



August 2, 2021

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop: S2-26-12
Baltimore, Maryland 21244-1850

Director Bowdoin,

The Colorado Department of Health Care Policy & Financing appreciates CMS' partial approval of Colorado's proposed spending plan and narrative in response to the CMS Medicaid Director Letter dated May 13, 2021. Colorado agrees to maintain compliance with program requirements as stated in SMDL #21-003, including the following assurances:

- Colorado will use the federal funds attributable to the increased federal medical assistance percentage (FMAP) to supplement and not supplant existing state funds expended for Medicaid Home and Community-Based Services (HCBS) in effect as of April 1, 2021;
- Colorado will use the state funds equivalent to the amount of federal funds attributable to the increased FMAP to implement or supplement the implementation of one or more activities to enhance, expand, or strengthen HCBS under the Medicaid program;
- Colorado will not impose stricter eligibility standards, methodologies, or procedures for HCBS programs and services than were in place on April 1, 2021;
- Colorado will preserve covered HCBS, including the services themselves and the amount, duration, and scope of those services, in effect as of April 1, 2021; and
- Outside of services covered in Appendix K, Colorado will maintain HCBS provider payments at a rate no less than those in place as of April 1, 2021.

The Department of Health Care Policy & Financing would also like to affirm understanding of requirements outlined in the letter received on July 23, 2021, including:

- Colorado understands that approval of the spending plan or of any activities within the spending plan by CMS does not constitute approval for purposes of claiming federal financial participation. Colorado will continue to comply with all existing federal requirements for allowable claims, including documenting expenditures and draws to ensure a clear audit trail for the use of federal funds reported on the Form CMS-37 Medicaid Program Budget Report and the Form CMS-64, Quarterly Medicaid Statement of Expenditures.
- Colorado will follow the applicable rules and processes for section 1915(c) waivers, and other Medicaid HCBS authorities, including state plan amendments, if we make changes where the intention is to use the state funds equivalent to the funds



attributable to the increased FMAP to pay the state share of the costs associated with those changes.

- Colorado understands that if instituting provider pay increases funded through the 10 percent temporary increased FMAP that result in change in the rate methodology, Colorado will pursue a waiver amendment for section 1915(c) waiver programs except as permitted in the Appendix K.
- Colorado also understands that consistent with regulations at 42 C.F.R. § 447.252(b), the state plan methodology must specify comprehensively the methods and standards used by the agency to set payment rates, and that state plan methodology must be comprehensive enough to determine the required level of payment and the FFP to allow interested parties to understand the rate setting process and the items and services that are paid through these rates.
- Colorado understands that claims for federal matching funds cannot be based upon estimates or projections, and that the reimbursement methodology must be based upon actual historical utilization and actual trend factors.
- If Colorado reduces reliance on a specific type of facility-based or congregate service and increasing beneficiary access to services that are more integrated into the community, we will be clear with stakeholders in our stakeholder engagement activities, as well as in submissions to CMS of required ARP section 9817 spending plans and narratives and any resulting waiver or state plan amendments, about how these changes enhance the availability of integrated services in the specific waiver or state plan, and offset any reductions in previously covered services, in compliance with the home and community-based settings criteria or other efforts to increase community integration.

Spending Plan Activity Responses:

The Department of Health Care Policy & Financing appreciates the opportunity to provide additional information about the proposed projects outlined in our plan. Below, please find responses to your questions included in the letter received on July 23, 2021:

1. Are the mobile behavioral health crisis services:
 - a. Focused on services listed in Appendix B of the SMDL or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit)? OR
 - b. Are they targeted to individuals who are not receiving any of the services listed in Appendix B or services that could be listed in Appendix B?

RESPONSE: A. *The services that are being expanded and strengthened in the Mobile Crisis Behavioral Health initiative are covered or could be covered rehabilitative services under Colorado's 1915(b) waiver, and listed as eligible under Appendix B of the SMDL. These rehabilitative services would be covered under "emergency/crisis services" but also could be covered under "individual brief psychotherapy", "family psychotherapy", or "behavioral health*



assessment.” This project and the state’s mobile crisis response program is designed to prevent institutionalization and this project is improving the crisis response services to be more responsive to individuals with disabilities.

To the extent that any service provided during a mobile crisis visit would NOT be listed in Appendix B, this project will strengthen HCBS under Medicaid by ensuring that individuals in a mental health or substance use crisis who have a disability will receive appropriate, quality care and that our system provides equitable access to the services like secure transportation to a behavioral health provider. We are gathering data to determine how we can incorporate these existing benefits, and this project will be aligned and coordinated with the potential mobile crisis ARPA 85% match opportunity and recent state legislation and funding to create a secure transport and crisis benefit in Colorado Medicaid. Colorado has submitted a letter of intent to apply for the Community Based Mobile Crisis Intervention Planning Grants as potential complimentary funding to efforts while not duplicating requests. In Appendix D, this project also falls under Developing Cross System Partnerships and promoting provider collaborations.

Colorado understands that that increased FMAP may not be claimed for services that are not listed in Appendix B.

2. Are the other activities to “Improve Crisis & Acute Services”:
 - a. Focused on services listed in Appendix B of the SMDL or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit)? OR
 - b. Are they targeted to individuals who are not receiving any of the services listed in Appendix B or services that could be listed in Appendix B?

RESPONSE: *A. The services that are being expanded and strengthened in the Improve Crisis and Acute Services initiative are covered rehabilitative services under Colorado’s 1915(b) waiver, and listed as eligible under Appendix B of the SMDL. Specifically, the state’s crisis and acute services program is designed to prevent institutionalization, and expand access to rehabilitation services for youth and in rural areas, by providing grants to community organizations and expanding the services provided and number of service providers in the Medicaid network.*

3. Are wrap-around services for recipients of complex social service benefits:
 - a. Focused on services listed in Appendix B of the SMDL or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit)? OR
 - b. Are they targeted to individuals who are not receiving any of the services listed in Appendix B or services that could be listed in Appendix B?

RESPONSE: *A. The wrap-around services in the spending plan strengthen, enhance, or expand the eligible rehabilitation services included in Colorado’s 1915(b) waiver and those that may be covered under 1915(i) or 1115 waiver authorities. The project will focus on members with serious mental illness. Members with mental health disabilities, including serious mental illness, who*



are unhoused or insecurely housed are at demonstrated risk in Colorado for institutionalization in hospitals and other institutional settings. Providing this population with supportive housing, paired with a package of tailored wrap-around support services will enable this population to live in the least restrictive environment, which is a central policy tenet under Colorado's state plan and waiver structures (both 1915(c) and 1915(b)). Services will not include room and board, as housing will be supported through housing vouchers secured in a cross-system partnership with the Colorado Department of Local Affairs (DOLA). It will also require a cross-partnership with managed care organizations, community providers, and housing agencies - collaborations specified within Appendix D.

As noted above, services will include those listed in Appendix B. They will also include the delivery of new services designed to assist members in staying in the community by addressing the social determinants of health - services commonly called housing-related supports. Services listed in Appendix B as well as these additional housing-related supports will create person-centric, wrap-around supports that ensure the housing and health care delivery systems work collaboratively to keep enrolled members stay housed.

We will establish an active oversight structure for this project with our housing system partners at DOLA as well as create a stakeholder workgroup to identify and troubleshoot ongoing policy and delivery system needs. These cross-system partnerships will strengthen our policy and delivery system capacity to develop and implement person-centered, community-based rehabilitation services included in Colorado's 1915(b) waiver and those that may be covered under 1915(i) or 1115 waiver authorities. Based on analyses of previous and current delivery system pilots, we expect to see improved health and utilization outcomes, a more adequate and robust provider network, and new value-based financial models and incentives that support the long-term sustainability of this project and work post-ARPA.

4. Are the state activities to expand, enhance, or strengthen HCBS under ARP section 9817 focused on services other than those listed in Appendix B or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit)?
- a. Focused on services listed in Appendix B of the SMDL or that could be listed in Appendix B (e.g., behavioral health services that are covered under another benefit but could be covered under the rehabilitative services benefit)? **OR**
 - b. Are they targeted to individuals who are not receiving any of the services listed in Appendix B or services that could be listed in Appendix B? **OR**
 - c. If any activities are not directly related to the services listed in Appendix B or services that could be listed in Appendix B, please explain how those activities expand, enhance, or strengthen HCBS under Medicaid

RESPONSE: *A. All of Colorado's proposed activities are focused on services listed in Appendix B of the SMDL or activities that will strengthen, enhance, or expand the services listed in Appendix B.*



5. Do the state activities to expand, enhance, or strengthen HCBS under ARP section 9817 include room and board?

RESPONSE: *No, none of Colorado's proposed activities include funds to support room and board.*

6. Do the state activities to expand, enhance, or strengthen HCBS under ARP section 9817 include activities other than those listed in Appendices C and D (e.g., capital investments, for which CMS will need to follow-up with the state to determine whether these are permissible activities or uses of funds).

RESPONSE: *No. All of Colorado's proposed activities fit under the activities listed in Appendices C and D.*

We welcome the opportunity to further discuss or clarify Colorado's proposed projects, as outlined above and in our spending plan and narrative. We look forward to providing the information requested in our first quarterly report, due 75 days before the quarter beginning January 1, 2022. We appreciate being offered the option to submit a quarterly report in the previous quarter and will determine if we will take that opportunity as we continue to move this work forward over the coming months.

Respectfully, we request a response from CMS no later than Wednesday August 11, 2022. Colorado is working to fulfill our commitment to engage stakeholders prior to the submission of our spending plan to the Colorado Joint Budget Committee for approval on 9/7/21. This timeline will allow Colorado to implement the transformative strategies outlined in the plan.

Sincerely,

A handwritten signature in blue ink that reads "Tracy L. Johnson".

Tracy Johnson
Medicaid Director

cc: Kim Bimestefer, Executive Director, Colorado Department of Health Care Policy & Financing; Bonnie Silva, Director, Office of Community Living, Colorado Department of Health Care Policy & Financing