



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
August 11, 2023

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, Cecile Fraley, Simon Hambidge, Morgan Honea, James McLaughlin, Idalia Massa-Carroll, Barry Martin, An Nguyen, Christina Mulkey and Vincent Scott.

B. Members Excused

William Kinnard

C. Staff Present

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

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, September 8, 2023 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. McLaughlin moved for the approval of the June minutes. The motion was seconded by Dr. Martin. The minutes were approved, 10:0.

Rules

A. Emergency Adoption

Document 12, MSB 23-08-01-A, Revision to the Medical Assistance Rule concerning Dental Therapists, Section 8.201.1

Alex Lyons, Operations Section, presented the rule and explained the rule adds dental therapists as provider type to align with recently passed legislation.

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

Public Testimony – NA

Dr. Nguyen moved for the emergency adoption of Document 12. Dr. Hambidge seconded the motion.

The Board voted the emergency adoption of Document 12, 10:0.

B. Final Adoption by Consent Agenda

Document 02, MSB 23-04-12-B, Revision to the Medical Assistance Rules Mental Health Transitional Living Homes, Section 8.509.50

Mr. McLaughlin moved for the final adoption of Document 02. Ms. Carroll seconded the motion.

The Board voted the final adoption of Document 02, 10:0.

C. Final Adoption Agenda

Document 01, MSB 23-02-09-A, Revision to the Medical Assistance Act Rule concerning Electronic Consultation (eConsults), Section 8.095

Russ Zigler, Operations Section, presented the rule and explained eConsults must be initiated through a provider and transferred through the eConsult platform. If a face-to-face meeting occurs, no payment for the eConsult will occur. A State Plan Amendment is in process.

Board Discussion – Board discussion included the Department response to the stakeholder letter. The rule defines what is an eConsult is and the language is vague purposefully on what the platform is. Specialists are paid through consults, phase in down the line just not present and the rural area can be expanded. Hoping for a launch date of February 1. Only a Primary Care Physician to

Specialist is currently accepted, expanding in the future. Time and effort integrating existing systems better than new system and is a potential barrier. Big hospitals use Epic, where many specialists work. The plan is to increase access to care, not limit it. The platform helps track utilization management and trackable data points.

Public Testimony – Elizabeth Freudenthal, Children’s Hospital, thank board for robust discussion and complexity of issue. Rural access to specialty care has been a barrier in the past. Building access is a great effort.

Chris Stille - Pediatric Care Network, agree with concerns brought by the Board. Allow payment to allow current eConsult platform. Allow primaries to decide on specialist.

Ms. Carroll moved to table rule for one month regarding Document 01. Dr. Martin seconded the motion.

The Board voted to table the rule for one month regarding Document 01, 10:0.

Document 03, MSB 23-06-29-A, Revision to the Medical Assistance Act Rule concerning Dental Health Care Program for Low-Income Seniors Procedure Increase, Section 8.960

Chandra Vital, Special Financing Division, presented the rule and explained procedure payments cannot be below the current Medicare rate, 56 procedures are being revised to align with the Medicare rates.

Board Discussion – NA

Public Testimony – NA

Mr. McLaughlin moved for the final adoption of Document 03. Dr. Nguyen seconded the motion.

The Board voted the initial approval of Document 03, 10:0.

Document 04, MSB 23-06-29-B, Revision to the Medical Assistance Rule regarding the Base Wage for Direct Care Workers, Sections 8.511 & 8.535

Erin Thatcher, Office of Community Living, presented the rule and explained recent legislation increased the base wage for direct care workers. If there is a rate decline, the Department will need to review rule at that time. Revisions include simplified and reorganized the rule for clarification. Changes promote stability and ensures staff retention. Penalties exist if noncompliance by providers to pass on the wage increase to staff.

Board Discussion – NA

Public Testimony – NA

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

The Board voted the initial approval of Document 04, 10:0.

Document 05, MSB 23-06-29-C, Revision to the Medical Assistance Act Rule concerning Cost Sharing, Section 8.754.1

Russ Zigler, Operations Section, presented the rule and explained the rule is back for final adoption. Revisions remove member copayments as mandated by the long bill. Copayments no longer required were discussed.

Board Discussion – NA

Public Testimony – NA

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

The Board voted the initial approval of Document 05, 10:0.

Document 06, MSB 23-06-29-D, Revisions to the Medical Assistance Act Rule Concerning Nursing Home Reimbursement, Sections 8.440 & 8.443

Jeff Wittreich, Special Financing Division, presented the rule and explained this is an emergency rule back for final adoption. Revisions to Nursing Home reimbursement from recent legislation.

Board Discussion – NA

Public Testimony – NA

Ms. Carroll moved for the final adoption of Document 06. Dr. Martin seconded the motion.

The Board voted the initial approval of Document 06, 10:0.

Document 07, MSB 23-06-29-E, Revision to the Medical Assistance Rule concerning Dental Therapists, Section 8.201.1

Alex Lyons, Operations Section, presented the rule and explained this is final adoption of the rule to allow dental therapist to receive payment.

Board Discussion – NA

Public Testimony – NA

Dr. Nguyen moved for the final adoption of Document 07. Mr. Scott seconded the motion.

The Board voted the initial approval of Document 07, 10:0.

D. Initial Approval

Document 08, CHP 23-05-09-A, Revision to the CHP Plus Rule Concerning Changes to add Gender Affirming Care and other Technical Updates, 10 CCR 2505-03

Amy Ryan, Health Programs Office, presented the rule and explained revisions to the rule. Gender affirming care is being added, family limits updated per federal changes and revising language to include updated language. Autism is no longer a covered benefit under CHP per legislation.

Board Discussion – Board discussion included how autism is a covered benefit under Medicaid and the CHP expansion population.

Public Testimony – NA

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

The Board voted the initial approval of Document 08, 10:0.

Document 09, MSB 23-04-25-B, Revision to the Medical Assistance Act Rule concerning HB23-1130 Implementation, Section 8.800.1 and 8.800.7

Korri Conilogue, Pharmacy Office, presented the rule and explained legislation requires a review for coverage of new drugs treating serious mental illness, defined in the legislation. Legislative requirements include new drugs must be reviewed within 90 days of FDA approval, not market availability.

Board Discussion – Board discussion included significant illness sometimes does not fall under serious mental illness, the legislation appears to be narrowly written.

Public Testimony – NA

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

The Board voted the initial approval of Document 09, 10:0.

Document 10, MSB 23-05-17-A, Revision to the Medical Assistance Act Rule concerning Hospital Services Rule, Section 8.300

Jessica Short, Health Programs Office, presented the rule and explained the proposed rule change clarifies covered hospital services by moving from time-based standards to medical necessity standards. The changes simplify inpatient, outpatient, and observation stay definitions and move the standards from those

definitions to the covered services section of the rule. Criteria for medical necessity for inpatient, outpatient, and observation stays were also added to the covered services section. Technical changes were also addressed in this rule change such as changing in-network and out-of-network to in state and out of state. Temporal standards were also removed in the inpatient psychiatric covered services section. Corrective action was defined in rule and clarifying language was added to the utilization management section. This revision provides more clarity to hospitals and providers on medical necessity criteria and determining the appropriate level of care for members. The community clinic, including freestanding emergency departments, rule is also being revised to align with the proposed changes to the hospital services rule.

Board Discussion – NA

Public Testimony – NA

Dr. Martin moved for the initial approval of Document 10. Mr. McLaughlin seconded the motion.

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

Document 11, MSB 23-05-31-A, Revision to the Medical Assistance Act Rule concerning Durable Medical Equipment Oxygen Certificate of Medical Necessity, Section 8.580

Russ Zigler, Operations Section, presented the rule and explained the proposed rule removes the requirement that oxygen providers obtain a Certificate of Medical Necessity for members receiving long term oxygen therapy lasting greater than ninety days. Oxygen providers must still obtain a prescription from an eligible prescribing provider, and have the prescription reviewed and renewed annually in accordance with 42 C.F.R. 440.70(b)(3)(iii), for members receiving long term oxygen therapy. The Department is now capable of receiving the information needed for long term oxygen therapy claims through the electronic claims system, making CMN duplicative and unnecessary. Oxygen providers are also required to maintain records of the oxygen therapy services and equipment in accordance with Section 8.580.8.A.1 if additional clinical information is required to document medical necessity.

Board Discussion – Board discussion included how this rule will create much more access to care in the rural setting, great work.

Public Testimony – NA

Ms. Carroll moved for the initial approval of Document 11. Mr. Scott seconded the motion.

The Board voted the initial approval of Document 11, 10:0.

E. Consent Discussion

Mr. Scott motioned to add Document 08, 09, 10 & 11 to the Consent Agenda.

The Board voted to add Document 08, 09, 10 & 11 to the Consent Agenda; 10:0.

F. Closing Motion

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

Open Comments

Katie Wallet – Colorado Center on Law and Policy – For the Medicaid unwind process, pre pandemic data is a baseline but not a valid baseline. Kaiser Family Foundation tracks disenrollment and Colorado is 15th highest in the nation. Procedural disenrollment is high, including not returned packets. The numbers are high and concerning. Stories from families regarding procedural disenrollment at fault by system and not member were shared. The Department is working with the advocate community to ensure compliance. Extra funding to counties to help and also looking at additional resources for Medical Assistance sites. Eligibility staff may need some additional training for enrollment paperwork, which hasn't occurred in over 3 years because of pandemic.

Pam Rogers – parent/advocate – The Department is approving or denying without out criteria given. Parents are very confused.

Department Updates

- Department Updates/Questions – Adela Flores-Brennan, Medicaid Director

The meeting was adjourned at 11:18 a.m.

The next scheduled meeting of the Medical Services Board is at 9:00 a.m. on Friday, September 8, 2023 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.