scale Assessment (SIS) and Interim Support Level Assessment (ISLA) Rule Revisions, Sections 8.612 & 8.7202.AA.

Mr. Honea moved for the final adoption of Documents 01 & 02. Dr. Martin seconded the motion.

The Board voted on the final adoption of Documents 01 & 02, 7:0:1.

### **C. Final Adoption – moved from Consent**

Document 03, MSB 24-11-05-A, Revision to Medical Assistance Act Concerning Managed Care Grievance Resolution Timeline, Section 8.209

Rachel Larson, Policy Development and Implementation Section, presented the rule and provided a summary overview.

Board Discussion – NA

Public Testimony – Amy Petre-Hill, Colorado Cross Disability Coalition, appreciate changes to the rule – thank you!

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

The Board voted the initial approval of Document 03, 8:0.

Document 04, MSB 24-12-20-A, Revision to the Medical Services Board Act Rule Concerning Support Intensity Scale Assessment (SIS) and Interim Support Level Assessment (ISLA) Rule Revisions, Sections 8.612 & 8.7202.AA.

Mariah Kohlruss-Ecker, Office of Community Living, presented the rule and provided a summary overview.

Board Discussion – Board discussion included the intention of staff to roll out the interim process to go through ISLA training to facilitate new processes to a small group of providers.

Public Testimony – Amy Petre Hill, Colorado Cross Disability Coalition, rule development process highlights inclusivity.

Kattie Wallat – Colorado Center on Law and Policy – appreciate the work of staff.

Megan Bowser, Family Voices, development of algorithm concerns, robust outreach by staff alleviates concerns.

Mr. Honea moved for the final adoption of Document 04. Dr. Mulkey seconded the motion.

The Board voted the final adoption of Document 04, 8:0.

### **D. Initial Approval**

Document 05, MSB 24-11-07-A, Revision to the Medical Assistance Eligibility Rules Concerning Redetermination of Eligibility, Section 8.100.3.P

Ana Bordallo, Eligibility Policy Section, presented the rule and explained revisions necessary to incorporate federal regulations and to integrate feedback received during the Department's Regulatory Efficiency Review. This will align the enrollment and renewal requirements for members enrolled in Medicaid. The Centers for Medicare and Medicaid Services provided states with additional

guidance on these federal regulations and timelines that states must comply with.

Board Discussion – Board discussion included timeframes and how they work for redetermination. A discussion of the hierarchy of Medicaid programs and CBMS was held.

Public Testimony – Amy Petre Hill, Colorado Cross Disability Coalition, deeply concerned, gap for Medicaid Buy-In. Not ok to change processes without communication. Dept aware of CBMS issues,

Katie Wallat, Colorado Center on Law and Policy, appreciate working with staff, appreciate active voice in the rule. Ex Parte confusing about family or individual.

Dr. Martin moved for the initial approval of Document 05. Dr. Kinnard seconded the motion.

The Board voted the initial approval of Document 05, 6:2.

Document 06, CHP 24-11-07-B, Revision to the Child Health Plan Plus Rules Concerning Redetermination of Eligibility, Section 140

Ana Bordallo, Eligibility Policy Section, presented the rule and explained revisions necessary to incorporate federal regulations and to integrate feedback received during the Department's Regulatory Efficiency Review. This will align the enrollment and renewal requirements for members enrolled in Medicaid. The Centers for Medicare and Medicaid Services provided states with additional guidance on these federal regulations and timelines that states must comply with.

Board Discussion - NA

Public Testimony – Amy Petre Hill, Colorado Cross Disability Coalition, 5 days to go through mail and then on the 10th day the clock begins. There are places in Colorado that mail takes 10 days to arrive. The Department will look into this situation. County sites to work with members for additional time as needed.

Mr. Honea moved for the initial approval of Document 06. Dr. Hambidge seconded the motion.

The Board voted the initial approval of Document 06, 7:1.

Document 07, Revision to the Medical Assistance Act Rule concerning Community First Choice Section 8.7000

Eileen Saunders, Office of Community Living, presented the rule and explained this rule expands and streamlines existing legal authority, member rights, case management agency responsibilities, and provider agency requirements that exist within other Long-Term Services and Supports programs (LTSS), such as HCBS waivers, to include Community First Choice (CFC). This rule amends existing HCBS services, changing eligibility from HCBS waivers to CFC, and makes necessary changes to services and provider requirements due to CFC.

Finally, this rule creates a new section that outlines general provisions and eligibility for the CFC program.

Board Discussion – Board discussion included the number of members included in this benefit, around 40,000.

Public Testimony – Amy Petre Hill, Colorado Cross Disability Coalition, appreciate the rule but concerns that the nurse assessor tool has not been released. The Department commits to sharing the assessment tool soon

Julie Reiskin, Colorado Cross Disability Coalition, support the CFC benefit, change is hard. Assessment tool will be shared soon

Megan Bowser, Family Voices, this rule was not stakeholdered like the Interim Support Level Assessment (ISLA) rule. The assessment tool will be shared soon

Bryce Rafferty, Colorado Cross Disability Coalition, overhaul of resources must involve stakeholders. The Department appreciates the comments and will continue to do work with stakeholders.

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

The Board voted the initial approval of Document 07, 8:0.

Document 08, MSB 24-11-07-C, Revision to the Medical Assistance Act Rule concerning the Children with Complex Health Needs Waiver, Sections 8.401, 8.500, and 8.7000

Eileen Saunders, Office of Community Living, presented the rule and explained the Children's Home and Community-Based Services (CHCBS) Waiver is merging with the Children with Life-Limiting Illness (CLLI) Waiver and is being renamed as the Children with Complex Health Needs (CwCHN) Waiver. The purpose of the CwCHN waiver is to streamline home and community-based services (HCBS) for children's waiver programs, expand access to services, and ensure current and future CHCBS members have continued access to waiver services. The CwCHN waiver consists of the existing services on the CLLI waiver, with the addition of the Wellness Education Benefit, and includes eligibility criteria to capture both the CHCBS and CLLI waiver populations. Thus, all members who are eligible for the CHCBS waiver and the CLLI waiver will be eligible for the CwCHN waiver and have access to the same services currently available for CLLI waiver members.

This rule amends existing CLLI eligibility criteria to reflect the new eligibility criteria for the CwCHN waiver, places the new CwCHN waiver requirements and regulations in rule, and changes the name of the CLLI waiver throughout rule to reflect the new name.

Board Discussion – NA

Public Testimony – Megan Bowser, Family Voices, excited about the waiver.

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

The Board voted the initial approval of Document 08, 8:0.

Document 09, MSB 25-02-12-A, Revision to the Medical Assistance Act Outpatient Hospital Payment Rule Regarding 340B Drug Pricing, Section 8.300.6.A.1.j

Andrew Abalos, Rates Division, presented the rule and provided a background on the rule. Senate Bill, or the Long Bill, 21-205 was signed by Governor Polis on May 21, 2021, which included rate adjustments to be effective July 1, 2021 and ongoing. The Long Bill included a reduction to 340B drug pricing in the outpatient hospital setting which was not implemented. However, the Department is mandated to implement such rate changes, and as such is seeking to do so effective July 1, 2025. This rule change is necessary to bring the Department's payments into budgetary authority.

Board Discussion – Board discussion included much concern about reimbursement reduction on safety net institutions.

Public Testimony – NA

Dr. Kinnard moved for the initial approval of Document 09. Dr. Mulkey seconded the motion.

The Board vote for Document 09 was 4:4, motion failed.

Document 10, MSB 25-02-03-B, Revision to CMS file names used for Inpatient Rebasing, Section 8.300

Diana Lambe, Rates Division, presented the rule and explained the Department is amending Colorado Rule 8.300.5.A.3.a with a new paragraph that describes what files will be used this year and in the future to the best of our ability. These changes will eliminate specific file naming in subsequent portions of rule describing the base rate methodology. Additionally, we amended the date of January 1 to "the end of the first full week in January" since January 1st is a holiday. We also made a correction in the rate methodology portions of rule to correctly reference the "Definitions" portion of Rule for hospital types located at 8.300.1.L instead of the incorrect reference of 8.300.1.K. Stakeholder engagement was reviewed.

Board Discussion – NA

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 10, 8:0.

Document 11, MSB 25-01-06-A, Revision to the Medical Assistance Act concerning changes to the Drug Utilization Review Board and Pharmacy and Therapeutics Committee, Section 8.800.9.D.

Korri Conilogue, Pharmacy Office, presented the rule and explained The purpose of the proposed rule change is to update the composition of the Drug Utilization

Review (DUR) Board and the Pharmacy and Therapeutics (P&T) Committee. The Department proposes eliminating the non-voting pharmaceutical industry representative position on the DUR Board due to challenges in maintaining this role. Additionally, the Department seeks to reduce the size of the P&T Committee to address difficulties in filling positions and achieving a quorum for meetings.

Board Discussion – Board discussion included the makeup of the boards and how they seem heavy to professional individuals and light on members.

Public Testimony – NA

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

The Board voted the initial approval of Document 11, 8:0.

Document 12, MSB 24-12-31-A, Revision to Medical Assistance Act Concerning the Home Health Benefit, Section 8.520

Candace Bailey, Office of Community Living, presented the rule and explained the proposed updates to the Home Health Rule are designed to align with the recently revised Private Duty Nursing (PDN) Rules (Section 8.540), approved by the Medical Services Board on May 10, 2024. To maintain consistency between these benefits, many definitions and terms from the PDN Rules have been incorporated into the Home Health Rules. In addition, the Home Health Rule outlines using the Acuity Tool, developed in collaboration with For Health Consulting as part of the American Rescue Plan Act (ARPA) Project 6.01. This proprietary, evidence-based tool assesses medical necessity for skilled services within the Medicaid program.

Board Discussion – Board discussion included reimplementing prior authorization requests and how the Department is required to.

Public Testimony – Julie Reiskin, Colorado Cross Disability Coalition, 3 components agreed upon in writing, the tool available, exception process and transparency.

Eileen Doherty, Colorado Gerontological Society, I wanted to support the department taking our concern into consideration and allowing annual relines and rebases as presented in codes 5710-5761. Call me at 720-789-4638 if you want to follow up

Katie Wallat, Colorado Center on Law and Policy, thank collaboration, have concerns. Stakeholder engagement needs to continue. Concerns that the tool has not been published with scoring criteria.

Megan Bowser, Family Voices, agree with previous comments. Concerns regarding the gap between LTHH and PDN.

Bryce Rafferty, Colorado Cross Disability Coalition, concerns about stakeholder process in nurse assessor tool.

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

The Board voted the initial approval of Document 12, 8:0.

Document 13, MSB 25-01-09-B, Revision to the Special Financing Division Rules concerning Changes per HB 24-1399, Sections 8.900 & 8.3000

Taryn Graf, Special Financing Division, presented the rule and explained during the 2024 session, the Colorado General Assembly passed House Bill 24-1399 which made changes to the Colorado Indigent Care Program, Hospital Discounted Care, the Primary Care Fund, and the Disproportionate Share Hospital payments under the Colorado Healthcare Affordability and Sustainability Enterprise. House Bill 24-1399 sunsets the Colorado Indigent Care Program, adds a Hospital Discounted Care advisory committee, updates the Primary Care Fund to allow patients who are at or below 200% of the federal poverty guidelines instead of those below 200%, and replaces participation in the Colorado Indigent Care Program as a qualifier for the Disproportionate Share Hospital payments with new qualifying requirements.

This rule change is being brought as one update instead of four separate rule updates as there is a constant between all four sections: to remove all references to the Colorado Indigent Care Program that are currently contained in the four different rule sections.

Board Discussion – Board discussion included a review of the Disproportionate Share Hospital requirements slide.

Public Testimony – Bethany Pray, Colorado Center on Law and Policy, appreciate working with staff. Budget issues will have an impact to many people and programs.

Dr. Honea moved for the initial approval of Document 13. Dr. Hambidge seconded the motion.

The Board voted the initial approval of Document 13, 8:0.

Document 14, MSB 25-02-12-B, Revision to the Medical Assistance Special Financing Rule Concerning Colorado Dental Health Care Program for Low-Income Seniors Section 8.960

Alondra Yanez , Special Financing Division, presented the rule and explained this rule change incorporates revisions made to the Colorado Dental Health Care Program for Low-Income Seniors (Senior Dental Program) Schedule A. The Senior Dental Program staff presented current changes to descriptions and reimbursement timelines in the Medicaid fee schedule and code descriptions in the 2025 ADA CDT Book of Current Dental Terminology to the Senior Dental Advisory Committee (DAC) for discussion on which changes they wanted to recommend to be incorporated into Schedule A. The DAC recommended adding three new codes to the Endodontics section and one new code to the Adjunctive General Services section of Schedule A. The Endodontic codes are D3346 Retreatment of Previous Root Canal Therapy - Anterior, D3347 Retreatment of Previous Root Canal Therapy - Premolar, and D3348 Retreatment of Previous Root Canal Therapy - Molar. The Adjunctive General Service code is D9222 Deep



sedation/general anesthesia first 15 minutes. This rule change is necessary to incorporate the DAC's recommendations to Schedule A.

Board Discussion – Board discussion included an understanding of the new codes.

Public Testimony – Eileen Doherty, Colorado Gerontological Society, appreciate working with staff.

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

The Board voted the initial approval of Document 14, 8:0.

Document 19, MSB 24-12-31-A, Revision to the Medical Assistance Act Rule concerning Remote Patient Monitoring, Section 8.096

Erica Schaler, Policy Development and Implementation Section, presented the rule and explained this rule adds Remote Patient Monitoring as section 8.096 of the Department's rules per Senate Bill 24-168. Remote Patient Monitoring means the outcoming remote assessment and monitoring of clinical data through technological equipment in order to detect changes in a member's clinical status, which allows health-care providers to intervene before a health condition exacerbates and requires emergency intervention or inpatient hospitalization.

Board Discussion – Board discussion included the amount of members impacted and the impact on providers.

Public Testimony – NA

Dr. Honea moved for the initial approval of Document 19. Dr. Martin seconded the motion.

The Board voted the initial approval of Document 19, 8:0.

Document 15, MSB 25-01-07-B, Revision to the Medical Assistance Act Rule concerning Member Appeals Rule, Section 8.057

Russ Zigler, Policy Development and Implementation Section, and Kate Kaiser, Legal Division; presented the rule and explained the proposed rule complies with federal law and state statute upon the expiration of the Section 1902(e)(14)(A) waiver on June 30, 2025 and allows for the maintenance of services upon appeal, and the reinstatement and continuation of benefits on request for hearing, to the maximum extent allowed under federal law and state statute.

The proposed rule also aligns Department rule with current Office of Administrative Courts policy regarding the modalities an applicant or member may use to request a hearing or withdraw a hearing.

Board Discussion – Board discussion included the number of appeals pending and the Department plan to address them. 1000 appeals are currently pending, with 850 in back log. The Department is working on bringing on more staff to be resolved by June 30.

Public Testimony – Amy Petre Hill, Colorado Cross Disability Coalition, Appreciate staff. There are 2 concerns – letters not being regularly provided and reasonable time that people have to review the evidence before hearings. Staff commits to take comments into consideration.

Katie Wallat, Colorado Center on Law and Policy, appreciate working with staff. Sending letter requirement not in rule but should be. Need third party involved, concerns about clearing back log. Staff commit to discussing issues with Colorado Center on Law and Policy.

Mr. Honea moved for the initial approval of Document 15. Dr. Martin seconded the motion.

The Board voted the initial approval of Document 15, 8:0.

MOVED to the May 9 Meeting Document 17, MSB 24-10-30-A, Revision to the Medical Assistance Act Rule concerning Provider Disclosures of Affiliations, Section 8.125.15 & 8.746

MOVED to the May 9 Meeting Document 18, MSB 24-11-06-B, Revision to the Medical Assistance Act Rule concerning Adult Habilitative Services, Sections 8.017 and 8.200

#### **E. Consent Discussion**

Dr. Martin motioned to add Documents 07, 08, 09, 10, 11, 12, 13, 14, 15 & 19 to the Consent Agenda. Mr. McLaughlin seconded the motion.

The Board voted to add Documents 07, 08, 09, 10, 11, 12, 13, 14, 15 & 19 to the Consent Agenda; 7:0.

#### **F. Closing Motion**

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

**The meeting was adjourned at 1:40 p.m.**

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, May 9, 2025 at 303 E. 17<sup>th</sup> Ave, Suite 1100, Denver, CO, 80203.

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